

# BRISTOL MYERS SQUIBB CO (BMY PR)

## 10-K

Annual report pursuant to section 13 and 15(d)

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10-K**

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**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2011

Commission File Number 1-1136

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**BRISTOL-MYERS SQUIBB COMPANY**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**22-0790350**  
(IRS Employer  
Identification No.)

**345 Park Avenue, New York, N.Y. 10154**

(Address of principal executive offices)

**Telephone: (212) 546-4000**

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Name of each exchange on which registered
Common Stock, \$0.10 Par Value	New York Stock Exchange
\$2 Convertible Preferred Stock, \$1 Par Value	New York Stock Exchange

**Securities registered pursuant to Section 12(g) of the Act: None**

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer                       Accelerated filer                       Non-accelerated filer                       Smaller reporting company

Indicate by check mark if the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).    Yes     No

The aggregate market value of the 1,704,021,710 shares of voting common equity held by non-affiliates of the registrant, computed by reference to the closing price as reported on the New York Stock Exchange, as of the last business day of the registrant's most recently completed second fiscal quarter (June 30, 2011) was approximately \$49,348,468,709. Bristol-Myers Squibb has no non-voting common equity. At February 1, 2012, there were 1,688,107,071 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE: Portions of the Proxy Statement for the registrant's Annual Meeting of Stockholders to be held May 1, 2012 are incorporated by reference into Part III of this Annual Report on Form 10-K.

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## PART I

### Item 1. BUSINESS.

#### General

Bristol-Myers Squibb Company (which may be referred to as Bristol-Myers Squibb, BMS, the Company, we, our or us) was incorporated under the laws of the State of Delaware in August 1933 under the name Bristol-Myers Company, as successor to a New York business started in 1887. In 1989, Bristol-Myers Company changed its name to Bristol-Myers Squibb Company as a result of a merger. We are engaged in the discovery, development, licensing, manufacturing, marketing, distribution and sale of biopharmaceutical products on a global basis.

Over the last few years, we executed our strategy to transform into a next generation biopharmaceutical company. This transformation encompassed all areas of our business and operations. As part of this strategy, we have divested our non-pharmaceutical businesses, implemented our acquisition and licensing strategy known as the "string-of-pearls", and executed our productivity transformation initiative (PTI). Our divestitures included Medical Imaging in January 2008, ConvaTec in August 2008, and Mead Johnson in December 2009. Our acquisition and licensing transactions included Kosan Biosciences, Inc. in June 2008, Medarex, Inc. (Medarex) in September 2009, ZymoGenetics, Inc. (ZymoGenetics) in October 2010, Amira Pharmaceuticals, Inc. (Amira) in September 2011, and Inhibitex, Inc. (Inhibitex) in February 2012, as well as several license arrangements. We continue to review our cost structure with the intent to maintain a modernized, efficient, and robust balance between building competitive advantages, securing innovative products and planning for the future.

We report financial and operating information in one segment—BioPharmaceuticals. For additional information about business segments, see "Item 8. Financial Statements—Note 2. Business Segment Information."

We compete with other worldwide research-based drug companies, smaller research companies and generic drug manufacturers. Our products are sold worldwide, primarily to wholesalers, retail pharmacies, hospitals, government entities and the medical profession. We manufacture products in the United States (U.S.), Puerto Rico and in 6 foreign countries.

U.S. net sales accounted for 65% of total net sales in 2011 and 2010 and 63% of total net sales in 2009 while net sales in Europe accounted for 17%, 18% and 19% of total net sales in 2011, 2010 and 2009. Net sales in Japan accounted for 3% of total net sales in 2011, 2010 and 2009. Net sales in Canada accounted for 3% of total net sales in 2011, 2010 and 2009.

#### Products

Our pharmaceutical products include chemically-synthesized drugs, or small molecules, and an increasing portion of products produced from biological processes (typically involving recombinant DNA technology), called "biologics." Small molecule drugs are typically administered orally, e.g., in the form of a pill or tablet, although other drug delivery mechanisms are used as well. Biologics are typically administered to patients through injections or by infusion. Most of our revenues come from products in the following therapeutic classes: cardiovascular; virology, including human immunodeficiency virus (HIV) infection; oncology; neuroscience; immunoscience; and metabolics.

In the pharmaceutical industry, the majority of an innovative product's commercial value is usually realized during the period in which the product has market exclusivity. Our business is focused on innovative biopharmaceutical products, and we rely on patent rights and other forms of regulatory protection to maintain the market exclusivity of our products. In the U.S., the European Union (EU) and some other countries, when these patent rights and other forms of exclusivity expire and generic versions of a medicine are approved and marketed, there are often substantial and rapid declines in the sales of the original innovative product. For further discussion of patent rights and regulatory forms of exclusivity, see "—Intellectual Property and Product Exclusivity" below. For further discussion of the impact of generic competition on our business, see "—*Generic Competition*" below.

The following chart shows our key products together with the year in which the earliest basic exclusivity loss (patent rights or data exclusivity) occurred or is currently estimated to occur in the U.S., the EU, Japan and Canada. We also sell our pharmaceutical products in other countries; however, data is not provided on a country-by-country basis because individual country sales are not significant outside the U.S., the EU, Japan and Canada. In many instances, the basic exclusivity loss date listed below is the expiration date of the patent that claims the active ingredient of the drug or the method of using the drug for the approved indication, if there is only one approved indication. In some instances, the basic exclusivity loss date listed in the chart is the expiration date of the data exclusivity period. In situations where there is only data exclusivity without patent protection, a competitor could seek regulatory approval by submitting its own clinical trial data to obtain marketing approval prior to the expiration of data exclusivity.

We estimate the market exclusivity period for each of our products on a case-by-case basis for the purposes of business planning only. The length of market exclusivity for any of our products is impossible to predict with certainty because of the complex interaction between patent and regulatory forms of exclusivity and the inherent uncertainties regarding patent litigation. There can be no assurance that a particular product will enjoy market exclusivity for the full period of time that appears in the estimate or that the exclusivity will be limited to the estimate.

The following schedule presents net sales of our key products and estimated basic exclusivity loss in the U.S., EU, Japanese and Canadian markets:

Dollars in Millions Key Products	Net Sales by Products			Past or Currently Estimated Year of Basic Exclusivity Loss			
	2011	2010	2009	U.S.	EU <sup>(a)</sup>	Japan	Canada
PLAVIX*	\$ 7,087	\$ 6,666	\$ 6,146	2012	2008 <sup>(b)</sup>	++	2011
AVAPRO*/AVALIDE*	952	1,176	1,283	2012	2007-2013	++	2011
ELIQUIS	—	N/A	N/A	++	2022	++	++
ABILIFY*	2,758	2,565	2,592	2015 <sup>(c)</sup>	2014 <sup>(d)</sup>	++	2017 <sup>(e)</sup>
REYATAZ	1,569	1,479	1,401	2017	2017-2019 <sup>(f)</sup>	2019	2017
SUSTIVA Franchise	1,485	1,368	1,277	2013 <sup>(g)</sup>	2013 <sup>(h)</sup>	++	2013
BARACLUDE	1,196	931	734	2015	2011-2016	2016	2011
ERBITUX*	691	662	683	2016 <sup>(i)</sup>	++	2016 <sup>(j)</sup>	2016 <sup>(i)</sup>
SPRYCEL	803	576	421	2020	2020 <sup>(k)</sup>	2021	2020
YERVOY	360	N/A	N/A	2023 <sup>(i)</sup>	2021 <sup>(i)</sup>	++	++
ORENCIA	917	733	602	2019	2017 <sup>(j)</sup>	2018 <sup>(j)</sup>	2014 <sup>(l)</sup>
NULOJIX	3	N/A	N/A	2023	2021	++	++
ONGLYZA/KOMBIGLYZE	473	158	24	2021	2021	++	2021

Note: The currently estimated earliest year of basic exclusivity loss includes any statutory extensions of exclusivity that have been earned, but not those that have not yet been granted. In some instances, we may be able to obtain an additional six months exclusivity for a product based on the pediatric extension, for example. In certain other instances, there may be later-expiring patents that cover particular forms or compositions of the drug, as well as methods of manufacturing or methods of using the drug. Such patents may sometimes result in a favorable market position for our products, but product exclusivity cannot be predicted or assured. Under the U.S. healthcare law enacted in 2010, qualifying biologic products will receive 12 years of data exclusivity before a biosimilar can enter the market, as described in more detail in "—Intellectual Property and Product Exclusivity" below.

- \* Indicates brand names of products which are trademarks not owned by Bristol-Myers Squibb or its subsidiaries. Specific trademark ownership information can be found on page 116.
- ++ We do not currently market the product in the country or region indicated.
- (a) References to the EU throughout this Form 10-K include all 27 member states that were members of the European Union during the year ended December 31, 2011. Basic patent applications have not been filed in all 27 current member states for all of the listed products. In some instances the date of basic exclusivity loss will be different in various EU member states. For those EU countries where the basic patent was not obtained, there may be data protection available.
- (b) Data exclusivity in the EU expired in July 2008. In most of the major markets within Europe, the product has national patents, expiring in 2013, which specifically claim the bisulfate form of clopidogrel. However, generic and alternate salt forms of clopidogrel bisulfate are marketed and compete with PLAVIX\* throughout the EU.
- (c) Our rights to commercialize ABILIFY\* (aripiprazole) in the U.S. terminate in 2015.
- (d) Our rights to commercialize ABILIFY\* in the EU terminate in 2014.
- (e) Exclusivity period is based on regulatory data protection.
- (f) Data exclusivity in the EU expires in 2014.
- (g) Exclusivity period relates to the SUSTIVA brand and does not include exclusivity related to any combination therapy. The composition of matter patent for efavirenz in the U.S. expires in 2013, but a method of use patent for the treatment of HIV infection expires in 2014.
- (h) Exclusivity period relates to the SUSTIVA brand and does not include exclusivity related to any combination therapy. Market exclusivity for SUSTIVA is expected to expire in 2013 in countries in the EU. Data exclusivity for SUSTIVA expired in the EU in 2009.
- (i) Biologic product approved under a Biologics License Application (BLA). Data exclusivity in the U.S. expires in 2016. There is no patent that specifically claims the composition of matter of cetuximab, the active ingredient in ERBITUX\*. Our rights to commercialize cetuximab terminate in 2018.
- (j) Exclusivity period is based on regulatory data protection.
- (k) Pending patent application in most EU member states.
- (l) Data exclusivity in Canada expires in 2014.

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Below is a summary of the indication, intellectual property position, product partner, if any, and third-party manufacturing arrangements, if any, for each of the above products in the U.S. and, where applicable, the EU, Japan and Canada.

PLAVIX*	<p>PLAVIX* (clopidogrel bisulfate) is a platelet aggregation inhibitor, which is approved for protection against fatal or non-fatal heart attack or stroke in patients with a history of heart attack, stroke, peripheral arterial disease or acute coronary syndrome. Clopidogrel bisulfate was codeveloped and is jointly marketed with Sanofi. For more information about our alliance with Sanofi, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."</p> <p>The composition of matter patent in the U.S. expires on May 17, 2012 (including a pediatric extension). In the EU, regulatory data exclusivity protection expired in July 2008. In most of the major markets within Europe, PLAVIX* benefits from national patents, expiring in 2013, which specifically claim the bisulfate form of clopidogrel. However, generic and alternative salt forms of clopidogrel bisulfate are marketed and compete throughout the EU.</p> <p>We obtain our bulk requirements for clopidogrel bisulfate from Sanofi and a third-party. Both the Company and Sanofi finish the product in our own respective facilities.</p>
AVAPRO*/AVALIDE*	<p>AVAPRO*/AVALIDE* (irbesartan/irbesartan-hydrochlorothiazide) is an angiotensin II receptor antagonist indicated for the treatment of hypertension and diabetic nephropathy.</p> <p>Irbesartan was codeveloped and is jointly marketed with Sanofi. For more information about our alliance with Sanofi, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."</p> <p>The composition of matter patent in the U.S. expires on March 30, 2012 (including a pediatric extension) and in most countries in the EU in 2012 to 2013. Data exclusivity in the EU expired in August 2007 for AVAPRO* and in October 2008 for AVALIDE*. The composition of matter patent expired in Canada in March 2011.</p> <p>Irbesartan is manufactured by both the Company and Sanofi. We manufacture our bulk requirements for irbesartan and finish AVAPRO*/AVALIDE* in our facilities. For AVALIDE*, we purchase bulk requirements for hydrochlorothiazide from a third-party.</p>
ELIQUIS	<p>ELIQUIS (apixaban) is an oral Factor Xa inhibitor, targeted at the prevention and treatment of venous thromboembolic (VTE) disorders and stroke prevention in atrial fibrillation. It is currently approved in the EU for use in VTE prevention in adult patients who have undergone elective hip or knee replacement surgery and is currently in the registrational process in the U.S. and the E.U. for the prevention of stroke and systemic embolism in patients with atrial fibrillation.</p> <p>Apixaban was discovered internally and is part of our alliance with Pfizer, Inc. (Pfizer). For more information about our alliance with Pfizer, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations." The composition of matter patent covering apixaban in the U.S. expires in 2023 and in the EU it expires in 2022. Data exclusivity in the EU expires in 2021.</p> <p>We manufacture our bulk requirements for apixaban and finish the product in our facilities.</p>
ABILIFY*	<p>ABILIFY* (aripiprazole) is an atypical antipsychotic agent for adult patients with schizophrenia, bipolar mania disorder and major depressive disorder. ABILIFY* also has pediatric uses in schizophrenia and bipolar disorder, among others.</p> <p>We have a global commercialization agreement with Otsuka Pharmaceutical Co., Ltd. (Otsuka), except in Japan, China, Taiwan, North Korea, South Korea, the Philippines, Thailand, Indonesia, Pakistan and Egypt. For more information about our arrangement with Otsuka, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."</p> <p>The basic U.S. composition of matter patent for ABILIFY* and the term of the current ABILIFY* agreement expire in April 2015 (including the granted patent term extension and six month pediatric extension). The basic composition of matter patent protecting aripiprazole is the subject of patent litigation in the U.S. Otsuka has sole rights to enforce this patent. For more information about this litigation matter, see "Item 8. Financial Statements—22. Legal Proceedings and Contingencies."</p> <p>A composition of matter patent is in force in Germany, the United Kingdom (UK), France, Italy, the Netherlands, Romania, Sweden, Switzerland, Spain and Denmark. The original expiration date of 2009 has been extended to 2014 by grant of a supplementary protection certificate in all of the above countries except Romania and Denmark. Data exclusivity and the rights to commercialize in the EU expire in 2014. Data exclusivity in Canada expires in 2017.</p>

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REYATAZ	<p>We obtain our bulk requirements for aripiprazole from Otsuka. Both the Company and Otsuka finish the product in our own respective facilities.</p> <p>REYATAZ (atazanavir sulfate) is a protease inhibitor for the treatment of HIV. We developed atazanavir under a worldwide license from Novartis Pharmaceutical Corporation (Novartis) for which a royalty is paid based on a percentage of net sales. We are entitled to promote REYATAZ for use in combination with NORVIR* (ritonavir) under a non-exclusive license agreement with Abbott Laboratories (Abbott), as amended, for which a royalty is paid based on a percentage of net sales. We recently entered into a licensing agreement with Gilead Sciences, Inc. to develop and commercialize a fixed-dose combination containing REYATAZ and one of Gilead's compounds in development. Market exclusivity for REYATAZ is expected to expire in 2017 in the U.S., Canada and the major EU member countries and in 2019 in Japan. Data exclusivity in the EU expires in 2014.</p>
SUSTIVA Franchise	<p>We manufacture our bulk requirements for atazanavir and finish the product in our facilities.</p> <p>SUSTIVA (efavirenz) is a non-nucleoside reverse transcriptase inhibitor for the treatment of HIV. The SUSTIVA Franchise includes SUSTIVA, an antiretroviral drug used in the treatment of HIV, and as well as bulk efavirenz which is included in the combination therapy ATRIPLA* (efavirenz 600 mg/ emtricitabine 200 mg/ tenofovir disoproxil fumarate 300 mg), a once-daily single tablet three-drug regimen combining our SUSTIVA and Gilead Sciences, Inc.'s (Gilead) TRUVADA* (emtricitabine and tenofovir disoproxil fumarate). ATRIPLA* is the first complete Highly Active Antiretroviral Therapy treatment product for HIV available in the U.S. in a fixed-dose combination taken once daily. Fixed-dose combinations contain multiple medicines formulated together and help simplify HIV therapy for patients and providers. For more information about our arrangement with Gilead, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."</p> <p>Rights to market efavirenz in the U.S., Canada, the United Kingdom (UK), France, Germany, Ireland, Italy and Spain are licensed from Merck &amp; Co., Inc. for a royalty based on a percentage of net sales.</p> <p>The composition of matter patent for efavirenz in the U.S. expires in 2013, but a method of use patent for the treatment of HIV infection expires in 2014, with a possible additional six month pediatric extension.</p> <p>Market exclusivity for SUSTIVA is expected to expire in 2013 in countries in the EU. Data exclusivity for SUSTIVA expired in the EU in 2009. We do not, but another company does, market efavirenz in Japan. Certain ATRIPLA* patents are the subject of patent litigation in the U.S. At this time, the U.S. patents covering efavirenz composition of matter and method of use have not been challenged. The EU patent for efavirenz is the subject of litigation in the Netherlands, Germany and the UK. For more information about these litigation matters, see "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies."</p> <p>We obtain our bulk requirements for efavirenz from third parties and produce finished goods in our facilities. We provide bulk efavirenz to Gilead, who is responsible for producing the finished ATRIPLA* product.</p>
BARACLUDGE	<p>BARACLUDGE (entecavir) is a potent and selective inhibitor of hepatitis B virus that was approved by the FDA for the treatment of chronic hepatitis B infection. BARACLUDGE was discovered and developed internally. It has also been approved and is marketed in over 50 countries outside of the U.S., including China, Japan and the EU.</p> <p>We have a composition of matter patent that expires in the U.S. in 2015. This patent is the subject of patent litigation in the U.S. For more information about this litigation matter, see "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies."</p> <p>The composition of matter patent expires in the EU between 2011 and 2016 and in Japan in 2016. The composition of matter patent expired in Canada in 2011. There is uncertainty about China's exclusivity laws which has resulted in generic competition in the China market.</p> <p>We manufacture our bulk requirements for entecavir and finish the product in our facilities.</p>

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**ERBITUX\***

ERBITUX\* (cetuximab) is an IgG1 monoclonal antibody designed to exclusively target and block the Epidermal Growth Factor Receptor (EGFR), which is expressed on the surface of certain cancer cells in multiple tumor types as well as some normal cells. ERBITUX\*, a biological product, is approved for the treatment in combination with irinotecan for the treatment of patients with EGFR-expressing metastatic colorectal cancer (mCRC) who have failed an irinotecan-based regimen and as monotherapy for patients who are intolerant of irinotecan. The FDA has also approved ERBITUX\* for use in the treatment of squamous cell carcinoma of the head and neck. Specifically, ERBITUX\* was approved for use in combination with radiation therapy, for the treatment of locally or regionally advanced squamous cell carcinoma of the head and neck and, as a single agent, for the treatment of patients with recurrent or metastatic squamous cell carcinoma of the head and neck for whom prior platinum-based therapy has failed. The FDA has also approved ERBITUX\* for first-line recurrent locoregional or metastatic head and neck cancer in combination with platinum-based chemotherapy with 5-Fluorouracil.

ERBITUX\* is marketed in North America by us under an agreement with ImClone Systems Incorporated (ImClone), the predecessor company of ImClone LLC, a wholly-owned subsidiary of Eli Lilly and Company (Lilly). We share copromotion rights to ERBITUX\* with Merck KGaA in Japan under a codevelopment and cocommercialization agreement signed in October 2007 with ImClone, Merck KGaA and Merck Japan. ERBITUX\* received marketing approval in Japan in July 2008 for use in treating patients with advanced or recurrent colorectal cancer. For a description of our alliance with ImClone, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Data exclusivity in the U.S. expires in 2016. There is no patent that specifically claims the composition of matter of cetuximab, the active molecule in ERBITUX\*. ERBITUX\* has been approved by the FDA and other health authorities for monotherapy, for which there is no use patent. The use of ERBITUX\* in combination with an anti-neoplastic agent is approved by the FDA. Such combination use is claimed in a granted U.S. patent that expires in 2018 (including the granted patent term extension). The inventorship of this use patent was challenged by three researchers from Yeda Research and Development Company Ltd. (Yeda). Pursuant to a settlement agreement executed and announced in December 2007 by ImClone, Sanofi and Yeda to end worldwide litigation related to the use patent, Sanofi and Yeda granted ImClone a worldwide license under the use patent. Data exclusivity in Japan and Canada expire in 2016.

Yeda has the right to license the use patent to others. Yeda's license of the patent to third parties could result in product competition for ERBITUX\* that might not otherwise occur. We are unable to assess whether and to what extent any such competitive impact will occur or to quantify any such impact. However, Yeda has granted Amgen Inc. (Amgen) a license under the use patent. Amgen received FDA approval to market an EGFR-product that competes with ERBITUX\*.

We obtain our finished goods requirements for cetuximab for use in North America from Lilly. Lilly manufactures bulk requirements for cetuximab in its own facilities and finishing is performed by a third-party for Lilly. For a description of our supply agreement with Lilly, see "—Manufacturing and Quality Assurance" below.

**SPRYCEL**

SPRYCEL (dasatinib) is a multi-targeted tyrosine kinase inhibitor approved for treatment of adults with all phases of chronic myeloid leukemia with resistance or intolerance to prior therapy, including GLEEVEC\* (imatinib mesylate), and for the treatment of adults with Philadelphia chromosome-positive acute lymphoblastic leukemia with resistance or intolerance to prior therapy. In 2010, the FDA approved SPRYCEL for the treatment of adult patients with newly diagnosed Philadelphia chromosome-positive (Ph+) chronic myeloid leukemia (CML) in chronic phase.

SPRYCEL was internally discovered and is part of our strategic alliance with Otsuka. For more information about our alliance with Otsuka, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

A patent term extension has been granted in the U.S. extending the term on the basic composition of matter patent covering dasatinib until June 2020. Dasatinib is the subject of patent litigation in the U.S. For more information about this litigation matter, see "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies." In the U.S., orphan drug exclusivity expires in 2013, which protects the product from generic applications for the currently approved orphan indications only.

In several EU countries, the patent is pending and upon grant, would expire in April 2020 (excluding term extensions).

We manufacture our bulk requirements for dasatinib and finish the product in our facilities.

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YERVOY	<p>YERVOY (ipilimumab), a biological product, is a monoclonal antibody for the treatment of patients with unresectable (inoperable) or metastatic melanoma. Ipilimumab was approved by the FDA in March 2011 and by the EMA in July 2011. It is currently also being studied for other indications including lung cancer as well as adjuvant melanoma and hormone-refractory prostate cancer. For more information, about research and development of YERVOY, see "—Research and Development" below.</p> <p>YERVOY was discovered by Medarex and codeveloped by the Company and Medarex, which is now our subsidiary.</p> <p>We own a patent covering ipilimumab as composition of matter that currently expires in 2022 in the U.S. and 2020 in the EU. Data exclusivity expires in 2023 in the U.S. and 2021 in the EU.</p>
ORENCIA	<p>We obtain bulk ipilimumab from a third-party manufacturer and finish the product at a third party facility.</p> <p>ORENCIA (abatacept), a biological product, is a fusion protein with novel immunosuppressive activity targeted initially at adult patients with moderate to severe rheumatoid arthritis, who have had an inadequate response to certain currently available treatments. Abatacept is available in both an intravenous formulation and beginning in 2011, a subcutaneous formulation in the U.S.. ORENCIA was discovered and developed internally.</p> <p>We have a series of patents covering abatacept and its method of use. In the U.S., a patent term extension has been granted for one of the composition of matter patents, extending the term of the U.S. patent to 2019. In the majority of the EU countries, we have a patent covering abatacept that expires in 2012. We have applied for supplementary protection certificates and also pediatric extension of the supplementary protection certificates for protection until 2017. Some of these protection certificates have been granted.</p> <p>Data exclusivity in the U.S. and EU expires in 2017.</p>
NULOJIX	<p>We obtain bulk abatacept from a third-party manufacturer and finish the product in our facilities for both formulations.</p> <p>NULOJIX (belatacept), a biological product, is a fusion protein with novel immunosuppressive activity for the prevention of kidney transplant rejection. It was approved and launched in the U.S. in June 2011, and approved in the EU in June 2011 and launched in July 2011. Belatacept was internally discovered and developed.</p> <p>We own a patent covering belatacept as composition of matter that expires in April 2023 in the U.S. and May 2021 in the EU.</p> <p>Data exclusivity expires in the U.S. in June 2023 and in the EU in June 2021.</p>
ONGLYZA/ KOMBIGLYZE	<p>We manufacture our bulk requirements for belatacept and finish the products in our facilities.</p> <p>ONGLYZA (saxagliptin), a dipeptidyl peptidase-4 inhibitor, is an oral compound indicated for the treatment of type 2 diabetes as an adjunct to diet and exercise.</p> <p>KOMBIGLYZE (saxagliptin and metformin hydrochloride extended-release) is approved in the U.S. as a combination product indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus when treatment with both saxagliptin and metformin is appropriate. KOMBOGLYZE (saxagliptin and metformin immediate-release) is approved in the EU as a combination product indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus inadequately controlled on their maximally tolerated dose of metformin alone or those already being treated with the combination of saxagliptin and metformin as separate tablets. In this document unless specifically noted, we refer to both KOMBIGLYZE and KOMBOGLYZE as KOMBIGLYZE.</p> <p>ONGLYZA was internally discovered by the Company and KOMBIGLYZE was codeveloped by the Company and AstraZeneca PLC (AstraZeneca). We have a worldwide (except Japan) codevelopment and cocommercialization agreement with AstraZeneca for saxagliptin. For more information about our arrangement with AstraZeneca and with Otsuka for Japan, see "—Strategic Alliances and Collaborations" below and "Item 8. Financial Statements—Note 3. Alliances and Collaborations."</p> <p>We own a patent covering saxagliptin as composition of matter that expires in March 2021 in the U.S. and the EU.</p> <p>We manufacture our bulk requirements for saxagliptin in our facilities. We obtain the bulk metformin for KOMBIGLYZE from a third party. Both the Company and AstraZeneca finish ONGLYZA in their own facilities. The Company finishes KOMBIGLYZE in its own facility.</p>

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## Emerging Markets

We compete in emerging markets that are encompassed in our various regional organizations. Our Emerging Markets regional organization is comprised of Brazil, Russia, India, China and Turkey as we have identified these countries as having significant opportunities for growth. Emerging markets are characterized by strong economic development, a rising gross domestic product, a growing middle class and increasing wealth amongst the middle class as well as a demand for quality healthcare. Emerging markets may provide most of the growth opportunity in the pharmaceuticals industry by the middle of the next decade. Our strategy to capitalize on this growth opportunity is an innovation-focused approach. With this approach, we plan to develop and commercialize select, innovative products in key high-growth markets, tailoring the approach to each market individually. The emerging public health interests of these countries best align with our strategy as well as our current portfolio and pipeline. These countries have also been identified as having improving intellectual property protection. In order to capitalize on the growth opportunities in the emerging markets, we must balance related risks as well as develop innovative pricing and access strategies to make products accessible to patients and provide a reasonable return on investment. The risks in these markets include intellectual property protection, government-mandated authorized generics, currency volatility, reimbursement issues, government stability and scale issues. We monitor and mitigate against these risks to the extent possible.

## Research and Development

We invest heavily in research and development (R&D) because we believe it is critical to our long-term competitiveness. We have major R&D facilities in Princeton, Hopewell and New Brunswick, New Jersey, and Wallingford, Connecticut. Pharmaceutical research and development is also carried out at various other facilities throughout the world, including in Belgium, the UK, India and other sites in the U.S. We supplement our internal drug discovery and development programs with alliances and collaborative agreements. These agreements bring new products into the pipeline and help us remain on the cutting edge of technology in the search for novel medicines. In drug development, we engage the services of physicians, hospitals, medical schools and other research organizations worldwide to conduct clinical trials to establish the safety and effectiveness of new products. Management continues to emphasize leadership, innovation, productivity and quality as strategies for success in our research and development activities.

We concentrate our biopharmaceutical research and development efforts in the following disease areas with significant unmet medical need: affective (psychiatric) disorders, pain, Alzheimer's/dementia, cardiovascular, diabetes, hepatitis, HIV/AIDS, oncology, immunologic disorders, solid organ transplant and fibrotic disease. We also continue to analyze and may selectively pursue promising leads in other areas. In addition to discovering and developing new molecular entities, we look for ways to expand the value of existing products through new indications and formulations that can provide additional benefits to patients.

In order for a new drug to reach the market, industry practice and government regulations in the U.S., the EU and most foreign countries provide for the determination of a drug's effectiveness and safety through preclinical tests and controlled clinical evaluation. The clinical development of a potential new drug includes Phase I, Phase II and Phase III clinical trials that have been designed specifically to support a new drug application for a particular indication, assuming the trials are successful.

Phase I clinical trials involve a small number of healthy patients or patients suffering from the indicated disease to test for safety and proper dosing. Phase II clinical trials involve a larger patient population to investigate side effects, efficacy, and optimal dosage of the drug candidate. Phase III clinical trials are conducted to confirm Phase II results in a significantly larger patient population over a longer term and to provide reliable and conclusive data regarding the safety and efficacy of a drug candidate.

The R&D process typically takes thirteen years or longer, with over three years often spent in Phase III, or late-stage, development. We consider our R&D programs in Phase III, or late-stage development, to be our significant R&D programs. These programs include both investigational compounds in Phase III development for initial indications and marketed products that are in Phase III development for additional indications or formulations.

Drug development is time consuming, expensive and risky. On average, only about one in 10,000 chemical compounds discovered by pharmaceutical industry researchers proves to be both medically effective and safe enough to become an approved medicine. Drug candidates can fail at any stage of the process, and even late-stage product candidates sometimes fail to receive regulatory approval. According to the KMR Group, based on industry success rates from 2006-2010, approximately 95% of the compounds that enter Phase I development fail to achieve regulatory approval. The failure rate for compounds that enter Phase II development is approximately 90% and for compounds that enter Phase III development, it is approximately 54%.

Total research and development expenses include the costs of discovery research, preclinical development, early- and late-clinical development and drug formulation, as well as clinical trials and medical support of marketed products, proportionate allocations of enterprise-wide costs, and other appropriate costs. We spent \$3.8 billion in 2011 and \$3.6 billion in both 2010 and 2009 on research and development activities. Research and development spending includes payments under third-party collaborations and contracts. At the end of 2011, we employed approximately 8,000 people in R&D activities, including a substantial number of physicians, scientists holding graduate or postgraduate degrees and higher-skilled technical personnel.

We manage our R&D programs on a portfolio basis, investing resources in each stage of research and development from early discovery through late-stage development. We continually evaluate our portfolio of R&D assets to ensure that there is an appropriate balance of early-stage and late-stage programs to support the future growth of the Company. Spending on our late-stage development programs represents approximately 30-40% of our annual R&D expenses. No individual investigational compound or marketed product represented 10% or more of our R&D expenses in any of the last three years.

Listed below are several late-stage investigational compounds that we have in Phase III clinical trials for at least one potential indication. Whether or not any of these or our other investigational compounds ultimately becomes one of our marketed products depends on the results of clinical studies, the competitive landscape of the potential product's market and the manufacturing processes necessary to produce the potential product on a commercial scale, among other factors. However, as noted above, there can be no assurance that we will seek regulatory approval of any of these compounds or that, if such approval is sought, it will be obtained. There is also no assurance that a compound that is approved will be commercially successful. At this stage of development, we cannot determine all intellectual property issues or all the patent protection that may, or may not, be available for these investigational compounds. The patent coverage highlighted below includes only patent term extensions that have been granted.

Brivanib	Brivanib is an oral small molecule dual kinase inhibitor that blocks both the VEGF receptor and the FGF receptor. It is currently in Phase III trials as an anti-cancer treatment with potential use in hepatocellular carcinoma and colorectal cancer. We own a patent covering brivanib as composition of matter that expires in 2023 in the U.S.
Dapagliflozin	Dapagliflozin is an oral SGLT2 inhibitor for the potential treatment of diabetes. It is currently in the registrational process in both the EU and the U.S. It was discovered internally and is part of our alliance with AstraZeneca. We own a patent covering dapagliflozin as composition of matter that expires in October 2020 in the U.S. In January 2012, we received a complete response letter regarding our NDA for dapagliflozin. For further discussion see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Product and Pipeline Developments."
Necitumumab (IMC-11F8)	Necitumumab is a fully human monoclonal antibody being investigated as an anticancer treatment, which was discovered by ImClone and is part of the alliance between the Company and Lilly. It is in Phase III trials in non small cell lung cancer. Lilly owns a patent covering necitumumab as composition of matter that expires in 2025 in the U.S.
Elotuzumab	Elotuzumab is a humanized monoclonal antibody being investigated as an anticancer treatment, which was discovered by PDL BioPharma and became part of the Facet Biotech Corporation (Facet) spin-off. Facet was subsequently acquired by Abbott and is part of our alliance with Abbott. It is in Phase III trials in multiple myeloma. Abbott owns a patent covering elotuzumab as composition of matter that expires in 2026 in the U.S.
Daclatasvir	Daclatasvir is an oral small molecule NS5A replication complex inhibitor in Phase III development for the treatment of hepatitis C virus. We own a patent covering daclatasvir as a composition of matter that expires in 2027 in the U.S.

The following table lists potential additional indications of key marketed products that are in Phase III development or currently under regulatory review:

ELIQUIS	Potential indications for stroke prevention in atrial fibrillation and for VTE treatment
ORENCIA	Potential additional indication in lupus nephritis.
SPRYCEL	Potential additional indication in prostate cancer.
YERVOY	Potential additional indications in adjuvant melanoma, prostate cancer, non-small cell lung cancer and small cell lung cancer.
ERBITUX*	Potential additional indication in first-line metastatic melanoma in the EU. Potential additional indications in first-line colorectal cancer, first-line and second-line non-small cell lung cancer, and gastric cancer.
ONGLYZA	Potential additional use in cardiovascular risk reduction and pediatric extension.
SUSTIVA	Potential pediatric extension.
BARACLUDE	Potential pediatric extension.

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The following key developments are currently expected to occur during 2012 with respect to our significant pipeline programs. The outcome and timing of these expected developments are dependent upon a number of factors including, among other things, the availability of data, the outcome of certain clinical trials, acceptance of presentations at certain medical meetings and/or actions by health authorities. We do not undertake any obligation to publicly update this information, whether as a result of new information, future events, or otherwise.

ELIQUIS Dapagliflozin	Potential U.S. and EU approval for stroke prevention in atrial fibrillation Potential EU approval for treatment of type 2 diabetes  Data available from Phase III studies in patients with cardiovascular disease
ONGLYZA NULOJIX ORENCIA	Data available from Phase III study as an add-on to sitagliptin Data available from Phase III study as an add-on to metformin and sulfonylurea Four-year data available from the Phase III studies and subpopulation analyses Data available from head-to-head study versus HUMIRA*  Potential EU approval for subcutaneous formulation  Phase III start in lupus nephritis
YERVOY	Phase III start in psoriatic arthritis Submission of DTIC combination data in U.S. and EU
Brivanib ERBITUX* SPRYCEL Daclatasvir	Ipilimumab plus vemurafenib safety/feasibility data available Data available from Phase III study in advanced hepatocellular cancer Potential approval for first-line colorectal cancer Three-year data in first line CML Data available from Phase II hepatitis C combination studies

### Strategic Alliances and Collaborations

We enter into strategic alliances and collaborations with third parties, some of which give us rights to develop, manufacture, market and/or sell pharmaceutical products that are owned by third parties and some of which give third parties the rights to develop, manufacture, market and/or sell pharmaceutical products that are owned by us. These alliances and collaborations can take many forms, including licensing arrangements, codevelopment and comarketing agreements, copromotion arrangements and joint ventures. Such alliances and arrangements reduce the risk of incurring all research and development expenses for compounds that do not lead to revenue-generating products; however, profitability on alliance products are generally lower, sometimes substantially so, than profitability on our own products that are not partnered because profits from alliance products are shared with our alliance partners. While there can be no assurance that new alliances will be formed, we actively pursue such arrangements and view alliances as an important complement to our own discovery and development activities.

Each of our strategic alliances and arrangements with third parties who own the rights to manufacture, market and/or sell pharmaceutical products contain customary early termination provisions typically found in agreements of this kind and are generally based on the other party's material breach or bankruptcy (voluntary or involuntary) and product safety concerns. The amount of notice required for early termination generally ranges from immediately upon notice to 180 days after receipt of notice. Termination immediately upon notice is generally available where the other party files a voluntary bankruptcy petition or if a material safety issue arises with a product such that the medical risk/benefit is incompatible with the welfare of patients to continue to develop or commercialize this product. Termination upon 30 to 90 days notice is generally available where an involuntary bankruptcy petition has been filed (and has not been dismissed) or a material breach by the other party has occurred (and not been cured). A number of alliance agreements also permit the collaborator or us to terminate without cause, typically exercisable with substantial advance written notice and often exercisable only after a specified period of time has elapsed after the collaboration agreement is signed. Our strategic alliances and arrangements typically do not otherwise contain provisions that provide the other party the right to terminate the alliance on short notice.

In general, we do not retain any rights to a product brought to an alliance by another party or to the other party's intellectual property after an alliance terminates. The loss of rights to one or more products that are marketed and sold by us pursuant to a strategic alliance arrangement could be material to our results of operations and cash flows, and, in the case of PLAVIX\* or ABILIFY\*, could be material to our financial condition and liquidity. As is customary in the pharmaceutical industry, the terms of our strategic alliances and arrangements generally are co-extensive with the exclusivity period and may vary on a country-by-country basis.

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Our most significant current alliances and arrangements for both currently marketed products and investigational compounds are described below.

Current Marketed Products—In-Licensed

Sanofi We have agreements with Sanofi for the codevelopment and cocommercialization of AVAPRO\*/AVALIDE\* and PLAVIX\*. AVAPRO\*/AVALIDE\* is copromoted in certain countries outside the U.S. under the tradename APROVEL\*/COAPROVEL\* and comarketed in certain countries outside the U.S. by us under the tradename KARVEA\*/KARVEZIDE\*. PLAVIX\* is copromoted in certain countries outside the U.S. under the tradename PLAVIX\* and comarketed in certain countries outside the U.S. by us under the tradename ISCOVER\*.

The worldwide alliance operates under the framework of two geographic territories, one covering certain European and Asian countries, referred to as Territory A, and one covering the U.S., Puerto Rico, Canada, Australia and certain Latin American countries, referred to as Territory B. Territory B is managed by two separate sets of agreements: one for PLAVIX\* in the U.S. and Puerto Rico and both products in Australia, Mexico, Brazil, Colombia and Argentina and a separate set of agreements for AVAPRO\*/AVALIDE\* in the U.S. and Puerto Rico only. Within each territory, a territory partnership exists to supply finished product to each country within the territory and to manage or contract for certain central expenses such as marketing, research and development and royalties. Countries within Territories A and B are structured so that our local affiliate and Sanofi's local affiliate either comarket separate brands (i.e., each affiliate operates independently and competes with the other by selling the same product under different trademarks), or copromote a single brand (i.e., the same product under the same trademark).

Within Territory A, the comarketing countries include Germany, Spain, Italy (irbesartan only), Greece and China (clopidogrel bisulfate only). We sell ISCOVER\* and KARVEA\*/KARVEZIDE\* and Sanofi sells PLAVIX\* and APROVEL\*/COAPROVEL\* in these countries, except China, where we retain the right to, but do not currently comarket ISCOVER\*. The Company and Sanofi copromote PLAVIX\* and APROVEL\*/COAPROVEL\* in France, the UK, Belgium, Netherlands, Switzerland and Portugal. In addition, the Company and Sanofi copromote PLAVIX\* in Austria, Italy, Ireland, Denmark, Finland, Norway, Sweden, Taiwan, South Korea and Hong Kong, and APROVEL\*/COAPROVEL\* in certain French export countries. In 2010 and prior, the Company and Sanofi also copromoted PLAVIX\* in Singapore. Sanofi acts as the operating partner for Territory A and owns a 50.1% financial controlling interest in this territory. Our ownership interest in this territory is 49.9%. We account for the investment in partnership entities in Territory A under the equity method and recognize our share of the results in equity in net income of affiliates. Our share of net income from these partnership entities before taxes was \$298 million in 2011, \$325 million in 2010 and \$558 million in 2009.

Within Territory B, the Company and Sanofi copromote PLAVIX\* and AVAPRO\*/AVALIDE\* in the U.S., Canada and Puerto Rico. The other Territory B countries, Australia, Mexico, Brazil, Colombia (clopidogrel bisulfate only) and Argentina are comarketing countries. We act as the operating partner for Territory B and own a 50.1% majority controlling interest in this territory. As such, we consolidate all partnership results in Territory B and recognize Sanofi's share of the results as net earnings attributable to noncontrolling interest, net of taxes, which was \$1,536 million in 2011, \$1,394 million in 2010 and \$1,159 million in 2009.

We recognized net sales in Territory B and Territory A comarketing countries of \$8.0 billion in 2011, \$7.8 billion in 2010 and \$7.4 billion in 2009.

The territory partnerships are governed by a series of committees with enumerated functions, powers and responsibilities. Each territory has two senior committees which have final decision-making authority with respect to that territory as to the enumerated functions, powers and responsibilities within their jurisdictions.

The agreements with Sanofi expire on the later of (i) with respect to PLAVIX\*, 2013 and, with respect to AVAPRO\*/AVALIDE\*, 2012 in the Americas and Australia and 2013 in Europe and Asia, and (ii) the expiration of all patents and other exclusivity rights relating to the products in the applicable territory.

The alliance arrangements may be terminated by Sanofi or us, either in whole or in any affected country or Territory, depending on the circumstances, in the event of (i) voluntary or involuntary bankruptcy or insolvency, which in the case of involuntary bankruptcy continues for 60 days or an order or decree approving same continues unstayed and in effect for 30 days; (ii) a material breach of an obligation under a major alliance agreement that remains uncured for 30 days following notice of the breach except where commencement and diligent prosecution of cure has occurred within 30 days after notice; (iii) deadlocks of one of the senior committees which render the continued commercialization of the product impossible in a given country or Territory; (iv) an increase in the combined cost of goods and royalty which exceeds a specified percentage of the net selling price of the product; or (v) a good faith determination by the terminating party that commercialization of a product should be terminated for reasons of patient safety.

In the case of each of these termination rights, the agreements include provisions for the termination of the relevant alliance with respect to the applicable product in the applicable country or territory or, in the case of a termination due to bankruptcy or insolvency or material breach, both products in the applicable territory. Each of these termination procedures is slightly different; however, in all events, we could lose all rights to either or both products, as applicable, in the relevant country or territory even in the case of a bankruptcy or insolvency or material breach where we are not the defaulting party.

For further discussion of our strategic alliance with Sanofi, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

**Otsuka** We maintain a worldwide commercialization agreement with Otsuka to codevelop and copromote ABILIFY\* (the ABILIFY\* Agreement), excluding certain Asia Pacific countries. In April 2009, the Company and Otsuka agreed to extend the U.S. portion of the commercialization and manufacturing agreement until the expected loss of product exclusivity in April 2015. The contractual share of ABILIFY\* net sales recognized by the Company pursuant to the extension was 65% in 2009, 58% in 2010 and 53.5% in 2011. Beginning on January 1, 2012, the contractual share of revenue recognized by the Company was further reduced to 51.5%.

In the UK, Germany, France and Spain, the Company receives 65% of third-party net sales. In these countries and the U.S., third-party customers are invoiced by the Company on behalf of Otsuka and alliance revenue is recognized when ABILIFY\* is shipped and all risks and rewards of ownership have transferred to third party customers. We also have an exclusive right to sell ABILIFY\* in other countries in Europe, the Americas and a number of countries in Asia. In these countries we recognize 100% of the net sales.

Under the terms of the ABILIFY\* Agreement, as amended, we purchase the product from Otsuka and perform finish manufacturing for sale by us or Otsuka to third-party customers. Under the terms of the extension agreement, we paid Otsuka \$400 million, which is amortized as a reduction of net sales through the extension period. The unamortized balance is included in other assets. Otsuka receives a royalty based on 1.5% of total U.S. net sales, which is included in cost of products sold. Otsuka is responsible for 30% of the U.S. expenses related to the commercialization of ABILIFY\* from 2010 through 2012. Reimbursements are netted principally in marketing, selling and administrative and advertising and product promotion expenses.

The ABILIFY\* Agreement expires in April 2015 in the U.S. and in June 2014 in all EU countries. In each other country where we have the exclusive right to sell ABILIFY\*, the agreement expires on the later of April 20, 2015 or loss of exclusivity in any such country.

Beginning January 1, 2013, and through the expected loss of U.S. exclusivity in April 2015, we will receive the following percentages of U.S. annual net sales:

	Share as a %
	Sales
\$0 to \$2.7 billion	50%
\$2.7 billion to \$3.2 billion	20%
\$3.2 billion to \$3.7 billion	7%
\$3.7 billion to \$4.0 billion	2%
\$4.0 billion to \$4.2 billion	1%
In excess of \$4.2 billion	20%

During this period, Otsuka will be responsible for 50% of all U.S. expenses related to the commercialization of ABILIFY\* in the U.S.

The U.S. portion of the ABILIFY\* Agreement and the Oncology Agreement described below include a change-of-control provision if we are acquired. If the acquiring company does not have a competing product to ABILIFY\*, then the new company will assume the ABILIFY\* Agreement (as amended) and the Oncology Agreement as it currently exists. If the acquiring company has a product that competes with ABILIFY\*, Otsuka can elect to request the acquiring company to choose whether to divest ABILIFY\* or the competing product. In the scenario where ABILIFY\* is divested, Otsuka would be obligated to acquire our rights under the ABILIFY\* Agreement (as amended) at a price according to a predetermined schedule. The agreements also provide that in the event of a generic competitor to ABILIFY\*, we have the option of terminating the ABILIFY\* April 2009 amendment (with the agreement as previously amended remaining in force). If we were to exercise such option then either (i) we would receive a payment from Otsuka according to a pre-determined schedule and the Oncology Agreement would terminate at the same time or (ii) the Oncology Agreement would continue for a truncated period according to a pre-determined schedule.

Early termination of the ABILIFY\* Agreement is immediate upon notice in the case of (i) voluntary bankruptcy, (ii) where minimum payments are not made to Otsuka, or (iii) first commercial sale has not occurred within three months after receipt of all necessary approvals, 30 days where a material breach has occurred (and not been cured or commencement of cure has not occurred within 90 days after notice of such material breach) and 90 days in the case where an involuntary bankruptcy petition has been filed (and has not been dismissed). In addition, termination is available to Otsuka upon 30 days notice in the event that we were to challenge Otsuka's patent rights or, on a market-by-market basis, in the event that we were to market a product in direct competition with ABILIFY\*. Upon termination or expiration of the ABILIFY\* Agreement, we do not retain any rights to ABILIFY\*.

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We recognized net sales for ABILIFY\* of \$2.8 billion in 2011 and \$2.6 billion in both 2010 and 2009. In addition to the \$400 million extension payment in 2009, total upfront, milestone and other licensing payments made to Otsuka under the ABILIFY\* Agreement through 2011 were \$217 million.

For a discussion of our Oncology Agreement with Otsuka, see "*Current Marketed Products—Internally Discovered*" below. For further discussion of our strategic alliance with Otsuka, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Lilly We have an EGFR commercialization agreement with Lilly through Lilly's subsidiary ImClone for the codevelopment and copromotion of ERBITUX\* and necitumumab (IMC-11F8) in the U.S., Canada and Japan. For more information on the agreement with respect to necitumumab, see "*Investigational Compounds Under Development—In-Licensed*" below. Under the EGFR agreement, with respect to ERBITUX\* sales in North America, Lilly receives a distribution fee based on a flat rate of 39% of net sales in North America, plus reimbursement of certain royalties paid by Lilly, and the Company and Lilly share one half of the profits and losses evenly in Japan with Merck KGaA receiving the other half of the profits and losses in Japan. The parties share royalties payable to third parties pursuant to a formula set forth in the commercialization agreement. We purchase all of our North American commercial requirements for bulk ERBITUX\* from Lilly. The agreement expires as to ERBITUX\* in North America in September 2018.

Early termination is available based on material breach and is effective 60 days after notice of the material breach (and such material breach has not been cured or commencement of cure has not occurred), or upon six months notice from us if there exists a significant concern regarding a regulatory or patient safety issue that would seriously impact the long-term viability of the product. Upon termination or expiration of the alliance, we do not retain any rights to ERBITUX\*.

We share codevelopment and copromotion rights to ERBITUX\* with Merck KGaA in Japan under an agreement signed in October 2007, and expiring in 2032, with Lilly, Merck KGaA and Merck Japan. Lilly has the ability to terminate the agreement after 2018 if it determines that it is commercially unreasonable for it to continue. ERBITUX\* received marketing approval in Japan in July 2008 for the use of ERBITUX\* in treating patients with advanced or recurrent colorectal cancer.

We recognized net sales for ERBITUX\* of \$691 million in 2011, \$662 million in 2010 and \$683 million in 2009.

For further discussion of our strategic alliance with Lilly, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Gilead We have a joint venture with Gilead to develop and commercialize ATRIPLA\* in the U.S., Canada and Europe. The Company and Gilead share responsibility for commercializing ATRIPLA\* in the U.S., Canada, throughout the EU and certain other European countries, and both provide funding and field-based sales representatives in support of promotional efforts for ATRIPLA\*. Gilead recognizes 100% of ATRIPLA\* revenues in the U.S., Canada and most countries in Europe. Our revenue for the efavirenz component is determined by applying a percentage to ATRIPLA\* revenue to approximate revenue for the SUSTIVA brand. We recognized efavirenz revenues of \$1,204 million in 2011, \$1,053 million in 2010 and \$869 million in 2009 related to ATRIPLA\* net sales.

The joint venture between the Company and Gilead will continue until terminated by mutual agreement of the parties or otherwise as described below. In the event of a material breach by one party, the non-breaching party may terminate the joint venture only if both parties agree that it is both desirable and practicable to withdraw the combination product from the markets where it is commercialized. At such time as one or more generic versions of a party's component product(s) appear on the market in the U.S., the other party will have the right to terminate the joint venture and thereby acquire all of the rights to the combination product, both in the U.S. and Canada; however, for three years the terminated party will continue to receive a percentage of the net sales based on the contribution of bulk component(s) to ATRIPLA\*, and otherwise retains all rights to its own product(s).

In 2011, we entered into a licensing agreement with Gilead to develop and commercialize a fixed-dose combination containing REYATAZ\* and Gilead's cobicistat, a pharmacoenhancing or "boosting" agent currently in Phase III clinical trials that increases blood levels of certain HIV medicines to potentially allow for one pill once daily dosing.

For further discussion of our strategic alliance with Gilead, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

#### Current Marketed Products—Internally Discovered

AstraZeneca In January 2007, we entered into a worldwide (except for Japan) codevelopment and cocommercialization agreement with AstraZeneca for ONGLYZA (the Saxagliptin Agreement). KOMBIGLYZE was codeveloped with AstraZeneca under the Saxagliptin Agreement. The exclusive rights to develop and sell ONGLYZA in Japan were licensed to Otsuka in December 2006, which is described below under "*Investigational Compounds Under Development—Internally Discovered*." The Company and AstraZeneca are also parties to a worldwide codevelopment and cocommercialization agreement for dapagliflozin, which is described below under "*Investigational Compounds Under Development—Internally Discovered*."

We manufacture ONGLYZA and KOMBIGLYZE and, with certain limited exceptions, recognize net sales in most key markets. We received \$300 million in upfront, milestone and other licensing payments from AstraZeneca for meeting certain development and regulatory milestones on ONGLYZA and KOMBIGLYZE, including \$50 million received in 2010 and \$150 million received in 2009, and could receive up to an additional \$300 million if all sales-based milestones are met. The majority of costs under the initial development plans were paid by AstraZeneca and additional development costs are generally shared equally. We expense ONGLYZA and KOMBIGLYZE development costs, net of AstraZeneca's share, in research and development. The two companies jointly develop the clinical and marketing strategy and share commercialization expenses and profits and losses equally on a global basis, excluding Japan.

For further discussion of our strategic alliance with AstraZeneca, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Otsuka Simultaneously with the extension of the ABILIFY\* Agreement, in April 2009, the Company and Otsuka entered into an Oncology Agreement for SPRYCEL and IXEMPRA, which includes the U.S., Japan and the EU markets (the Oncology Territory). Beginning in 2010 through 2020, the collaboration fees that we will pay to Otsuka annually are the following percentages of the aggregate net sales of SPRYCEL and IXEMPRA in the Oncology Territory:

	% of Net Sales	
	2010 - 2012	2013 - 2020
\$0 to \$400 million	30%	65%
\$400 million to \$600 million	5%	12%
\$600 million to \$800 million	3%	3%
\$800 million to \$1.0 billion	2%	2%
In excess of \$1.0 billion	1%	1%

During these periods, Otsuka will contribute (i) 20% of the first \$175 million of certain commercial operational expenses relating to the oncology products in the Oncology Territory, and (ii) 1% of such commercial operational expenses relating to the products in the Oncology Territory in excess of \$175 million. Beginning in 2011, Otsuka copromotes SPRYCEL in the U.S. and Japan and has exercised the right to copromote in the top five EU markets beginning in January 2012.

The Oncology Agreement expires with respect to SPRYCEL and IXEMPRA in 2020 and includes the same change-of-control provision if we were acquired as the ABILIFY\* Agreement described above.

For a discussion of our ABILIFY\* Agreement with Otsuka, see "*—Current Marketed Products—In-Licensed*" above. For further discussion of our strategic alliance with Otsuka, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Pfizer The Company and Pfizer are parties to a worldwide codevelopment and cocommercialization agreement for ELIQUIS, an anticoagulant discovered by us and being studied for the prevention and treatment of a broad range of venous and arterial thrombotic conditions which is currently approved and marketed in the EU for VTE prevention. Pfizer funds 60% of all development costs since January 2007 and we fund 40%. We have received \$559 million in upfront, milestone and other licensing payments from Pfizer to date, including \$20 million received in January 2012, and could receive up to an additional \$325 million from Pfizer if all development and regulatory milestones are met. The companies jointly develop the clinical and marketing strategy of ELIQUIS, and share commercialization expenses and profits and losses equally on a global basis.

For further discussion of our strategic alliance with Pfizer, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Investigational Compounds Under Development—In-Licensed

Lilly In January 2010, the Company and Lilly restructured the EGFR commercialization agreement to provide for the codevelopment and cocommercialization of necitumumab (IMC-11F8), a fully human antibody currently in Phase III development for non-small cell lung cancer. See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Product and Pipeline Developments" for an update on one Phase III trial. As restructured, both companies will share in the cost of developing and will share in the profits and losses upon commercializing necitumumab in the U.S., Canada and Japan. Lilly maintains exclusive rights to necitumumab in all other markets. We will fund 55% of development costs for studies that will be used only in the U.S., 50% for Japan studies, and 27.5% for global studies. We will pay \$250 million to Lilly as a milestone payment if first approval is granted in the U.S. In the U.S. and Canada, we will recognize all sales and 55% of the profits and losses for necitumumab. Lilly will provide 50% of the selling effort and the parties will, in general, equally participate in other commercialization efforts. In Japan, the Company and Lilly will share commercial costs and profits evenly. The agreement as it relates to necitumumab continues beyond patent expiration until both parties agree to terminate. Beginning in 2011, Lilly manufactures the bulk requirements and we assume responsibility for fill/finish of necitumumab.

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Abbott In August 2008, we were granted exclusive rights from Facet Biotech Corporation (now Abbott) for the codevelopment and cocommercialization of elotuzumab, a humanized monoclonal antibody being investigated as treatment for multiple myeloma. Under the terms of the agreement, we fund 80% of the development costs for elotuzumab. Upon commercialization, Abbott will share 30% of all profits and losses in the U.S., and will be paid tiered royalties outside of the U.S. We will be solely responsible for commercialization of elotuzumab. In addition, Abbott may receive milestone payments from us based on certain regulatory events and sales thresholds, if achieved.

#### Investigational Compounds Under Development—Internally Discovered

AstraZeneca As mentioned above, we have a worldwide codevelopment and cocommercialization agreement with AstraZeneca for dapagliflozin (the SGLT2 Agreement). Dapagliflozin is being studied for the potential treatment of diabetes and was discovered by us.

Under the SGLT2 Agreement, we have received \$170 million of upfront, milestone and other licensing payments from AstraZeneca, including \$120 million received during 2011 and could receive up to \$230 million more if all development and regulatory milestones for dapagliflozin are met and up to an additional \$390 million if all sales-based milestones for dapagliflozin are met. The majority of costs under the initial plans through 2009 were paid by AstraZeneca and any additional development costs will generally be shared equally except for Japan, where AstraZeneca bears substantially all of the development costs prior to approval of the first indication. We expense dapagliflozin development costs, net of our alliance partner's share, in research and development. Under the SGLT2 Agreement, like with the Saxagliptin Agreement, the two companies will jointly develop the clinical and marketing strategy and share commercialization expenses and profits and losses for dapagliflozin equally on a global basis, and we will manufacture dapagliflozin and, with certain limited exceptions, recognize net sales in most key markets. With respect to Japan, AstraZeneca has operational and cost responsibility for all development and regulatory activities on behalf of the collaboration, related to certain trials. All other development costs are shared by the two companies. The two companies will jointly market the product in Japan, sharing all commercialization expenses and activities and splitting profits and losses equally like in the rest of the world. We will also manufacture dapagliflozin and recognize net sales in Japan, like in the rest of the world. Dapagliflozin is currently being studied in Phase II clinical trials in Japan.

For further discussion of our strategic alliance with AstraZeneca, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

Otsuka In January 2007, we granted Otsuka exclusive rights in Japan to develop and commercialize ONGLYZA. We are entitled to receive milestone payments based on certain regulatory events, as well as sales-based payments following regulatory approval of ONGLYZA in Japan. We retained rights to copromote ONGLYZA with Otsuka in Japan. Otsuka is responsible for all development costs in Japan.

#### Royalty and Other Licensing Arrangements

In addition to the strategic alliances described above, we have other in-licensing and out-licensing arrangements. With respect to in-licenses, we have agreements with Novartis for REYATAZ among others. Based on our current expectations with respect to the expiration of market exclusivity in our significant markets, the licensing arrangements with Novartis for REYATAZ are expected to expire in 2017 in the U.S. and the EU and 2019 in Japan. For further discussion of market exclusivity protection, including a chart showing net sales of key products together with the year in which basic exclusivity loss occurred or is expected to occur in the U.S., the EU, Japan and Canada, see "—Products" above.

We own certain compounds out-licensed to third parties for development and commercialization, including those obtained as a result of our acquisitions of ZymoGenetics in October 2010 and Medarex in August 2009. We are entitled to receive milestone payments as these compounds move through the regulatory process and royalties based on product sales, if and when the products are commercialized.

#### **Intellectual Property and Product Exclusivity**

We own or license a number of patents in the U.S. and foreign countries primarily covering our products. We have also developed many brand names and trademarks for our products. We consider the overall protection of our patents, trademarks, licenses and other intellectual property rights to be of material value and act to protect these rights from infringement.

In the pharmaceutical industry, the majority of an innovative product's commercial value is usually realized during the period in which the product has market exclusivity. A product's market exclusivity is generally determined by two forms of intellectual property: patent rights held by the innovator company and any regulatory forms of exclusivity to which the innovative drug is entitled.

Patents are a key determinant of market exclusivity for most branded pharmaceuticals. Patents provide the innovator with the right to exclude others from practicing an invention related to the medicine. Patents may cover, among other things, the active ingredient(s),

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various uses of a drug product, pharmaceutical formulations, drug delivery mechanisms and processes for (or intermediates useful in) the manufacture of products. Protection for individual products extends for varying periods in accordance with the expiration dates of patents in the various countries. The protection afforded, which may also vary from country to country, depends upon the type of patent, its scope of coverage and the availability of meaningful legal remedies in the country.

Market exclusivity is also sometimes influenced by regulatory intellectual property rights. Many developed countries provide certain non-patent incentives for the development of medicines. For example, in the U.S., the EU, Japan, Canada and certain other markets, regulatory intellectual property rights are offered as incentives for research on medicines for rare diseases, or orphan drugs, and on medicines useful in treating pediatric patients. These incentives can extend the market exclusivity period on a product beyond the patent term.

The U.S., EU, Japan and Canada also each provide for a minimum period of time after the approval of a new drug during which the regulatory agency may not rely upon the innovator's data to approve a competitor's generic copy, or data protection. In certain markets where patent protection and other forms of market exclusivity may have expired, data protection can be of particular importance. However, most regulatory forms of exclusivity do not prevent a competitor from gaining regulatory approval prior to the expiration of regulatory data exclusivity on the basis of the competitor's own safety and efficacy data on its drug, even when that drug is identical to that marketed by the innovator.

Specific aspects of the law governing market exclusivity and data protection for pharmaceuticals vary from country to country. The following summarizes key exclusivity rules in markets representing significant sales:

#### *United States*

In the U.S., most of our key products are protected by patents with varying terms depending on the type of patent and the filing date. A significant portion of a product's patent life, however, is lost during the time it takes an innovative company to develop and obtain regulatory approval of a new drug. As compensation at least in part for the lost patent term, the innovator may, depending on a number of factors, extend the expiration date of one patent up to a maximum term of five years, provided that the extension cannot cause the patent to be in effect for more than 14 years from the date of drug approval.

A company seeking to market an innovative pharmaceutical in the U.S. must submit a complete set of safety and efficacy data to the FDA. If the innovative pharmaceutical is a chemical, the company files a New Drug Application (NDA). If the medicine is a biological product, a Biologics License Application (BLA) is filed. The type of application filed affects regulatory exclusivity rights.

#### *Chemical products*

A competitor seeking to launch a generic substitute of a chemical innovative drug in the U.S. must file an abbreviated NDA (aNDA) with the FDA. In the aNDA, the generic manufacturer needs to demonstrate only "bioequivalence" between the generic substitute and the approved NDA drug. The aNDA relies upon the safety and efficacy data previously filed by the innovator in its NDA.

An innovator company is required to list certain of its patents covering the medicine with the FDA in what is commonly known as the Orange Book. Absent a successful patent challenge, the FDA cannot approve an aNDA until after the innovator's listed patents expire. However, after the innovator has marketed its product for four years, a generic manufacturer may file an aNDA and allege that one or more of the patents listed in the Orange Book under an innovator's NDA is either invalid or not infringed. This allegation is commonly known as a Paragraph IV certification. The innovator then must decide whether to file a patent infringement suit against the generic manufacturer. From time to time, aNDAs, including Paragraph IV certifications, are filed with respect to certain of our products. We evaluate these aNDAs on a case-by-case basis and, where warranted, file suit against the generic manufacturer to protect our patent rights.

In addition to benefiting from patent protection, certain innovative pharmaceutical products can receive periods of regulatory exclusivity. A NDA that is designated as an orphan drug can receive seven years of exclusivity for the orphan indication. During this time period, neither NDAs nor aNDAs for the same drug product can be approved for the same orphan use. A company may also earn six months of additional exclusivity for a drug where specific clinical trials are conducted at the written request of the FDA to study the use of the medicine to treat pediatric patients, and submission to the FDA is made prior to the loss of basic exclusivity.

Medicines approved under a NDA can also receive several types of regulatory data protection. An innovative chemical pharmaceutical is entitled to five years of regulatory data protection in the U.S., during which competitors cannot file with the FDA for approval of generic substitutes. If an innovator's patent is challenged, as described above, a generic manufacturer may file its aNDA after the fourth year of the five-year data protection period. A pharmaceutical drug product that contains an active ingredient that has been previously approved in an NDA, but is approved in a new formulation, but not for the drug itself, or for a new indication on the basis of new clinical trials, receives three years of data protection for that formulation or indication.

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### *Biologic products*

Under the U.S. healthcare legislation enacted in 2010, regulatory approval of biosimilar versions of biological products can be obtained through an abbreviated path. The abbreviated path for approval of biosimilar products under the U.S. healthcare legislation significantly affects the regulatory data exclusivity for biological products. The 2010 legislation provides a regulatory mechanism that allows for FDA approval of biologic drugs that are similar to (but not generic copies of) innovative drugs on the basis of less extensive data than is required by a full BLA. The legislation created an approval pathway for biosimilar versions of biological products, which did not previously exist. Innovative biological products no longer receive the essentially unlimited regulatory data exclusivity that existed prior to creation of a regulatory path for biosimilar versions. Under the 2010 law, after an innovator has marketed its biological product for four years, a biosimilar manufacturer may file an application for approval of a biosimilar version of the innovator product. However, although an application for approval of a biosimilar may be filed four years after approval of the innovator product, qualified innovative biological products will receive 12 years of regulatory exclusivity, meaning that the FDA may not approve a biosimilar version until 12 years after the innovative biological product was first approved by the FDA. The 2010 law also provides a mechanism for innovators to enforce the patents that protect innovative biological products and for biosimilar applicants to challenge the patents. Such patent litigation may begin as early as four years after the innovative biological product is first approved by the FDA.

In the U.S., the increased likelihood of generic and biosimilar challenges to innovators' intellectual property has increased the risk of loss of innovators' market exclusivity. First, generic companies have increasingly sought to challenge innovators' basic patents covering major pharmaceutical products. Second, statutory and regulatory provisions in the U.S. limit the ability of an innovator company to prevent generic and biosimilar drugs from being approved and launched while patent litigation is ongoing. As a result of all of these developments, it is not possible to predict the length of market exclusivity for a particular product with certainty based solely on the expiration of the relevant patent(s) or the current forms of regulatory exclusivity.

### *European Union*

Patents on pharmaceutical products are generally enforceable in the EU and, as in the U.S., may be extended to compensate for the patent term lost during the regulatory review process. Such extensions are granted on a country-by-country basis.

The primary route we use to obtain marketing authorization of pharmaceutical products in the EU is through the "centralized procedure." This procedure is compulsory for certain pharmaceutical products, in particular those using biotechnological processes, and is also available for certain new chemical compounds and products. A company seeking to market an innovative pharmaceutical product through the centralized procedure must file a complete set of safety data and efficacy data as part of a Marketing Authorization Application (MAA) with the European Medicines Agency (EMA). After the EMA evaluates the MAA, it provides a recommendation to the European Commission (EC) and the EC then approves or denies the MAA. It is also possible for new chemical products to obtain marketing authorization in the EU through a "mutual recognition procedure," in which an application is made to a single member state, and if the member state approves the pharmaceutical product under a national procedure, then the applicant may submit that approval to the mutual recognition procedure of some or all other member states.

After obtaining marketing authorization approval, a company must obtain pricing and reimbursement for the pharmaceutical product, which is typically subject to member state law. In certain EU countries, this process can take place simultaneously while the product is marketed but in other EU countries, this process must be completed before the company can market the new product. The pricing and reimbursement procedure can take months and sometimes years to complete.

Throughout the EU, all products for which marketing authorizations have been filed after October/November 2005 are subject to an "8+2+1" regime. Eight years after the innovator has received its first community authorization for a medicinal product, a generic company may file a marketing authorization application for that product with the health authorities. If the marketing authorization application is approved, the generic company may not commercialize the product until after either 10 or 11 years have elapsed from the initial marketing authorization granted to the innovator. The possible extension to 11 years is available if the innovator, during the first eight years of the marketing authorization, obtains an additional indication that is of significant clinical benefit in comparison with existing treatments. For products that were filed prior to October/November 2005, there is a 10-year period of data protection under the centralized procedures and a period of either six or 10 years under the mutual recognition procedure (depending on the member state).

In contrast to the U.S., patents in the EU are not listed with regulatory authorities. Generic versions of pharmaceutical products can be approved after data protection expires, regardless of whether the innovator holds patents covering its drug. Thus, it is possible that an innovator may be seeking to enforce its patents against a generic competitor that is already marketing its product. Also, the European patent system has an opposition procedure in which generic manufacturers may challenge the validity of patents covering innovator products within nine months of grant.

In general, EU law treats chemically-synthesized drugs and biologically-derived drugs the same with respect to intellectual property and data protection. In addition to the relevant legislation and annexes related to biologic medicinal products, the EMA has issued guidelines that outline the additional information to be provided for biosimilar products, also known as generic biologics, in order to review an application for marketing approval.

*Japan*

In Japan, medicines of new chemical entities are generally afforded eight years of data exclusivity for approved indications and dosage. Patents on pharmaceutical products are enforceable. Generic copies can receive regulatory approval after data exclusivity and patent expirations. As in the U.S., patents in Japan may be extended to compensate for the patent term lost during the regulatory review process.

In general, Japanese law treats chemically-synthesized and biologically-derived drugs the same with respect to intellectual property and market exclusivity.

*Canada*

In Canada as of 2006, medicines of new chemical entities are generally afforded eight years of data exclusivity for approved indications and dosage. Patents on pharmaceutical products are enforceable. Generic copies can receive regulatory approval after data exclusivity and patent expirations. Currently, unlike the U.S., Canada has no patent term restoration to compensate for the patent term lost during the regulatory review process.

In Canada, biologics are generally treated the same as chemically-synthesized products with respect to patent rights and regulatory exclusivity. Health Canada has issued draft guidance that outlines the additional information to be provided for Subsequent Entry Biologics, also known as biosimilar products or generic biologics, in order to review an application for marketing approval.

*Rest of World*

In countries outside of the U.S., the EU, Japan and Canada, there is a wide variety of legal systems with respect to intellectual property and market exclusivity of pharmaceuticals. Most other developed countries utilize systems similar to either the U.S. or the EU (e.g., Switzerland). Among developing countries, some have adopted patent laws and/or regulatory exclusivity laws, while others have not. Some developing countries have formally adopted laws in order to comply with World Trade Organization (WTO) commitments, but have not taken steps to implement these laws in a meaningful way. Enforcement of WTO actions is a long process between governments, and there is no assurance of the outcome. Thus, in assessing the likely future market exclusivity of our innovative drugs in developing countries, we take into account not only formal legal rights but political and other factors as well.

**Marketing, Distribution and Customers**

We promote the appropriate use of our products directly to healthcare professionals and providers such as doctors, nurse practitioners, physician assistants, pharmacists, technologists, hospitals, Pharmacy Benefit Managers (PBMs) and Managed Care Organizations (MCOs). We also provide information about the appropriate use of our products to consumers in the U.S. through direct-to-consumer print, radio and television advertising. In addition, we sponsor general advertising to educate the public about our innovative medical research. For a discussion of the regulation of promotion and marketing of pharmaceuticals, see "—Government Regulation and Price Constraints" below.

Through our sales and marketing organizations, we explain the approved uses and risks and benefits of our products to medical professionals. We work to gain access to health authorities, PBM and MCO formularies (lists of recommended or approved medicines and other products), including Medicare Part D plans and reimbursement lists by providing information about the clinical profile of our products. Marketing of prescription pharmaceuticals is limited to the approved uses of the particular product, but we continue to develop scientific data and other information about our products and provide such information in response to unsolicited inquiries from doctors, other medical professionals and managed care organizations.

Our operations include several marketing and sales organizations. Each organization markets a distinct group of products supported by a sales force and is typically based on particular therapeutic areas or physician groups. These sales forces often focus on selling new products when they are introduced, and promotion to physicians is increasingly targeted at specialists and key primary care physicians.

Our products are sold principally to wholesalers, and to a lesser extent, directly to distributors, retailers, hospitals, clinics, government agencies and pharmacies. Gross sales to the three largest pharmaceutical wholesalers in the U.S. as a percentage of our total gross sales were as follows:

	2011	2010	2009
McKesson Corporation	26%	24%	25%
Cardinal Health, Inc.	21%	21%	20%
AmerisourceBergen Corporation	16%	16%	15%

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Our U.S. business has Inventory Management Agreements (IMAs) with substantially all of our direct wholesaler and distributor customers that allow us to monitor U.S. wholesaler inventory levels and requires those wholesalers to maintain inventory levels that are no more than one month of their demand. The IMAs expire on December 31, 2012, subject to certain termination provisions.

In a number of defined markets outside of the U.S., we have established a full scale distributor model to make medically necessary drugs available to patients. We continue to own the marketing authorization and trademarks for these products, but have contracted the services of a full-service distributor to provide distribution and logistics; regulatory and pharmacovigilance; and sales, advertising and promotion for certain products. These contracts clearly define terms and conditions, along with the services we will provide (such as supply through a firm order period). We monitor in-market sales and forecasts to ensure that reasonable inventory levels for all products for sale are maintained to fully and continuously meet the demand for the products within the distributor's territory or responsibility. Sales in these distributor-based markets represented less than 1% of the Company's net sales in 2011.

## **Competition**

The markets in which we compete are generally broad based and highly competitive. We compete with other worldwide research-based drug companies, many smaller research companies with more limited therapeutic focus and generic drug manufacturers. Important competitive factors include product efficacy, safety and ease of use, price and demonstrated cost-effectiveness, marketing effectiveness, product labeling, customer service and research and development of new products and processes. Sales of our products can be impacted by new studies that indicate a competitor's product is safer or more effective for treating a disease or particular form of disease than one of our products. Our sales also can be impacted by additional labeling requirements relating to safety or convenience that may be imposed on products by the FDA or by similar regulatory agencies in different countries. If competitors introduce new products and processes with therapeutic or cost advantages, our products can be subject to progressive price reductions or decreased volume of sales, or both.

### *Generic Competition*

One of the biggest competitive challenges that we face is from generic pharmaceutical manufacturers. In the U.S. and the EU, the regulatory approval process exempts generics from costly and time-consuming clinical trials to demonstrate their safety and efficacy, allowing generic manufacturers to rely on the safety and efficacy of the innovator product. As a result, generic pharmaceutical manufacturers typically invest far less in research and development than research-based pharmaceutical companies and therefore can price their products significantly lower than branded products. Accordingly, when a branded product loses its market exclusivity, it normally faces intense price competition from generic forms of the product. Upon the expiration or loss of market exclusivity on a product, we can lose the major portion of sales of that product in a very short period of time.

The rate of sales decline of a product after the expiration of exclusivity varies by country. In general, the decline in the U.S. market is more rapid than in most other developed countries, though we have observed rapid declines in a number of EU countries as well. Also, the declines in developed countries tend to be more rapid than in developing countries. The rate of sales decline after the expiration of exclusivity has also historically been influenced by product characteristics. For example, drugs that are used in a large patient population (e.g., those prescribed by key primary care physicians) tend to experience more rapid declines than drugs in specialized areas of medicine (e.g., oncology). Drugs that are more complex to manufacture (e.g., sterile injectable products) usually experience a slower decline than those that are simpler to manufacture.

In certain countries outside the U.S., patent protection is weak or nonexistent and we must compete with generic versions shortly after we launch our innovative products. In addition, generic pharmaceutical companies may introduce a generic product before exclusivity has expired, and before the resolution of any related patent litigation. For more information about market exclusivity, see "—Intellectual Property and Product Exclusivity" above.

We believe our long-term competitive position depends upon our success in discovering and developing innovative, cost-effective products that serve unmet medical needs, together with our ability to manufacture products efficiently and to market them effectively in a highly competitive environment.

## **Managed Care Organizations**

The growth of MCOs in the U.S. is also a major factor in the healthcare marketplace. Over half of the U.S. population now participates in some version of managed care. MCOs can include medical insurance companies, medical plan administrators, health-maintenance organizations, Medicare Part D prescription drug plans, alliances of hospitals and physicians and other physician organizations. Those organizations have been consolidating into fewer, larger entities, thus enhancing their purchasing strength and importance to us.

To successfully compete for business with MCOs, we must often demonstrate that our products offer not only medical benefits but also cost advantages as compared with other forms of care. Most new products that we introduce compete with other products already on the market or products that are later developed by competitors. As noted above, generic drugs are exempt from costly and time-consuming

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clinical trials to demonstrate their safety and efficacy and, as such, often have lower costs than brand-name drugs. MCOs that focus primarily on the immediate cost of drugs often favor generics for this reason. Many governments also encourage the use of generics as alternatives to brand-name drugs in their healthcare programs. Laws in the U.S. generally allow, and in many cases require, pharmacists to substitute generic drugs that have been rated under government procedures to be essentially equivalent to a brand-name drug. The substitution must be made unless the prescribing physician expressly forbids it.

Exclusion of a product from a formulary can lead to its sharply reduced usage in the MCO patient population. Consequently, pharmaceutical companies compete aggressively to have their products included. Where possible, companies compete for inclusion based upon unique features of their products, such as greater efficacy, better patient ease of use or fewer side effects. A lower overall cost of therapy is also an important factor. Products that demonstrate fewer therapeutic advantages must compete for inclusion based primarily on price. We have been generally, although not universally, successful in having our major products included on MCO formularies.

### **Government Regulation and Price Constraints**

The pharmaceutical industry is subject to extensive global regulation by regional, country, state and local agencies. The Federal Food, Drug, and Cosmetic Act (FDC Act), other Federal statutes and regulations, various state statutes and regulations, and laws and regulations of foreign governments govern to varying degrees the testing, approval, production, labeling, distribution, post-market surveillance, advertising, dissemination of information, and promotion of our products. The lengthy process of laboratory and clinical testing, data analysis, manufacturing, development, and regulatory review necessary for required governmental approvals is extremely costly and can significantly delay product introductions in a given market. Promotion, marketing, manufacturing and distribution of pharmaceutical products are extensively regulated in all major world markets. In addition, our operations are subject to complex Federal, state, local, and foreign environmental and occupational safety laws and regulations. We anticipate that the laws and regulations affecting the manufacture and sale of current products and the introduction of new products will continue to require substantial scientific and technical effort, time and expense as well as significant capital investments.

Of particular importance is the FDA in the U.S. It has jurisdiction over virtually all of our activities and imposes requirements covering the testing, safety, effectiveness, manufacturing, labeling, marketing, advertising and post-marketing surveillance of our products. In many cases, FDA requirements have increased the amount of time and money necessary to develop new products and bring them to market in the U.S.

The FDA mandates that drugs be manufactured, packaged and labeled in conformity with current Good Manufacturing Practices (cGMP) established by the FDA. In complying with cGMP regulations, manufacturers must continue to expend time, money and effort in production, recordkeeping and quality control to ensure that products meet applicable specifications and other requirements to ensure product safety and efficacy. The FDA periodically inspects our drug manufacturing facilities to ensure compliance with applicable cGMP requirements. Failure to comply with the statutory and regulatory requirements subjects us to possible legal or regulatory action, such as suspension of manufacturing, seizure of product or voluntary recall of a product. Adverse experiences with the use of products must be reported to the FDA and could result in the imposition of market restrictions through labeling changes or product removal. Product approvals may be withdrawn if compliance with regulatory requirements is not maintained or if problems concerning safety or efficacy occur following approval.

The Federal government has extensive enforcement powers over the activities of pharmaceutical manufacturers, including authority to withdraw product approvals, commence actions to seize and prohibit the sale of unapproved or non-complying products, to halt manufacturing operations that are not in compliance with cGMPs, and to impose or seek injunctions, voluntary recalls, civil, monetary and criminal penalties. Such a restriction or prohibition on sales or withdrawal of approval of products marketed by us could materially adversely affect our business, financial condition and results of operations and cash flows.

Marketing authorization for our products is subject to revocation by the applicable governmental agencies. In addition, modifications or enhancements of approved products or changes in manufacturing locations are in many circumstances subject to additional FDA approvals, which may or may not be received and which may be subject to a lengthy application process.

The distribution of pharmaceutical products is subject to the Prescription Drug Marketing Act (PDMA) as part of the FDC Act, which regulates such activities at both the Federal and state level. Under the PDMA and its implementing regulations, states are permitted to require registration of manufacturers and distributors who provide pharmaceuticals even if such manufacturers or distributors have no place of business within the state. States are also permitted to adopt regulations limiting the distribution of product samples to licensed practitioners. The PDMA also imposes extensive licensing, personnel recordkeeping, packaging, quantity, labeling, product handling and facility storage and security requirements intended to prevent the sale of pharmaceutical product samples or other product diversions.

The FDA Amendments Act of 2007 imposed additional obligations on pharmaceutical companies and delegated more enforcement authority to the FDA in the area of drug safety. Key elements of this legislation give the FDA authority to (1) require that companies conduct post-marketing safety studies of drugs, (2) impose certain drug labeling changes relating to safety, (3) mandate risk mitigation measures such as the education of healthcare providers and the restricted distribution of medicines, (4) require companies to publicly disclose data from clinical trials and (5) pre-review television advertisements.

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The marketing practices of all U.S. pharmaceutical manufacturers are subject to Federal and state healthcare laws that are used to protect the integrity of government healthcare programs. The Office of Inspector General of the U.S. Department of Health and Human Services (OIG) oversees compliance with applicable Federal laws, in connection with the payment for products by government funded programs (primarily Medicaid and Medicare). These laws include the Federal anti-kickback statute, which criminalizes the offering of something of value to induce the recommendation, order or purchase of products or services reimbursed under a government healthcare program. The OIG has issued a series of Guidances to segments of the healthcare industry, including the 2003 Compliance Program Guidance for Pharmaceutical Manufacturers (the OIG Guidance), which includes a recommendation that pharmaceutical manufacturers, at a minimum, adhere to the PhRMA Code, a voluntary industry code of marketing practices. We subscribe to the PhRMA Code, and have implemented a compliance program to address the requirements set forth in the OIG Guidance and our compliance with the healthcare laws. Failure to comply with these healthcare laws could subject us to administrative and legal proceedings, including actions by Federal and state government agencies. Such actions could result in the imposition of civil and criminal sanctions, which may include fines, penalties and injunctive remedies, the impact of which could materially adversely affect our business, financial condition and results of operations and cash flows.

We are also subject to the jurisdiction of various other Federal and state regulatory and enforcement departments and agencies, such as the Federal Trade Commission, the Department of Justice and the Department of Health and Human Services in the U.S. We are also licensed by the U.S. Drug Enforcement Agency to procure and produce controlled substances. We are, therefore, subject to possible administrative and legal proceedings and actions by these organizations. Such actions may result in the imposition of civil and criminal sanctions, which may include fines, penalties and injunctive or administrative remedies.

Our activities outside the U.S. are also subject to regulatory requirements governing the testing, approval, safety, effectiveness, manufacturing, labeling and marketing of our products. These regulatory requirements vary from country to country. Whether or not FDA approval or approval of the EMA has been obtained for a product, approval of the product by comparable regulatory authorities of countries outside of the U.S. or the EU, as the case may be, must be obtained prior to marketing the product in those countries. The approval process may be more or less rigorous from country to country, and the time required for approval may be longer or shorter than that required in the U.S. Approval in one country does not assure that a product will be approved in another country.

In many markets outside the U.S., we operate in an environment of government-mandated, cost-containment programs. Several governments have placed restrictions on physician prescription levels and patient reimbursements, emphasized greater use of generic drugs and/or enacted across-the-board price cuts as methods of cost control. In most EU countries, for example, the government regulates pricing of a new product at launch often through direct price controls, international price comparisons, controlling profits and/or reference pricing. In other markets, such as the UK and Germany, the government does not set pricing restrictions at launch, but pricing freedom is subsequently limited, such as by the operation of a profit and price control plan in the UK and by the operation of a reference price system in Germany. Companies also face significant delays in market access for new products, mainly in France, Spain, Italy and Belgium, and more than two years can elapse before new medicines become available on some national markets. Additionally, member states of the EU have regularly imposed new or additional cost containment measures for pharmaceuticals. In recent years, Italy, for example, has imposed mandatory price decreases. The existence of price differentials within the EU due to the different national pricing and reimbursement laws leads to significant parallel trade flows.

Both in the U.S. and internationally, the healthcare industry is subject to various government-imposed regulations authorizing prices or price controls that have and will continue to have an impact on our net sales. In March 2010, the U.S. government enacted healthcare reform legislation, signing into law the Patient Protection and Affordable Care Act (HR 3590) and a reconciliation bill containing a package of changes to the healthcare bill. The legislation makes extensive changes to the current system of healthcare insurance and benefits intended to broaden coverage and reduce costs. These bills significantly change how Americans receive healthcare coverage and how they pay for it. They also have a significant impact on companies, in particular those companies in the pharmaceutical industry and other healthcare related industries, including BMS. We have experienced and will continue to experience additional financial costs and certain other changes to our business as the new healthcare law is implemented. For example, minimum rebates on our Medicaid drug sales have increased from 15.1 percent to 23.1 percent and Medicaid rebates have also been extended to drugs used in risk-based Medicaid managed care plans. In addition, we extend discounts to certain critical access hospitals, cancer hospitals and other covered entities as required by the expansion of the 340B Drug Pricing Program under the Public Health Service Act.

In 2011, we were also required to provide a 50 percent discount on our brand-name drugs to patients who fall within the Medicare Part D coverage gap, also referred to as the "donut hole" and we will pay an annual non-tax-deductible fee to the federal government based on an allocation of our market share of branded prior year sales to certain government programs including Medicare, Medicaid, Department of Veterans Affairs, Department of Defense and TRICARE.

In many markets outside the U.S., we operate in environments of government-mandated, cost-containment programs, or under other regulatory bodies or groups that can exert downward pressure on pricing. Pricing freedom is limited in the UK, for instance, by the

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operation of a profit control plan and in Germany by the operation of a reference price system. Companies also face significant delays in market access for new products as more than two years can elapse after drug approval before new medicines become available in some countries.

Federal and state governments also have pursued direct methods to reduce the cost of drugs for which they pay. We participate in state government Medicaid programs, as well as certain other qualifying Federal and state government programs whereby discounts and rebates are provided to participating state and local government entities. We also participate in government programs that specify discounts to certain government entities, the most significant of which are the U.S. Department of Defense and the U.S. Department of Veterans Affairs. These entities receive minimum discounts based off a defined "non-federal average manufacturer price" for purchases. Other programs in which we participate provide discounts for outpatient medicines purchased by certain specified entities under Section 340B of the Public Health Service Act.

For further discussion of these rebates and programs, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Net Sales" and "—Critical Accounting Policies."

### **Sources and Availability of Raw Materials**

In general, we purchase our raw materials and supplies required for the production of our products in the open market. For some products, we purchase our raw materials and supplies from one source (the only source available to us) or a single source (the only approved source among many available to us), thereby requiring us to obtain such raw materials and supplies from that particular source. We attempt, if possible, to mitigate our raw material supply risks, through inventory management and alternative sourcing strategies. For further discussion of sourcing, see "—Manufacturing and Quality Assurance" below and discussions of particular products.

### **Manufacturing and Quality Assurance**

To meet all expected product demand, we operate and manage our manufacturing network, including our third-party contract manufacturers, and the inventory related thereto, in a manner that permits us to improve efficiency while maintaining flexibility to reallocate manufacturing capacity. Pharmaceutical production processes are complex, highly regulated and vary widely from product to product. Given that shifting or adding manufacturing capacity can be a lengthy process requiring significant capital and out-of-pocket expenditures as well as regulatory approvals, we maintain and operate our flexible manufacturing network, consisting of internal and external resources that minimize unnecessary product transfers and inefficient uses of manufacturing capacity. For further discussion of the regulatory impact on our manufacturing, see "—Government Regulation and Price Constraints" above.

Our pharmaceutical manufacturing facilities are located in the U.S., Puerto Rico, France, Italy, Ireland, Japan, Mexico and China and require significant ongoing capital investment for both maintenance and compliance with increasing regulatory requirements. In addition, as our product line changes over the next several years, we expect to continue modification of our existing manufacturing network to meet complex processing standards that may be required for newly introduced products, including biologics. Biologics manufacturing involves more complex processes than those of traditional pharmaceutical operations. In February 2007, we purchased an 89-acre site to locate our large scale multi-product bulk biologics manufacturing facility in Devens, Massachusetts. Construction of the Devens, Massachusetts facility began in early 2007 and was substantially completed in 2010. We submitted the site for regulatory approval in early 2012 and we expect the FDA to complete a review of our application by the end of the year.

We rely on third parties to manufacture or supply us with certain active ingredients necessary for us to manufacture various products, including PLAVIX\*, BARACLUDGE, AVALIDE\*, REYATAZ, ABILIFY\*, ERBITUX\*, the SUSTIVA Franchise, ORENCIA, YERVOY, ONGLYZA and KOMBIGLYZE. To maintain a stable supply of these products, we take a variety of actions including inventory management and maintenance of additional quantities of materials, when possible, designed to provide for a reasonable level of these ingredients to be held by the third-party supplier, us or both, so that our manufacturing operations are not interrupted. As an additional protection, in some cases, we take steps to maintain an approved back-up source where available. For example, we will rely on the capacity of our Devens, Massachusetts facility and the capacity available at our third-party contract manufacturers to manufacture ORENCIA.

If we or any third-party manufacturer that we rely on for existing or future products is unable to maintain a stable supply of products, operate at sufficient capacity to meet our order requirements, comply with government regulations for manufacturing pharmaceuticals or meet the complex processing requirements for biologics, our business performance and prospects could be negatively impacted. Additionally, if we or any of our third-party suppliers were to experience extended plant shutdowns or substantial unplanned increases in demand or suspension of manufacturing for regulatory reasons, we could experience an interruption in supply of certain products or product shortages until production could be resumed or expanded.

In connection with divestitures, licensing arrangements or distribution agreements of certain of our products, or in certain other circumstances, we have entered into agreements under which we have agreed to supply such products to third parties. In addition to liabilities that could arise from our failure to supply such products under the agreements, these arrangements could require us to invest in facilities for the production of non-strategic products, result in additional regulatory filings and obligations or cause an interruption in the manufacturing of our own products.

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Our success depends in great measure upon customer confidence in the quality of our products and in the integrity of the data that support their safety and effectiveness. Product quality arises from a total commitment to quality in all parts of our operations, including research and development, purchasing, facilities planning, manufacturing, and distribution. We maintain quality-assurance procedures relating to the quality and integrity of technical information and production processes.

Control of production processes involves detailed specifications for ingredients, equipment and facilities, manufacturing methods, processes, packaging materials and labeling. We perform tests at various stages of production processes and on the final product to ensure that the product meets regulatory requirements and our standards. These tests may involve chemical and physical chemical analyses, microbiological testing, or a combination of these along with other analyses. Quality control is provided by business unit/site quality assurance groups that monitor existing manufacturing procedures and systems used by us, our subsidiaries and third-party suppliers.

### **Environmental Regulation**

Our facilities and operations are subject to extensive U.S. and foreign laws and regulations relating to environmental protection and human health and safety, including those governing discharges of pollutants into the air and water; the use, management and disposal of hazardous, radioactive and biological materials and wastes; and the cleanup of contamination. Pollution controls and permits are required for many of our operations, and these permits are subject to modification, renewal or revocation by the issuing authorities.

Our environment, health and safety group monitors our operations around the world, providing us with an overview of regulatory requirements and overseeing the implementation of our standards for compliance. We also incur operating and capital costs for such matters on an ongoing basis. We expended approximately \$16 million in 2011, \$15 million in 2010 and \$34 million in 2009 on capital projects undertaken specifically to meet environmental requirements. Although we believe that we are in substantial compliance with applicable environmental, health and safety requirements and the permits required for our operations, we nevertheless could incur additional costs, including civil or criminal fines or penalties, clean-up costs, or third-party claims for property damage or personal injury, for violations or liabilities under these laws.

Many of our current and former facilities have been in operation for many years, and over time, we and other operators of those facilities have generated, used, stored or disposed of substances or wastes that are considered hazardous under Federal, state and/or foreign environmental laws, including the U.S. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As a result, the soil and groundwater at or under certain of these facilities is or may be contaminated, and we may be required to make significant expenditures to investigate, control and remediate such contamination, and in some cases to provide compensation and/or restoration for damages to natural resources. Currently, we are involved in investigation and remediation at 14 current or former facilities. We have also been identified as a "potentially responsible party" (PRP) under applicable laws for environmental conditions at approximately 24 former waste disposal or reprocessing facilities operated by third parties at which investigation and/or remediation activities are ongoing.

We may face liability under CERCLA and other Federal, state and foreign laws for the entire cost of investigation or remediation of contaminated sites, or for natural resource damages, regardless of fault or ownership at the time of the disposal or release. In addition, at certain sites we bear remediation responsibility pursuant to contractual obligations. Generally, at third-party operator sites involving multiple PRPs, liability has been or is expected to be apportioned based on the nature and amount of hazardous substances disposed of by each party at the site and the number of financially viable PRPs. For additional information about these matters, see "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies."

### **Employees**

As of December 31, 2011, we employed approximately 27,000 people.

### **Foreign Operations**

We have significant operations outside the U.S. They are conducted both through our subsidiaries and through distributors.

For a geographic breakdown of net sales, see the table captioned Geographic Areas in "Item 8. Financial Statements—Note 2. Business Segment Information" and for further discussion of our net sales by geographic area see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Net Sales."

International operations are subject to certain risks, which are inherent in conducting business abroad, including, but not limited to, currency fluctuations, possible nationalization or expropriation, price and exchange controls, counterfeit products, limitations on foreign participation in local enterprises and other restrictive governmental actions. Our international businesses are also subject to government-imposed constraints, including laws on pricing or reimbursement for use of products.

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Depending on the direction of change relative to the U.S. dollar, foreign currency values can increase or decrease the reported dollar value of our net assets and results of operations. The change in foreign exchange rates had a net favorable impact on the growth rate of revenues in 2011. While we cannot predict with certainty future changes in foreign exchange rates or the effect they will have on it, we attempt to mitigate their impact through operational means and by using various financial instruments. See the discussions under "Item 7A. Quantitative and Qualitative Disclosures About Market Risk" and "Item 8. Financial Statements—Note 10. Financial Instruments."

#### **Bristol-Myers Squibb Website**

Our internet website address is [www.bms.com](http://www.bms.com). On our website, we make available, free of charge, our annual, quarterly and current reports, including amendments to such reports, as soon as reasonably practicable after we electronically file such material with, or furnishes such material to, the U.S. Securities and Exchange Commission (SEC).

Information relating to corporate governance at Bristol-Myers Squibb, including our Standards of Business Conduct and Ethics, Code of Ethics for Senior Financial Officers, Code of Business Conduct and Ethics for Directors, (collectively, the "Codes"), Corporate Governance Guidelines, and information concerning our Executive Committee, Board of Directors, including Board Committees and Committee charters, and transactions in Bristol-Myers Squibb securities by directors and executive officers, is available on our website under the "Investors—Corporate Governance" caption and in print to any stockholder upon request. Any waivers to the Codes by directors or executive officers and any material amendment to the Code of Business Conduct and Ethics for Directors and Code of Ethics for Senior Financial Officers will be posted promptly on our website. Information relating to stockholder services, including our Dividend Reinvestment Plan and direct deposit of dividends, is available on our website under the "Investors—Stockholder Services" caption.

We incorporate by reference certain information from parts of our proxy statement for the 2012 Annual Meeting of Stockholders. The SEC allows us to disclose important information by referring to it in that manner. Please refer to such information. Our proxy statement for the 2012 Annual Meeting of Stockholders and 2011 Annual Report will be available on our website under the "Investors—SEC Filings" caption on or about March 21, 2012.

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**Item 1A. RISK FACTORS.**

Any of the factors described below could significantly and negatively affect our business, prospects, financial condition, operating results, or credit ratings, which could cause the trading price of our common stock to decline. Additional risks and uncertainties not presently known to us, or risks that we currently consider immaterial, may also impair our operations.

***We face intense competition from other pharmaceutical manufacturers, including for both innovative medicines and lower-priced generic products.***

*Competition, including lower-priced generic versions of our products, is a major challenge both within the U.S. and internationally. We are facing patent expirations and increasingly aggressive generic competition. Such competition may include (i) new products developed by competitors that have lower prices, superior performance or safety features, or that are otherwise competitive with our products; (ii) technological advances and patents attained by our competitors; (iii) earlier-than-expected competition from generic companies; (iv) clinical study results related to our products or a competitor's products; and (v) business combinations among our competitors and major customers. We also could experience limited or no market access due to real or perceived differences in value propositions of our products compared with competing products.*

***We depend on certain key products for most of our net sales, cash flows and earnings and U.S. market exclusivity for PLAVIX\* and AVAPRO\*/AVALIDE\* in the U.S. is expected to expire in May 2012 and March 2012, respectively.***

*We derive a majority of our revenue and earnings from a few key products. In 2011, net sales of PLAVIX\* were approximately \$7.1 billion, representing approximately 33% of total net sales. Net sales of ABILIFY\* were approximately \$2.8 billion, representing approximately 13% of total net sales. Three other products (REYATAZ, the SUSTIVA Franchise and BARACLUDGE) each were more than \$1 billion in net sales. A reduction in net sales of one or more of these or other key products could significantly negatively impact our net sales, cash flows and earnings.*

*PLAVIX\* is our top-selling product. In 2011, U.S. net sales were approximately \$6.6 billion. We expect that when PLAVIX\* loses U.S. exclusivity in May 2012, there will be a rapid, precipitous and material decline in PLAVIX\* net sales and a reduction in net income and operating cash flow. AVAPRO\*/AVALIDE\*, which had 2011 U.S. net sales of \$521 million, loses U.S. patent protection in March 2012, after which we expect to experience a precipitous decline in AVAPRO\*/AVALIDE\* net sales. If we are unable to support and grow our currently marketed products, successfully launch newly approved products, advance our late-stage pipeline and manage our costs effectively, the loss of exclusivity for PLAVIX\* and AVAPRO\*/AVALIDE\* could have a material negative impact on our results of operations, cash flows and financial condition.*

***It is possible that we may lose market exclusivity of a product earlier than expected.***

*In the pharmaceutical and biotechnology industries, the majority of an innovative product's commercial value is usually realized during the period in which it has market exclusivity. In the U.S. and some other countries, when market exclusivity expires and generic versions of a product are approved and marketed, there are usually very substantial and rapid declines in the product's sales. The rate of this decline varies by country and by therapeutic category.*

*Market exclusivity for our products is based upon patent rights and/or certain regulatory forms of exclusivity. The scope of our patent rights may vary from country to country and may also be dependent on the availability of meaningful legal remedies in that country. The failure to obtain patent and other intellectual property rights, or limitations on the use or loss of such rights, could be material to us. In some countries, including in certain EU member states, basic patent protection for our products may not exist because certain countries did not historically offer the right to obtain certain types of patents and/or we (or our licensors) did not file in those markets. Absent relevant patent protection for a product, once the data exclusivity period expires, generic versions of the product can be approved and marketed, such as generic clopidogrel bisulfate in certain EU markets. In addition, prior to the expiration of data exclusivity, a competitor could seek regulatory approval by submitting its own clinical trial data to obtain marketing approval.*

*Manufacturers of generic products are also increasingly seeking to challenge patents before they expire. Key patents covering four of our key products (ABILIFY\*, ATRIPLA\*, BARACLUDGE, and SPRYCEL) are currently the subject of patent litigation. In some cases, generic manufacturers may choose to launch a generic product "at risk" before the expiration of the applicable patent(s) and/or before the final resolution of related patent litigation. The length of market exclusivity for any of our products is difficult to predict with certainty and therefore there can be no assurance that a particular product will enjoy market exclusivity for the full period of time that appears in the estimates disclosed in this Form 10-K. For example, we unexpectedly lost exclusivity for PLAVIX\* in Canada in 2011.*

***We face increased pricing pressure and other restrictions in the U.S. and abroad from managed care organizations, institutional purchasers, and government agencies and programs that could negatively affect our net sales and profit margins.***

*Pharmaceutical products continue to be subject to increasing price pressures and other restrictions in the U.S., the EU and other regions around the world, including but not limited to: (i) rules and practices of managed care organizations and institutional and governmental purchasers, (ii) judicial decisions and governmental laws and regulations related to Medicare, Medicaid and U.S. healthcare reform, including the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the Patient Protection and Affordable Care Act, (iii) the potential impact of importation restrictions, legislative and/or regulatory changes, pharmaceutical reimbursement, Medicare*

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*Part D Formularies and product pricing in general, (iv) delays in gaining reimbursement and/or reductions in reimbursement amounts in countries with government mandated, cost-containment programs (e.g., major European markets, Japan and Canada), (v) other developments in technology and/or industry practices that could directly or indirectly impact the reimbursement policies and practices of third-party payers, and (vi) limited or no market access due to real or perceived differences in value propositions of our products compared to competing products.*

***Our business and results of operations have been affected, and will continue to be affected, by U.S. healthcare reform legislation in the U.S.***

*As described under "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Executive Summary—Business Environment", the Patient Protection and Affordable Care Act (HR 3590) and a reconciliation bill containing a package of changes to the healthcare bill were signed into law during March 2010. These bills included provisions that reduced our net sales and increased costs due to the increased Medicaid rebate, expanded Medicaid program, additional prescription drug discounts to certain patients under Medicare Part D and a non-tax-deductible annual fee to pharmaceutical companies, among other things. We continue to experience significant financial costs and certain other changes to our business from the implementation of the 2010 U.S. healthcare reform law. The annual EPS impact from U.S. healthcare reform increased from \$0.10 in 2010 to \$0.24 in 2011. The incremental \$0.14 impact was associated with the Medicare Part D coverage gap and the annual pharmaceutical company fee. The 2010 U.S. healthcare reform law also created a regulatory mechanism that allows for approval of biologic drugs that are similar to (but not generic copies of) innovative drugs on the basis of less extensive data than is the basis for a full BLA.*

***U.S. and foreign laws and regulations may negatively affect our net sales and profit margins.***

*We could become subject to new government laws and regulations, such as (i) additional healthcare reform initiatives in the U.S. at the Federal and state level and in other countries, including additional mandatory discounts; (ii) changes in the U.S. FDA and foreign regulatory approval processes that may cause delays in approving, or preventing the approval of, new products; (iii) changes in corporate tax regulation, including as part of the proposed U.S. budget deficit reduction package, which could include limiting foreign tax credits, taxing certain tax havens, taxing certain excess income from transferring intellectual property, limiting or disallowing certain U.S. deductions for operating and interest expenses, changing rules for earnings repatriations and eliminating certain tax credits, as well as changing the tax rate or phasing out currently available tax benefits in the U.S. and in certain foreign countries or other changes in tax law; (iv) new laws, regulations and judicial or other governmental decisions affecting pricing, drug reimbursement, receivable repayment, access or marketing within or across jurisdictions; (v) changes in intellectual property law; and (vi) other matters, such as compulsory licenses that could alter the protections afforded to one or more of our products. Any legal or regulatory changes could negatively affect our business, our operating results and the financial condition of our company. Emerging legislation to reduce the U.S. Federal budget deficit, if enacted, will further reduce our operating results.*

***Changes to the product labeling for any of our marketed products or results from certain studies released after a product is approved could potentially have a negative impact that product's sales.***

*The labeling for any pharmaceutical product can be changed by the regulatory authorities at any time, including after the product has been on the market for years. These changes are often the result of additional data from post-marketing studies, head-to-head trials, reporting of adverse events from patients or healthcare professionals, studies that identify biomarkers (objective characteristics that can indicate a particular response to a product or therapy), or other studies that produce important additional information about a product. The new information added to a product's label can affect the safety (risk) and/or the efficacy (benefit) profile of the product. Sometimes the additional information from these studies identifies a portion of the patient population that may be non-responsive to a medicine. Labeling changes based on such studies may limit the patient population, such as the changes to the labeling for PLAVIX\* and ERBITUX\* a few years ago. The studies providing such additional information may be sponsored by us, but they can also be sponsored by our competitors, insurance companies, government institutions, managed care organizations, influential scientists, investigators, or other interested parties. While additional safety and efficacy information from these studies assist us and healthcare providers in identifying the best patient population for each of our products, it can also have a negative impact on sales for any such product to the extent that the patient population or product labeling becomes more limited. Additionally, certain study results, especially from head-to-head trials, could affect a product's formulary listing, which could also adversely affect sales.*

***We may experience difficulties and delays in the manufacturing, distribution and sale of our products.***

*We may experience difficulties and delays inherent in the manufacturing, distribution and sale of our products, such as (i) seizure or recalls of products or forced closings of manufacturing plants; (ii) supply chain continuity including as a result of a natural or man-made disaster at one of our facilities or at a critical supplier or vendor as well as our failure or the failure of any of our vendors or suppliers to comply with Current Good Manufacturing Practices and other applicable regulations and quality assurance guidelines that could lead to manufacturing shutdowns, product shortages and delays in product manufacturing; (iii) manufacturing, quality assurance/quality control, supply problems or governmental approval delays due to our consolidation and rationalization of manufacturing facilities and the sale or closure of certain sites; (iv) the failure of a sole source or single source supplier to provide us with necessary raw materials, supplies or finished goods for an extended period of time that could impact continuous supply; (v) the failure of a third-party manufacturer to supply us with finished product on time; (vi) construction or regulatory approval delays related to new facilities or the expansion of existing facilities, including those intended to support future demand for our biologics products; and (vii) other manufacturing or distribution problems including limits to manufacturing capacity due to regulatory requirements; changes in the types of products produced, such as biologics; physical limitations or other business interruptions that could impact continuous supply.*

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***We may experience difficulties or delays in the development and commercialization of new products.***

*We may experience difficulties and delays in the development and commercialization of new products, including the inherent risks and uncertainties in developing products, such as (i) compounds or products that may appear promising in development but fail to reach market within the expected or optimal timeframe, or fail ever to reach market, or to be approved for product extensions or additional indications for any number of reasons, including efficacy or safety concerns, the delay or denial of necessary regulatory approvals, delays or difficulties with producing products at a commercial scale level or excessive costs to manufacture products; (ii) failure to enter into or successfully implement optimal alliances, where applicable, for the development and/or commercialization of products; (iii) failure to maintain a consistent scope and variety of promising late-stage products; or (iv) failure of one or more of our products to achieve or maintain commercial viability. In addition, we have observed a recent trend by the U.S. FDA to delay its approval decision on a new product beyond its announced action date, sometimes by as much as six months or longer. Regulatory approval delays are especially common when the product is expected to have a Risk Evaluation and Mitigation Strategy to address significant risk/benefit issues. The inability to bring a product to market or a significant delay in the expected approval and related launch date of a new product could potentially have a negative impact on our net sales and earnings and could result in a significant impairment of in-process research and development or other intangible assets. In January 2012, BMS and our collaboration partner, AstraZeneca, received a complete response letter regarding our NDA for dapagliflozin. The complete response letter requests additional data to allow a better assessment of the benefit-risk profile for dapagliflozin. This includes clinical trial data from ongoing studies and may require information from new clinical trials. Finally, a natural or man-made disaster or sabotage of research and development labs, our compound library and/or a loss of key molecules and intermediaries could negatively impact the product development cycle.*

***There are legal matters in which adverse outcomes could negatively affect our business.***

*We are currently involved in or could in the future become involved in various lawsuits, claims, proceedings and government investigations, any of which could preclude or delay commercialization of products or adversely affect operations, profitability, liquidity or financial condition after any possible insurance recoveries where available. Such legal matters include (i) intellectual property disputes; (ii) sales and marketing practices in the U.S. and internationally; (iii) adverse decisions in litigation, including product liability and commercial cases; (iv) recalls or withdrawals of pharmaceutical products or forced closings of manufacturing plants; (v) the failure to fulfill obligations under supply contracts with the government and other customers which may result in liability; (vi) product pricing and promotional matters; (vii) lawsuits and claims asserting, or investigations into, violations of securities, antitrust, federal and state pricing, consumer protection, antibribery (such as the U.S. Foreign Corrupt Practice Act or UK Anti-Bribery Act) and other laws; (viii) environmental, health and safety matters; and (ix) tax liabilities. There can be no assurance that there will not be an increase in scope in any or all of these matters or that there will not be additional lawsuits, claims, proceedings or investigations in the future; nor is there any assurance that any or all of these matters will not have a material adverse impact on us.*

***We rely on third parties to meet their contractual, regulatory, and other obligations.***

*We rely on suppliers, vendors and partners, including alliances with other pharmaceutical companies for the manufacturing, development and commercialization of products, and other third parties to meet their contractual, regulatory, and other obligations in relation to their arrangements with us. The failure of any critical third party to meet its obligations, and/or the development of significant disagreements or other factors that materially disrupt the ongoing commercial relationship and prevent optimal alignment between the third parties and their activities, could have a material adverse impact on us. In addition, if these third parties violate or are alleged to have violated any laws or regulations, including the Foreign Corrupt Practice Act, during the performance of their obligations for us, it is possible that we could suffer financial and reputational harm or other negative outcomes, including possible legal consequences.*

***We are dependent on our outsourcing arrangements.***

*We are dependent on third-party providers for certain outsourced services, including certain research and development capabilities, certain financial outsourcing arrangements, certain human resource functions, and information technology activities and systems. Many of these third-party providers are located in markets that are subject to political risk, corruption, infrastructure problems and natural disasters in addition to country specific privacy and data security risks given current legal and regulatory environments. The failure of these service providers to meet their obligations, adequately deploy business continuity plans in the event of a crisis and/or the development of significant disagreements, natural or man-made disasters or other factors that materially disrupt our ongoing relationship with these providers could negatively affect operations.*

***Failure to execute our business strategy could adversely impact our growth and profitability.***

*Over the last several years, we have transformed from a diversified pharmaceutical and related healthcare products company into a biopharmaceutical company with a focus on innovative products in areas of high unmet medical need. We are focused on sustaining our business and building a foundation for the future after PLAVIX\*, our largest selling product, loses exclusivity in the U.S. in May 2012. We plan to achieve this foundation by continuing to support and grow our currently marketed products, advancing our late-stage pipeline, managing our costs, and maintaining and improving our financial strength with a strong balance sheet and cash*

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position. There are risks associated with this strategy. We may not be able to consistently replenish our innovative pipeline, through internal research and development or transactions with third parties. The competition among major pharmaceutical companies for acquisition and product licensing opportunities has become more intense, eliminating some opportunities and making others more expensive. We may not be able to locate suitable acquisition targets or licensing partners at reasonable prices or successfully execute such transactions. Additionally, changes in our structure, operations, revenues, costs, or efficiency resulting from major transactions such as acquisitions, divestitures, mergers, alliances, restructurings or other strategic initiatives, may result in greater than expected costs, may take longer than expected to complete or may encounter other difficulties, including the need for regulatory approval where appropriate. The inability to expand our product portfolio with new products or maintain a competitive cost basis could materially and adversely affect our future results of operations. If we are unable to support and grow our currently marketed products, successfully execute the launches of newly approved products, advance our late-stage pipeline and manage our costs effectively, we could experience a significant or material negative impact on our results of operations and financial condition. In addition, our failure to hire and retain personnel with the right expertise and experience in operations that are critical to our business functions could adversely impact the execution of our business strategy.

***We are increasingly dependent on information technology and our systems and infrastructure face certain risks, including cybersecurity and data leakage risks.***

We are increasingly dependent on information technology systems and infrastructure. Any significant breakdown, invasion, destruction or interruption of these systems by employees, others with authorized access to our systems, or unauthorized persons could negatively impact operations. There is also a risk that we could experience a business interruption, theft of information, or reputational damage as a result of a cyber attack, such as an infiltration of a data center, or data leakage of confidential information either internally or at our third-party providers. While we have invested heavily in the protection of our data and information technology to reduce these risks, there can be no assurance that our efforts will prevent breakdowns or breaches in our systems that could adversely affect our business.

***The expansion of social media platforms presents new risks and challenges.***

The inappropriate use of certain media vehicles could cause brand damage or information leakage or could lead to legal implications from the improper collection and/or dissemination of personally identifiable information. In addition, negative posts or comments about us on any social networking web site could seriously damage our reputation. Further, the disclosure of non-public company sensitive information through external media channels could lead to information loss as there might not be structured processes in place to secure and protect information. Identifying new points of entry as social media continues to expand presents new challenges.

***Adverse changes in U.S., global, or regional economic conditions could have a continuing adverse effect on the profitability of some or all of our businesses.***

High government debt burdens and continued high unemployment rates, rising prices, including those related to commodities and energy, and lower economic growth has adversely affected commercial activity in the U.S., Europe and other regions of the world in which we do business. Further government austerity measures or declines in economic activity in markets in which we do business could adversely affect demand and pricing for our products, thus reducing our revenues, earnings and cash flow, as well as have pass-through effects on us resulting from any significant financial instability from our customers, distributors, alliance partners, suppliers, critical vendors, service providers and counterparties to certain financial instruments, such as marketable securities and derivatives. Future pension plan funding requirements continue to be sensitive to global economic conditions and related impact on equity markets.

***Changes in foreign currency exchange rates and interest rates could have a material adverse effect on our results of operations.***

We have significant operations outside of the U.S. Revenues from operations outside of the U.S. accounted for approximately 35% of our revenues in 2011. As such, we are exposed to fluctuations in foreign currency exchange rates. We also have some borrowings which are exposed to changes in interest rates. We are also exposed to other economic factors over which we have no control.

***The illegal distribution and sale by third parties of counterfeit versions of our products or stolen products could have a negative impact on our reputation and business.***

Third parties may illegally distribute and sell counterfeit versions of our products, which do not meet the rigorous manufacturing and testing standards that our products undergo. A patient who receives a counterfeit drug may be at risk for a number of dangerous health consequences. Our reputation and business could suffer harm as a result of counterfeit drugs sold under our brand name. In addition, thefts of inventory at warehouses, plants or while in-transit which are not properly stored and which are sold through unauthorized channels could adversely impact patient safety, our reputation and our business.

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**Item 1B. UNRESOLVED STAFF COMMENTS.**

None.

**Item 2. PROPERTIES.**

Our world headquarters are located at 345 Park Avenue, New York, NY, where we lease approximately 81,000 square feet of floor space. We own or lease approximately 185 properties in 44 countries.

We manufacture products at 12 worldwide locations, all of which are owned by us. Our manufacturing locations and aggregate square feet of floor space by geographic area were as follows at December 31, 2011:

	<b>Number of Locations</b>	<b>Square Feet</b>
United States	4	2,202,000
Europe	5	1,531,000
Japan, Asia Pacific and Canada	1	128,000
Latin America, Middle East and Africa	1	200,000
Emerging Markets	<u>1</u>	<u>186,000</u>
Total	<u>12</u>	<u>4,247,000</u>

Portions of these manufacturing locations and the other properties owned or leased by us in the U.S. and elsewhere are used for research and development, administration, storage and distribution. For further information about our properties, see "Item 1. Business—Manufacturing and Quality Assurance."

**Item 3. LEGAL PROCEEDINGS.**

Information pertaining to legal proceedings can be found in "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies" and is incorporated by reference herein.

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## PART IA

### Executive Officers of the Registrant

Listed below is information on our executive officers as of February 17, 2012. Executive officers are elected by the Board of Directors for an initial term, which continues until the first Board meeting following the next Annual Meeting of Stockholders, and thereafter, are elected for a one-year term or until their successors have been elected. All executive officers serve at the pleasure of the Board of Directors.

<u>Name and Current Position</u>	<u>Age</u>	<u>Employment History for the Past 5 Years</u>
Lamberto Andreotti <i>Chief Executive Officer and Director</i> <i>Member of the Senior Management Team</i>	61	2005 to 2007 – Executive Vice President and President, Worldwide Pharmaceuticals, a division of the Company. 2007 to 2008 – Executive Vice President and Chief Operating Officer, Worldwide Pharmaceuticals, a division of the Company. 2008 to 2009 – Executive Vice President and Chief Operating Officer. 2009 to 2010 – President and Chief Operating Officer and Director of the Company. 2010 to present – Chief Executive Officer and Director of the Company.
Charles Bancroft <i>Executive Vice President and Chief Financial Officer</i> <i>Member of the Senior Management Team</i>	52	2005 to 2009 – Vice President, Finance, Worldwide Pharmaceuticals, a division of the Company. 2010 to 2011 – Chief Financial Officer of the Company. 2011 to present – Executive Vice President and Chief Financial Officer of the Company.
Giovanni Caforio, M.D. <i>President, U.S. Pharmaceuticals</i> <i>Member of the Senior Management Team</i>	47	2007 to 2009 – Senior Vice President, U.S. Oncology, Worldwide Pharmaceuticals, a division of the Company. 2009 to 2010 – Senior Vice President, Oncology, Global Commercialization. 2011 to 2011 – Senior Vice President, Oncology and Immunoscience, Global Commercialization. 2011 to present – President, U.S. Pharmaceuticals.
Joseph C. Caldarella <i>Senior Vice President and Corporate Controller</i>	56	2005 to 2010 – Vice President and Corporate Controller. 2010 to present – Senior Vice President and Corporate Controller.
Beatrice Cazala <i>Executive Vice President, Commercial Operations</i> <i>Member of the Senior Management Team</i>	55	2004 to 2008 – President, EMEA, Worldwide Medicines International. 2008 to 2009 – President, EMEA and Asia Pacific, Worldwide Medicines International. 2009 to 2010 – President, Global Commercialization, and President, Europe. 2010 to 2011 – Senior Vice President, Commercial Operations, and President, Global Commercialization, Europe and Emerging Markets. 2011 to present – Executive Vice President, Commercial Operations.
John E. Celentano <i>Senior Vice President, Human Resources, Public Affairs and Philanthropy</i> <i>Member of the Senior Management Team</i>	52	2005 to 2008 – President, Health Care Group, a division of the Company. 2008 to 2009 – Senior Vice President, Strategy and Productivity Transformation. 2009 to 2010 – President, Emerging Markets and Asia Pacific. 2010 to present – Senior Vice President, Human Resources, Public Affairs and Philanthropy.

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<p>Francis Cuss, MB BChir, FRCP  <i>Senior Vice President, Research and Development</i>  <i>Member of the Senior Management Team</i></p> <p>Brian Daniels, M.D.  <i>Senior Vice President, Global Development and Medical Affairs, Research and Development</i>  <i>Member of the Senior Management Team</i></p> <p>Sandra Leung  <i>General Counsel and Corporate Secretary</i>  <i>Member of the Senior Management Team</i></p> <p>Louis S. Schmukler  <i>President, Technical Operations</i>  <i>Member of the Senior Management Team</i></p> <p>Elliott Sigal, M.D., Ph.D.  <i>Executive Vice President, Chief Scientific Officer and President, Research and Development, and Director</i>  <i>Member of the Senior Management Team</i></p> <p>Paul von Autenried  <i>Senior Vice President and Chief Information Officer</i>  <i>Member of the Senior Management Team</i></p>	<p>57 2006 to 2010 – Senior Vice President, Discovery and Exploratory Clinical Development.  2010 to present – Senior Vice President, Research, Research and Development.</p> <p>52 2004 to 2008 – Senior Vice President, Global Clinical Development, Research and Development, a division of the Company.  2008 to present – Senior Vice President, Global Development and Medical Affairs, Research and Development.</p> <p>51 2006 to 2007 – Vice President, Corporate Secretary and Acting General Counsel.  2007 to present – General Counsel and Corporate Secretary.</p> <p>56 2007 to 2009 – Senior Vice President, Pharmaceutical Operating Unit, Wyeth.  2009 to 2011 – Senior Vice President, Specialty/Biotechnology Operating Unit, Pfizer.  2011 to present – President, Technical Operations.</p> <p>60 2006 to 2011 – Executive Vice President, Chief Scientific Officer and President, Research and Development.  2011 to present – Executive Vice President, Chief Scientific Officer and President, Research and Development, and Director of the Company.</p> <p>50 2007 to 2011 – Vice President and Chief Information Officer.  2011 to present – Senior Vice President and Chief Information Officer.</p>
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**PART II**

**Item 5. MARKET FOR THE REGISTRANT'S COMMON STOCK AND OTHER STOCKHOLDER MATTERS.**

**Market Prices**

Bristol-Myers Squibb common and preferred stocks are traded on the New York Stock Exchange (NYSE) (Symbol: BMY). A quarterly summary of the high and low market prices is presented below:

	2011		2010	
	High	Low	High	Low
Common:				
First Quarter	\$ 27.29	\$ 24.97	\$ 27.00	\$ 23.89
Second Quarter	29.33	26.46	26.95	22.44
Third Quarter	31.49	26.38	27.93	24.65
Fourth Quarter	35.29	30.15	27.51	25.24
Preferred:				
First Quarter	\$ *	\$ *	\$ 501.00	\$ 432.01
Second Quarter	570.10	570.10	525.04	400.00
Third Quarter	*	*	*	*
Fourth Quarter	*	*	570.00	570.00

\* During the first, third and fourth quarters of 2011 and during the third quarter of 2010, there were no observable trades of the Company's preferred stock.

**Holders of Common Stock**

The number of record holders of common stock at December 31, 2011 was 56,874.

The number of record holders is based upon the actual number of holders registered on our books at such date and does not include holders of shares in "street names" or persons, partnerships, associations, corporations or other entities identified in security position listings maintained by depository trust companies.

**Dividends**

Our Board of Directors declared the following dividends per share, which were paid in 2011 and 2010 in the quarters indicated below:

	Common		Preferred	
	2011	2010	2011	2010
First Quarter	\$ 0.33	\$ 0.32	\$ 0.50	\$ 0.50
Second Quarter	0.33	0.32	0.50	0.50
Third Quarter	0.33	0.32	0.50	0.50
Fourth Quarter	0.33	0.32	0.50	0.50
	\$ 1.32	\$ 1.28	\$ 2.00	\$ 2.00

In December 2011, our Board of Directors declared a quarterly dividend of \$0.34 per share on our common stock which was paid on February 1, 2012 to shareholders of record as of January 6, 2012. The Board of Directors also declared a quarterly dividend of \$0.50 per share on our preferred stock, payable on March 1, 2012 to shareholders of record as of February 3, 2012.

## Issuer Purchases of Equity Securities

The following table summarizes the surrenders and repurchases of our equity securities during the 12 month period ended December 31, 2011:

<u>Period</u>	<u>Total Number of Shares Purchased<sup>(a)</sup></u>	<u>Average Price Paid per Share<sup>(a)</sup></u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs<sup>(b)</sup></u>	<u>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs<sup>(b)</sup></u>
<b>Dollars in Millions, Except Per Share Data</b>				
January 1 to 31, 2011	2,911,859	\$ 25.93	2,897,837	\$ 2,338
February 1 to 28, 2011	2,473,453	\$ 25.53	2,458,416	\$ 2,275
March 1 to 31, 2011	2,064,597	\$ 24.92	—	\$ 2,275
Three months ended March 31, 2011	7,449,909		5,356,253	
April 1 to 30, 2011	6,971	\$ 26.30	—	\$ 2,275
May 1 to 31, 2011	4,383,833	\$ 28.54	4,375,600	\$ 2,150
June 1 to 30, 2011	4,401,073	\$ 28.04	4,396,800	\$ 2,027
Three months ended June 30, 2011	8,791,877		8,772,400	
July 1 to 31, 2011	4,195,186	\$ 29.06	4,191,050	\$ 1,905
August 1 to 31, 2011	9,332,353	\$ 27.62	9,324,241	\$ 1,647
September 1 to 30, 2011	3,062,826	\$ 30.08	3,060,000	\$ 1,555
Three months ended September 30, 2011	16,590,365		16,575,291	
October 1 to 31, 2011	4,259,392	\$ 32.41	4,234,995	\$ 1,418
November 1 to 30, 2011	4,827,619	\$ 31.19	4,807,888	\$ 1,268
December 1 to 31, 2011	2,373,460	\$ 34.27	2,369,063	\$ 1,187
Three months ended December 31, 2011	11,460,471		11,411,946	
Twelve months ended December 31, 2011	44,292,622		42,115,890	

(a) The difference between total number of shares purchased and the total number of shares purchased as part of publicly announced programs is due to shares of common stock withheld by us from employee restricted stock awards in order to satisfy our applicable tax withholding obligations.

(b) In May 2010, we announced that the Board of Directors authorized the purchase of up to \$3.0 billion of our common stock. The repurchase program does not have an expiration date and is expected to take place over a few years.

**Item 6. SELECTED FINANCIAL DATA.****Five Year Financial Summary**

Amounts in Millions, except per share data	2011	2010	2009	2008	2007
<b>Income Statement Data:</b> <sup>(a)</sup>					
Net Sales	\$ 21,244	\$ 19,484	\$ 18,808	\$ 17,715	\$ 15,617
<i>Continuing Operations:</i>					
Net Earnings	5,260	4,513	4,420	3,686	2,052
Net Earnings Attributable to Noncontrolling Interest	1,551	1,411	1,181	989	756
Net Earnings Attributable to BMS	3,709	3,102	3,239	2,697	1,296
Net Earnings per Common Share Attributable to BMS:					
Basic	\$ 2.18	\$ 1.80	\$ 1.63	\$ 1.36	\$ 0.65
Diluted	\$ 2.16	\$ 1.79	\$ 1.63	\$ 1.35	\$ 0.65
Average common shares outstanding:					
Basic	1,700	1,713	1,974	1,977	1,970
Diluted	1,717	1,727	1,978	1,999	1,977
Dividends paid on BMS common and preferred stock	\$ 2,254	\$ 2,202	\$ 2,466	\$ 2,461	\$ 2,213
Dividends declared per common share	\$ 1.33	\$ 1.29	\$ 1.25	\$ 1.24	\$ 1.15
<b>Financial Position Data at December 31:</b>					
Cash and cash equivalents	\$ 5,776	\$ 5,033	\$ 7,683	\$ 7,976	\$ 1,801
Marketable securities <sup>(b)</sup>	5,866	4,949	2,200	477	843
Total Assets	32,970	31,076	31,008	29,486	25,867
Long-term debt	5,376	5,328	6,130	6,585	4,381
Equity	15,867	15,638	14,785	12,208	10,535

(a) For a discussion of items that affected the comparability of results for the years 2011, 2010 and 2009, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures."

(b) Marketable securities include current and non-current assets.

## Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### EXECUTIVE SUMMARY

Bristol-Myers Squibb Company (which may be referred to as Bristol-Myers Squibb, BMS, the Company, we, our or us) is a global biopharmaceutical company whose mission is to discover, develop and deliver innovative medicines that help patients prevail over serious diseases. We license, manufacture, market, distribute and sell pharmaceutical products on a global basis.

We continued to execute our string-of-pearls strategy with the acquisition of Amira Pharmaceuticals, Inc. (Amira) in September 2011, and Inhibitex, Inc. (Inhibitex) in February 2012, and through various collaboration agreements entered into during the year.

YERVOY (ipilimumab) was launched in the United States (U.S.) and the European Union (EU) for the treatment of adult patients with unresectable (inoperable) or metastatic melanoma. We also launched a subcutaneous formulation of ORENCIA (abatacept) in the U.S., NULOJIX (belatacept) in the U.S. and the EU for the prevention of organ rejection in adult patients receiving a kidney transplant and ELIQUIS (apixaban) in the EU for the prevention of venous thromboembolic events (VTE) in adult patients who have undergone hip or knee replacement surgery.

We announced the main results of the ARISTOTLE trial of ELIQUIS which compared with warfarin significantly reduced the risk for stroke or systemic embolism and had both our New Drug Application (NDA) in the U.S. and our Marketing Authorization Application (MAA) in the EU for ELIQUIS accepted for review.

In January 2012, we received a complete response letter from the U.S. Food and Drug Administration (FDA) regarding our NDA for dapagliflozin. The complete response letter requests additional clinical data from ongoing studies and may require information from new clinical trials.

### Highlights

The following table is a summary of our financial highlights:

Dollars in Millions, except per share data	Year Ended December 31,		
	2011	2010	2009
Net Sales	\$ 21,244	\$ 19,484	\$ 18,808
Total Expenses	14,263	13,413	13,206
Earnings from Continuing Operations before Income Taxes	6,981	6,071	5,602
Provision for Income Taxes	1,721	1,558	1,182
<i>Effective tax rate</i>	<i>24.7 %</i>	<i>25.7 %</i>	<i>21.1 %</i>
Net Earnings from Continuing Operations Attributable to BMS			
GAAP	3,709	3,102	3,239
Non-GAAP	3,921	3,735	3,667
Diluted Earnings Per Share from Continuing Operations Attributable to BMS			
GAAP	2.16	1.79	1.63
Non-GAAP	2.28	2.16	1.85
Cash, Cash Equivalents and Marketable Securities	11,642	9,982	9,883

Our non-GAAP financial measures, including non-GAAP earnings and related EPS information, are adjusted to exclude specified items which represent certain costs, expenses, gains and losses and other items impacting the comparability of financial results. For a detailed listing of all specified items and further information and reconciliations of non-GAAP financial measures see "—Non-GAAP Financial Measures" below.

### Business Environment

Our business is primarily conducted within the pharmaceutical/biotechnology industry, which is highly competitive and subject to numerous government regulations. Many competitive factors may significantly affect sales of our products, including product efficacy, safety, price, demand, competition and cost-effectiveness; marketing effectiveness; market access; product labeling; quality control and quality assurance of our manufacturing operations; and research and development of new products. To successfully compete for business in the healthcare industry, we must demonstrate that our products offer medical benefits as well as cost advantages. Sometimes, our new product introductions compete with other products already on the market in the same therapeutic category, in addition to potential competition of new products that competitors may introduce in the future. We manufacture branded products, which are priced higher than generic products. Generic competition is one of our leading challenges globally.

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In the pharmaceutical/biotechnology industry, the majority of an innovative product's commercial value is usually realized during its market exclusivity period. Afterwards, it is no longer protected by a patent and is subject to new competing products in the form of generic brands. Upon exclusivity loss, we can lose a major portion of that product's sales in a short period of time. Competitors seeking approval of biological products under a full Biologics License Application (BLA) must file their own safety and efficacy data and address the challenges of biologics manufacturing, which involve more complex processes and are more costly than those of other pharmaceutical operations. Under the U.S. healthcare legislation enacted in 2010, which is described more fully below, there is now an abbreviated path for regulatory approval of generic versions of biological products. This path for approval of biosimilar products under the U.S. healthcare legislation significantly affects the regulatory data exclusivity for biological products. The legislation provides a regulatory mechanism that allows for regulatory approval of biologic drugs that are similar to (but not generic copies of) innovative drugs on the basis of less extensive data than is required by a full BLA. It is not possible at this time to reasonably assess the impact of the U.S. biosimilar legislation on the Company.

Globally, the healthcare industry is subject to various government-imposed regulations authorizing prices or price controls that will continue to have an impact on our net sales. In March 2010, the U.S. government enacted healthcare reform legislation, signing into law the Patient Protection and Affordable Care Act (HR 3590) and a reconciliation bill containing a package of changes to the healthcare bill. The legislation made extensive changes to the healthcare insurance and benefits system with the intention of broadening coverage and reducing costs. These bills significantly changed how Americans receive healthcare coverage and how they pay for it. They also have a significant impact on companies, in particular those companies in the pharmaceutical industry and other healthcare related industries, including BMS. We have experienced and will continue to experience additional financial costs and certain other changes to our business as the healthcare law provisions become effective. For example, in 2010, minimum rebates on our Medicaid drug sales have increased from 15.1 percent to 23.1 percent and Medicaid rebates have also been extended to drugs used in risk-based Medicaid managed care plans.

Two additional provisions that impact our financial results went into effect on January 1, 2011. The first is a 50 percent discount on our brand-name drugs to patients within the Medicare Part D coverage gap, also referred to as the "donut hole." The second is an annual non-tax-deductible pharmaceutical company fee payable to the Federal government based on an allocation of our market share of branded prior year sales to certain U.S. government programs including Medicare, Medicaid, Department of Veterans Affairs, Department of Defense and TRICARE.

The annual EPS impact of U.S. healthcare reform increased from \$0.10 in 2010 to \$0.24 in 2011. In 2011, net sales were reduced by \$310 million resulting from new discounts associated with the Medicare Part D coverage gap. Marketing, selling and administrative expenses increased by \$220 million due to the new annual non-tax-deductible pharmaceutical company fee. The incremental \$0.14 impact was associated with the Medicare Part D coverage gap and the annual pharmaceutical company fee. The aggregate financial impact of U.S. healthcare reform over the next few years depends on a number of factors, including but not limited to pending implementation guidance, potential changes in sales volume eligible for the new rebates, discounts or fees, and the impact of cost sharing arrangements with certain alliance partners. A positive impact on our net sales from the expected increase in the number of people with healthcare coverage could potentially occur in the future, but is not expected until 2014 at the earliest.

In many markets outside the U.S., we operate in environments of government-mandated, cost-containment programs, or under other regulatory bodies or groups that can exert downward pressure on pricing. Pricing freedom is limited in the UK, for instance, by the operation of a profit control plan and in Germany by the operation of a reference price system. Many European countries have continuing fiscal challenges as healthcare payers, including government agencies, have reduced and are expected to continue to reduce the cost of healthcare through actions that directly or indirectly impose additional price restrictions. Companies also face significant delays in market access for new products as more than two years can elapse after drug approval before new medicines become available in some countries.

The growth of Managed Care Organizations (MCOs) in the U.S. has significantly impacted competition that surrounds the healthcare industry. MCOs seek to reduce healthcare expenditures for participants by making volume purchases and entering into long-term contracts to negotiate discounts with various pharmaceutical providers. Because of the market potential created by the large pool of participants, marketing prescription drugs to MCOs has become an important part of our strategy. Companies compete for inclusion in MCO formularies and we generally have been successful in having our key products included. We believe that developments in the managed care industry, including continued consolidation, have had and will continue to have a downward pressure on prices.

Pharmaceutical and biotechnology production processes are complex, highly regulated and vary widely from product to product. Shifting or adding manufacturing capacity can be a lengthy process requiring significant capital expenditures and regulatory approvals. Biologics manufacturing involves more complex processes than those of traditional pharmaceutical operations. As biologics become a larger percentage of our product portfolio, we will continue to make supply arrangements with third-party manufacturers and to make substantial investments to increase our internal capacity to produce biologics on a commercial scale. One such investment is a new, state-of-the-art manufacturing facility for the production of biologics in Devens, Massachusetts. We submitted the site for regulatory approval in 2012 and we expect the FDA to complete a review of our application by the end of the year.

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We have maintained a competitive position in the market and strive to uphold this position, which is dependent on our success in discovering, developing and delivering innovative, cost-effective products to help patients prevail over serious diseases.

We are the subject of a number of significant pending lawsuits, claims, proceedings and investigations. It is not possible at this time to reasonably assess the final outcomes of these investigations or litigations. For additional discussion of legal matters, see "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies."

### Strategy

Over the past few years, we have transformed our Company into a focused biopharmaceutical company, a transformation that encompasses all areas of our business and operations. This has not only focused our portfolio of products but has yielded and will continue to yield substantial cost savings and cost avoidance. This in turn increases our financial flexibility to take advantage of attractive market opportunities that may arise.

In May 2012, we expect to lose exclusivity in the U.S. for our largest product, PLAVIX\*, after which time we expect a rapid, precipitous, and material decline in PLAVIX\* net sales and a reduction in net income and operating cash flow. We also expect a decline in AVAPRO\*/AVALIDE\* (irbesartan/irbesartan-hydrochlorothiazide) net sales immediately following the loss of exclusivity in the U.S. in March 2012. Such events are the norm in the industry when companies experience the loss of exclusivity of a product. Recognizing this fact, we continue to focus on sustaining our business and building a robust foundation for the future. We plan to achieve this foundation by continuing to support and grow our currently marketed products, advancing our pipeline, and maintaining and improving our financial strength, all of which are part of an overall strategy to build the Company.

We continue to expand our biologics capabilities. We still rely significantly on small molecules as our strongest, most reliable starting point for discovering potential new medicines, but large molecules, or biologics, derived from recombinant DNA technologies, are becoming increasingly important. Currently, more than one in three of our pipeline compounds are biologics, as are four of our key marketed products, including YERVOY.

Our strategy also includes a focus on certain emerging markets, our acquisition and licensing strategy known as "string-of-pearls," optimizing our mature brands portfolio and managing costs. Our strategy in emerging markets is to develop and commercialize innovative products in key high-growth markets, tailoring the approach to each market. We are continuing to focus on our core biopharmaceuticals and maximizing the value of our mature brands portfolio.

We completed the following strategic transactions in 2011:

- We acquired Amira Pharmaceutical, Inc. (Amira), a small-molecule pharmaceutical company focused on fibrotic disease.
- We entered into an agreement with Ono Pharmaceuticals Co., Ltd. (Ono) to expand our territorial rights to develop and commercialize an antibody to PD-1, an investigational cancer immunotherapy, and to create a strategic alliance for the codevelopment and cocommercialization of ORENCIA in Japan.
- We obtained exclusive worldwide rights from Ambrx Inc. (Ambrx) to research, develop and commercialize novel biologics in diabetes and heart disease.
- We obtained exclusive worldwide rights from Innate Pharma S.A. (Innate) to develop and commercialize IPH 2102, a novel immune-oncology biologic in Phase I development.
- We entered into a clinical collaboration with Roche to evaluate the utility of YERVOY in combination with Roche's investigational BRAF inhibitor, vemurafenib, in treating patients with a specific type of metastatic melanoma.
- We announced a licensing agreement with Gilead Sciences, Inc. (Gilead) for the development and commercialization of a new fixed-dose combination containing REYATAZ and Gilead's cobicistat for the treatment of HIV.
- We entered into a strategic partnership with ASLAN Pharmaceuticals for development of BMS-777607, an investigational small molecule inhibitor of the MET receptor tyrosine kinase for treatment of solid tumors.
- We entered into a clinical collaboration agreement with Tibotec Pharmaceuticals (Tibotec), one of the Janssen Pharmaceutical Companies, to evaluate the utility of daclatasvir (BMS-790052), our investigational NS5A replication complex inhibitor, in combination with Tibotec's investigational NS3 protease inhibitor, TMC435, for the treatment of chronic hepatitis C virus.
- We agreed to codevelop BMS-795311, our preclinical small molecule inhibitor of the Cholesteryl Ester Transfer Protein (CETP) that could potentially raise HDL (good cholesterol) levels and help prevent cardiovascular disease, with Simcere Pharmaceutical Group (Simcere).
- We entered into a clinical collaboration with Pharmasset, Inc. (Pharmasset), now a wholly owned subsidiary of Gilead, to evaluate the utility of daclatasvir (BMS-790052), our NS5A replication complex inhibitor, in combination with PSI-7977, Pharmasset's nucleotide polymerase inhibitor for the treatment of chronic hepatitis C virus and subsequently announced the addition of four additional treatment arms to the Phase IIa trial.

In February 2012, we acquired Inhibitex, Inc. (Inhibitex), a clinical-stage biopharmaceutical company focused on developing products to treat the hepatitis C virus and other serious infectious diseases.

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## Product and Pipeline Developments

We manage our research and development (R&D) programs on a portfolio basis, investing resources in each stage of research and development from early discovery through late-stage development. We continually evaluate our portfolio of R&D assets to ensure that there is an appropriate balance of early-stage and late-stage programs to support future growth. We consider our R&D programs that have entered into Phase III development to be significant, as these programs constitute our late-stage development pipeline. These Phase III development programs include both investigational compounds in Phase III development for initial indications and marketed products that are in Phase III development for additional indications or formulations. Spending on these programs represents approximately 30-40% of our annual R&D expenses. No individual investigational compound or marketed product represented 10% or more of our R&D expenses in any of the last three years. While we do not expect all of our late-stage development programs to make it to market, our late-stage development programs are the R&D programs that could potentially have an impact on our revenue and earnings within the next few years. The following are the recent significant developments in our marketed products and our late-stage pipeline:

**YERVOY** – a monoclonal antibody for the treatment of patients with unresectable (inoperable) or metastatic melanoma, which currently is also being studied for other indications including lung cancer as well as adjuvant melanoma and hormone-refractory prostate cancer

- In July 2011, the Company announced that the European Commission approved YERVOY for the treatment of adult patients with previously-treated advanced melanoma.
- In June 2011, the Company announced at the 47<sup>th</sup> Annual Meeting of the American Society of Clinical Oncology the results on the 024 study which evaluated newly-diagnosed patients treated with YERVOY 10mg/kg in combination with dacarbazine versus dacarbazine alone. There was a significant improvement in overall survival for patients treated with YERVOY plus dacarbazine versus those who received dacarbazine alone. Higher estimated survival rates were observed at one year, two years and three years in patients treated with YERVOY plus dacarbazine versus those that received dacarbazine alone.
- In June 2011, the Company announced that it has entered into a clinical collaboration with Roche to evaluate the utility of YERVOY in combination with Roche's investigational BRAF inhibitor, vemurafenib, in treating patients with a specific type of metastatic melanoma.
- In March 2011, the FDA approved YERVOY for the treatment of patients with newly diagnosed or previously-treated unresectable (inoperable) or metastatic melanoma.

**ELIQUIS** – an oral Factor Xa inhibitor indicated in the EU for the prevention of venous thromboembolic events (VTE) in adult patients who have undergone elective hip or knee replacement surgery and in development for stroke prevention in patients with atrial fibrillation (AF) and the prevention and treatment of venous thromboembolic disorders that is part of our strategic alliance with Pfizer, Inc. (Pfizer)

- In November 2011, the FDA accepted for review the NDA for ELIQUIS. The Prescription Drug User Fee Act (PDUFA) goal date for a decision by the FDA is March 28, 2012. We also have a validated application in the EU.
- In November 2011, the Company and Pfizer announced the results of the Phase III ADOPT trial, which evaluated ELIQUIS versus enoxaparin in acutely ill medical patients, did not meet the primary efficacy outcome of superiority to enoxaparin for the endpoint of VTE and VTE-related deaths.
- In August 2011 at the European Society of Cardiology Congress, the Company and Pfizer announced the main results of the Phase III ARISTOTLE trial, which evaluated ELIQUIS compared to warfarin for the prevention of stroke or systemic embolism in patients with atrial fibrillation and at least one risk factor for stroke. ELIQUIS as compared with warfarin significantly reduced the risk of stroke or systemic embolism by 21 percent, major bleeding by 31 percent and mortality by 11 percent.
- In June 2011, the Company and Pfizer announced that the Phase III ARISTOTLE trial of ELIQUIS met the primary efficacy objective of non-inferiority to warfarin on the combined outcome of stroke (ischemic, hemorrhagic or unspecified type) and systemic embolism. In addition, ELIQUIS met the key secondary endpoints of superiority on efficacy and on International Society of Thrombosis and Haemostasis (ISTH) major bleeding compared to warfarin.
- In May 2011, the Company and Pfizer announced that the European Commission approved ELIQUIS for the prevention of VTE in adult patients who have undergone elective hip or knee replacement surgery.
- In February 2011, the Company and Pfizer published the full results of the AVERROES study of ELIQUIS in *The New England Journal of Medicine*. The study demonstrated that, for patients with AF who were expected or demonstrated to be unsuitable for a vitamin K antagonist therapy such as warfarin, ELIQUIS was statistically superior to aspirin in reducing the composite of stroke or systemic embolism, without a significant increase in major bleeding, fatal bleeding or intracranial bleeding. There were no significant differences in the risk of hemorrhagic stroke between ELIQUIS and aspirin. The study results also showed that ELIQUIS demonstrated superiority for its secondary efficacy endpoint in reducing the composite of stroke, systemic embolism, myocardial infarction or vascular death for patients with AF when compared with aspirin.

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NULOJIX – a fusion protein with novel immunosuppressive activity for the prevention of kidney transplant rejection

- In June 2011, the Company announced that the FDA and the European Commission approved NULOJIX for prophylaxis of organ rejection in adult patients receiving a kidney transplant.
- New data on NULOJIX was presented at the 2011 American Transplant Congress and the European Society for Organ Transplantation (ESOT) meeting including: (i) three-year outcomes from BENEFIT: A Phase III study of NULOJIX vs. cyclosporine in kidney transplant recipients, (ii) three-year safety profile of NULOJIX in kidney transplant recipients from the BENEFIT and BENEFIT-EXT studies, (iii) renal function at two years in kidney transplant recipients switched from cyclosporine or tacrolimus to NULOJIX: results from the long-term extension of a Phase II study, and (iv) three-year outcomes by donor type in Phase III studies of NULOJIX vs. cyclosporine in kidney transplantation (BENEFIT & BENEFIT-EXT).

Dapagliflozin – an oral SGLT2 inhibitor for the treatment of diabetes that is part of our strategic alliance with AstraZeneca PLC (AstraZeneca)

- In January 2012, the FDA issued a complete response letter regarding the NDA for dapagliflozin. The complete response letter requests additional clinical data to allow a better assessment of the benefit-risk profile for dapagliflozin. This includes clinical trial data from ongoing studies and may require information from new clinical trials. The companies will work closely with the FDA to determine the appropriate next steps for the dapagliflozin application, and are in ongoing discussions with health authorities in Europe and other countries as part of the application procedures.
- In December 2011, the Company and AstraZeneca announced at the International Diabetes Federation 2011 World Diabetes Conference the results of a Phase III study of dapagliflozin that showed reductions on blood sugar levels (glycosylated hemoglobin levels or HbA1c) seen at 24 weeks with dapagliflozin and existing glimepiride (sulfonylurea) therapy, compared to placebo added to glimepiride were maintained at 48 weeks in adults with type 2 diabetes. Patients taking dapagliflozin added to glimepiride also maintained reductions in fasting plasma glucose levels, post-prandial glucose and total body weight.
- In November 2011, the Company and AstraZeneca presented a meta-analysis of clinical data on cardiovascular safety in adult patients with type 2 diabetes that showed that dapagliflozin was not associated with an unacceptable increase in cardiovascular risk relative to all comparators pooled in the clinical programs.
- In July 2011, the FDA's Endocrinologic and Metabolic Drugs Advisory Committee voted nine to six that the efficacy and safety data did not provide substantial evidence to support approval of the NDA for dapagliflozin as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus.
- In June 2011 at the American Diabetes Association meeting, the Company and AstraZeneca presented the results from several Phase III clinical studies examining dapagliflozin added to metformin.
- The MAA for dapagliflozin has been validated by the EMA. The MAA submission for dapagliflozin was filed in December 2010.

ORENCIA – a fusion protein indicated for rheumatoid arthritis

- In November 2011 at the American College of Rheumatology Annual Scientific Meeting, the Company presented new data on ORENCIA from clinical trials that support the recent FDA approval of the subcutaneous formulation of ORENCIA for the reduction of signs and symptoms in adults with moderate to severe arthritis. Other data presented included long-term immunogenicity data with the intravenous formulation, long-term safety data in rheumatoid arthritis and results from a Phase II/III study in lupus nephritis.
- In August 2011, the MAA for the subcutaneous formulation of ORENCIA was validated for review by the European Medicine Agency.
- In July 2011, the FDA approved a subcutaneous formulation of ORENCIA for the treatment of adults with moderate to severe rheumatoid arthritis.

ONGLYZA/KOMBIGLYZE (saxagliptin/saxagliptin and metformin) – a treatment for type 2 diabetes that is part of our strategic alliance with AstraZeneca

- In December 2011, the FDA approved ONGLYZA for use as a combination therapy with insulin (with or without metformin) to improve blood sugar in adult patients with type 2 diabetes.
- In November 2011, the European Commission approved KOMBIGLYZE (known in the EU as KOMBOGLYZE) for the treatment of type 2 diabetes.
- In November 2011, the European Commission approved ONGLYZA for use as a combination therapy with insulin (with or without metformin) to improve blood sugar (glycemic) control in adult patients with type 2 diabetes.
- In September 2011 at the 47<sup>th</sup> European Association for the Study of Diabetes annual meeting, the Company and AstraZeneca announced results from an investigational Phase IIIb clinical study which reported that ONGLYZA 5 mg added to insulin (with or without metformin) maintained glycemic control (glycosylated hemoglobin levels or HbA1c) in adult patients with type 2 diabetes compared to the addition of placebo at 24 to 52 weeks.

- In June 2011, the Company and AstraZeneca announced results from an investigational Phase IIIb clinical study which reported that ONGLYZA 5 mg added to insulin (with or without metformin) significantly reduced blood sugar levels (glycosylated hemoglobin levels or HbA1c) at 24 weeks compared to treatment with placebo added to insulin (with or without metformin).
- In May 2011, the Company and AstraZeneca announced that the State Food and Drug Administration approved ONGLYZA in China.
- In February 2011, the Company and AstraZeneca announced that the European Commission approved a label update for ONGLYZA in the treatment of adults with type 2 diabetes who have moderate or severe renal impairment making ONGLYZA the first dipeptidyl peptidase-4 (DDP-4) inhibitor in Europe available for type 2 diabetes patients with moderate or severe renal impairment.
- In February 2011, the Company and AstraZeneca announced that the FDA approved the inclusion of data from two clinical studies in an update to the ONGLYZA U.S. Prescribing Information for adults with type 2 diabetes. The U.S. label update provides further evidence regarding use in renally impaired adults with type 2 diabetes as well as comparisons between glipizide and ONGLYZA in patients also taking metformin.

SPRYCEL (dasatinib) – an oral inhibitor of multiple tyrosine kinases indicated for the treatment of adults with chronic, accelerated, or myeloid or lymphoid blast phase chronic myeloid leukemia with resistance or intolerance to prior therapy, including GLEEVEC\* (imatinib mesylate) and first-line treatment of adults. SPRYCEL is part of our strategic alliance with Otsuka Pharmaceuticals, Inc. (Otsuka).

- In September 2011, China's State Food and Drug Administration approved SPRYCEL for the treatment of adults with chronic, accelerated or lymphoid or myeloid chronic myeloid leukemia with resistance or intolerance to prior therapy of imatinib.
- In June 2011, regulatory authorities in Japan approved the use of SPRYCEL as a first-line treatment of chronic myeloid leukemia.
- In June 2011, the Company and Otsuka announced that five-year follow up data for SPRYCEL 100 mg once daily demonstrated 78% overall survival in patients with chronic-phase myeloid leukemia resistant or intolerant to GLEEVEC\*. The results were announced at the 47<sup>th</sup> Annual Meeting of the American Society of Clinical Oncology.

PLAVIX\* – a platelet aggregation inhibitor that is part of our alliance with Sanofi

- In January 2011, the Company and Sanofi announced that the FDA has granted the companies an additional six-month period of exclusivity to market PLAVIX\*. Exclusivity for PLAVIX\* in the U.S. is now scheduled to expire on May 17, 2012.

BARACLUDE (entecavir) – an oral antiviral agent for the treatment of chronic hepatitis B

- In November 2011 at the 62<sup>nd</sup> annual meeting of the American Association for the Study of Liver Disease, the Company announced the results of the 96-week BE-LOW study, a Phase IIIb clinical trial, that showed no statistical difference between BARACLUDE monotherapy (0.5 mg once daily) and BARACLUDE (0.5 mg once daily) plus tenofovir (300 mg once daily) in treatment-naïve adult patients with HBeAg-positive and HBeAg-negative chronic hepatitis B with compensated liver disease.
- In February 2011, the European Commission approved BARACLUDE for the treatment of hepatitis B in adult patients with decompensated liver disease.

ABILIFY\* (aripiprazole) – an antipsychotic agent for the treatment of schizophrenia, bipolar mania disorder and major depressive disorder that is part of our strategic alliance with Otsuka

- In February 2011, the Company and Otsuka announced that the FDA approved ABILIFY\* as an adjunct to the mood stabilizers lithium or valproate for the maintenance treatment of Bipolar I Disorder. European approval for this use was received in January 2011.

REYATAZ (atazanavir sulfate) – a protease inhibitor for the treatment of HIV

- In February 2011, the FDA approved an update to the labeling for REYATAZ to include dose recommendations in HIV-infected pregnant women. In HIV combination therapy, treatment with the recommended adult dose of REYATAZ 300 mg, boosted with 100 mg of ritonavir, achieved minimum plasma concentrations (24 hours post-dose) during the third trimester of pregnancy comparable to that observed historically in HIV-infected adults. During the post partum period, atazanavir concentrations may be increased; therefore, while no dose adjustment is necessary, patients should be monitored for two months after delivery.



decrease as a result of the expected loss of exclusivity of each of those products in 2012. The change in U.S. net sales in 2010 attributed to volume reflects increased demand for several key products. See "—Key Products" for further discussion of sales by key product.

Net sales in Europe increased in 2011 due to favorable foreign exchange and sales growth of most key products partially offset by lower sales of certain mature brands from divestitures and generic competition as well as generic competition for PLAVIX\* and AVAPRO\*/AVALIDE\*. Net sales in Europe decreased in 2010 due to unfavorable foreign exchange and the previously mentioned generic competition which more than offset sales growth in most key products. Net sales in both periods were negatively impacted by continuing fiscal challenges in many European countries as healthcare payers, including government agencies, have reduced and are expected to continue to reduce the cost of healthcare through actions that directly or indirectly impose additional price reductions. These measures include, but are not limited to, mandatory discounts, rebates, other price reductions and other restrictive measures.

Net sales in Japan, Asia Pacific and Canada increased in both periods primarily due to higher demand for BARACLUDE and SPRYCEL. Net sales in 2011 also increased from the recent launch of ORENCIA in Japan and the approval of SPRYCEL for first line indication in Japan. These impacts were partially offset by generic competition for AVAPRO\*/AVALIDE\* in Canada in 2011 and lower sales of mature brands from generic competition and divestitures in both periods.

Our Emerging Markets region is comprised of Brazil, Russia, India, China, and Turkey. Net sales growth in both periods was driven by increased sales volume primarily in China and Brazil, which was partially offset by pricing pressures in Turkey and Russia. Higher net sales in China were primarily attributable to BARACLUDE and certain mature brands in both periods. Higher net sales in Brazil were primarily attributable to REYATAZ in 2011 and ABILIFY\* in 2010.

No single country outside the U.S. contributed more than 10% of our total net sales in 2011, 2010 or 2009.

In general, our business is not seasonal. For information on U.S. pharmaceutical prescriber demand, reference is made to the table within "—Estimated End-User Demand" below, which sets forth a comparison of changes in net sales to the estimated total prescription growth (for both retail and mail order customers) for certain of our key products. U.S. and non-U.S. net sales are categorized based upon the location of the customer.

We recognize revenue net of gross-to-net sales adjustments that are further described in "—Critical Accounting Policies" below. Our contractual share of ABILIFY\* and ATRIPLA\* sales is reflected net of all gross-to-net sales adjustments in gross sales.

The reconciliation of gross sales to net sales by each significant category of gross-to-net sales adjustments was as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
<b>Gross Sales</b>	\$ 24,007	\$ 21,681	\$ 20,555
<b>Gross-to-Net Sales Adjustments</b>			
Charge-Backs Related to Government Programs	(767)	(605)	(513)
Cash Discounts	(282)	(255)	(253)
Managed Healthcare Rebates and Other Contract Discounts	(752)	(499)	(439)
Medicaid Rebates	(536)	(453)	(229)
Sales Returns	(76)	(88)	(101)
Other Adjustments	(350)	(297)	(212)
<b>Total Gross-to-Net Sales Adjustments</b>	<b>(2,763)</b>	<b>(2,197)</b>	<b>(1,747)</b>
<b>Net Sales</b>	<b>\$ 21,244</b>	<b>\$ 19,484</b>	<b>\$ 18,808</b>

The activities and ending balances of each significant category of gross-to-net sales reserve adjustments were as follows:

Dollars in Millions	Charge-Backs	Cash	Managed	Medicaid	Sales	Other	Total
	Related to		Healthcare				
	Government	Discounts	Rebates and	Rebates	Returns	Adjustments	
	Programs		Contract				
			Discounts				
Balance at January 1, 2010	\$ 42	\$ 26	\$ 199	\$ 166	\$ 169	\$ 88	\$ 690
Provision related to sales made in current period	606	255	496	454	118	302	2,231
Provision related to sales made in prior periods	(1)	—	3	(1)	(30)	(5)	(34)
Returns and payments	(599)	(252)	(482)	(292)	(69)	(256)	(1,950)
Impact of foreign currency translation	—	—	—	—	(1)	(2)	(3)
Balance at December 31, 2010	\$ 48	\$ 29	\$ 216	\$ 327	\$ 187	\$ 127	\$ 934
Provision related to sales made in current period	767	282	752	541	120	357	2,819
Provision related to sales made in prior periods	—	—	—	(5)	(44)	(7)	(56)
Returns and payments	(764)	(283)	(550)	(452)	(101)	(296)	(2,446)
Impact of foreign currency translation	—	—	(1)	—	(1)	—	(2)
Balance at December 31, 2011	\$ 51	\$ 28	\$ 417	\$ 411	\$ 161	\$ 181	\$ 1,249

Gross-to-net sales adjustments as a percentage of worldwide gross sales were 11.5% in 2011, 10.1% in 2010 and 8.5% in 2009 and are primarily a function of gross sales trends, changes in sales mix and contractual and legislative discounts and rebates. Gross-to-net sales adjustments increased due to:

- Charge-backs related to government programs increased in both periods primarily due to reimbursements for price increases in excess of current inflation rates in the U.S.
- Managed healthcare rebates and other contract discounts increased in 2011 due to the 50% discount for patients within the Medicare Part D coverage gap.
- In 2010, Medicaid rebates increased due to the change in minimum rebates on drug sales from 15.1% to 23.1% and the extension of the Medicaid rebate rate to drugs sold to risk-based Medicaid managed care organizations. In 2011, Medicaid rebates continued to increase due to the full year impact of the expansion of Medicaid rebates to drugs used in risk-based Medicaid managed care plans and higher average net selling prices for PLAVIX\*, and higher Medicaid channel sales.
- The increase in unpaid rebates was due in part to timing and an increasing lag in payments attributed to government agencies administrative delays.
- In 2011, sales returns included a \$29 million reduction of a \$44 million U.S. return reserve established in 2010 in connection with a recall of certain lots of AVALIDE\* due to lower returns than expected. Sales returns attributable to 2012 sales are expected to increase as a result of the loss of exclusivity of PLAVIX\* and AVAPRO\*/AVALIDE\* in 2012.

## Key Products

Net sales of key products represented 86% of total net sales in 2011, 84% in 2010 and 81% in 2009. The following table presents U.S. and international net sales by key product, the percentage change from the prior period and the foreign exchange impact when compared to the prior period. Commentary detailing the reasons for significant variances for key products is provided below:

Dollars in Millions	Year Ended December 31,			% Change		% Change	
						Attributable to	
	2011	2010	2009	2011 vs. 2010	2010 vs. 2009	2011 vs. 2010	2010 vs. 2009
<b>Key Products</b>							
PLAVIX* (clopidogrel bisulfate)	\$ 7,087	\$ 6,666	\$ 6,146	6 %	8 %	—	—
U.S.	6,622	6,154	5,556	8 %	11 %	—	—
Non-U.S.	465	512	590	(9)%	(13)%	3 %	4 %
AVAPRO*/AVALIDE* (irbesartan/irbesartan-hydrochlorothiazide)	952	1,176	1,283	(19)%	(8)%	2 %	2 %
U.S.	521	642	722	(19)%	(11)%	—	—
Non-U.S.	431	534	561	(19)%	(5)%	4 %	3 %
ABILIFY* (aripiprazole)	2,758	2,565	2,592	8 %	(1)%	2 %	—
U.S.	2,037	1,958	2,082	4 %	(6)%	—	—
Non-U.S.	721	607	510	19 %	19 %	6 %	(2)%
REYATAZ (atazanavir sulfate)	1,569	1,479	1,401	6 %	6 %	2 %	—
U.S.	760	754	727	1 %	4 %	—	—
Non-U.S.	809	725	674	12 %	8 %	5 %	(1)%
SUSTIVA (efavirenz) Franchise	1,485	1,368	1,277	9 %	7 %	2 %	(1)%
U.S.	940	881	803	7 %	10 %	—	—
Non-U.S.	545	487	474	12 %	3 %	5 %	(3)%
BARACLUDE (entecavir)	1,196	931	734	28 %	27 %	5 %	3 %
U.S.	207	179	160	16 %	12 %	—	—
Non-U.S.	989	752	574	32 %	31 %	7 %	3%
ERBITUX* (cetuximab)	691	662	683	4 %	(3)%	—	—
U.S.	672	646	671	4 %	(4)%	—	—
Non-U.S.	19	16	12	19 %	33 %	3 %	5 %
SPRYCEL (dasatinib)	803	576	421	39 %	37 %	3 %	—
U.S.	294	188	123	56 %	53 %	—	—
Non-U.S.	509	388	298	31 %	30 %	6 %	1 %
YERVOY (ipilimumab)	360	N/A	N/A	N/A	N/A	N/A	N/A
U.S.	322	N/A	N/A	N/A	N/A	N/A	N/A
Non-U.S.	38	N/A	N/A	N/A	N/A	N/A	N/A
ORENCIA (abatacept)	917	733	602	25 %	22 %	2 %	—
U.S.	615	547	467	12 %	17 %	—	—
Non-U.S.	302	186	135	62 %	38 %	8 %	1 %
NULOJIX (belatacept)	3	N/A	N/A	N/A	N/A	N/A	N/A
U.S.	3	N/A	N/A	N/A	N/A	N/A	N/A
Non-U.S.	—	N/A	N/A	N/A	N/A	N/A	N/A
ONGLYZA/KOMBIGLYZE (saxagliptin/saxagliptin and metformin)	473	158	24	**	**	3 %	—
U.S.	339	119	22	**	**	—	—
Non-U.S.	134	39	2	**	**	**	—
<b>Mature Products and All Other</b>	2,950	3,170	3,645	(7)%	(13)%	4 %	1 %
U.S.	513	545	534	(6)%	2 %	—	—
Non-U.S.	2,437	2,625	3,111	(7)%	(16)%	5 %	1 %

\*\* Change in excess of 100%.

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PLAVIX\* — a platelet aggregation inhibitor that is part of our alliance with Sanofi

- U.S. net sales increased in both periods primarily due to higher average net selling prices. Estimated total U.S. prescription demand decreased 5% and 1% in 2011 and 2010, respectively. We expect a rapid and material decline in PLAVIX\* sales following the loss of exclusivity in May 2012. PLAVIX\* sales will depend on erosion rates from generic competition, wholesale and retail inventory levels and expected returns.
- International net sales continue to be impacted by the launch of generic clopidogrel products in the EU and Australia. This has a negative impact on both our net sales in EU comarketing countries and Australia and our equity in net income of affiliates as it relates to our share of sales from our partnership with sanofi in Europe and Asia. We expect the continued erosion of PLAVIX\* net sales in the EU, which will impact both our international net sales and our equity in net income of affiliates. We also expect erosion of international net sales following the recent loss of exclusivity of PLAVIX\* in Canada.
- See "Item 8. Financial Statements—Note 22. Legal Proceedings and Contingencies—PLAVIX\* Litigation," for further discussion on PLAVIX\* exclusivity litigation in both the U.S. and EU.

AVAPRO\*/AVALIDE\* (known in the EU as APROVEL\*/KARVEA\*) — an angiotensin II receptor blocker for the treatment of hypertension and diabetic nephropathy that is also part of the Sanofi alliance

- U.S. net sales decreased in 2011 due to market share losses subsequent to the AVALIDE\* supply shortage in the first quarter of 2011 associated with previously reported recalls. Total estimated U.S. prescription demand decreased 39% in 2011. The decrease in U.S. net sales was partially offset by higher average net selling prices and the reduction in 2011 of previously established reserves for estimated returns in connection with the recall of certain lots of AVALIDE\* during 2010 due to lower actual returns than expected. We expect a rapid, material decline in AVAPRO\*/AVALIDE\* sales following the loss of exclusivity in March 2012. International net sales decreased in 2011 due to lower demand including generic competition in certain EU markets and Canada.
- U.S. and international net sales decreased in 2010 primarily due to decreased overall demand due to generic competition in the EU and reduced supply of AVALIDE\* in addition to a \$44 million sales return adjustment recorded as a result of the AVALIDE\* recall. Estimated total U.S. prescription demand decreased 17% in 2010.

ELIQUIS — an oral Factor Xa inhibitor for the prevention of VTE in adult patients who have undergone elective hip or knee replacement surgery and in development for the prevention and treatment of venous thromboembolic disorders and stroke prevention in patients with atrial fibrillation that is part of our strategic alliance with Pfizer

- ELIQUIS was approved in the EU for VTE prevention in May 2011 and was launched in a limited number of EU countries beginning in May 2011. Net sales were less than \$1 million.

ABILIFY\* — an antipsychotic agent for the treatment of schizophrenia, bipolar mania disorder and major depressive disorder and is part of our strategic alliance with Otsuka

- U.S. net sales increased in 2011 due to higher overall demand and average net selling prices partially offset by the reduction in our contractual share of net sales from 58% in 2010 to 53.5% in 2011. Estimated total U.S. prescription demand increased 5% in 2011.
- U.S. net sales decreased in 2010 primarily due to the reduction in our contractual share of net sales from 65% to 58% and higher Medicaid rebates from healthcare reform. The decrease was partially offset by higher average net selling prices and overall demand. Estimated total U.S. prescription demand increased 5% in 2010.
- In both periods, international net sales increased due to higher demand.

REYATAZ — a protease inhibitor for the treatment of HIV

- U.S. net sales were relatively flat in 2011 and increased in 2010 primarily due to higher demand. Estimated total prescription demand increased 2% in 2011 and 4% in 2010.
- In both periods, international net sales increased primarily due to higher demand.

SUSTIVA Franchise — a non-nucleoside reverse transcriptase inhibitor for the treatment of HIV, which includes SUSTIVA, an antiretroviral drug, and bulk efavirenz, which is also included in the combination therapy, ATRIPLA\* (efavirenz 600 mg/emtricitabine 200 mg/tenofovir disoproxil fumarate 300 mg), a product sold through our joint venture with Gilead

- U.S. net sales increased in 2011 primarily due to higher average net selling prices and higher estimated total U.S. prescription demand of 7%. U.S. net sales increased in 2010 primarily due to higher estimated total U.S. prescription demand of 7%.
- In both periods, international net sales increased primarily due to higher demand.

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BARACLUDE — an oral antiviral agent for the treatment of chronic hepatitis B

- Net sales in both periods increased primarily due to higher demand.

ERBITUX\* — a monoclonal antibody designed to exclusively target and block the Epidermal Growth Factor Receptor, which is expressed on the surface of certain cancer cells in multiple tumor types as well as normal cells and is currently indicated for use against colorectal cancer and head and neck cancer. ERBITUX\* is part of our strategic alliance with Lilly.

- Sold by us almost exclusively in the U.S., net sales increased in 2011 primarily due to higher demand, including demand from the approval of ERBITUX\* for the first-line treatment of recurrent locally or regionally advanced metastatic squamous cell carcinoma of the head and neck. Net sales in 2010 decreased primarily due to lower demand and lower average net selling prices.

SPRYCEL — an oral inhibitor of multiple tyrosine kinases indicated for the treatment of adults with chronic, accelerated, or myeloid or lymphoid blast phase chronic myeloid leukemia with resistance or intolerance to prior therapy, including GLEEVEC\* (imatinib mesylate) and first-line treatment of adults with Philadelphia chromosome-positive chronic myeloid leukemia in chronic phase. SPRYCEL is part of our strategic alliance with Otsuka.

- Net sales in both periods increased primarily due to higher demand and average net selling prices. Demand in 2011 was positively impacted by the approval of SPRYCEL for first-line treatment of adult patients with newly diagnosed Philadelphia chromosome-positive chronic myeloid leukemia in chronic phase in the U.S. and the EU in the fourth quarter of 2010.

YERVOY — a monoclonal antibody for the treatment of patients with unresectable (inoperable) or metastatic melanoma

- YERVOY was launched in the U.S. in the second quarter of 2011 and a limited number of EU countries in the third and fourth quarters of 2011.
- Net sales of \$27 million were deferred until patient infusion due to a returns policy established in the third quarter of 2011 in the U.S.

ORENCIA — a fusion protein indicated for adult patients with moderate to severe rheumatoid arthritis who have had an inadequate response to one or more currently available treatments, such as methotrexate or anti-tumor necrosis factor therapy

- U.S. net sales increased in both periods primarily due to higher demand, including the launch of the ORENCIA subcutaneous formulation, and higher average net selling prices.
- International net sales increased in both periods primarily due to higher demand.

NULOJIX — a fusion protein with novel immunosuppressive activity targeted at prevention of kidney transplant rejection

- NULOJIX was approved and launched in the U.S. and EU during 2011.

ONGLYZA/KOMBIGLYZE — treatment for type 2 diabetes

- ONGLYZA/KOMBIGLYZE increased in both periods primarily due to higher overall demand and launches in various countries. KOMBIGLYZE was launched in the U.S. in the fourth quarter of 2010.

Mature Products and All Other — includes products which lost exclusivity in major markets and over the counter brands

- International net sales decreased in 2010 due to continued generic erosion of certain products, lower average net selling prices in Europe, the year over year impact of the rationalization and divestitures of our non-strategic product portfolio and lower demand for certain over the counter products.

The estimated U.S. prescription change data provided throughout this report includes information only from the retail and mail order channels and does not reflect product demand within other channels such as hospitals, home health care, clinics, federal facilities including Veterans Administration hospitals, and long-term care, among others. The data is provided by Wolters Kluwer Health (WK), except for SPRYCEL, and is based on the Source Prescription Audit. As of December 31, 2011, SPRYCEL demand is based upon information from the Next-Generation Prescription Service (NGPS) version 2.0 of the National Prescription Audit provided by the IMS Health (IMS). The data is a product of each respective service providers' own recordkeeping and projection processes and therefore subject to the inherent limitations of estimates based on sampling and may include a margin of error.

Prior to December 31, 2011, SPRYCEL demand was calculated based upon data obtained from the IMS Health (IMS) National Sales Perspectives Audit. Since management believes information from IMS' National Prescription Audit more accurately reflects subscriber demands trends versus pill data from IMS' National Sales Perspectives Audit, all prior year SPRYCEL data has been restated to reflect information from IMS' National Prescription Audit.

We continuously seek to improve the quality of our estimates of prescription change amounts and ultimate patient/consumer demand by reviewing the calculation methodologies employed and analyzing internal and third-party data. We expect to continue to review and refine our methodologies and processes for calculation of these estimates and will monitor the quality of our own and third parties' data used in such calculations.

We calculated the estimated total U.S. prescription change on a weighted-average basis to reflect the fact that mail order prescriptions include a greater volume of product supplied, compared to retail prescriptions. Mail order prescriptions typically reflect a 90-day prescription whereas retail prescriptions typically reflect a 30-day prescription. The calculation is derived by multiplying mail order prescription data by a factor that approximates three and adding to this the retail prescriptions. We believe that a calculation of estimated total U.S. prescription change based on this weighted-average approach provides a superior estimate of total prescription demand in retail and mail order channels. We use this methodology for our internal demand reporting.

#### Estimated End-User Demand

The following tables set forth for each of our key products sold in the U.S. for the years ended December 31, 2011, 2010 and 2009: (i) change in reported U.S. net sales for each year; (ii) estimated total U.S. prescription change for the retail and mail order channels calculated by us based on third-party data on a weighted-average basis, and (iii) months of inventory on hand in the wholesale distribution channel.

Dollars in Millions	Year Ended December 31,						At December 31,		
	Change in U.S. Net Sales			% Change in U.S. Total Prescriptions			Months on Hand		
	2011	2010	2009	2011	2010	2009	2011	2010	2009
PLAVIX*	8%	11%	13%	(5)%	(1)%	4%	0.5	0.5	0.5
AVAPRO*/AVALIDE*	(19)%	(11)%	(2)%	(39)%	(17)%	(9)%	0.6	0.4	0.4
ABILIFY*	4%	(6)%	24%	5%	5%	26%	0.5	0.4	0.4
REYATAZ	1%	4%	9%	2%	4%	8%	0.5	0.5	0.5
SUSTIVA Franchise <sup>(a)</sup>	7%	10%	11%	7%	7%	10%	0.6	0.4	0.5
BARACLUDE	16%	12%	14%	9%	12%	13%	0.6	0.6	0.5
ERBITUX* <sup>(b)</sup>	4%	(4)%	(9)%	N/A	N/A	N/A	0.6	0.5	0.5
SPRYCEL	56%	53%	34%	30%	21%	27%	0.7	0.6	0.7
YERVOY <sup>(b)(c)</sup>	N/A	N/A	N/A	N/A	N/A	N/A	0.6	N/A	N/A
ORENCIA <sup>(b)</sup>	12%	17%	29%	N/A	N/A	N/A	0.5	0.6	0.5
NULOJIX <sup>(b)(c)</sup>	N/A	N/A	N/A	N/A	N/A	N/A	3.5	N/A	N/A
ONGLYZA/KOMBIGLYZE <sup>(d)</sup>	**	**	N/A	**	**	N/A	0.5	0.8	3.7

(a) The SUSTIVA Franchise (total revenue) includes sales of SUSTIVA and revenue of bulk efavirenz included in the combination therapy ATRIPLA\*. The months on hand relates only to SUSTIVA.

(b) ERBITUX\*, YERVOY, ORENCIA and NULOJIX are parenterally administered products and do not have prescription-level data as physicians do not write prescriptions for these products.

(c) YERVOY and NULOJIX were launched in the U.S. in the second quarter of 2011.

(d) ONGLYZA was launched in the U.S. in the third quarter of 2009. KOMBIGLYZE was launched in the U.S. in the fourth quarter of 2010. ONGLYZA had 0.5 month of inventory on hand at December 31, 2010. KOMBIGLYZE had 51.8 months of inventory on hand at December 31, 2010 to support the initial product launch.

\*\* Change in excess of 100%.

Pursuant to the U.S. Securities and Exchange Commission (SEC) Consent Order described below under "—SEC Consent Order", we monitor the level of inventory on hand in the U.S. wholesaler distribution channel and outside of the U.S. in the direct customer distribution channel. We are obligated to disclose products with levels of inventory in excess of one month on hand or expected demand, subject to a de minimis exception. Estimated levels of inventory in the distribution channel in excess of one month on hand for these products were not material as of the dates indicated above. Below are U.S. products that had estimated levels of inventory in the distribution channel in excess of one month on hand at December 31, 2011, and international products that had estimated levels of inventory in the distribution channel in excess of one month on hand at September 30, 2011.

NULOJIX had 3.5 months of inventory on hand in the U.S. to support the initial product launch. The inventory is nominal and is expected to be worked down in less than that amount of time as demand for this new product increases post launch.

DAFALGAN, an analgesic product sold principally in Europe, had 1.1 months of inventory on hand at direct customers compared to 1.4 months of inventory on hand at December 31, 2010. The level of inventory on hand was primarily due to ordering patterns of pharmacists in France.

FERVEX, a cold and flu product, had 3.0 months of inventory on hand internationally at direct customers compared to 6.4 months of inventory on hand at December 31, 2010. The level of inventory on hand decreased due to higher demand in France and Russia.

LUFTAL, an antacid product, had 1.5 months of inventory on hand internationally at direct customers compared to 1.3 months of inventory on hand at December 31, 2010. The level of inventory on hand was primarily due to government purchasing patterns in Brazil.

In the U.S., for all products sold exclusively through wholesalers or through distributors, we generally determined our months on hand estimates using inventory levels of product on hand and the amount of out-movement provided by our three largest wholesalers, which account for approximately 90% of total gross sales of U.S. products, and provided by our distributors. Factors that may influence our estimates include generic competition, seasonality of products, wholesaler purchases in light of increases in wholesaler list prices, new product launches, new warehouse openings by wholesalers and new customer stockings by wholesalers. In addition, these estimates are calculated using third-party data, which may be impacted by their recordkeeping processes.

For our businesses outside of the U.S., we have significantly more direct customers. Limited information on direct customer product level inventory and corresponding out-movement information and the reliability of third-party demand information, where available, varies widely. In cases where direct customer product level inventory, ultimate patient/consumer demand or out-movement data does not exist or is otherwise not available, we have developed a variety of other methodologies to estimate such data, including using such factors as historical sales made to direct customers and third-party market research data related to prescription trends and end-user demand. Accordingly, we rely on a variety of methods to estimate direct customer product level inventory and to calculate months on hand. Factors that may affect our estimates include generic competition, seasonality of products, direct customer purchases in light of price increases, new product launches, new warehouse openings by direct customers, new customer stockings by direct customers and expected direct customer purchases for governmental bidding situations. As such, all of the information required to estimate months on hand in the direct customer distribution channel for non-U.S. business for the year ended December 31, 2011 is not available prior to the filing of this annual report on Form 10-K. We will disclose any product with levels of inventory in excess of one month on hand or expected demand, subject to a de minimis exception, in the next quarterly report on Form 10-Q.

### Expenses

	Net Sales			% Change	
	2011	2010	2009	2011 vs. 2010	2010 vs. 2009
Cost of products sold	\$ 5,598	\$ 5,277	\$ 5,140	6%	3%
Marketing, selling and administrative	4,203	3,686	3,946	14%	(7)%
Advertising and product promotion	957	977	1,136	(2)%	(14)%
Research and development	3,839	3,566	3,647	8%	(2)%
Provision for restructuring	116	113	136	3%	(17)%
Litigation expense, net	—	(19)	132	(100)%	**
Equity in net income of affiliates	(281)	(313)	(550)	(10)%	(43)%
Other (income)/expense	(169)	126	(381)	**	**
<b>Total Expenses</b>	<b>\$ 14,263</b>	<b>\$ 13,413</b>	<b>\$ 13,206</b>	<b>6%</b>	<b>2%</b>

\*\* Change is in excess of 100%.

### *Cost of products sold*

Cost of products sold consists of material costs, internal labor and overhead from our owned manufacturing sites, third-party processing costs, other supply chain costs and the settlement of foreign currency forward contracts that are used to hedge forecasted intercompany inventory purchase transactions. Essentially all of these costs are managed primarily through our global manufacturing organization, referred to as Technical Operations. Discovery royalties attributed to licensed products in connection with alliances, profit sharing payments in certain collaborations, and the amortization of acquired developed technology costs from business combinations and milestone payments that occur on or after regulatory approval are also included in cost of products sold.

Cost of products sold can vary between periods as a result of product mix (particularly resulting from royalties and profit sharing expenses in connection with our alliances), price, inflation and costs attributed to the rationalization of manufacturing sites resulting in accelerated depreciation, impairment charges and other stranded costs. In addition, changes in foreign currency may also provide volatility given a high percentage of total costs are denominated in foreign currencies.

The increase in cost of products sold in both periods was primarily attributable to higher sales volume resulting in additional royalties, collaboration fees, and profit sharing expense, and unfavorable foreign exchange. Cost of products sold as a percentage of net sales were 26.4% in 2011, 27.1% in 2010, and 27.3% in 2009 and reflected more favorable product mix during 2011 and 2010.

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### Marketing, selling and administrative

Marketing, selling and administrative expenses consist of salary and benefit costs, third-party professional and marketing fees, outsourcing fees, shipping and handling costs and other expenses that are not attributed to product manufacturing costs or research and development expenses. Most of these expenses are managed through regional commercialization functions or global functions such as finance, law, information technology and human resources.

- The increase in 2011 was primarily attributed to the annual pharmaceutical company fee (\$220 million), unfavorable foreign exchange and higher marketing costs to support new launches and key products and to a lesser extent, higher bad debt expense in the EU, charitable funding and information technology expenses.
- The decrease in 2010 was primarily attributed to the reduction in sales related activities of certain key products to coincide with their respective life cycle; prior year impact of a \$100 million funding payment made to the BMS Foundation; reduction in our ABILIFY\* sales force as Otsuka established its own sales force for promotion of ABILIFY\*, SPRYCEL and IXEMPRA; reduced project standardization implementation costs from the 2009 roll out of new accounting and human resource related systems; and overall efficiencies gained from continuous improvement initiatives.

### Advertising and product promotion

Advertising and product promotion expenses consist of related media, sample and direct to consumer programs.

- The decrease in 2010 was primarily attributed to lower spending on the promotion of certain key products to coincide with their product life cycle and Otsuka's reimbursement of certain ABILIFY\*, SPRYCEL and IXEMPRA advertising and product promotion expenses partially offset by increased spending for the ONGLYZA launch and other pipeline products.

### Research and development

Research and development expenses consist of salary and benefit costs, third-party grants and fees paid to clinical research organizations, supplies and facility costs. Total research and development expenses include the costs of discovery research, preclinical development, early- and late-clinical development and drug formulation, as well as clinical trials and medical support of marketed products, proportionate allocations of enterprise-wide costs, and other appropriate costs. These expenses also include third-party licensing fees that are typically paid upfront as well as when regulatory or other contractual milestones are met. Certain expenses are shared with alliance partners based upon contractual agreements.

Most expenses are managed by our global research and development organization of which, approximately \$2.0 billion of the total spend was attributed to development activities with the remainder attributed to preclinical and research activities. These expenses can vary between periods for a number of reasons, including the timing of upfront, milestone and other licensing payments.

- The increase in 2011 was attributed to higher upfront, milestone and other licensing payments, unfavorable foreign exchange, and additional development costs resulting from the acquisition of ZymoGenetics. Upfront, milestone and other licensing payments were \$207 million in 2011 which included an \$88 million payment associated with an amendment of an intellectual property license agreement for YERVOY prior to its FDA approval and payments to Abbott Laboratories (Abbott), Innate, Ambrx, Alder Biopharmaceuticals, Inc. (Alder), and Nissan Chemical Industries, Ltd. and Teijin Pharma Limited (Nissan and Teijin) for exclusive licenses to develop and commercialize certain programs and compounds.
- The decrease in 2010 was attributed to lower upfront, milestone and other licensing payments partially offset by additional spending to support our maturing pipeline and compounds obtained from our string-of-pearls strategy. Upfront, milestone and other licensing payments were \$132 million in 2010 primarily attributed to Exelixis, Allergan Inc. and Abbott and \$347 million in 2009 primarily attributed to ZymoGenetics, Alder, and Nissan and Teijin.

### Provision for restructuring

The provision for restructuring was primarily attributable to employee termination benefits for continuous improvement initiatives.

### Litigation expense, net

The 2009 amount was primarily due to a \$125 million securities litigation settlement.

### Equity in net income of affiliates

Equity in net income of affiliates was primarily related to our international partnership with Sanofi and varies based on international PLAVIX\* net sales included within this partnership.

- The decrease in 2010 is attributed to the impact of an alternative salt form of clopidogrel and generic clopidogrel competition on international PLAVIX\* net sales that commenced in 2009. For additional information, see "Item 8. Financial Statements—Note 3. Alliances and Collaborations."

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*Other (income)/expense*

Other (income)/expense include:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Interest expense	\$ 145	\$ 145	\$ 184
Interest income	(91)	(75)	(54)
Impairment and loss on sale of manufacturing operations	—	236	—
Gain on sale of product lines, businesses and assets	(37)	(39)	(360)
Other income received from alliance partners	(140)	(136)	(148)
Pension curtailment and settlement charges	10	28	43
Litigation charges/(recoveries)	(25)	—	—
Product liability charges/ (recoveries)	31	17	(6)
Other	(62)	(50)	(40)
Other (income)/expense	<u>\$ (169)</u>	<u>\$ 126</u>	<u>\$ (381)</u>

- Impairment and loss on sale of manufacturing operations was primarily attributed to the disposal of our manufacturing operations in Latina, Italy in 2010.
- Gain on sale of product lines, businesses and assets was primarily related to the sale of mature brands, including businesses within Indonesia and Australia in 2009.
- Other income from alliance partners includes income earned from the Sanofi partnership and amortization of certain upfront, milestone and other licensing payments related to other alliances.
- Pension curtailment and settlement charges were primarily attributed to amendments which eliminated the crediting of future benefits related to service for U.S. pension plan participants. These amendments resulted in a curtailment charge of \$6 million and \$25 million during 2010 and 2009, respectively. The remainder of the charges resulted from lump sum payments in certain plans which exceeded the sum of plan interest costs and service costs, resulting in an acceleration of a portion of previously deferred actuarial losses. Additional charges may be recognized in the future, particularly with the U.S. pension plans due to a lower threshold resulting from the elimination of service costs and potentially higher lump sum payments. See "Item 8. Financial Statements—Note 19. Pension, Postretirement and Postemployment Liabilities" for further detail.
- Product liability charges in 2011 and 2010 were for additional reserves in connection with the breast implant settlement program and hormone replacement therapy products.

#### **Non-GAAP Financial Measures**

Our non-GAAP financial measures, including non-GAAP earnings and related EPS information, are adjusted to exclude certain costs, expenses, gains and losses and other specified items that due to their significant and/or unusual nature are evaluated on an individual basis. These items are excluded from segment income. Similar charges or gains for some of these items have been recognized in prior periods and it is reasonably possible that they could reoccur in future periods. Non-GAAP information is intended to portray the results of our baseline performance which include the discovery, development, licensing, manufacturing, marketing, distribution and sale of pharmaceutical products on a global basis and to enhance an investor's overall understanding of our past financial performance and prospects for the future. For example, non-GAAP earnings and EPS information is an indication of our baseline performance before items that are considered by us to not be reflective of our ongoing results. In addition, this information is among the primary indicators we use as a basis for evaluating performance, allocating resources, setting incentive compensation targets, and planning and forecasting for future periods. This information is not intended to be considered in isolation or as a substitute for net earnings or diluted EPS prepared in accordance with GAAP.

Specified items were as follows:

Dollars in Millions, except per share data	Year Ended December 31,		
	2011	2010	2009
<b>Cost of products sold*</b>	\$ 75	\$ 113	\$ 123
Process standardization implementation costs	29	35	110
BMS foundation funding initiative	—	—	100
<b>Marketing, selling and administrative</b>	29	35	210
Upfront, milestone and other licensing payments	207	132	347
IPRD impairment	28	10	—
<b>Research and development</b>	235	142	347
<b>Provision for restructuring</b>	116	113	136
<b>Litigation expense/ (recoveries)</b>	—	(19)	132
Impairment and loss on sale of manufacturing operations	—	236	—
Gain on sale of product lines, businesses and assets	(12)	—	(360)
Pension curtailment and settlement charges	13	18	36
Acquisition related items	—	10	(10)
Litigation charges/(recoveries)	(22)	—	—
Product liability charges/(recoveries)	31	17	(5)
Loss on sale of investments	—	—	31
Debt repurchase	—	—	(7)
Upfront, milestone and other licensing receipts	(20)	—	—
<b>Other (income)/expense</b>	(10)	281	(315)
<b>Decrease to pretax income</b>	445	665	633
Income tax on items above	(136)	(180)	(205)
Out-of period tax adjustment	—	(59)	—
Specified tax (benefit)/charge**	(97)	207	—
<b>Income taxes</b>	(233)	(32)	(205)
<b>Decrease to net earnings</b>	\$ 212	\$ 633	\$ 428

\* Specified items included in cost of products sold include accelerated depreciation, asset impairment, and other shutdown costs.

\*\* The 2011 specified tax benefit relates to releases of tax reserves that were specified in prior periods. The 2010 specified tax charge relates to a tax charge from additional U.S. taxable income from earnings of foreign subsidiaries previously considered to be permanently reinvested offshore.

The reconciliations from GAAP to Non-GAAP were as follows:

Dollars in Millions, except per share data	Year Ended December 31,		
	2011	2010	2009
Net Earnings Attributable to BMS—GAAP	\$ 3,709	\$ 3,102	\$ 3,239
Earnings attributable to unvested restricted shares	(8)	(12)	(17)
Net Earnings Attributable to BMS used for Diluted EPS Calculation—GAAP	\$ 3,701	\$ 3,090	\$ 3,222
Net Earnings Attributable to BMS—GAAP	\$ 3,709	\$ 3,102	\$ 3,239
Less Specified Items	212	633	428
Net Earnings Attributable to BMS—Non-GAAP	3,921	3,735	3,667
Earnings attributable to unvested restricted shares	(8)	(12)	(17)
Net Earnings Attributable to BMS used for Diluted EPS Calculation—Non-GAAP	\$ 3,913	\$ 3,723	\$ 3,650
Average Common Shares Outstanding—Diluted	1,717	1,727	1,978
Diluted EPS Attributable to BMS—GAAP	\$ 2.16	\$ 1.79	\$ 1.63
Diluted EPS Attributable to Specified Items	0.12	0.37	0.22
Diluted EPS Attributable to BMS—Non-GAAP	\$ 2.28	\$ 2.16	\$ 1.85

#### Income Taxes

The effective income tax rate on earnings from continuing operations before income taxes was 24.7% in 2011, 25.7% in 2010 and 21.1% in 2009. The effective income tax rate is lower than the U.S. statutory rate of 35% due to our decision to indefinitely reinvest the earnings for certain of our manufacturing operations in Ireland and Puerto Rico. We have favorable tax rates in Ireland and Puerto Rico under grants not scheduled to expire prior to 2023.

Fluctuations in the effective tax rate were impacted by a \$207 million tax charge in 2010, earnings mix between high and low tax jurisdictions, contingent tax matters and changes in prior period estimates upon finalizing tax returns. For a detailed discussion of changes in the effective tax rate, see "Item 8. Financial Statements—Note 8. Income Taxes." Our future effective tax rate will also be adversely affected if the research and development tax credit is not extended.

### Discontinued Operations

On December 23, 2009, we completed a split-off of our remaining interest in Mead Johnson by means of an exchange offer to BMS shareholders. See "Item 8. Financial Statements—Note 5. Mead Johnson Nutrition Company Initial Public Offering and Split-off."

### Noncontrolling Interest

Noncontrolling interest is primarily related to our partnerships with sanofi for the territory covering the Americas related to PLAVIX\* net sales. See "Item 8. Financial Statements—Note 3. Alliances and Collaborations." The increase in noncontrolling interest corresponds to increased net sales of PLAVIX\* in the U.S. Following the expected loss of exclusivity of PLAVIX\* and AVAPRO\*/AVALIDE\* in the U.S. during 2012, we expect a significant decrease in net earnings attributable to noncontrolling interest. Net earnings from discontinued operations attributable to noncontrolling interest primarily relates to the 16.9% publicly owned portion of Mead Johnson prior to our complete divestiture from the split-off. A summary of noncontrolling interest is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Sanofi partnerships	\$ 2,323	\$ 2,074	\$ 1,717
Other	20	20	26
Noncontrolling interest—pre-tax	2,343	2,094	1,743
Income taxes	(792)	(683)	(562)
Net earnings from continuing operations attributable to noncontrolling interest—net of taxes	1,551	1,411	1,181
Net earnings from discontinued operations attributable to noncontrolling interest—net of taxes	—	—	69
Net earnings attributable to noncontrolling interest—net of taxes	\$ 1,551	\$ 1,411	\$ 1,250

### Financial Position, Liquidity and Capital Resources

Our net cash position was as follows:

Dollars in Millions	2011	2010
Cash and cash equivalents	\$ 5,776	\$ 5,033
Marketable securities—current	2,957	2,268
Marketable securities—non-current	2,909	2,681
Total cash, cash equivalents and marketable securities	11,642	9,982
Short-term borrowings, including current portion of long-term debt	(115)	(117)
Long-term debt	(5,376)	(5,328)
Net cash position	\$ 6,151	\$ 4,537

We maintain a significant level of working capital, which was approximately \$7.5 billion at December 31, 2011 and \$6.5 billion at December 31, 2010. In 2012 and future periods, we expect cash generated by our U.S. operations, together with existing cash, cash equivalents, marketable securities and borrowings from the capital markets, to be sufficient to cover cash needs for dividends, common stock repurchases, debt repurchases, strategic alliances and acquisitions (including the acquisition of Inhibitex for \$2.5 billion), milestone payments, working capital and capital expenditures. We do not rely on short-term borrowings to meet our current liquidity needs.

Cash, cash equivalents and marketable securities held in the U.S. was \$8.7 billion at December 31, 2011. Approximately \$2.3 billion of the remaining \$2.9 billion is held in low tax jurisdictions and is attributable to earnings that are expected to be indefinitely reinvested offshore. Cash repatriations are subject to restrictions in certain jurisdictions and may be subject to withholding and other taxes.

Our investment portfolio includes non-current marketable securities which are subject to changes in fair value as a result of interest rate fluctuations and other market factors, which may impact our results of operations. Our investment policy places limits on these investments and the amount and time to maturity of investments with any institution. The policy also requires that investments are only entered into with corporate and financial institutions that meet high credit quality standards. See "Item 8. Financial Statements—Note 10. Financial Instruments."

As discussed in "—Strategy" above, the loss of exclusivity in the U.S. for our largest product, PLAVIX\*, in May 2012 is expected to result in a rapid, precipitous, material decline in operating cash flow. Additional regulations in the U.S. could be passed in the future which could further reduce our results of operations, operating cash flow, liquidity and financial flexibility. We also continue to monitor the potential impact of the economic conditions in certain European countries and the related impact on prescription trends, pricing discounts, creditworthiness of our customers, and our ability to collect outstanding receivables from our direct customers. Currently, we believe these economic conditions in the EU will not have a material impact on our liquidity, cash flow or financial flexibility.

As a mechanism to limit our overall credit exposures, and an additional source of liquidity, we sell trade receivables to third parties, principally from wholesalers in Japan and certain government-backed entities in Italy, Portugal and Spain. Sales of trade receivables totaled approximately \$1.1 billion in 2011, \$932 million in 2010, and \$660 million in 2009. The amount of trade receivables sold in Italy, Portugal, and Spain was \$484 million in 2011, \$477 million in 2010, and \$413 million in 2009, and may not be available to be factored in the future due to the ongoing European sovereign debt crisis. Our sales agreements do not allow for recourse in the event of uncollectibility and we do not retain interest to the underlying asset once sold.

In September 2011, the Company replaced its \$2.0 billion revolving credit facility with a new \$1.5 billion five year revolving credit facility from a syndicate of lenders, which contains customary terms and conditions and is extendable on any anniversary date with the consent of the lenders. There are no financial covenants under the new facility. There were no borrowings outstanding under either revolving credit facility at December 31, 2011 or December 31, 2010.

We continue to manage our operating cash flows with initiatives designed to improve working capital items that are most directly affected by changes in sales volume, such as receivables, inventories, and accounts payable. The following summarizes these components expressed as a percentage of trailing twelve months' net sales:

Dollars in Millions	December 31,	% of Trailing	December 31,	% of Trailing
	2011	Twelve Month Net Sales	2010	Twelve Month Net Sales
Net trade receivables	\$ 2,250	10.6 %	\$ 1,985	10.2 %
Inventories	1,384	6.5 %	1,204	6.2 %
Accounts payable	(2,603)	(12.2)%	(1,983)	(10.2)%
Total	\$ 1,031	4.9 %	\$ 1,206	6.2 %

#### Credit Ratings

Moody's Investors Service (Moody's) long-term and short-term credit ratings are currently A2 and Prime-1, respectively, and their long-term credit outlook remains stable. Standard & Poor's (S&P) long-term and short-term credit ratings are currently A+ and A-1, respectively, and their long-term credit outlook remains stable. Fitch Ratings (Fitch) long-term and short-term credit ratings are currently A+ and F1, respectively, and their long-term credit outlook remains negative. Our credit ratings are considered investment grade. These long-term ratings designate that we have a low default risk but are somewhat susceptible to adverse effects of changes in circumstances and economic conditions. These short-term ratings designate that we have the strongest capacity for timely repayment.

#### Cash Flows

The following is a discussion of cash flow activities:

Dollars in Millions	2011	2010	2009
Cash flow provided by/(used in):			
Operating activities	\$ 4,840	\$ 4,491	\$ 4,065
Investing activities	(1,437)	(3,812)	(4,380)
Financing activities	(2,657)	(3,343)	(17)

#### Operating Activities

Cash flow from operating activities represents the cash receipts and cash disbursements from all of our activities other than investing activities and financing activities. Operating cash flow is derived by adjusting net earnings for noncontrolling interest, non-cash operating items, gains and losses attributed to investing and financing activities and changes in operating assets and liabilities resulting from timing differences between the receipts and payments of cash and when the transactions are recognized in our results of operations. As a result, changes in cash from operating activities reflect the timing of cash collections from customers and alliance partners; payments to suppliers, alliance partners and employees; pension contributions and tax payments in the ordinary course of business. Our operating cash flow continued to benefit from improved operating performance, working capital initiatives, and higher unpaid rebates due in part to timing and an increasing lag in payments to managed care organizations attributed to government agencies' administrative delays.

### Investing Activities

- Net purchases of marketable securities were \$859 million in 2011, \$2.6 billion in 2010 and \$1.4 billion in 2009. Investments in time deposits and highly-rated corporate debt securities with maturities greater than 90 days were increased to manage our return on investment.
- Cash was used to fund the acquisitions of Amira for \$360 million (including a \$50 million contingent payment) in 2011, ZymoGenetics for \$829 million in 2010 and Medarex for \$2.2 billion in 2009.
- Capital expenditures were \$367 million in 2011, \$424 million in 2010, and \$730 million in 2009, including costs related to our Devens biologics facility and other costs to support several manufacturing initiatives.
- Proceeds of \$310 million were received from the sale of businesses within the Asia-Pacific region in 2009.
- Mead Johnson cash included in the 2009 split-off transaction was \$561 million.

### Financing Activities

- Dividend payments were \$2.3 billion in 2011, \$2.2 billion in 2010 and \$2.5 billion in 2009. Dividends declared per common share were \$1.33 in 2011, \$1.29 in 2010 and \$1.25 in 2009. In December 2011, we declared a quarterly dividend of \$0.34 per common share and expect to pay a dividend for the full year of 2012 of \$1.36 per share. Dividend decisions are made on a quarterly basis by our Board of Directors.
- A \$3.0 billion stock repurchase program was authorized in May 2010, resulting in the repurchase of common stock of \$1.2 billion in 2011 and \$576 million in 2010.
- Management periodically evaluates potential opportunities to repurchase certain debt securities and terminate certain interest rate swap contracts prior to their maturity. Cash outflows related to the repurchase of debt were \$78 million in 2011, \$855 million in 2010 and \$132 million in 2009. Proceeds from the termination of interest rate swap contracts were \$296 million in 2011, \$146 million in 2010 and \$194 million in 2009.
- Proceeds from the issuances of common stock resulting from stock option exercises were \$601 million (including \$48 million of cash retained from excess tax benefits) in 2011, \$252 million in 2010 and \$45 million in 2009. The issuance of common stock as a result of stock option exercises will vary each period based upon fluctuations in the market value of our stock relative to the exercise price of the stock options and other factors.
- Proceeds of \$2.3 billion were received from the Mead Johnson initial public offering and the issuance of Mead Johnson Notes in 2009.

### **Contractual Obligations**

Payments due by period for our contractual obligations at December 31, 2011 were as follows:

Dollars in Millions	Obligations Expiring by Period						
	Total	2012	2013	2014	2015	2016	Later Years
Short-term borrowings	\$ 115	\$ 115	\$ —	\$ —	\$ —	\$ —	\$ —
Long-term debt	4,669	—	597	—	—	652	3,420
Interest on long-term debt <sup>(a)</sup>	4,733	251	252	223	227	230	3,550
Operating leases	722	136	122	113	96	93	162
Purchase obligations	2,067	659	494	382	206	171	155
Uncertain tax positions <sup>(b)</sup>	105	105	—	—	—	—	—
Other long-term liabilities	384	—	59	43	41	33	208
Total <sup>(c)</sup>	\$ 12,795	\$ 1,266	\$ 1,524	\$ 761	\$ 570	\$ 1,179	\$ 7,495

(a) Includes estimated future interest payments on our short-term and long-term debt securities. Also includes accrued interest payable recognized on our consolidated balance sheets, which consists primarily of accrued interest on short-term and long-term debt as well as accrued periodic cash settlements of derivatives.

(b) Due to the uncertainty related to the timing of the reversal of uncertain tax positions, only the short-term uncertain tax benefits have been provided in the table above. See "Item 8. Financial Statements—Note 8. Income Taxes" for further detail.

(c) The table above excludes future contributions by us to our pensions, postretirement and postemployment benefit plans. Required contributions are contingent upon numerous factors including minimum regulatory funding requirements and the funded status of each plan. Due to the uncertainty of such future obligations, they are excluded from the table. Contributions for both U.S. and international plans are expected to be up to \$430 million in 2012. See "Item 8. Financial Statements—Note 19. Pension, Postretirement and Postemployment Liabilities" for further detail.

In addition to the above, we are committed to \$5.5 billion (in the aggregate) of potential future research and development milestone payments to third parties as part of in-licensing and development programs. Early stage milestones, defined as milestones achieved through Phase III clinical trials, comprised \$1.0 billion of the total committed amount. Late stage milestones, defined as milestones achieved post Phase III clinical trials, comprised \$4.5 billion of the total committed amount. Payments under these agreements generally are due and payable only upon achievement of certain developmental and regulatory milestones, for which the specific timing cannot be predicted. In addition to certain royalty obligations that are calculated as a percentage of net sales, some of these

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agreements also provide for sales-based milestones aggregating \$2.0 billion that we would be obligated to pay to alliance partners upon achievement of certain sales levels. We also have certain manufacturing, development, and commercialization obligations in connection with alliance arrangements. It is not practicable to estimate the amount of these obligations. See "Item 8. Financial Statements—Note 3. Alliances and Collaborations" for further information regarding our alliances.

For a discussion of contractual obligations, see "Item 8. Financial Statements—Note 19. Pension, Postretirement and Postemployment Liabilities," "—Note 10. Financial Instruments" and "—Note 21. Leases."

### **SEC Consent Order**

As previously disclosed, on August 4, 2004, we entered into a final settlement with the SEC, concluding an investigation concerning certain wholesaler inventory and accounting matters. The settlement was reached through a Consent, a copy of which was attached as Exhibit 10 to our quarterly report on Form 10-Q for the period ended September 30, 2004.

Under the terms of the Consent, we agreed, subject to certain defined exceptions, to limit sales of all products sold to our direct customers (including wholesalers, distributors, hospitals, retail outlets, pharmacies and government purchasers) based on expected demand or on amounts that do not exceed approximately one month of inventory on hand, without making a timely public disclosure of any change in practice. We also agreed in the Consent to certain measures that we have implemented including: (a) establishing a formal review and certification process of our annual and quarterly reports filed with the SEC; (b) establishing a business risk and disclosure group; (c) retaining an outside consultant to comprehensively study and help re-engineer our accounting and financial reporting processes; (d) publicly disclosing any sales incentives offered to direct customers for the purpose of inducing them to purchase products in excess of expected demand; and (e) ensuring that our budget process gives appropriate weight to inputs that come from the bottom to the top, and not just from the top to the bottom, and adequately documenting that process.

We have established a company-wide policy to limit our sales to direct customers for the purpose of complying with the Consent. This policy includes the adoption of various procedures to monitor and limit sales to direct customers in accordance with the terms of the Consent. These procedures include a governance process to escalate to appropriate management levels potential questions or concerns regarding compliance with the policy and timely resolution of such questions or concerns. In addition, compliance with the policy is monitored on a regular basis.

We maintain inventory management agreements (IMAs) with our U.S. pharmaceutical wholesalers, which account for nearly 100% of total gross sales of U.S. biopharmaceuticals products. Under the current terms of the IMAs, our wholesaler customers provide us with weekly information with respect to months on hand product-level inventories and the amount of out-movement of products. The three largest wholesalers currently account for approximately 90% of total gross sales of U.S. BioPharmaceuticals products. The inventory information received from our wholesalers, together with our internal information, is used to estimate months on hand product level inventories at these wholesalers. We estimate months on hand product inventory levels for our U.S. BioPharmaceuticals business's wholesaler customers other than the three largest wholesalers by extrapolating from the months on hand calculated for the three largest wholesalers. In contrast, for our biopharmaceuticals business outside of the U.S., we have significantly more direct customers, limited information on direct customer product level inventory and corresponding out-movement information and the reliability of third-party demand information, where available, varies widely. Accordingly, we rely on a variety of methods to estimate months on hand product level inventories for these business units.

We believe the above-described procedures provide a reasonable basis to ensure compliance with the Consent.

### **Recently Issued Accounting Standards**

See "Item 8. Financial Statements—Note 1. Accounting Policies" for discussion of the impact related to recently issued accounting standards.

### **Critical Accounting Policies**

We prepare our financial statements in conformity with accounting principles generally accepted in the U.S. The preparation of financial statements in conformity with U.S. generally accepted accounting principles (GAAP) requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities, including disclosure of contingent assets and contingent liabilities, at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Our critical accounting policies are those that are both most important to our financial condition and results of operations and require the most difficult, subjective or complex judgments on the part of management in their application, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. New discounts under the 2010 U.S. healthcare reform law, such as the Medicare coverage gap and managed Medicaid require additional assumptions due to the lack of historical claims experience and increasing lag in claims data. In addition, the new pharmaceutical company fee estimate is subject to external data including the Company's relative share of industry results. Because of the uncertainty of factors surrounding the estimates or judgments used in the preparation of the consolidated financial statements, actual results may vary from these estimates. These accounting policies were discussed with the Audit Committee of the Board of Directors.

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### ***Revenue Recognition***

Our accounting policy for revenue recognition has a substantial impact on reported results and relies on certain estimates. We recognize revenue when persuasive evidence of an arrangement exists, the sales price is fixed and determinable, collectability is reasonably assured and title and substantially all of the risks and rewards of ownership have transferred, which is generally at time of shipment (net of the gross-to-net sales adjustments discussed below, all of which involve significant estimates and judgments).

### ***Gross-to-Net Sales Adjustments***

The following categories of gross-to-net sales adjustments involve significant estimates and judgments and require us to use information from external sources. See "—Net Sales" above for further discussion and analysis of each significant category of gross-to-net sales adjustments.

#### ***Charge-backs related to government programs***

Our U.S. businesses participate in programs with government entities, the most significant of which are the U.S. Department of Defense and the U.S. Department of Veterans Affairs, and other parties, including covered entities under the 340B Drug Pricing Program, whereby pricing on products is extended below wholesaler list price to participating entities. These entities purchase products through wholesalers at the lower program price and the wholesalers then charge us the difference between their acquisition cost and the lower program price. We account for these charge-backs by reducing accounts receivable in an amount equal to our estimate of charge-back claims attributable to a sale. Our estimate of these charge-backs is primarily based on historical experience regarding these programs' charge-backs and current contract prices under the programs. We consider chargeback payments, levels of inventory in the distribution channel, and our claim processing time lag and adjust the reserve to reflect actual experience.

#### ***Cash discounts***

In the U.S. and certain other countries, we offer cash discounts as an incentive for prompt payment, generally approximating 2% of the sales price. We account for estimated cash discounts by reducing accounts receivable based on historical claims experience and adjust the reserve to reflect actual experience.

#### ***Managed healthcare rebates and other contract discounts***

We offer rebates and discounts to managed healthcare organizations in the U.S. which manage prescription drug programs and Medicare Advantage prescription drug plans covering the Medicare Part D drug benefit in addition to their commercial plans, as well as globally to other contract counterparties such as hospitals and group purchasing organizations. Beginning in 2011, the rebates for the Medicare Part D program included a 50% discount on the Company's brand-name drugs to patients who fall within the Medicare Part D coverage gap. In addition, we accrue rebates under U.S. Department of Defense TRICARE Retail Pharmacy Refund Program. We account for these rebates and discounts by establishing an accrual primarily based on historical experience and current contract prices. We consider the sales performance of products subject to these rebates and discounts, an increasing level of unbilled claims, and levels of inventory in the distribution channel and adjust the accrual to reflect actual experience.

#### ***Medicaid rebates***

Our U.S. businesses participate in state government Medicaid programs as well as certain other qualifying Federal and state government programs whereby discounts and rebates are provided to participating state and local government entities. Discounts and rebates provided through these programs are included in our Medicaid rebate accrual and are considered Medicaid rebates for the purposes of this discussion. Retroactive to January 1, 2010, minimum rebates on Medicaid drug sales increased from 15.1% to 23.1%. Medicaid rebates have also been extended to drugs used in managed Medicaid plans beginning in March 2010. We account for Medicaid rebates by establishing an accrual primarily based on historical experience as well as any expansion on a prospective basis of our participation in programs, legal interpretations of applicable laws, and any new information regarding changes in the Medicaid programs' regulations and guidelines that would impact the amount of the rebates. We consider outstanding Medicaid claims, an increasing amount of unbilled managed Medicaid claims, and levels of inventory in the distribution channel and adjust the accrual to reflect actual experience.

#### ***Sales returns***

We account for sales returns by establishing an accrual in an amount equal to our estimate of sales recognized for which the related products are expected to be returned primarily as a result of product expirations. For returns of established products, we determine our estimate of the sales return accrual primarily based on historical experience regarding sales returns, but also consider other factors that could impact sales returns. These factors include levels of inventory in the distribution channel, estimated shelf life, product recalls,

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product discontinuances, price changes of competitive products, introductions of generic products, introductions of competitive new products and instances of expected precipitous declines in demand such as following the loss of exclusivity. We consider all of these factors and adjust the accrual to reflect actual experience.

Sales returns accruals from new products are estimated and primarily based on the historical sales returns experience of similar products, such as those within the same line of product or those within the same or similar therapeutic category. In limited circumstances, where the new product is not an extension of an existing line of product or where we have no historical experience with products in a similar therapeutic category, such that we cannot reliably estimate expected returns of the new product, we defer recognition of revenue until the right of return no longer exists or until we have developed sufficient historical experience to estimate sales returns. Estimated levels of inventory in the distribution channel and projected demand are also considered for new products. YERVOY net sales of \$27 million were deferred until patient infusion due to a returns policy established in the third quarter of 2011 in the U.S.

#### Pharmaceutical Company Fee (Pharma Fee)

In 2011, we began paying an annual non-tax-deductible fee to the federal government based on an allocation of our market share of branded prior year sales to certain government programs including Medicare, Medicaid, Department of Veterans Affairs, Department of Defense and TRICARE. The 2011 Pharma fee amount will not be finalized until 2012 and preliminary funding in 2011 was based on information that is on a one-year lag. The Pharma fee is calculated based on market data of the Company as well as other industry participants for which the Company does not have full visibility. This fee is classified for financial reporting purposes as an operating expense.

#### Use of information from external sources

We use information from external sources to estimate gross-to-net sales adjustments. Our estimate of inventory at the wholesalers are based on the projected prescription demand-based sales for our products and historical inventory experience, as well as our analysis of third-party information, including written and oral information obtained from certain wholesalers with respect to their inventory levels and sell-through to customers and third-party market research data, and our internal information. The inventory information received from wholesalers is a product of their recordkeeping process and excludes inventory held by intermediaries to whom they sell, such as retailers and hospitals.

We have also continued the practice of combining retail and mail prescription volume on a retail-equivalent basis. We use this methodology for internal demand forecasts. We also use information from external sources to identify prescription trends, patient demand and average selling prices. Our estimates are subject to inherent limitations of estimates that rely on third-party information, as certain third-party information was itself in the form of estimates, and reflect other limitations including lags between the date as of which third-party information is generated and the date on which we receive third-party information.

#### **Retirement Benefits**

Pension and postretirement benefit plans are accounted for using actuarial valuations that include key assumptions for discount rates and expected long-term rates of return on plan assets. In consultation with our actuaries, these key assumptions and others such as salary growth, retirement, turnover, healthcare trends and mortality rates are evaluated and selected based on expectations or actual experience during each remeasurement date. Pension expense could vary within a range of outcomes and have a material effect on reported earnings, projected benefit obligations and future cash funding. Actual results in any given year may differ from those estimated because of economic and other factors.

The yield on high quality corporate bonds that coincides with the cash flows of the plans' estimated payouts is used in determining the discount rate. The Citigroup Pension Discount curve is used for the U.S. plans. The U.S. plans' pension expense for 2011 was determined using a 5.25% weighted-average discount rate. The present value of benefit obligations at December 31, 2011 for the U.S. plans was determined using a 4.25% discount rate. If the discount rate used in determining the U.S. plans' pension expense for 2011 had been reduced by 1%, such expense would have increased by approximately \$16 million. If the assumed discount rate used in determining the projected benefit obligation at December 31, 2011 had been reduced by 1%, the projected benefit obligation would have increased by approximately \$1.1 billion.

The expected long-term rate of return on plan assets is estimated considering expected returns for individual asset classes with input from external advisors. We also consider long-term historical returns including actual performance compared to benchmarks for similar investments. The U.S. plans' pension expense for 2011 was determined using an 8.75% expected long-term rate of return on plan assets. If the expected long-term rate of return on plan assets used in determining the U.S. plans' pension expense for 2011 had been reduced by 1%, such expense would have increased by \$42 million.

For a more detailed discussion on retirement benefits, see "Item 8. Financial Statements—Note 19. Pension, Postretirement and Postemployment Liabilities."

## Business Combinations

Assets acquired and liabilities assumed are recognized at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recognized as goodwill. When determining the fair value of intangible assets, including IPRD, we typically use the "income method." This method starts with a forecast of all of the expected future net cash flows which are risk adjusted based on estimated probabilities of technical and regulatory success and are then adjusted to present value by applying an appropriate discount rate that reflects the risk associated with the cash flow streams. All assets are valued from a market participant view. The following approaches are utilized for specific intangible assets acquired:

- IPRD values where we have a pre-existing relationship with the acquiree, we consider the terms of the respective collaboration arrangement including cost and profit sharing splits. The project's unit of account is typically a global view and would consider all potential jurisdictions and indications.
- Technology related to specific platforms is valued based upon the expected annual number of antibodies achieving an early candidate nomination status.
- Technology for commercial products is valued utilizing the multi-period excess-earnings method of the income approach under the premise that the value of the intangible asset is equal to the present value of the after-tax cash flows solely attributed to the intangible asset.
- Licenses are valued utilizing a discounted cash flow method based on estimates of future risk-adjusted milestone and royalty payments projected to be earned over the respective products estimated economic term.

Some of the more significant estimates and assumptions include:

- *Estimates of projected cash flows* – Cash flow projections represent those that would be realizable by a market participant purchaser. For IPRD, we assume initial positive cash flows to commence shortly after the receipt of expected regulatory approvals which typically may not occur for a number of years. Actual cash flows attributed to the project are likely to be different than those assumed since projections are subjected to multiple factors including trial results and regulatory matters which could materially change the respective IPRDs' ultimate commercial success as well as significantly alter the costs to develop the respective IPRD into commercially viable products.
- *Probability to Regulatory Success (PTRS) Rate* – PTRS rates are based upon industry averages considering the respective IPRD's development stage and sought after disease indications adjusted for specific information or data known about the IPRD at the time of the acquisition. Subsequent clinical results or other internal or external data obtained could alter the PTRS rate which can materially impact the intangible value.
- *Discount rate* – We select a discount rate that measures the risks inherent in the future cash flows; the assessment of the asset's life cycle and the competitive trends impacting the asset, including consideration of any technical, legal, regulatory, or economic barriers to entry, as well as expected changes in standards of practice for indications addressed by the asset.
- *Useful life* – Determining the useful life of an intangible asset is based upon the period over which it is expected to contribute to future cash flows. All pertinent matters associated with the asset and the environment for which it operates are considered, including, legal, regulatory or contractual provisions as well as the effects of any obsolescence, demand, competition, and other economic factors.

See "Item 8. Financial Statements—Note 4. Acquisitions" for specific details and values assigned to assets acquired and liabilities assumed in our acquisitions of Amira on September 7, 2011, ZymoGenetics on October 12, 2010 and Medarex on September 1, 2009. Significant estimates utilized at the time of the valuations to support the fair values of the lead compounds within the acquisitions include:

Dollars in Millions	Fair value	Discount rate utilized	Phase of Development as of acquisition date	PTRS Rate utilized	Year of first projected positive cash flow
Amira - AM152	\$ 160	12.5%	Phase II	12.5%	2020
ZymoGenetics – pegylated-interferon lambda	310	13.5%	Phase IIb	47.6%	2015
Medarex - YERVOY	1,046	12.0%	Phase III	36.2%	2011

## Impairment

### Goodwill

Goodwill is tested at least annually for impairment using a two-step process. The first step is to identify a potential impairment, and the second step measures the amount of the impairment loss, if any. Goodwill is considered impaired if the carrying amount of a reporting unit's goodwill exceeds its estimated fair value. Geographical reporting units are aggregated for impairment testing purposes. Based upon our most recent annual impairment test completed during the first quarter of 2011, the fair value of goodwill is substantially in excess of the related carrying value.

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For discussion on goodwill, acquired in-process research and development and other intangible assets, see "Item 8. Financial Statements—Note 1. Accounting Policies—Goodwill, Acquired In-Process Research and Development and Other Intangible Assets."

#### *Indefinite-Lived Intangible Assets, including IPRD*

Indefinite-lived intangible assets not subject to amortization are tested for impairment annually, or more frequently, if events or changes in circumstances indicate that the asset might be impaired. We consider various factors including the stage of development, current legal and regulatory environment and the competitive landscape. Adverse trial results, significant delays in obtaining marketing approval, and the inability to bring the respective product to market could result in the related intangible assets to be partially or fully impaired. For commercialized products, the inability to meet sales forecasts could result in the related intangible assets to be partially or fully impaired.

Considering the industry's success rate of bringing developmental compounds to market, IPRD impairment charges may occur in future periods. We recognized charges of \$28 million in 2011 and \$10 million in 2010 related to three Medarex projects for which development has ceased.

#### *Contingencies*

In the normal course of business, we are subject to contingencies, such as legal proceedings and claims arising out of our business, that cover a wide range of matters, including, among others, government investigations, shareholder lawsuits, product and environmental liability, contractual claims and tax matters. We recognize accruals for such contingencies when it is probable that a liability will be incurred and the amount of the loss can be reasonably estimated. These estimates are subject to uncertainties that are difficult to predict and, as such, actual results could vary from these estimates.

For discussions on contingencies, see "Item 8. Financial Statements—Note 1. Accounting Policies—Contingencies," "—Note 8. Income Taxes" and "—Note 22. Legal Proceedings and Contingencies."

#### *Income Taxes*

Valuation allowances are recognized to reduce deferred tax assets when it is more likely than not that a tax benefit will not be realized. The assessment of whether or not a valuation allowance is required often requires significant judgment including the long-range forecast of future taxable income and the evaluation of tax planning initiatives. These judgments are subject to change. Adjustments to the deferred tax valuation allowances are made to earnings in the period when such assessments are made. Our deferred tax assets were \$3.2 billion, net of valuation allowances of \$3.9 billion at December 31, 2011 and \$3.1 billion, net of valuation allowances of \$1.9 billion at December 31, 2010.

We recognized deferred tax assets at December 31, 2011 related to a U.S. Federal net operating loss carryforward of \$251 million and a U.S. Federal research and development tax credit carryforward of \$109 million. The net operating loss carryforward expires in varying amounts beginning in 2022. The research and development tax credit carryforwards expire in varying amounts beginning in 2018. The realization of these carryforwards is dependent on generating sufficient domestic-sourced taxable income prior to their expiration. Although realization is not assured, we believe it is more likely than not that these deferred tax assets will be realized.

We do not provide for taxes on undistributed earnings of foreign subsidiaries that are expected to be reinvested indefinitely offshore. During 2010, the Company completed an internal reorganization of certain legal entities which contributed to a \$207 million tax charge recognized in the fourth quarter of 2010. It is possible that U.S. tax authorities could assert additional material tax liabilities arising from the reorganization. If such assertion were to occur, the Company would vigorously challenge any such assertion and believes it would prevail; however there can be no assurance of such a result.

Prior to the Mead Johnson split-off the following transactions occurred: (i) an internal spin-off of Mead Johnson shares while still owned by us; (ii) conversion of Mead Johnson Class B shares to Class A shares; and; (iii) conversion of Mead Johnson & Company to a limited liability company. These transactions as well as the split-off of Mead Johnson through the exchange offer should qualify as tax-exempt transactions under the Internal Revenue Code based upon a private letter ruling received from the Internal Revenue Service related to the conversion of Mead Johnson Class B shares to Class A shares, and outside legal opinions. We have relied upon certain assumptions, representations and covenants by Mead Johnson regarding the future conduct of its business and other matters which could effect the tax treatment of the exchange. For example, the current tax law generally creates a presumption that the exchange would be taxable to us, if Mead Johnson or its shareholders were to engage in transactions that result in a 50% or greater change in its stock ownership during a four year period beginning two years before the exchange offer, unless it is established that the exchange offer were not part of a plan or series of related transactions to effect such a change in ownership. If the internal spin-off or exchange offer were determined not to qualify as a tax exempt transaction, we could be subject to tax as if the exchange was a taxable sale by us at market value.

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In addition, we had a negative basis or excess loss account (ELA) in our investment in stock of Mead Johnson prior to these transactions. We received an opinion from outside legal counsel to the effect that it is more likely than not that we eliminated the ELA as part of these transactions and do not have taxable income with respect to the ELA. The tax law in this area is complex and it is possible that even if the internal spin-off and the exchange offer is tax exempt under the Internal Revenue Code, the IRS could assert that we have additional taxable income for the period with respect to the ELA. We could be exposed to additional taxes if this were to occur. Based upon our understanding of the Internal Revenue Code and opinion from outside legal counsel, a tax reserve of \$244 million was established reducing the gain on disposal of Mead Johnson included in discontinued operations.

We agreed to certain tax related indemnities with Mead Johnson as set forth in the tax sharing agreement. For example, Mead Johnson has agreed to indemnify us for potential tax effects resulting from the breach of certain representations discussed above as well as certain transactions related to the acquisition of Mead Johnson's stock or assets. We have agreed to indemnify Mead Johnson for certain taxes related to its business prior to the completion of the IPO and created as part of the restructuring to facilitate the IPO.

We established liabilities for possible assessments by tax authorities resulting from known tax exposures including, but not limited to, transfer pricing matters, tax credits and deductibility of certain expenses. Such liabilities represent a reasonable provision for taxes ultimately expected to be paid and may need to be adjusted over time as more information becomes known.

For discussions on income taxes, see "Item 8. Financial Statements—Note 1. Accounting Policies—Income Taxes" and "—Note 8. Income Taxes."

### **Special Note Regarding Forward-Looking Statements**

This annual report on Form 10-K (including documents incorporated by reference) and other written and oral statements we make from time to time contain certain "forward-looking" statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. You can identify these forward-looking statements by the fact they use words such as "should", "expect", "anticipate", "estimate", "target", "may", "project", "guidance", "intend", "plan", "believe" and other words and terms of similar meaning and expression in connection with any discussion of future operating or financial performance. One can also identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. Such forward-looking statements are based on current expectations and involve inherent risks and uncertainties, including factors that could delay, divert or change any of them, and could cause actual outcomes to differ materially from current expectations. These statements are likely to relate to, among other things, our goals, plans and projections regarding our financial position, results of operations, cash flows, market position, product development, product approvals, sales efforts, expenses, performance or results of current and anticipated products and the outcome of contingencies such as legal proceedings and financial results, which are based on current expectations that involve inherent risks and uncertainties, including internal or external factors that could delay, divert or change any of them in the next several years. We have included important factors in the cautionary statements included in this Annual Report on Form 10-K, particularly under "Item 1A. Risk Factors," that we believe could cause actual results to differ materially from any forward-looking statement.

Although we believe we have been prudent in our plans and assumptions, no assurance can be given that any goal or plan set forth in forward-looking statements can be achieved and readers are cautioned not to place undue reliance on such statements, which speak only as of the date made. We undertake no obligation to release publicly any revisions to forward-looking statements as a result of new information, future events or otherwise.

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**Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

We are exposed to market risk due to changes in currency exchange rates and interest rates. As a result, certain derivative financial instruments are used when available on a cost-effective basis to hedge our underlying economic exposure. All of our financial instruments, including derivatives, are subject to counterparty credit risk which we consider as part of the overall fair value measurement. Derivative financial instruments are not used for trading purposes.

**Foreign Exchange Risk**

A significant portion of our revenues, earnings and cash flow is exposed to changes in foreign currency rates. Our primary net foreign currency translation exposures are the euro, Japanese yen, Canadian dollar, Chinese renminbi and Australian dollar. Foreign currency forward contracts are used to manage foreign exchange risk that primarily arises from certain intercompany purchase transactions and we designate these derivative instruments as foreign currency cash flow hedges when appropriate. In addition, we are exposed to foreign exchange transaction risk that arises from non-functional currency denominated assets and liabilities and earnings denominated in non-U.S. dollar currencies. Foreign currency forward contracts are used to offset a portion of these exposures and are not designated as hedges. Changes in the fair value of these derivatives are recognized in earnings as incurred.

We estimate that a 10% appreciation in the underlying currencies being hedged from their levels against the U.S. dollar at December 31, 2011, with all other variables held constant, would decrease the fair value of foreign exchange forward contracts held at December 31, 2011 by \$177 million and, if realized, would negatively affect earnings over the remaining life of the contracts.

We are also exposed to translation risk on non-U.S. dollar-denominated net assets. Non-U.S. dollar borrowings are used to hedge the foreign currency exposures of our net investment in certain foreign affiliates and are designated as hedges of net investments. The effective portion of foreign exchange gains or losses on these hedges is recognized as part of the foreign currency translation component of accumulated OCI. If our net investment were to fall below the equivalent value of the euro debt borrowings, the change in the remeasurement basis of the debt would be subject to recognition in income as changes occur. For additional information, see "Item 8. Financial Statements—Note 10. Financial Instruments."

**Interest Rate Risk**

Fixed-to-floating interest rate swaps are used and designated as fair-value hedges as part of our interest rate risk management strategy. The swaps are intended to provide us with an appropriate balance of fixed and floating rate debt. We estimate that an increase of 100 basis points in short-term or long-term interest rates would decrease the fair value of our interest rate swaps by \$64 million, excluding the effects of our counterparty and our own credit risk and, if realized, would affect earnings over the remaining life of the swaps.

Our marketable securities are subject to changes in fair value as a result of interest rate fluctuations and other market factors. Our policy is to invest only in institutions that meet high credit quality standards. We estimate that an increase of 100 basis points in interest rates in general would decrease the fair value of our debt security portfolio by approximately \$66 million.

**Credit Risk**

Our exposure to European sovereign-backed trade receivables is not material as we continue to limit our credit exposure in certain countries more significantly impacted by the sovereign debt crisis in Europe. We have identified government-backed entities with a higher risk of default by monitoring social and economic factors including credit ratings, credit-default swap rates and debt-to-gross domestic product ratios. Although not material, we have provided additional bad debt reserves in Italy, Greece, Portugal and Spain. We also defer an immaterial amount of revenues from certain government-backed entities in Greece, Portugal and Spain as collections are not reasonably assured. We periodically sell certain non-U.S. trade receivables as a means to reduce collectability risk. Our sales agreements do not provide for recourse in the event of uncollectibility and we do not retain interest in the underlying asset once sold. The volume of trade receivables sold in Italy, Portugal, and Spain may not be sustainable in future years due to the ongoing European sovereign debt crisis.

We monitor our investments with counterparties with the objective of minimizing concentrations of credit risk. Our investment policy places limits on the amount and time to maturity of investments with any individual counterparty. The policy also requires that investments are made primarily with highly rated corporate, financial, U.S. government and government supported institutions.

The use of derivative instruments exposes us to credit risk. When the fair value of a derivative instrument contract is positive, we are exposed to credit risk if the counterparty fails to perform. When the fair value of a derivative instrument contract is negative, the counterparty is exposed to credit risk if we fail to perform our obligation. Under the terms of the agreements, posting of collateral is not required by any party whether derivatives are in an asset or liability position. We have a policy of diversifying derivatives with counterparties to mitigate the overall risk of counterparty defaults. For additional information, see "Item 8. Financial Statements—Note 10. Financial Instruments."

**BRISTOL-MYERS SQUIBB COMPANY**  
**CONSOLIDATED STATEMENTS OF EARNINGS**  
Dollars and Shares in Millions, Except Per Share Data

**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

	Year Ended December 31,		
	2011	2010	2009
<b>EARNINGS</b>			
Net Sales	\$ 21,244	\$ 19,484	\$ 18,808
Cost of products sold	5,598	5,277	5,140
Marketing, selling and administrative	4,203	3,686	3,946
Advertising and product promotion	957	977	1,136
Research and development	3,839	3,566	3,647
Provision for restructuring	116	113	136
Litigation expense, net	—	(19)	132
Equity in net income of affiliates	(281)	(313)	(550)
Other (income)/expense	(169)	126	(381)
<b>Total Expenses</b>	<b>14,263</b>	<b>13,413</b>	<b>13,206</b>
Earnings from Continuing Operations Before Income Taxes	6,981	6,071	5,602
Provision for income taxes	1,721	1,558	1,182
<b>Net Earnings from Continuing Operations</b>	<b>5,260</b>	<b>4,513</b>	<b>4,420</b>
<b>Discontinued Operations:</b>			
Earnings, net of taxes	—	—	285
Gain on disposal, net of taxes	—	—	7,157
<b>Net Earnings from Discontinued Operations</b>	<b>—</b>	<b>—</b>	<b>7,442</b>
<b>Net Earnings</b>	<b>5,260</b>	<b>4,513</b>	<b>11,862</b>
Net Earnings Attributable to Noncontrolling Interest	1,551	1,411	1,250
<b>Net Earnings Attributable to Bristol-Myers Squibb Company</b>	<b>\$ 3,709</b>	<b>\$ 3,102</b>	<b>\$ 10,612</b>
<b>Amounts Attributable to Bristol-Myers Squibb Company:</b>			
Net Earnings from Continuing Operations	\$ 3,709	\$ 3,102	\$ 3,239
Net Earnings from Discontinued Operations	—	—	7,373
<b>Net Earnings Attributable to Bristol-Myers Squibb Company</b>	<b>\$ 3,709</b>	<b>\$ 3,102</b>	<b>\$ 10,612</b>
<b>Earnings per Common Share from Continuing Operations Attributable to Bristol-Myers Squibb Company:</b>			
Basic	\$ 2.18	\$ 1.80	\$ 1.63
Diluted	\$ 2.16	\$ 1.79	\$ 1.63
<b>Earnings per Common Share Attributable to Bristol-Myers Squibb Company:</b>			
Basic	\$ 2.18	\$ 1.80	\$ 5.35
Diluted	\$ 2.16	\$ 1.79	\$ 5.34
Dividends declared per common share	\$ 1.33	\$ 1.29	\$ 1.25

The accompanying notes are an integral part of these consolidated financial statements.

**BRISTOL-MYERS SQUIBB COMPANY**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
Dollars in Millions

	<b>Year Ended December 31,</b>		
	<b>2011</b>	<b>2010</b>	<b>2009</b>
<b>COMPREHENSIVE INCOME</b>			
Net Earnings	\$ 5,260	\$ 4,513	\$ 11,862
Other Comprehensive Income/(Loss):			
Foreign currency translation	(27)	37	159
Foreign currency translation reclassified to net earnings due to business divestitures	—	—	(40)
Foreign currency translation on net investment hedges	11	84	(38)
Derivatives qualifying as cash flow hedges, net of taxes of \$(4) in 2011, \$(3) in 2010 and \$9 in 2009	24	15	(19)
Derivatives qualifying as cash flow hedges reclassified to net earnings, net of taxes of \$(20) in 2011, \$5 in 2010 and \$5 in 2009	32	(5)	(27)
Derivatives reclassified to net earnings due to business divestitures, net of taxes of \$(1) in 2009	—	—	2
Pension and postretirement benefits, net of taxes of \$421 in 2011, \$66 in 2010 and \$41 in 2009	(830)	(88)	(115)
Pension and postretirement benefits reclassified to net earnings, net of taxes of \$(38) in 2011, \$(44) in 2010 and \$(49) in 2009	88	83	109
Pension and postretirement benefits reclassified to net earnings due to business divestitures, net of taxes of \$(62) in 2009	—	—	106
Available for sale securities, net of taxes of \$(7) in 2011, \$(3) in 2010 and \$(4) in 2009	28	44	35
Available for sale securities reclassified to net earnings, net of taxes of \$(3) in 2009	—	—	6
Total Other Comprehensive Income/(Loss)	(674)	170	178
Comprehensive Income	4,586	4,683	12,040
Comprehensive Income Attributable to Noncontrolling Interest	1,558	1,411	1,260
Comprehensive Income Attributable to Bristol-Myers Squibb Company	<u>\$ 3,028</u>	<u>\$ 3,272</u>	<u>\$ 10,780</u>

The accompanying notes are an integral part of these consolidated financial statements.

**BRISTOL-MYERS SQUIBB COMPANY**  
**CONSOLIDATED BALANCE SHEETS**  
Dollars in Millions, Except Share and Per Share Data

	<u>December 31,</u>	
	<u>2011</u>	<u>2010</u>
<b>ASSETS</b>		
Current Assets:		
Cash and cash equivalents	\$ 5,776	\$ 5,033
Marketable securities	2,957	2,268
Receivables	3,743	3,480
Inventories	1,384	1,204
Deferred income taxes	1,200	1,036
Prepaid expenses and other	258	252
Total Current Assets	<u>15,318</u>	<u>13,273</u>
Property, plant and equipment	4,521	4,664
Goodwill	5,586	5,233
Other intangible assets	3,124	3,370
Deferred income taxes	688	850
Marketable securities	2,909	2,681
Other assets	824	1,005
Total Assets	<u>\$ 32,970</u>	<u>\$ 31,076</u>
<b>LIABILITIES</b>		
Current Liabilities:		
Short-term borrowings	\$ 115	\$ 117
Accounts payable	2,603	1,983
Accrued expenses	2,791	2,740
Deferred income	337	402
Accrued rebates and returns	1,170	857
U.S. and foreign income taxes payable	167	65
Dividends payable	597	575
Total Current Liabilities	<u>7,780</u>	<u>6,739</u>
Pension, postretirement and postemployment liabilities	2,017	1,297
Deferred income	866	895
U.S. and foreign income taxes payable	573	755
Other liabilities	491	424
Long-term debt	5,376	5,328
Total Liabilities	<u>17,103</u>	<u>15,438</u>
Commitments and contingencies (Note 22)		
<b>EQUITY</b>		
Bristol-Myers Squibb Company Shareholders' Equity:		
Preferred stock, \$2 convertible series, par value \$1 per share: Authorized 10 million shares; issued and outstanding 5,268 in 2011 and 5,269 in 2010, liquidation value of \$50 per share	—	—
Common stock, par value of \$0.10 per share: Authorized 4.5 billion shares; 2.2 billion issued in both 2011 and 2010	220	220
Capital in excess of par value of stock	3,114	3,682
Accumulated other comprehensive loss	(3,045)	(2,371)
Retained earnings	33,069	31,636
Less cost of treasury stock — 515 million common shares in 2011 and 501 million in 2010	<u>(17,402)</u>	<u>(17,454)</u>
Total Bristol-Myers Squibb Company Shareholders' Equity	15,956	15,713
Noncontrolling interest	(89)	(75)
Total Equity	<u>15,867</u>	<u>15,638</u>
Total Liabilities and Equity	<u>\$ 32,970</u>	<u>\$ 31,076</u>

The accompanying notes are an integral part of these consolidated financial statements.

**BRISTOL-MYERS SQUIBB COMPANY**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
Dollars in Millions

	Year Ended December 31,		
	2011	2010	2009
<b>Cash Flows From Operating Activities:</b>			
Net earnings	\$ 5,260	\$ 4,513	\$ 11,862
Adjustments to reconcile net earnings to net cash provided by operating activities:			
Net earnings attributable to noncontrolling interest	(1,551)	(1,411)	(1,250)
Depreciation	448	473	469
Amortization	353	271	238
Deferred income tax expense	415	422	163
Stock-based compensation expense	161	193	183
Impairment charges	28	228	—
Gain related to divestitures of discontinued operations	—	—	(7,275)
Other adjustments	(147)	(32)	(367)
Changes in operating assets and liabilities:			
Receivables	(220)	(270)	227
Inventories	(193)	156	82
Accounts payable	593	315	472
Deferred income	(115)	117	135
U.S. and foreign income taxes payable	(134)	(236)	58
Other	(58)	(248)	(932)
<b>Net Cash Provided by Operating Activities</b>	<b>4,840</b>	<b>4,491</b>	<b>4,065</b>
<b>Cash Flows From Investing Activities:</b>			
Proceeds from sale and maturities of marketable securities	5,960	3,197	2,075
Purchases of marketable securities	(6,819)	(5,823)	(3,489)
Additions to property, plant and equipment and capitalized software	(367)	(424)	(730)
Proceeds from sale of businesses and other investing activities	149	67	557
Mead Johnson's cash at split-off	—	—	(561)
Purchase of businesses, net of cash acquired	(360)	(829)	(2,232)
<b>Net Cash Used in Investing Activities</b>	<b>(1,437)</b>	<b>(3,812)</b>	<b>(4,380)</b>
<b>Cash Flows From Financing Activities:</b>			
Short-term debt repayments	(1)	(33)	(26)
Long-term debt borrowings	—	6	1,683
Long-term debt repayments	(78)	(936)	(212)
Interest rate swap terminations	296	146	194
Issuances of common stock	601	252	45
Common stock repurchases	(1,221)	(576)	—
Dividends paid	(2,254)	(2,202)	(2,483)
Proceeds from Mead Johnson initial public offering	—	—	782
<b>Net Cash Used in Financing Activities</b>	<b>(2,657)</b>	<b>(3,343)</b>	<b>(17)</b>
Effect of Exchange Rates on Cash and Cash Equivalents	(3)	14	39
Increase/(Decrease) in Cash and Cash Equivalents	743	(2,650)	(293)
Cash and Cash Equivalents at Beginning of Year	5,033	7,683	7,976
<b>Cash and Cash Equivalents at End of Year</b>	<b>\$ 5,776</b>	<b>\$ 5,033</b>	<b>\$ 7,683</b>

The accompanying notes are an integral part of these consolidated financial statements.

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## **Note 1. ACCOUNTING POLICIES**

### **Basis of Consolidation**

The consolidated financial statements, prepared in conformity with United States (U.S.) generally accepted accounting principles (GAAP), include the accounts of Bristol-Myers Squibb Company (which may be referred to as Bristol-Myers Squibb, BMS, or the Company) and all of its controlled majority-owned subsidiaries. All intercompany balances and transactions have been eliminated. Material subsequent events are evaluated and disclosed through the report issuance date.

Codevelopment, cocommercialization and license arrangements are entered into with other parties for various therapeutic areas, with terms including upfront licensing and contingent payments. These arrangements are assessed to determine whether the terms give economic or other control over the entity, which may require consolidation of the entity. Entities that are consolidated because they are controlled by means other than a majority voting interest are referred to as variable interest entities. Arrangements with material variable interest entities, including those associated with these codevelopment, cocommercialization and license arrangements, were determined not to exist.

### **Use of Estimates**

The preparation of financial statements requires the use of management estimates and assumptions that are based on complex judgments. The most significant assumptions are employed in estimates used in determining the fair value of intangible assets, restructuring charges and accruals, sales rebate and return accruals, including those related to U.S. healthcare reform, legal contingencies, tax assets and tax liabilities, stock-based compensation expense, pension and postretirement benefits (including the actuarial assumptions, see "—Note 19. Pension, Postretirement and Postemployment Liabilities"), fair value of financial instruments with no direct or observable market quotes, inventory obsolescence, potential impairment of long-lived assets, allowances for bad debt, as well as in estimates used in applying the revenue recognition policy. New discounts under the 2010 U.S. healthcare reform law, such as the Medicare coverage gap and managed Medicaid require additional assumptions due to the lack of historical claims experience. In addition, the new pharmaceutical company fee estimate is subject to external data as well as a calculation based on the Company's relative share of industry results. Actual results may differ from estimated results.

### **Revenue Recognition**

Revenue is recognized when persuasive evidence of an arrangement exists, the sales price is fixed and determinable, collectability is reasonably assured and title and substantially all of the risks and rewards of ownership have transferred, which is generally at time of shipment. However, certain sales made by non-U.S. businesses are recognized on the date of receipt by the purchaser. See "—Note 3. Alliances and Collaborations" for further discussion of revenue recognition related to alliances. Provisions are made at the time of revenue recognition for expected sales returns, discounts, rebates and estimated sales allowances based on historical experience updated for changes in facts and circumstances including the impact of new legislation. Such provisions are recognized as a reduction of revenue.

In limited circumstances, where a new product is not an extension of an existing line of product or no historical experience with products in a similar therapeutic category exists, revenue is deferred until the right of return no longer exists or sufficient historical experience to estimate sales returns is developed.

### **Income Taxes**

The provision for income taxes is determined using the asset and liability approach of accounting for income taxes. Under this approach, deferred taxes represent the future tax consequences expected to occur when the reported amounts of assets and liabilities are recovered or paid. The provision for income taxes represents income taxes paid or payable for the current year plus the change in deferred taxes during the year. Deferred taxes result from differences between the financial and tax basis of assets and liabilities and are adjusted for changes in tax rates and tax laws when changes are enacted. Valuation allowances are recognized to reduce deferred tax assets when it is more likely than not that a tax benefit will not be realized. The assessment of whether or not a valuation allowance is required often requires significant judgment including the long-range forecast of future taxable income and the evaluation of tax planning initiatives. Adjustments to the deferred tax valuation allowances are made to earnings in the period when such assessments are made.

### **Cash and Cash Equivalents**

Cash and cash equivalents consist of U.S. Treasury securities, government agency securities, bank deposits, time deposits and money market funds. Cash equivalents consist of highly liquid investments with original maturities of three months or less at the time of purchase and are recognized at cost, which approximates fair value.

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### **Marketable Securities and Investments in Other Companies**

All marketable securities were classified as "available-for-sale" on the date of purchase and were reported at fair value at December 31, 2011 and 2010. Fair value is determined based on observable market quotes or valuation models using assessments of counterparty credit worthiness, credit default risk or underlying security and overall capital market liquidity. Declines in fair value considered other than temporary are charged to earnings and those considered temporary are reported as a component of accumulated other comprehensive income (OCI) in shareholders' equity. Declines in fair value determined to be credit related are charged to earnings. An average cost method is used in determining realized gains and losses on the sale of "available-for-sale" securities.

Investments in 50% or less owned companies for which the ability to exercise significant influence is maintained are accounted for using the equity method of accounting. The share of net income or losses of equity investments is included in equity in net income of affiliates in the consolidated statements of earnings. Equity investments are reviewed for impairment by assessing if the decline in market value of the investment below the carrying value is other than temporary, which considers the intent and ability to retain the investment, the length of time and extent to which the market value has been less than cost, and the financial condition of the investee.

### **Inventory Valuation**

Inventories are stated at the lower of average cost or market.

### **Property, Plant and Equipment and Depreciation**

Expenditures for additions, renewals and improvements are capitalized at cost. Depreciation is computed on a straight-line method based on the estimated useful lives of the related assets. The estimated useful lives of depreciable assets range from 20 to 50 years for buildings and 3 to 20 years for machinery, equipment, and fixtures.

### **Impairment of Long-Lived Assets**

Current facts or circumstances are periodically evaluated to determine if the carrying value of depreciable assets to be held and used may not be recoverable. If such circumstances exist, an estimate of undiscounted future cash flows generated by the long-lived asset, or the appropriate grouping of assets, is compared to the carrying value to determine whether an impairment exists at its lowest level of identifiable cash flows. If an asset is determined to be impaired, the loss is measured based on the difference between the asset's fair value and its carrying value. An estimate of the asset's fair value is based on quoted market prices in active markets, if available. If quoted market prices are not available, the estimate of fair value is based on various valuation techniques, including a discounted value of estimated future cash flows. Long-lived assets held for sale are reported at the lower of its carrying value or its estimated net realizable value.

### **Capitalized Software**

Certain costs to obtain internal use software for significant systems projects are capitalized and amortized over the estimated useful life of the software. Costs to obtain software for projects that are not significant are expensed as incurred.

### **Business Combinations**

Businesses acquired are included in the consolidated financial statements upon obtaining control of the acquiree. Assets acquired and liabilities assumed are recognized at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recognized as goodwill. Legal costs, audit fees, business valuation costs, and all other business acquisition costs are expensed when incurred.

### **Goodwill, Acquired In-Process Research and Development and Other Intangible Assets**

Goodwill is tested for impairment annually using a two-step process. The first step identifies a potential impairment, and the second step measures the amount of the impairment loss, if any. Goodwill is impaired if the carrying amount of a reporting unit's goodwill exceeds its estimated fair value. Geographical reporting units were aggregated for impairment testing purposes. The annual goodwill impairment assessment was completed in the first quarter of 2011 and subsequently monitored for potential impairment in the remaining quarters of 2011, none of which indicated an impairment of goodwill.

The fair value of in-process research and development (IPRD) acquired in a business combination is determined based on the present value of each research project's projected cash flows using an income approach. Future cash flows are predominately based on the net income forecast of each project, consistent with historical pricing, margins and expense levels of similar products. Revenues are estimated based on relevant market size and growth factors, expected industry trends, individual project life cycles and the life of each research project's underlying patent. In determining the fair value of each research project, expected revenues are first adjusted for probability to regulatory success. The resulting cash flows are then discounted at a rate approximating the Company's weighted-average cost of capital.

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IPRD is initially capitalized and considered indefinite-lived assets subject to annual impairment reviews or more often upon the occurrence of certain events. The review requires the determination of the fair value of the respective intangible assets. If the fair value of the intangible assets is less than its carrying value, an impairment loss is recognized for the difference. For those compounds that reach commercialization, the assets are amortized over the expected useful lives.

Patents/trademarks, licenses and technology are amortized on a straight-line basis over their estimated useful lives, are monitored for impairment triggers, and are considered impaired if their net carrying value exceeds their estimated fair value.

### **Restructuring**

Restructuring charges are recognized as a result of actions to streamline operations and rationalize manufacturing facilities. Judgment is used when estimating the impact of restructuring plans, including future termination benefits and other exit costs to be incurred when the actions take place. Actual results could vary from these estimates.

### **Contingencies**

Loss contingencies from legal proceedings and claims may occur from a wide range of matters, including, government investigations, shareholder lawsuits, product and environmental liability, contractual claims and tax matters. Accruals are recognized when it is probable that a liability will be incurred and the amount of loss can be reasonably estimated. Gain contingencies are not recognized until realized. Legal fees are expensed as incurred.

### **Derivative Financial Instruments**

Derivative financial instruments are used principally in the management of interest rate and foreign currency exposures and are not held or issued for trading purposes.

Derivative instruments are recognized at fair value. Changes in a derivative's fair value are recognized in earnings unless specific hedge criteria are met. If the derivative is designated as a fair value hedge, changes in the fair value of the derivative and of the hedged item attributable to the hedged risk are recognized in earnings. If the derivative is designated as a cash flow hedge, the effective portions of changes in the fair value of the derivative are reported in accumulated other comprehensive income (OCI) and subsequently recognized in earnings when the hedged item affects earnings. Cash flows are classified consistent with the underlying hedged item.

Derivatives are designated and assigned as hedges of forecasted transactions, specific assets or specific liabilities. When hedged assets or liabilities are sold or extinguished or the forecasted transactions being hedged are no longer probable to occur, a gain or loss is immediately recognized on the designated hedge in earnings.

Non-derivative instruments are also designated as hedges of net investments in foreign affiliates. These non-derivative instruments are mainly euro denominated long-term debt. The effective portion of the designated non-derivative instrument is recognized in the foreign currency translation section of OCI and the ineffective portion is recognized in earnings.

### **Shipping and Handling Costs**

Shipping and handling costs are included in marketing, selling and administrative expenses and were \$139 million in 2011, \$135 million in 2010 and \$208 million in 2009, of which \$68 million in 2009 was included in discontinued operations.

### **Advertising and Product Promotion Costs**

Advertising and product promotion costs are expensed as incurred.

### **Foreign Currency Translation**

Foreign subsidiary earnings are translated into U.S. dollars using average exchange rates. The net assets of foreign subsidiaries are translated into U.S. dollars using current exchange rates. The U.S. dollar effects that arise from translating the net assets of these subsidiaries at changing rates are recognized in OCI. The net assets of subsidiaries in highly inflationary economies are remeasured as if the functional currency were the reporting currency. The remeasurement is recognized in earnings.

### **Research and Development**

Research and development costs are expensed as incurred. Clinical study costs are accrued over the service periods specified in the contracts and adjusted as necessary based upon an ongoing review of the level of effort and costs actually incurred. Strategic alliances with third parties provide rights to develop, manufacture, market and/or sell pharmaceutical products, the rights to which are owned

by the other party. Certain research and development payments to alliance partners are contingent upon the achievement of certain pre-determined criteria. Milestone payments achieved prior to regulatory approval of the product are expensed as research and development. Milestone payments made in connection with regulatory approvals are capitalized and amortized to cost of products sold over the remaining useful life of the asset. Capitalized milestone payments are tested for recoverability periodically or whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. Research and development is recognized net of reimbursements in connection with collaboration agreements.

Upfront licensing and milestone receipts obtained during development are deferred and amortized over the estimated life of the product in other income. If the Company has no future obligation for development, upfront licensing and milestone receipts are recognized immediately in other income. The amortization period of upfront licensing and milestone receipts for each new or materially modified arrangement after January 1, 2011 is assessed and determined after considering the terms of such arrangements.

#### Recently Issued Accounting Standards

In January 2011, a new revenue recognition standard was adopted for new or materially modified revenue arrangements with upfront licensing fees and contingent milestones relating to research and development deliverables. The guidance provides principles and application guidance on whether multiple deliverables exist, how the arrangement should be separated and the consideration allocated. The adoption of this standard did not impact the consolidated financial statements.

In September 2011, the FASB amended its guidance for goodwill impairment testing. The amendment allows entities to first assess qualitative factors in determining whether or not the fair value of a reporting unit exceeds its carrying value. If an entity concludes from this qualitative assessment that it is more likely than not that the fair value of a reporting unit exceeds its carrying value, then performing a two-step impairment test is unnecessary. This standard is effective for fiscal years beginning after December 15, 2011 and is not expected to have an impact on the consolidated financial statements.

#### Note 2. BUSINESS SEGMENT INFORMATION

BMS operates in a single segment engaged in the discovery, development, licensing, manufacturing, marketing, distribution and sale of innovative medicines that help patients prevail over serious diseases. A global research and development organization and a global supply chain organization are utilized and responsible for the development and delivery of products to the market. Products are distributed and sold through regional organizations that serve the United States; Europe; Latin America, Middle East and Africa; Japan, Asia Pacific and Canada; and Emerging Markets defined as Brazil, Russia, India, China and Turkey. The business is also supported by global corporate staff functions. The segment information presented below is consistent with the financial information regularly reviewed by the chief operating decision maker, the chief executive officer, for purposes of evaluating performance, allocating resources, setting incentive compensation targets, and planning and forecasting future periods.

Products are sold principally to wholesalers, and to a lesser extent, directly to distributors, retailers, hospitals, clinics, government agencies and pharmacies. Gross sales to the three largest pharmaceutical wholesalers in the U.S. as a percentage of total gross sales were as follows:

	2011	2010	2009
McKesson Corporation	26%	24%	25%
Cardinal Health, Inc.	21%	21%	20%
AmerisourceBergen Corporation	16%	16%	15%

Selected geographic area information was as follows:

Dollars in Millions	Net Sales			Property, Plant and Equipment	
	2011	2010	2009	2011	2010
United States	\$ 13,845	\$ 12,613	\$ 11,867	\$ 3,032	\$ 3,119
Europe	3,667	3,448	3,625	884	922
Japan, Asia Pacific and Canada	1,862	1,651	1,522	18	20
Latin America, Middle East and Africa	894	856	843	534	557
Emerging Markets	887	804	753	53	46
Other	89	112	198	—	—
Total	<u>\$ 21,244</u>	<u>\$ 19,484</u>	<u>\$ 18,808</u>	<u>\$ 4,521</u>	<u>\$ 4,664</u>

Net sales of key products were as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
PLAVIX* (clopidogrel bisulfate)	\$ 7,087	\$ 6,666	\$ 6,146
AVAPRO*/AVALIDE* (irbesartan/irbesartan-hydrochlorothiazide)	952	1,176	1,283
ABILIFY* (aripiprazole)	2,758	2,565	2,592
REYATAZ (atazanavir sulfate)	1,569	1,479	1,401
SUSTIVA (efavirenz) Franchise	1,485	1,368	1,277
BARACLUDE (entecavir)	1,196	931	734
ERBITUX* (cetuximab)	691	662	683
SPRYCEL (dasatinib)	803	576	421
YERVOY (ipilimumab)	360	—	—
ORENCIA (abatacept)	917	733	602
NULOJIX (belatacept)	3	—	—
ONGLYZA/KOMBIGLYZE (saxagliptin/saxagliptin and metformin)	473	158	24
Mature Products and All Other	2,950	3,170	3,645
Net Sales	<u>\$ 21,244</u>	<u>\$ 19,484</u>	<u>\$ 18,808</u>

Capital expenditures and depreciation of property, plant and equipment within the segment were as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Capital expenditures	\$ 367	\$ 424	\$ 634
Depreciation	373	380	346

Segment income excludes the impact of significant items not indicative of current operating performance or ongoing results, and earnings attributed to Sanofi and other noncontrolling interest. The reconciliation to earnings from continuing operations before income taxes was as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Segment income	\$ 5,083	\$ 4,642	\$ 4,492
Reconciling items:			
Provision for restructuring	(116)	(113)	(136)
Impairment and loss on sale of manufacturing operations	—	(236)	—
Accelerated depreciation, asset impairment and other shutdown costs	(75)	(113)	(115)
Process standardization implementation costs	(29)	(35)	(110)
Gain on sale of product lines, businesses and assets	12	—	360
Litigation recovery/(charges)	22	19	(132)
Upfront, milestone and other licensing payments	(187)	(132)	(347)
BMS Foundation funding initiative	—	—	(100)
Other	(72)	(55)	(53)
Noncontrolling interest	2,343	2,094	1,743
Earnings from continuing operations before income taxes	<u>\$ 6,981</u>	<u>\$ 6,071</u>	<u>\$ 5,602</u>

### Note 3. ALLIANCES AND COLLABORATIONS

#### Sanofi

BMS has agreements with Sanofi for the codevelopment and cocommercialization of AVAPRO\*/AVALIDE\*, an angiotensin II receptor antagonist indicated for the treatment of hypertension and diabetic nephropathy, and PLAVIX\*, a platelet aggregation inhibitor. The worldwide alliance operates under the framework of two geographic territories; one in the Americas (principally the U.S., Canada, Puerto Rico and Latin American countries) and Australia and the other in Europe and Asia. Accordingly, two territory partnerships were formed to manage central expenses, such as marketing, research and development and royalties, and to supply finished product to the individual countries. In general, at the country level, agreements either to copromote (whereby a partnership was formed between the parties to sell each brand) or to comarket (whereby the parties operate and sell their brands independently of each other) are in place. The agreements expire upon the expiration of all patents and other exclusivity rights in the applicable territory.

BMS acts as the operating partner and owns a 50.1% majority controlling interest in the territory covering the Americas and Australia and consolidates all country partnership results for this territory with Sanofi's 49.9% share of the results reflected as a noncontrolling interest. BMS recognizes net sales in this territory and in comarketing countries outside this territory (e.g. Germany, Italy for irbesartan only, Spain and Greece). Royalties owed to Sanofi are included in cost of products sold (other than development royalties). Sanofi acts as the operating partner and owns a 50.1% majority controlling interest in the territory covering Europe and Asia. BMS has a 49.9% ownership interest in this territory and accounts for it under the equity method. Distributions of profits relating to the partnerships are included in operating activities.

BMS and Sanofi have a separate partnership governing the copromotion of irbesartan in the U.S. BMS recognizes other income related to the amortization of deferred income associated with Sanofi's \$350 million payment to BMS for their acquisition of an interest in the irbesartan license for the U.S. upon formation of the alliance. Certain supply activities and development and opt-out royalties with Sanofi are reflected on a net basis in other (income)/expense.

During the fourth quarter of 2011, BMS established an \$80 million reserve related to the AVALIDE\* supply disruption in early 2011 in connection with ongoing negotiations with Sanofi. The charge was included in other expense.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Territory covering the Americas and Australia:			
Net sales	\$ 7,761	\$ 7,464	\$ 6,912
Royalty expense	1,583	1,527	1,404
Noncontrolling interest – pre-tax	2,323	2,074	1,717
Profit distributions to Sanofi	(2,335)	(2,093)	(1,717)
Territory covering Europe and Asia:			
Equity in net income of affiliates	(298)	(325)	(558)
Profit distributions to BMS	283	313	554
Other:			
Net sales in Europe comarketing countries and other	279	378	517
Amortization (income)/expense – irbesartan license fee	(31)	(31)	(32)
Supply activities and development and opt-out royalty (income)/expense	23	(3)	(41)

Dollars in Millions	December 31,	
	2011	2010
Investment in affiliates – territory covering Europe and Asia	\$ 37	\$ 22
Deferred income – irbesartan license fee	29	60

The following is the summarized financial information for interests in the partnerships with Sanofi for the territory covering Europe and Asia, which are not consolidated but are accounted for using the equity method:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Net sales	\$ 1,469	\$ 1,879	\$ 2,984
Cost of products sold	811	1,047	1,510
Gross profit	658	832	1,474
Marketing, selling and administrative	75	129	219
Advertising and product promotion	15	29	68
Research and development	5	16	61
Other (income)/expense	1	(1)	—
Net income	\$ 562	\$ 659	\$ 1,126
Current assets	\$ 584	\$ 751	\$ 1,305
Current liabilities	584	751	1,305

Cost of products sold includes discovery royalties of \$184 million in 2011, \$307 million in 2010 and \$446 million in 2009, which are paid directly to Sanofi. All other expenses are shared based on the applicable ownership percentages. Current assets and current liabilities include approximately \$400 million in 2011, \$567 million in 2010 and \$1.0 billion in 2009 related to receivables/payables attributed to the respective years and net cash distributions to BMS and Sanofi as well as intercompany balances between partnerships within the territory. The remaining current assets and current liabilities consist of third-party trade receivables, inventories and amounts due to BMS and Sanofi for the purchase of inventories, royalties and expense reimbursements.

## Otsuka

BMS has a worldwide commercialization agreement with Otsuka Pharmaceutical Co., Ltd. (Otsuka), to codevelop and copromote ABILIFY\*, for the treatment of schizophrenia, bipolar mania disorder and major depressive disorder, excluding certain Asia Pacific countries. The U.S. portion of the amended commercialization and manufacturing agreement expires upon the expected loss of product exclusivity in April 2015. The contractual share of ABILIFY\* net sales recognized by BMS was 65% in 2009, 58% in 2010 and 53.5% in 2011. Beginning on January 1, 2012, the contractual share of revenue recognized by BMS was further reduced to 51.5%.

In the UK, Germany, France and Spain, BMS receives 65% of third-party net sales. In these countries and the U.S., third-party customers are invoiced by BMS on behalf of Otsuka and alliance revenue is recognized when ABILIFY\* is shipped and all risks and rewards of ownership have transferred to third party customers. In certain countries where BMS is presently the exclusive distributor for the product or has an exclusive right to sell ABILIFY\*, BMS recognizes all of the net sales.

BMS purchases the product from Otsuka and performs finish manufacturing for sale to third-party customers by BMS or Otsuka. Under the terms of the amended agreement, BMS paid Otsuka \$400 million, which is amortized as a reduction of net sales through the expected loss of U.S. exclusivity in April 2015. The unamortized balance is included in other assets. Otsuka receives a royalty based on 1.5% of total U.S. net sales, which is included in cost of products sold. Otsuka is responsible for 30% of the U.S. expenses related to the commercialization of ABILIFY\* from 2010 through 2012. Reimbursements are netted principally in marketing, selling and administrative and advertising and product promotion expenses.

Beginning January 1, 2013, and through the expected loss of U.S. exclusivity in April 2015, including an expected six month pediatric extension, BMS will receive the following percentages of U.S. annual net sales:

	Share as a %
	Sales
\$0 to \$2.7 billion	50%
\$2.7 billion to \$3.2 billion	20%
\$3.2 billion to \$3.7 billion	7%
\$3.7 billion to \$4.0 billion	2%
\$4.0 billion to \$4.2 billion	1%
In excess of \$4.2 billion	20%

During this period, Otsuka will be responsible for 50% of all U.S. expenses related to the commercialization of ABILIFY\*.

BMS and Otsuka also entered into an oncology collaboration for SPRYCEL and IXEMPRA for the U.S., Japan and European Union (EU) markets (the Oncology Territory). A collaboration fee, classified in cost of products sold, is paid to Otsuka based on the following percentages of annual net sales of SPRYCEL and IXEMPRA in the Oncology Territory:

	% of Net Sales	
	2010 - 2012	2013 - 2020
\$0 to \$400 million	30%	65%
\$400 million to \$600 million	5%	12%
\$600 million to \$800 million	3%	3%
\$800 million to \$1.0 billion	2%	2%
In excess of \$1.0 billion	1%	1%

During these periods, Otsuka contributes (i) 20% of the first \$175 million of certain commercial operational expenses relating to the oncology products, and (ii) 1% of such commercial operational expenses relating to the products in the territory in excess of \$175 million. Beginning in 2011, Otsuka copromotes SPRYCEL in the U.S. and Japan, and has exercised the right to copromote in the top five EU markets beginning in January 2012.

The U.S. extension and the oncology collaboration include a change-of-control provision in the case of an acquisition of BMS. If the acquiring company does not have a competing product to ABILIFY\*, then the new company will assume the ABILIFY\* agreement (as amended) and the oncology collaboration as it exists today. If the acquiring company has a product that competes with ABILIFY\*, Otsuka can elect to request the acquiring company to choose whether to divest ABILIFY\* or the competing product. In the scenario where ABILIFY\* is divested, Otsuka would be obligated to acquire the rights of BMS under the ABILIFY\* agreement (as amended). The agreements also provide that in the event of a generic competitor to ABILIFY\* after January 1, 2010, BMS has the option of terminating the ABILIFY\* April 2009 amendment (with the agreement as previously amended remaining in force). If BMS were to exercise such option then either (i) BMS would receive a payment from Otsuka according to a pre-determined schedule and the oncology collaboration would terminate at the same time or (ii) the oncology collaboration would continue for a truncated period according to a pre-determined schedule.

For the EU, the agreement remained unchanged and will expire in June 2014. In other countries where BMS has the exclusive right to sell ABILIFY\*, the agreement expires on the later of the 10th anniversary of the first commercial sale in such country or expiration of the applicable patent in such country.

In addition to the \$400 million extension payment, total milestone payments made to Otsuka under the agreement through December 2011 were \$217 million, of which \$157 million was expensed as IPRD in 1999. The remaining \$60 million was capitalized in other intangible assets and is amortized in cost of products sold over the remaining life of the original agreement in the U.S.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
ABILIFY* net sales, including amortization of extension payment	\$ 2,758	\$ 2,565	\$ 2,592
Oncology Products collaboration fee expense	134	128	—
Royalty expense	72	62	58
Reimbursement of operating expenses to/(from) Otsuka	(88)	(101)	—
Amortization (income)/expense – extension payment	66	66	49
Amortization (income)/expense – upfront, milestone and other licensing payments	6	6	6

  

Dollars in Millions	December 31,	
	2011	2010
Other assets – extension payment	\$ 219	\$ 285
Other intangible assets – upfront, milestone and other licensing payments	5	11

In January 2007, BMS granted Otsuka exclusive rights to develop and commercialize ONGLYZA in Japan. BMS expects to receive milestone payments based on certain regulatory events, as well as sales-based payments following regulatory approval of ONGLYZA in Japan, and retained rights to copromote ONGLYZA with Otsuka in Japan. Otsuka is responsible for all development costs in Japan.

#### **Lilly**

BMS has an Epidermal Growth Factor Receptor (EGFR) commercialization agreement with Eli Lilly and Company (Lilly) through Lilly's 2008 acquisition of ImClone Systems Incorporated (ImClone) for the codevelopment and promotion of ERBITUX\* and necitumumab (IMC-11F8) in the U.S., which expires as to ERBITUX\* in September 2018. BMS also has codevelopment and copromotion rights to both products in Canada and Japan. ERBITUX\* is indicated for use in the treatment of patients with metastatic colorectal cancer and for use in the treatment of squamous cell carcinoma of the head and neck. Under the EGFR agreement, with respect to ERBITUX\* sales in North America, Lilly receives a distribution fee based on a flat rate of 39% of net sales in North America plus reimbursement of certain royalties paid by Lilly, which is included in cost of products sold.

In 2007, BMS and ImClone amended their codevelopment agreement with Merck KGaA (Merck) to provide for cocommercialization of ERBITUX\* in Japan. The rights under this agreement expire in 2032; however, Lilly has the ability to terminate the agreement after 2018 if it determines that it is commercially unreasonable for Lilly to continue. ERBITUX\* received marketing approval in Japan in 2008 for the use of ERBITUX\* in treating patients with advanced or recurrent colorectal cancer. BMS receives 50% of the pre-tax profit from Merck sales of ERBITUX\* in Japan which is further shared equally with Lilly. Profit sharing from commercialization in Japan attributed to BMS is included in other income.

BMS is amortizing \$500 million of license acquisition costs through 2018.

In 2010, BMS and Lilly restructured the EGFR commercialization agreement described above between BMS and ImClone as it relates to necitumumab, a novel targeted cancer therapy currently in Phase III development for non-small cell lung cancer. As restructured, both companies will share in the cost of developing and potentially commercializing necitumumab in the U.S., Canada and Japan. Lilly maintains exclusive rights to necitumumab in all other markets. BMS will fund 55% of development costs for studies that will be used only in the U.S., 50% for Japan studies, and will fund 27.5% for global studies. BMS will pay \$250 million to Lilly as a milestone payment upon first approval in the U.S. In the U.S. and Canada, BMS will recognize all sales and 55% of the profits of losses for necitumumab. Lilly will provide 50% of the selling effort and the parties will, in general, equally participate in other commercialization efforts. In Japan, BMS and Lilly will share commercial costs and profits evenly. The agreement as it relates to necitumumab continues beyond patent expiration until both parties agree to terminate. It may be terminated at any time by BMS with 12 months advance notice (18 months if prior to launch), by either party for uncured material breach by the other or if both parties agree to terminate. Lilly is responsible for manufacturing the bulk requirements and BMS is responsible for the fill/finish of necitumumab.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Net sales	\$ 691	\$ 662	\$ 683
Distribution fees and royalty expense	287	275	279
Research and development expense reimbursement to Lilly – necitumumab	12	12	5
Amortization (income)/expense – upfront, milestone and other licensing payments	37	37	37
Japan commercialization fee (income)/expense	(34)	(39)	(28)

Dollars in Millions	December 31,	
	2011	2010
Other intangible assets – upfront, milestone and other licensing payments	\$ 249	\$ 286

### **Gilead**

BMS and Gilead Sciences, Inc. (Gilead) have a joint venture to develop and commercialize ATRIPLA\* (efavirenz 600 mg/ emtricitabine 200 mg/ tenofovir disoproxil fumarate 300 mg), a once-daily single tablet three-drug regimen for the treatment of human immunodeficiency virus (HIV) infection, combining SUSTIVA, a product of BMS, and TRUVADA\* (emtricitabine and tenofovir disoproxil fumarate), a product of Gilead, in the U.S., Canada and Europe. BMS accounts for its participation in the U.S. joint venture under the equity method of accounting.

Net sales of the bulk efavirenz component of ATRIPLA\* are deferred until the combined product is sold to third-party customers. Net sales for the efavirenz component are based on the relative ratio of the average respective net selling prices of TRUVADA\* and SUSTIVA.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Net sales	\$ 1,204	\$ 1,053	\$ 869
Equity in net loss of affiliates	16	12	10

### **AstraZeneca**

BMS maintains two worldwide codevelopment and cocommercialization agreements with AstraZeneca PLC (AstraZeneca) for ONGLYZA/KOMBIGLYZE (excluding Japan), and dapagliflozin. ONGLYZA and KOMBIGLYZE are both indicated for use in the treatment of diabetes. Dapagliflozin is currently being studied for the treatment of diabetes. ONGLYZA and dapagliflozin were discovered by BMS. KOMBIGLYZE was codeveloped with AstraZeneca. Both companies jointly develop the clinical and marketing strategy and share commercialization expenses and profits and losses equally on a global basis and also share in development costs. BMS manufactures both products. BMS has the option to decline involvement in cocommercialization in a given country and instead receive a tiered royalty based on net sales.

Reimbursements for development and commercial cost sharing are included in research and development, advertising and product promotion and marketing, selling and administrative expenses. The expense attributable to AstraZeneca's share of profits is included in costs of products sold.

BMS received \$300 million in upfront, milestone and other licensing payments related to saxagliptin as of December 31, 2011 and could receive up to an additional \$300 million for sales-based milestones. BMS also received \$170 million in upfront, milestone and other licensing payments related to dapagliflozin as of December 31, 2011 and could potentially receive up to an additional \$230 million for development and regulatory milestones and up to an additional \$390 million for sales-based milestones. Upfront, milestone and other licensing payments are deferred and amortized over the estimated useful life of the products in other income.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Net sales	\$ 473	\$ 158	\$ 24
Profit sharing expense	207	67	11
Commercialization expense reimbursements to/(from) AstraZeneca	(40)	(33)	(15)
Research and development expense reimbursements to/(from) AstraZeneca	40	19	(38)
Amortization (income)/expense – upfront, milestone and other licensing payments	(38)	(28)	(16)
Upfront, milestone and other licensing payments received			
Saxagliptin	—	50	150
Dapagliflozin	120	—	—

Dollars in Millions	December 31,	
	2011	2010
Deferred income – upfront, milestone and other licensing payments		
Saxagliptin	\$ 230	\$ 254
Dapagliflozin	142	36

#### **Pfizer**

BMS and Pfizer Inc. (Pfizer) maintain a worldwide codevelopment and cocommercialization agreement for ELIQUIS, an anticoagulant discovered by BMS for the prevention and treatment of atrial fibrillation and other arterial thrombotic conditions. Pfizer funds 60% of all development costs under the initial development plan effective January 1, 2007. The companies jointly develop the clinical and marketing strategy and share commercialization expenses and profits equally on a global basis. BMS manufactures the product. Reimbursements for development costs and commercial cost sharing are included in research and development, advertising and product promotion, and marketing, selling and administrative expenses.

BMS received \$559 million in upfront, milestone and other licensing payments for ELIQUIS to date, including \$20 million received in January 2012 and could receive up to an additional \$325 million for development and regulatory milestones. These payments are deferred and amortized over the estimated useful life of the products in other income.

Summarized financial information related to this alliance is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Commercialization expense reimbursements to/(from) Pfizer	\$ (10)	\$ (8)	\$ 1
Research and development reimbursements to/(from) Pfizer	(65)	(190)	(190)
Amortization (income)/expense – upfront, milestone and other licensing payments	(33)	(31)	(28)
Upfront, milestone and other licensing payments received	65	10	150

Dollars in Millions	December 31,	
	2011	2010
Deferred income – upfront, milestone and other licensing payments	\$ 434	\$ 382

#### **Note 4. ACQUISITIONS**

##### *Amira Pharmaceuticals, Inc.*

On September 7, 2011, BMS acquired 100% of the outstanding shares of Amira Pharmaceuticals, Inc. (Amira) for \$325 million in cash plus three separate, contingent \$50 million payments due upon achievement of certain development and sales-based milestones. The first contingent payment was made in the fourth quarter of 2011. The fair value of the total contingent consideration was \$58 million, which was recorded in other liabilities. Acquisition costs of \$1 million were included in other expense. Amira was a privately-held biotechnology company primarily focused on the discovery and development of therapeutic products for the treatment of cardiovascular and fibrotic inflammatory diseases. The acquisition provides BMS with: 1) full rights to develop and commercialize AM152 which has completed Phase I clinical studies and the remainder of the Amira lysophosphatidic acid 1 receptor antagonist program; 2) researchers with fibrotic expertise; and 3) a pre-clinical autotaxin program. Goodwill generated from the acquisition was primarily attributed to acquired scientific expertise in fibrotic diseases allowing for expansion into a new therapeutic class.

The contingent liability was estimated utilizing a model that assessed the probability of achieving each milestone and discounted the amount of each potential payment based on the expected timing. Estimates used in evaluating the contingent liability were consistent

with those used in evaluating the acquired IPRD. The discount rate for each payment was consistent with market debt yields for the non-callable, publicly-traded bonds of BMS with similar maturities to each of the estimated potential payment dates. This fair value measurement was based on significant inputs not observable in the market and therefore represents a Level 3 measurement.

The results of Amira's operations are included in the consolidated financial statements from September 7, 2011.

#### *ZymoGenetics, Inc. Acquisition*

On October 12, 2010, BMS acquired 100% of the outstanding shares of common stock of ZymoGenetics, Inc. (ZymoGenetics) in October 2010 for an aggregate purchase price of approximately \$885 million. Acquisition costs of \$10 million were included in other expense. ZymoGenetics is focused on developing and commercializing therapeutic protein-based products for the treatment of human diseases. The companies collaborated on the development of pegylated-interferon lambda, a novel interferon in Phase IIb development at the acquisition date, for the treatment of Hepatitis C infection. The acquisition provides the Company with full rights to develop and commercialize pegylated-interferon lambda, valued at \$310 million in IPRD as of the acquisition date, and also brings proven capabilities with therapeutic proteins and revenue from RECOTHROM, an FDA approved specialty surgical biologic. Goodwill generated from the acquisition was primarily attributed to full ownership rights to pegylated-interferon lambda.

The results of ZymoGenetics operations were included in the consolidated financial statements from October 8, 2010.

#### *Medarex, Inc. Acquisition*

On September 1, 2009, BMS acquired, by means of a tender offer and second-step merger, 100% of the remaining outstanding shares (and stock equivalents) of Medarex not already owned for a total purchase price of \$2,331 million. Acquisition costs of \$11 million were included in other expense. Medarex is focused on the discovery, development and commercialization of fully human antibody-based therapeutic products to address major unmet healthcare needs in the areas of oncology, inflammation, autoimmune disorders and infectious diseases. As a result of the acquisition, the full rights over YERVOY (ipilimumab), valued at \$1.0 billion as of the acquisition date, were received that increases the biologics development pipeline creating a more balanced portfolio of both small molecules and biologics. Goodwill generated from this acquisition was primarily attributed to a more balanced portfolio associated with the BioPharma model and the potential to optimize the existing YERVOY programs.

The results of Medarex operations were included in the consolidated financial statements from August 27, 2009.

The purchase price allocations were as follows:

Dollars in Millions	Amira	ZymoGenetics	Medarex
<b>Purchase price:</b>			
Cash	\$ 325	\$ 885	\$ 2,285
Fair value of contingent consideration	58	—	—
Fair value of the Company's equity held prior to acquisition <sup>(1)</sup>	—	—	46
<b>Total</b>	<b>383</b>	<b>885</b>	<b>2,331</b>
<b>Identifiable net assets:</b>			
Cash	15	56	53
Marketable securities	—	91	269
Inventory <sup>(2)</sup>	—	98	—
Other current and long-term assets <sup>(3)</sup>	—	29	127
IPRD	160	448	1,475
Intangible assets - Technology	—	230	120
Intangible assets - Licenses	—	—	217
Short-term borrowings	—	—	(92)
Accrued expenses	(16)	—	—
Other current and long-term liabilities	—	(91)	(92)
Deferred income taxes	(41)	9	(318)
<b>Total identifiable net assets</b>	<b>118</b>	<b>870</b>	<b>1,759</b>
Goodwill	\$ 265	\$ 15	\$ 572

(1) Other income of \$21 million was recognized from the remeasurement to fair value of the equity interest in Medarex held at the acquisition date.

(2) Inventory related to the ZymoGenetics acquisition includes \$63 million recorded in other long term assets as inventory that is expected to be utilized in excess of one year.

(3) Other current and long term assets related to the Medarex acquisition includes a 5.1% ownership interest in Genmab, Inc. (\$64 million) and an 18.7% ownership in Celldex Therapeutics, Inc. (\$17 million), which were subsequently sold during 2009 for a loss of \$33 million.

Pro forma supplemental financial information are not provided as the impacts of these acquisitions were not material to operating results in the year of acquisition. Goodwill, IPRD and all other intangible assets valued in these acquisitions are non-deductible for tax purposes.

#### **Note 5. MEAD JOHNSON NUTRITION COMPANY INITIAL PUBLIC OFFERING AND SPLIT-OFF**

##### *Mead Johnson Nutrition Company Initial Public Offering*

In February 2009, Mead Johnson Nutrition Company (Mead Johnson) completed an initial public offering (IPO), in which it sold 34.5 million shares of its Class A common stock at \$24 per share. Net proceeds of \$782 million, after deducting \$46 million of underwriting discounts, commissions and offering expenses, were allocated to noncontrolling interest and capital in excess of par value of stock.

Upon completion of the IPO, 42.3 million shares of Mead Johnson Class A common stock and 127.7 million shares of Mead Johnson Class B common stock were held by BMS, representing an 83.1% interest in Mead Johnson and 97.5% of the combined voting power of the outstanding common stock. The rights of the holders of the shares of Class A common stock and Class B common stock were identical, except with regard to voting and conversion. Each share of Class A common stock was entitled to one vote per share. Each share of Class B common stock was entitled to ten votes per share and was convertible at any time at the election of the holder into one share of Class A common stock. The Class B common stock automatically converted into shares of Class A common stock.

Various agreements related to the separation of Mead Johnson were entered into, including a separation agreement, a transitional services agreement, a tax matters agreement, a registration rights agreement and an employee matters agreement.

##### *Mead Johnson Nutrition Company Split-off*

The split-off of the remaining interest in Mead Johnson was completed on December 23, 2009. The split-off was effected through the exchange offer of previously held 170 million shares of Mead Johnson, after converting its Class B common stock to Class A common stock, for 269 million outstanding shares of the Company's stock resulting in a pre-tax gain of \$7,275 million, \$7,157 million net of taxes.

The shares received in connection with the exchange were valued using the closing price on December 23, 2009 of \$25.70 and reflected as treasury stock. The gain on the exchange was determined using the sum of the fair value of the shares received plus the net deficit of Mead Johnson attributable to BMS less taxes and other direct expenses related to the transaction, including a tax reserve of \$244 million which was established.

##### *Transitional Relationships with Discontinued Operations*

Subsequent to the respective dispositions, cash flows and income associated with the Mead Johnson business will continue to be generated through September 2012, relating to activities that are transitional in nature, result from agreements that are intended to facilitate the orderly transfer of business operations and include, among others, services for accounting, customer service, distribution and manufacturing. The income generated from these transitional activities, which were substantially complete as of December 31, 2011, was not material to any period presented.

The following summarized financial information related to the Mead Johnson business is segregated from continuing operations and reported as discontinued operations through the date of disposition.

	<u>Year Ended December 31,</u>	
<b>Dollars in Millions</b>	<b>2009</b>	
Net Sales	\$	2,826
Earnings before income taxes		674
Provision for income taxes		(389)
Earnings, net of taxes		285
Gain on disposal		7,275
Provision for income taxes		(118)
Gain on disposal, net of taxes		7,157
Net earnings from discontinued operations		7,442
Less net earnings from discontinued operations attributable to noncontrolling interest		(69)
Net earnings from discontinued operations attributable to BMS	\$	<u>7,373</u>

## Note 6. RESTRUCTURING

The following is the provision for restructuring:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Employee termination benefits	\$ 85	\$ 102	\$ 128
Other exit costs	31	11	8
Provision for restructuring	<u>\$ 116</u>	<u>\$ 113</u>	<u>\$ 136</u>

Restructuring charges included termination benefits for workforce reductions of manufacturing, selling, administrative, and research and development personnel across all geographic regions of approximately 822 in 2011, 995 in 2010 and 1,350 in 2009.

The following table represents the activity of employee termination and other exit cost liabilities:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Liability at beginning of year	\$ 126	\$ 173	\$ 209
Charges	128	121	158
Change in estimates	(12)	(8)	(22)
Provision for restructuring	116	113	136
Foreign currency translation	2	(5)	—
Charges in discontinued operations	—	—	15
Spending	(167)	(155)	(182)
Mead Johnson split-off	—	—	(5)
Liability at end of year	<u>\$ 77</u>	<u>\$ 126</u>	<u>\$ 173</u>

## Note 7. OTHER (INCOME)/EXPENSE

Other (income)/expense includes:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Interest expense	\$ 145	\$ 145	\$ 184
Interest income	(91)	(75)	(54)
Impairment and loss on sale of manufacturing operations	—	236	—
Gain on sale of product lines, businesses and assets	(37)	(39)	(360)
Other income received from alliance partners	(140)	(136)	(148)
Pension curtailment and settlement charges	10	28	43
Litigation charges/(recoveries)	(25)	—	—
Product liability charges/(recoveries)	31	17	(6)
Other	(62)	(50)	(40)
Other (income)/expense	<u>\$ (169)</u>	<u>\$ 126</u>	<u>\$ (381)</u>

## Note 8. INCOME TAXES

The provision/(benefit) for income taxes attributable to continuing operations consisted of:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Current:			
U.S.	\$ 864	\$ 797	\$ 410
Non-U.S.	442	339	646
Total Current	<u>1,306</u>	<u>1,136</u>	<u>1,056</u>
Deferred:			
U.S.	406	438	222
Non-U.S.	9	(16)	(96)
Total Deferred	<u>415</u>	<u>422</u>	<u>126</u>
Total Provision	<u>\$1,721</u>	<u>\$1,558</u>	<u>\$1,182</u>

### Effective Tax Rate

The reconciliation of the effective tax rate to the U.S. statutory Federal income tax rate was:

Dollars in Millions	% of Earnings Before Income Taxes					
	2011		2010		2009	
Earnings from continuing operations before income taxes:						
U.S.	\$ 4,336		\$ 3,833		\$ 2,705	
Non-U.S.	<u>2,645</u>		<u>2,238</u>		<u>2,897</u>	
Total	<u>\$ 6,981</u>		<u>\$ 6,071</u>		<u>\$ 5,602</u>	
U.S. statutory rate	2,443	35.0%	2,125	35.0%	1,961	35.0%
Non-tax deductible annual pharmaceutical company fee	80	1.2%	—	—	—	—
Tax effect of foreign subsidiaries' earnings previously considered indefinitely reinvested offshore	—	—	207	3.4 %	—	—
Foreign tax effect of certain operations in Ireland, Puerto Rico and Switzerland	(593)	(8.5)%	(694)	(11.4)%	(598)	(10.7)%
State and local taxes (net of valuation allowance)	33	0.5%	43	0.7%	14	0.3%
U.S. Federal, state and foreign contingent tax matters	(161)	(2.3)%	(131)	(2.1)%	(64)	(1.1)%
U.S. Federal research and development tax credit	(69)	(1.0)%	(61)	(1.0)%	(81)	(1.4)%
Foreign and other	<u>(12)</u>	<u>(0.2)%</u>	<u>69</u>	<u>1.1 %</u>	<u>(50)</u>	<u>(1.0)%</u>
	<u>\$ 1,721</u>	<u>24.7 %</u>	<u>\$ 1,558</u>	<u>25.7 %</u>	<u>\$ 1,182</u>	<u>21.1 %</u>

The decrease in the 2011 effective tax rate from 2010 was due to:

- A \$207 million charge recognized in the fourth quarter of 2010, which resulted primarily from additional U.S. taxable income from earnings of foreign subsidiaries previously considered to be indefinitely reinvested offshore;
- Changes in prior period estimates upon finalizing U.S. tax returns resulting in a \$54 million benefit in 2011 and a \$30 million charge in 2010; and
- Higher tax benefits from contingent tax matters primarily related to the effective settlements and remeasurements of uncertain tax positions (\$161 million in 2011 and \$131 million in 2010).

Partially offset by:

- An unfavorable earnings mix between high and low tax jurisdictions compared to the prior year;
- The non-tax deductible annual pharmaceutical company fee effective January 1, 2011 (tax impact of \$80 million); and
- An out-of-period tax adjustment of \$59 million in 2010 for previously unrecognized net deferred tax assets primarily attributed to deferred profits related to certain alliances as of December 31, 2009 (not material to any prior periods).

The increase in the 2010 effective tax rate from 2009 was due to:

- A \$207 million charge recognized in the fourth quarter of 2010 discussed above;
- Changes in prior period estimates upon finalizing the 2009 U.S. tax return resulting in a \$30 million charge in 2010 and a \$67 million benefit in 2009 upon finalizing the 2008 U.S. tax return; and
- An unfavorable earnings mix between high and low tax jurisdictions compared to the prior year.

Partially offset by:

- Higher tax benefits from contingent tax matters primarily related to the effective settlements and remeasurements of uncertain tax positions (\$131 million in 2010 and \$64 million in 2009); and
- An out-of-period tax adjustment of \$59 million in 2010 discussed above.

*Deferred Taxes and Valuation Allowance*

The components of current and non-current deferred income tax assets/(liabilities) were as follows:

Dollars in Millions	December 31,	
	2011	2010
<b>Deferred tax assets</b>		
Foreign net operating loss carryforwards	\$ 3,674	\$ 1,600
Milestone payments and license fees	574	557
Deferred income	573	554
U.S. Federal net operating loss carryforwards	251	351
Pension and postretirement benefits	755	348
State net operating loss and credit carryforwards	344	337
Intercompany profit and other inventory items	331	311
U.S. Federal research and development tax credit carryforwards	109	243
Other foreign deferred tax assets	112	167
Share-based compensation	111	131
Legal settlements	46	20
Other	233	299
Total deferred tax assets	7,113	4,918
Valuation allowance	(3,920)	(1,863)
Net deferred tax assets	3,193	3,055
<b>Deferred tax liabilities</b>		
Depreciation	(118)	(52)
Repatriation of foreign earnings	(31)	(21)
Acquired intangible assets	(593)	(525)
Other	(676)	(630)
Total deferred tax liabilities	(1,418)	(1,228)
Deferred tax assets, net	\$ 1,775	\$ 1,827
Recognized as:		
Deferred income taxes – current	\$ 1,200	\$ 1,036
Deferred income taxes – non-current	688	850
U.S. and foreign income taxes payable – current	(6)	(5)
Other liabilities – non-current	(107)	(54)
Total	\$ 1,775	\$ 1,827

The U.S. Federal net operating loss carryforwards were \$717 million at December 31, 2011. These carryforwards were acquired as a result of certain acquisitions and are subject to limitations under Section 382 of the Internal Revenue Code. The net operating loss carryforwards expire in varying amounts beginning in 2022. The research and development tax credit carryforwards expire in varying amounts beginning in 2018. The realization of the research and development tax credit carryforwards is dependent on generating sufficient domestic-sourced taxable income prior to their expiration. Although realization is not assured, management believes it is more likely than not that these deferred tax assets will be realized.

At December 31, 2011, a valuation allowance of \$3,920 million was established for the following items: \$3,574 million for foreign net operating loss and tax credit carryforwards, \$332 million for state deferred tax assets including net operating loss and tax credit carryforwards, and \$14 million for U.S. Federal net operating loss carryforwards. Foreign holding companies net operating losses and their corresponding valuation allowances included an increase of \$2,027 million as a result of statutory impairment charges that are not required in consolidated net earnings. These foreign holding companies had a higher asset basis for statutory purposes than the basis used in the consolidated financial statements due to an internal reorganization of certain legal entities in prior periods. Changes in the valuation allowance were as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Balance at beginning of year	\$ 1,863	\$ 1,791	\$ 1,795
Provision	2,410	92	17
Utilization	(135)	(22)	(74)
Foreign currency translation	(222)	(6)	(8)
Other	4	8	61
Balance at end of year	\$ 3,920	\$ 1,863	\$ 1,791

Income tax payments were \$597 million in 2011, \$672 million in 2010 and \$885 million in 2009. The current tax benefit realized as a result of stock related compensation credited to capital in excess of par value of stock was \$47 million in 2011, \$8 million in 2010 and \$5 million in 2009.

At December 31, 2011, U.S. taxes have not been provided on approximately \$18.5 billion of undistributed earnings of foreign subsidiaries as these undistributed earnings are indefinitely invested offshore. If, in the future, these earnings are repatriated to the U.S., or if such earnings are determined to be remitted in the foreseeable future, additional tax provisions would be required. Due to complexities in the tax laws and the assumptions that would have to be made, it is not practicable to estimate the amounts of income taxes that would have to be provided. BMS has favorable tax rates in Ireland and Puerto Rico under grants not scheduled to expire prior to 2023.

During 2010, BMS completed an internal reorganization of certain legal entities resulting in a \$207 million charge. It is possible that U.S. tax authorities could assert additional material tax liabilities arising from the reorganization. If any such assertion were to occur, BMS would vigorously challenge any such assertion and believes it would prevail; however, there can be no assurance of such a result.

Business is conducted in various countries throughout the world and is subject to tax in numerous jurisdictions. As a result, a significant number of tax returns are filed and subject to examination by various Federal, state and local tax authorities. Tax examinations are often complex, as tax authorities may disagree with the treatment of items reported and may require several years to resolve. Liabilities are established for possible assessments by tax authorities resulting from known tax exposures including, but not limited to, transfer pricing matters, tax credits and deductibility of certain expenses. Such liabilities represent a reasonable provision for taxes ultimately expected to be paid and may need to be adjusted over time as more information becomes known. The effect of changes in estimates related to contingent tax liabilities is included in the effective tax rate reconciliation above.

A reconciliation of the beginning and ending amount of gross unrecognized tax benefits is as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Balance at beginning of year	\$ 845	\$ 968	\$ 791
Gross additions to tax positions related to current year	44	57	335
Gross reductions to tax positions related to current year	—	—	(11)
Gross additions to tax positions related to prior years	106	177	97
Gross reductions to tax positions related to prior years	(325)	(196)	(180)
Settlements	(30)	(153)	(37)
Reductions to tax positions related to lapse of statute	(7)	(7)	(29)
Cumulative translation adjustment	(5)	(1)	2
Balance at end of year	<u>\$ 628</u>	<u>\$ 845</u>	<u>\$ 968</u>

Uncertain tax benefits reduce deferred tax assets to the extent the uncertainty directly related to that asset; otherwise, they are recognized as either current or non-current U.S. and foreign income taxes payable. The unrecognized tax benefits that, if recognized, would impact the effective tax rate were \$570 million, \$818 million and \$964 million at December 31, 2011, 2010, and 2009, respectively.

Gross additions to tax positions for the year ended December 31, 2009 include \$287 million in tax reserves related to both the transfer of various international units to Mead Johnson prior to its IPO and the split-off transaction which is recognized in discontinued operations. Gross reductions to tax positions for the year ended December 31, 2009 include \$10 million in liabilities related to Mead Johnson.

Accrued interest and penalties payable for unrecognized tax benefits are included in either current or non-current U.S. and foreign income taxes payable. Accrued interest related to unrecognized tax benefits were \$51 million, \$51 million, and \$39 million at December 31, 2011, 2010, and 2009, respectively. Accrued penalties related to unrecognized tax benefits were \$25 million, \$23 million, and \$19 million at December 31, 2011, 2010, and 2009, respectively.

Interest and penalties related to unrecognized tax benefits are included in income tax expense. Interest on unrecognized tax benefits was an expense of \$10 million in 2011 and \$12 million in 2010 and a benefit of \$25 million in 2009. Penalties on unrecognized tax benefits was an expense of \$7 million in 2011 and \$4 million in 2010 and a benefit of \$1 million in 2009.

BMS is currently under examination by a number of tax authorities, including all of the major tax jurisdictions listed in the table below, which have proposed adjustments to tax for issues such as transfer pricing, certain tax credits and the deductibility of certain expenses. BMS estimates that it is reasonably possible that the total amount of unrecognized tax benefits at December 31, 2011 will decrease in the range of approximately \$70 million to \$100 million in the next twelve months as a result of the settlement of certain tax audits and other events. The expected change in unrecognized tax benefits, primarily settlement related, will involve the payment of additional taxes, the

adjustment of certain deferred taxes and/or the recognition of tax benefits. BMS also anticipates that it is reasonably possible that new issues will be raised by tax authorities which may require increases to the balance of unrecognized tax benefits; however, an estimate of such increases cannot reasonably be made at this time. BMS believes that it has adequately provided for all open tax years by tax jurisdiction.

The following is a summary of major tax jurisdictions for which tax authorities may assert additional taxes based upon tax years currently under audit and subsequent years that will likely be audited:

U.S.	2008 to 2011
Canada	2003 to 2011
France	2008 to 2011
Germany	2007 to 2011
Italy	2002 to 2011
Mexico	2003 to 2011

## Note 9. EARNINGS PER SHARE

	<u>Year Ended December 31,</u>		
	<u>2011</u>	<u>2010</u>	<u>2009</u>
<b>Amounts in Millions, Except Per Share Data</b>			
<b>Basic EPS Calculation:</b>			
Income from Continuing Operations Attributable to BMS	\$ 3,709	\$ 3,102	\$ 3,239
Earnings attributable to unvested restricted shares	(8)	(12)	(18)
Income from Continuing Operations Attributable to BMS common shareholders	3,701	3,090	3,221
Net Earnings from Discontinued Operations Attributable to BMS <sup>(1)</sup>	—	—	7,331
EPS Numerator – Basic	<u>\$ 3,701</u>	<u>\$ 3,090</u>	<u>\$ 10,552</u>
<b>EPS Denominator – Basic:</b>			
Average Common Shares Outstanding	<u>1,700</u>	<u>1,713</u>	<u>1,974</u>
<b>EPS – Basic:</b>			
Continuing Operations	\$ 2.18	\$ 1.80	\$ 1.63
Discontinued Operations	—	—	3.72
Net Earnings	<u>\$ 2.18</u>	<u>\$ 1.80</u>	<u>\$ 5.35</u>
<b>EPS Numerator – Diluted:</b>			
Income from Continuing Operations Attributable to BMS	\$ 3,709	\$ 3,102	\$ 3,239
Earnings attributable to unvested restricted shares	(8)	(12)	(17)
Income from Continuing Operations Attributable to BMS common shareholders	3,701	3,090	3,222
Net Earnings from Discontinued Operations Attributable to BMS <sup>(1)</sup>	—	—	7,331
EPS Numerator – Diluted	<u>\$ 3,701</u>	<u>\$ 3,090</u>	<u>\$ 10,553</u>
<b>EPS Denominator – Diluted:</b>			
Average Common Shares Outstanding	1,700	1,713	1,974
Contingently convertible debt common stock equivalents	1	1	1
Incremental shares attributable to share-based compensation plans	16	13	3
Average Common Shares Outstanding and Common Share Equivalents	<u>1,717</u>	<u>1,727</u>	<u>1,978</u>
<b>EPS – Diluted:</b>			
Continuing Operations	\$ 2.16	\$ 1.79	\$ 1.63
Discontinued Operations	—	—	3.71
Net Earnings	<u>\$ 2.16</u>	<u>\$ 1.79</u>	<u>\$ 5.34</u>
<b>(1) Net Earnings of Discontinued Operations used for EPS Calculation:</b>			
Net Earnings from Discontinued Operations Attributable to BMS	\$ —	\$ —	\$ 7,373
Earnings attributable to unvested restricted shares	—	—	(42)
Net Earnings from Discontinued Operations Attributable to BMS used for EPS calculation	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 7,331</u>
Anti-dilutive weighted-average equivalent shares – stock incentive plans	<u>13</u>	<u>51</u>	<u>117</u>

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**Note 10. FINANCIAL INSTRUMENTS**

Financial instruments include cash and cash equivalents, marketable securities, accounts receivable and payable, debt instruments and derivatives. Due to their short term maturity, the carrying amount of receivables and accounts payable approximate fair value.

BMS has exposure to market risk due to changes in currency exchange rates and interest rates. As a result, certain derivative financial instruments are used when available on a cost-effective basis to hedge the underlying economic exposure. These instruments qualify as cash flow, net investment and fair value hedges upon meeting certain criteria, including effectiveness of offsetting hedged exposures. Changes in fair value of derivatives that do not qualify for hedge accounting are recognized in earnings as they occur. Derivative financial instruments are not used for trading purposes.

Counterparty credit risk is considered as part of the overall fair value measurement, as well as the effect of credit risk when derivatives are in a liability position. Counterparty credit risk is monitored on an ongoing basis and is mitigated by limiting amounts outstanding with any individual counterparty, utilizing conventional derivative financial instruments and only entering into agreements with counterparties that meet high credit quality standards. The consolidated financial statements would not be materially impacted if any counterparty failed to perform according to the terms of its agreement. Under the terms of the agreements, posting of collateral is not required by any party whether derivatives are in an asset or liability position.

*Fair Value Measurements* – The fair values of financial instruments are classified into one of the following categories:

Level 1 inputs utilize non-binding quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs. These instruments include U.S. treasury bills and U.S. government agency securities.

Level 2 inputs utilize observable prices for similar instruments, non-binding quoted prices for identical or similar instruments in markets that are not active, and other observable inputs that can be corroborated by market data for substantially the full term of the assets or liabilities. These instruments include corporate debt securities, commercial paper, Federal Deposit Insurance Corporation (FDIC) insured debt securities, certificates of deposit, money market funds, foreign currency forward contracts and interest rate swap contracts. Level 2 derivative instruments are valued using London Interbank Offered Rate (LIBOR) and Euro Interbank Offered Rate (EURIBOR) yield curves, less credit valuation adjustments, and observable forward foreign exchange rates at the reporting date. Valuations of derivative contracts may fluctuate considerably from period-to-period due to volatility in underlying foreign currencies and underlying interest rates, which are driven by market conditions and the duration of the contract. Credit adjustment volatility may have a significant impact on the valuation of interest rate swaps due to changes in the credit ratings and credit default swap spreads of BMS or its counterparties.

Level 3 unobservable inputs are used when little or no market data is available. Valuation models for the ARS and FRS portfolio are based on expected cash flow streams and collateral values including assessments of counterparty credit quality, default risk underlying the security, discount rates and overall capital market liquidity. A majority of the ARS, which are private placement securities with long-term nominal maturities, were rated 'A' by Standard and Poor's as of December 31, 2011 and 2010, and primarily represent interests in insurance securitizations. The fair value was determined using internally developed valuations that were based in part on indicative bids received on the underlying assets of the securities and other evidence of fair value. Due to the current lack of an active market for FRS and the general lack of transparency into their underlying assets, other qualitative analysis is relied upon to value FRS including discussions with brokers and fund managers, default risk underlying the security and overall capital markets liquidity.

Available-For-Sale Securities and Cash Equivalents

The following table summarizes available-for-sale securities at December 31, 2011 and 2010:

Dollars in Millions	Amortized Cost	Unrealized Gain in Accumulated OCI	Unrealized Loss in Accumulated OCI	Fair Value	Fair Value		
					Level 1	Level 2	Level 3
<b>December 31, 2011</b>							
Marketable Securities:							
Certificates of Deposit	\$ 1,051	\$ —	\$ —	\$ 1,051	\$ —	\$ 1,051	\$ —
Corporate Debt Securities	2,908	60	(3)	2,965	—	2,965	—
Commercial Paper	1,035	—	—	1,035	—	1,035	—
U.S. Treasury Bills	400	2	—	402	402	—	—
FDIC Insured Debt Securities	302	1	—	303	—	303	—
Auction Rate Securities (ARS)	80	12	—	92	—	—	92
Floating Rate Securities (FRS)	21	—	(3)	18	—	—	18
Total Marketable Securities	<u>\$ 5,797</u>	<u>\$ 75</u>	<u>\$ (6)</u>	<u>\$ 5,866</u>	<u>\$ 402</u>	<u>\$ 5,354</u>	<u>\$ 110</u>
<b>December 31, 2010</b>							
Marketable Securities:							
Certificates of Deposit	\$ 1,209	\$ —	\$ —	\$ 1,209	\$ —	\$ 1,209	\$ —
Corporate Debt Securities	1,996	26	(10)	2,012	—	2,012	—
Commercial Paper	482	—	—	482	—	482	—
FDIC Insured Debt Securities	353	3	—	356	—	356	—
U.S. Treasury Bills	400	4	—	404	404	—	—
U.S. Government Agency Securities	375	1	—	376	376	—	—
Auction Rate Securities (ARS)	80	11	—	91	—	—	91
Floating Rate Securities (FRS)	21	—	(2)	19	—	—	19
Total Marketable Securities	<u>\$ 4,916</u>	<u>\$ 45</u>	<u>\$ (12)</u>	<u>\$ 4,949</u>	<u>\$ 780</u>	<u>\$ 4,059</u>	<u>\$ 110</u>

The following table summarizes the classification of available-for-sale securities in the consolidated balance sheet:

Dollars in Millions	December 31,	
	2011	2010
Current Marketable Securities	\$ 2,957	\$ 2,268
Non-current Marketable Securities	2,909	2,681
Total Marketable Securities	<u>\$ 5,866</u>	<u>\$ 4,949</u>

Money market funds and other securities aggregating \$5,469 million and \$4,332 million at December 31, 2011 and 2010, respectively, were included in cash and cash equivalents and valued using Level 2 inputs. Cash and cash equivalents maintained in foreign currencies were \$508 million at December 31, 2011 and are subject to currency rate risk.

At December 31, 2011, \$2,817 million of non-current available for sale corporate debt securities, U.S. treasury bills, FDIC insured debt securities and floating rate securities mature within five years. All auction rate securities mature beyond 10 years.

The following table summarizes the activity for financial assets utilizing Level 3 fair value measurements:

	2011	2010
Fair value at January 1	\$ 110	\$ 179
Settlements	—	(93)
Unrealized gains/(losses)	—	24
Fair value at December 31	<u>\$ 110</u>	<u>\$ 110</u>

### Qualifying Hedges and Non-Qualifying Derivatives

The following summarizes the fair value of outstanding derivatives:

Dollars in Millions	Balance Sheet Location	December 31, 2011		December 31, 2010	
		Notional	Fair Value (Level 2)	Notional	Fair Value (Level 2)
<i>Derivatives designated as hedging instruments:</i>					
Interest rate swap contracts	Other assets	\$ 579	\$ 135	\$ 3,526	\$ 234
Foreign currency forward contracts	Other assets	1,347	88	691	26
Foreign currency forward contracts	Accrued expenses	480	(29)	732	(48)

*Cash Flow Hedges* — Foreign currency forward contracts are primarily utilized to hedge forecasted intercompany inventory purchase transactions in certain foreign currencies. These forward contracts are designated as cash flow hedges with the effective portion of changes in fair value being temporarily reported in accumulated OCI and recognized in earnings when the hedged item affects earnings. As of December 31, 2011, significant outstanding foreign currency forward contracts were primarily attributed to Euro and Japanese yen foreign currency forward contracts in the notional amount of \$946 million and \$557 million, respectively.

The net gains on foreign currency forward contracts qualifying for cash flow hedge accounting are expected to be reclassified to cost of products sold within the next two years, including \$46 million of pre-tax gains to be reclassified within the next 12 months. Cash flow hedge accounting is discontinued when the forecasted transaction is no longer probable of occurring on the originally forecasted date, or 60 days thereafter, or when the hedge is no longer effective. Assessments to determine whether derivatives designated as qualifying hedges are highly effective in offsetting changes in the cash flows of hedged items are performed at inception and on a quarterly basis. Any ineffective portion of the change in fair value is included in current period earnings. The earnings impact related to discontinued cash flow hedges and hedge ineffectiveness was not significant during 2011, 2010 and 2009.

*Net Investment Hedges* — Non-U.S. dollar borrowings of €541 million (\$707 million) are designated to hedge the foreign currency exposures of the net investment in certain foreign affiliates. These borrowings are designated as net investment hedges and recognized in long term debt. The effective portion of foreign exchange gains or losses on the remeasurement of the debt is recognized in the foreign currency translation component of accumulated OCI with the related offset in long term debt.

*Fair Value Hedges* — Fixed-to-floating interest rate swap contracts are designated as fair value hedges and are used as part of an interest rate risk management strategy to create an appropriate balance of fixed and floating rate debt. The swaps and underlying debt for the benchmark risk being hedged are recorded at fair value. The effective interest rate paid on fixed-to-floating interest rate swaps is one-month LIBOR (0.295% as of December 31, 2011) plus an interest rate spread ranging from 1.3% to 2.9%. When the underlying swap is terminated prior to maturity, the fair value basis adjustment to the underlying debt instrument is amortized into earnings as a reduction to interest expense over the remaining life of the debt.

During 2010, fixed-to-floating interest rate swap contracts were executed to convert \$332 million notional amount of 6.80% Debentures due 2026 and \$147 million notional amount of 7.15% Debentures due 2023 from fixed rate debt to variable rate debt. During 2009, fixed-to-floating interest rate swap contracts were executed to convert \$200 million notional amount of 5.45% Notes due 2018 and \$597 million notional amount of 5.25% Notes due 2013 from fixed rate debt to variable rate debt. These contracts qualified as a fair value hedge for each debt instrument.

During 2011, fixed-to-floating interest rate swap contracts of \$1.6 billion notional amount and €1.0 billion notional amount were terminated generating total proceeds of \$356 million (including accrued interest of \$66 million). During 2010, fixed-to-floating interest rate swap contracts of \$237 million notional amount and €500 million notional amount were terminated generating total proceeds of \$116 million (including accrued interest of \$18 million). During 2009, \$1,061 million notional amount of fixed-to-floating interest rate swap contracts were terminated generating proceeds of \$204 million (including accrued interest of \$17 million).

*Non-Qualifying Foreign Exchange Contracts* — Foreign currency forward contracts are used to offset exposure to foreign currency-denominated monetary assets, liabilities and earnings. The primary objective of these contracts is to protect the U.S. dollar value of foreign currency-denominated monetary assets, liabilities and earnings from the effects of volatility in foreign exchange rates that might occur prior to their receipt or settlement in U.S. dollars. These contracts are not designated as hedges and are adjusted to fair value through other (income)/expense as they occur, and substantially offset the change in fair value of the underlying foreign currency denominated monetary asset, liability or earnings. The effect of non-qualifying hedges on earnings was not significant for the years ended December 31, 2011, 2010, and 2009.

*Short-Term Borrowings and Long-Term Debt*

Short-term borrowings include:

Dollars in Millions	December 31,	
	2011	2010
Bank drafts	\$ 113	\$ 100
Other short-term borrowings	2	17
<b>Total</b>	<b>\$ 115</b>	<b>\$ 117</b>

Long-term debt includes:

Dollars in Millions	December 31,	
	2011	2010
<b>Principal Value:</b>		
5.875% Notes due 2036	\$ 638	\$ 709
4.375% Euro Notes due 2016	652	656
4.625% Euro Notes due 2021	652	656
5.45% Notes due 2018	600	600
5.25% Notes due 2013	597	597
6.125% Notes due 2038	500	500
6.80% Debentures due 2026	332	332
7.15% Debentures due 2023	304	304
6.88% Debentures due 2097	287	287
0% - 5.75% Other—maturing 2023 - 2030	107	108
<b>Subtotal</b>	<b>4,669</b>	<b>4,749</b>
<b>Adjustments to Principal Value:</b>		
Fair value of interest rate swaps	135	234
Unamortized basis adjustment from swap terminations	594	369
Unamortized bond discounts	(22)	(24)
<b>Total</b>	<b>\$ 5,376</b>	<b>\$ 5,328</b>

Included in other debt is \$50 million of Floating Rate Convertible Senior Debentures due 2023 which can be redeemed by the holders at par on September 15, 2013 and 2018, or if a fundamental change in ownership occurs. The Debentures are callable at par at any time by the Company. The Debentures have a current conversion price of \$40.42, equal to a conversion rate of 24.7429 shares for each \$1,000 principal amount, subject to certain anti-dilutive adjustments.

In February 2009, Mead Johnson entered into a three-year syndicated revolving credit facility agreement. In the fourth quarter of 2009, Mead Johnson borrowed \$200 million under the revolving credit facility and issued various Notes totaling \$1.5 billion, the proceeds of which were used to repay certain intercompany debt prior to the split-off.

The principal value of long-term debt obligations was \$4,669 million at December 31, 2011 of which \$597 million is due in 2013, \$652 million is due in 2016, and the remaining \$3,420 million due in 2017 or thereafter. The fair value of long-term debt was \$6,406 million and \$5,861 million at December 31, 2011 and 2010, respectively, and was estimated based upon the quoted market prices for the same or similar debt instruments. The fair value of short-term borrowings approximates the carrying value due to the short maturities of the debt instruments.

Debt repurchase activity was as follows:

Dollars in Millions	2011	2010	2009
Principal amount	\$ 71	\$ 750	\$ 117
Repurchase price	78	855	132
Notional amount of interest rate swaps terminated	34	319	53
Swap termination proceeds	6	48	7
<b>Total (gain)/loss</b>	<b>(10)</b>	<b>6</b>	<b>(7)</b>

Interest payments were \$171 million in 2011, \$178 in 2010 and \$206 million in 2009 net of amounts related to interest rate swap contracts.

In September 2011, the Company replaced its \$2.0 billion revolving credit facility with a new \$1.5 billion five year revolving credit facility from a syndicate of lenders, which is extendable on any anniversary date with the consent of the lenders. There are no financial covenants under the new facility. There were no borrowings outstanding under either revolving credit facility at December 31, 2011 and 2010.

At December 31, 2011, \$233 million of financial guarantees were provided in the form of stand-by letters of credit and performance bonds. The stand-by letters of credit are issued through financial institutions in support of guarantees made by BMS and its affiliates for various obligations. The performance bonds were issued to support a range of ongoing operating activities, including sale of products to hospitals and foreign ministries of health, bonds for customs, duties and value added tax and guarantees related to miscellaneous legal actions. A significant majority of the outstanding financial guarantees will expire within the year and are not expected to be funded.

#### Note 11. RECEIVABLES

Receivables include:

Dollars in Millions	December 31,	
	2011	2010
Trade receivables	\$ 2,397	\$ 2,092
Less allowances	(147)	(107)
Net trade receivables	2,250	1,985
Alliance partners receivables	1,081	1,076
Prepaid and refundable income taxes	256	223
Miscellaneous receivables	156	196
Receivables	\$ 3,743	\$ 3,480

Receivables are netted with deferred income related to alliance partners until recognition of income. As a result, alliance partner receivables and deferred income were reduced by \$901 million and \$734 million at December 31, 2011 and 2010, respectively. For additional information regarding alliance partners, see "—Note 3. Alliances and Collaborations." Non-U.S. receivables sold on a nonrecourse basis were \$1,077 million in 2011, \$932 million in 2010, and \$660 million in 2009. In the aggregate, receivables due from three pharmaceutical wholesalers in the U.S. represented 55% and 51% of total trade receivables at December 31, 2011 and 2010, respectively.

Changes to the allowances for bad debt, charge-backs and cash discounts were as follows:

Dollars in Millions	Year Ended December 31,		
	2011	2010	2009
Balance at beginning of year	\$ 107	\$ 103	\$ 128
Provision	1,094	864	776
Utilization	(1,054)	(860)	(800)
Discontinued operations	—	—	(1)
Balance at end of year	\$ 147	\$ 107	\$ 103

#### Note 12. INVENTORIES

Inventories include:

Dollars in Millions	December 31,	
	2011	2010
Finished goods	\$ 478	\$ 397
Work in process	646	608
Raw and packaging materials	260	199
Inventories	\$ 1,384	\$ 1,204

Inventories expected to remain on-hand beyond one year are included in non-current other assets and were \$260 million (including \$92 million of capitalized costs which are subject to regulatory approval prior to being sold) at December 31, 2011 and \$297 million at December 31, 2010. The status of the regulatory approval process and the probability of future sales were considered in assessing the recoverability of these costs.

### Note 13. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment includes:

Dollars in Millions	December 31,	
	2011	2010
Land	\$ 137	\$ 133
Buildings	4,545	4,565
Machinery, equipment and fixtures	3,437	3,423
Construction in progress	262	139
Gross property, plant and equipment	8,381	8,260
Less accumulated depreciation	(3,860)	(3,596)
Property, plant and equipment	\$ 4,521	\$ 4,664

Depreciation expense was \$448 million in 2011, \$473 million in 2010 and \$469 million in 2009, of which \$51 million in 2009 was included in discontinued operations. Capitalized interest was \$8 million in 2010 and \$13 million in 2009.

### Note 14. GOODWILL AND OTHER INTANGIBLE ASSETS

Changes in the carrying amount of goodwill were as follows:

Dollars in Millions		
Balance at January 1, 2010	\$	5,218
ZymoGenetics acquisition		15
Balance at December 31, 2010		5,233
Amira acquisition		265
Other		88
Balance at December 31, 2011	\$	5,586

Other includes an out-of-period adjustment recorded to correct the purchase price allocation for the September 2009 Medarex acquisition and a \$24 million contingent milestone payment from a prior acquisition. The Medarex purchase price adjustment decreased other intangible assets by \$98 million and increased deferred tax assets by \$34 million and goodwill by \$64 million. The effect of this adjustment was not material for the current or any prior periods.

Other intangible assets include:

Dollars in Millions	Estimated Useful Lives	December 31, 2011			December 31, 2010		
		Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Licenses	2 – 15 years	\$ 1,218	\$ 443	\$ 775	\$ 965	\$ 368	\$ 597
Technology	9 – 15 years	2,608	1,194	1,414	1,562	1,001	561
Capitalized software	3 – 10 years	1,147	857	290	1,140	841	299
Total finite-lived intangible assets		4,973	2,494	2,479	3,667	2,210	1,457
IPRD		645	—	645	1,913	—	1,913
Total other intangible assets		\$ 5,618	\$ 2,494	\$ 3,124	\$ 5,580	\$ 2,210	\$ 3,370

In 2011, \$1.0 billion of IPRD was reclassified to technology upon approval of YERVOY in the U.S. and \$367 million of IPRD was reclassified to licenses for out-licensed compounds that have no further performance obligations.

Changes in other intangible assets were as follows:

Dollars in Millions	2011	2010	2009
Other intangible assets carrying amount at January 1	\$ 3,370	\$ 2,865	\$ 1,151
Capitalized software and other additions	75	107	96
Acquisitions	160	678	1,910
Mead Johnson split-off	—	—	(50)
Amortization – licenses and technology	(271)	(199)	(170)
Amortization – capitalized software	(82)	(72)	(68)
Impairment charges	(30)	(10)	—
Other	(98)	1	(4)
Other intangible assets carrying amount at December 31	\$ 3,124	\$ 3,370	\$ 2,865

Amortization expense included in discontinued operations was \$9 million in 2009.

Amortization expense of other intangible assets is expected to be \$350 million in 2012, \$275 million in 2013, \$263 million in 2014, \$236 million in 2015, \$218 million in 2016 and \$1,138 million thereafter.

#### Note 15. ACCRUED EXPENSES

Accrued expenses include:

Dollars in Millions	December 31,	
	2011	2010
Employee compensation and benefits	\$ 783	\$ 718
Royalties	571	576
Accrued research and development	450	411
Restructuring—current	58	108
Pension and postretirement benefits	46	47
Accrued litigation	32	54
Other	851	826
Total accrued expenses	<u>\$ 2,791</u>	<u>\$ 2,740</u>

#### Note 16. SALES REBATES AND RETURN ACCRUALS

Reductions to trade receivables and accrued rebates and returns liabilities are as follows:

Dollars in Millions	December 31,	
	2011	2010
Charge-backs related to government programs	\$ 51	\$ 48
Cash discounts	28	29
Reductions to trade receivables	<u>\$ 79</u>	<u>\$ 77</u>
Managed healthcare rebates and other contract discounts	\$ 417	\$ 216
Medicaid rebates	411	327
Sales returns	161	187
Other adjustments	181	127
Accrued rebates and returns	<u>\$ 1,170</u>	<u>\$ 857</u>

#### Note 17. DEFERRED INCOME

Deferred income includes:

Dollars in Millions	December 31,	
	2011	2010
Upfront, milestone and other licensing receipts	\$ 882	\$ 797
ATRIPLA* deferred revenue	113	227
Gain on sale-leaseback transactions	120	147
Other	88	126
Total deferred income	<u>\$ 1,203</u>	<u>\$ 1,297</u>
Current portion	\$ 337	\$ 402
Non-current portion	866	895

Upfront, milestone and other licensing receipts are being amortized over the expected life of the product. See "—Note 3. Alliances and Collaborations" for information pertaining to revenue recognition and other transactions with alliances and collaborations. The deferred gains on several sale-leaseback transactions are being amortized over the remaining lease terms of the related facilities through 2018 and were \$28 million in 2011, \$27 million in 2010 and \$28 million in 2009.

**Note 18. EQUITY**

	Common Stock		Capital in Excess		Treasury Stock		Non-Controlling Interest
	Shares	Par Value	of Par Value	Retained Earnings	Shares	Cost	
Dollars and Shares in Millions							
Balance at January 1, 2009	2,205	\$ 220	\$ 2,757	\$ 22,549	226	\$ (10,566)	\$ (33)
Net earnings attributable to BMS	—	—	—	10,612	—	—	—
Cash dividends declared	—	—	—	(2,401)	—	—	—
Mead Johnson IPO	—	—	942	—	—	—	(160)
Adjustments to the Mead Johnson net asset transfer	—	—	(7)	—	—	—	7
Mead Johnson split-off	—	—	—	—	269	(6,921)	105
Employee stock compensation plans	—	—	76	—	(4)	123	—
Net earnings attributable to non-controlling interest	—	—	—	—	—	—	1,808
Other comprehensive income attributable to noncontrolling interest	—	—	—	—	—	—	10
Distributions	—	—	—	—	—	—	(1,795)
Balance at December 31, 2009	2,205	220	3,768	30,760	491	(17,364)	(58)
Net earnings attributable to BMS	—	—	—	3,102	—	—	—
Cash dividends declared	—	—	—	(2,226)	—	—	—
Stock repurchase program	—	—	—	—	23	(587)	—
Employee stock compensation plans	—	—	(86)	—	(13)	497	—
Net earnings attributable to non-controlling interest	—	—	—	—	—	—	2,091
Distributions	—	—	—	—	—	—	(2,108)
Balance at December 31, 2010	2,205	220	3,682	31,636	501	(17,454)	(75)
Net earnings attributable to BMS	—	—	—	3,709	—	—	—
Cash dividends declared	—	—	—	(2,276)	—	—	—
Stock repurchase program	—	—	—	—	42	(1,226)	—
Employee stock compensation plans	—	—	(568)	—	(28)	1,278	—
Net earnings attributable to non-controlling interest	—	—	—	—	—	—	2,333
Other comprehensive income attributable to noncontrolling interest	—	—	—	—	—	—	7
Distributions	—	—	—	—	—	—	(2,354)
Balance at December 31, 2011	2,205	220	3,114	33,069	515	(17,402)	(89)

Treasury stock is recognized at the cost to reacquire the shares. Treasury shares acquired from the Mead Johnson split-off were recognized at the fair value of the stock as of the split-off date. Shares issued from treasury are recognized utilizing the first-in first-out method.

In May 2010, the Board of Directors authorized the repurchase of up to \$3.0 billion of common stock. Repurchases may be made either in the open market or through private transactions, including under repurchase plans established in accordance with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The stock repurchase program does not have an expiration date and may be suspended or discontinued at any time.

Noncontrolling interest is primarily related to the partnerships with Sanofi for the territory covering the Americas for net sales of PLAVIX\*. Net earnings attributable to noncontrolling interest are presented net of taxes of \$792 million in 2011, \$683 million in 2010 and \$589 million in 2009, in the consolidated statements of earnings with a corresponding increase to the provision for income taxes. Distribution of the partnership profits to Sanofi and Sanofi's funding of ongoing partnership operations occur on a routine basis. The above activity includes the pre-tax income and distributions related to these partnerships. Net earnings from noncontrolling interest included in discontinued operations was \$69 million in 2009.

The accumulated balances related to each component of other comprehensive income/(loss) (OCI), net of taxes, were as follows:

Dollars in Millions					Accumulated
	Foreign	Derivatives	Pension and		Other
	Currency	Qualifying as	Other	Available for	Comprehensive
	Translation	Effective Hedges	Postretirement Benefits	Sale Securities	Income/(Loss)
Balance at January 1, 2009	\$ (424)	\$ 14	\$ (2,258)	\$ (51)	\$ (2,719)
Other comprehensive income/(loss)	81	(44)	100	41	178
Balance at December 31, 2009	(343)	(30)	(2,158)	(10)	(2,541)
Other comprehensive income/(loss)	121	10	(5)	44	170
Balance at December 31, 2010	(222)	(20)	(2,163)	34	(2,371)
Other comprehensive income/(loss)	(16)	56	(742)	28	(674)
Balance at December 31, 2011	\$ (238)	\$ 36	\$ (2,905)	\$ 62	\$ (3,045)

#### Note 19. PENSION, POSTRETIREMENT AND POSTEMPLOYMENT LIABILITIES

The Company and certain of its subsidiaries sponsor defined benefit pension plans, defined contribution plans and termination indemnity plans for regular full-time employees. The principal defined benefit pension plan is the Bristol-Myers Squibb Retirement Income Plan, which covers most U.S. employees and represents approximately 70% of the consolidated pension plan assets and obligations. The funding policy is to contribute at least the minimum amount required by the Employee Retirement Income Security Act of 1974 (ERISA). Plan benefits are based primarily on the participant's years of credited service and final average compensation. Plan assets consist principally of equity and fixed-income securities.

Comprehensive medical and group life benefits are provided for substantially all U.S. retirees who elect to participate in comprehensive medical and group life plans. The medical plan is contributory. Contributions are adjusted periodically and vary by date of retirement. The life insurance plan is noncontributory. Plan assets consist principally of equity and fixed-income securities. Similar plans exist for employees in certain countries outside of the U.S.

The net periodic benefit cost of defined benefit pension and postretirement benefit plans includes:

Dollars in Millions	Pension Benefits			Other Benefits		
	2011	2010	2009	2011	2010	2009
Service cost — benefits earned during the year	\$ 43	\$ 44	\$ 178	\$ 8	\$ 6	\$ 6
Interest cost on projected benefit obligation	337	347	381	26	30	37
Expected return on plan assets	(464)	(453)	(453)	(26)	(24)	(19)
Amortization of prior service cost/(benefit)	(1)	—	4	(3)	(3)	(3)
Amortization of net actuarial loss	112	95	94	7	10	10
Curtailments	(3)	5	24	(1)	—	—
Settlements	15	22	29	—	—	—
Special termination benefits	—	1	—	—	—	—
Total net periodic benefit cost	\$ 39	\$ 61	\$ 257	\$ 11	\$ 19	\$ 31
Continuing operations	\$ 39	\$ 61	\$ 242	\$ 11	\$ 19	\$ 28
Discontinued operations	—	—	15	—	—	3
Total net periodic benefit cost	\$ 39	\$ 61	\$ 257	\$ 11	\$ 19	\$ 31

Net actuarial loss and prior service cost of \$140 million is expected to be amortized from accumulated OCI into net periodic benefit cost for pension and postretirement benefit plans in 2012.

The U.S. Retirement Income Plan and several other plans were amended during June 2009. The amendments eliminate the crediting of future benefits relating to service effective December 31, 2009. Salary increases will continue to be considered for an additional five-year period in determining the benefit obligation related to prior service. The plan amendments were accounted for as a curtailment. As a result, the applicable plan assets and obligations were remeasured. The remeasurement resulted in a \$455 million reduction to accumulated OCI (\$295 million net of taxes) and a corresponding decrease to the funded status of the plan due to the curtailment, updated plan asset valuations and a change in the discount rate from 7.0% to 7.5%. A curtailment charge of \$25 million was also recognized in other expense during the second quarter of 2009 for the remaining amount of unrecognized prior service cost. In addition, all participants were reclassified as inactive for benefit plan purposes and actuarial gains and losses will be amortized over the expected weighted-average remaining lives of plan participants (32 years).

In connection with the plan amendment, contributions to principal defined contribution plans in the U.S. and Puerto Rico increased effective January 1, 2010. The net impact of the above actions is expected to reduce the future retiree benefit costs, although future costs will continue to be subject to market conditions and other factors including actual and expected plan asset performance, interest rate fluctuations and lump-sum benefit payments.

In 2009, certain plan assets and related obligations were transferred from the U.S. Retirement Income Plan and several other plans to new plans sponsored by Mead Johnson for active Mead Johnson participants resulting in a \$170 million reduction to accumulated OCI (\$110 million net of taxes) in the first quarter of 2009 and a corresponding decrease to the funded status of the plan due to updated plan asset valuations and a change in the discount rate from 6.5% to 7.0%.

Changes in defined benefit and postretirement benefit plan obligations, assets, funded status and amounts recognized in the consolidated balance sheets were as follows:

Dollars in Millions	Pension Benefits		Other Benefits	
	2011	2010	2011	2010
Benefit obligations at beginning of year	\$ 6,704	\$ 6,386	\$ 589	\$ 579
Service cost—benefits earned during the year	43	44	8	6
Interest cost	337	347	26	30
Plan participants' contributions	3	3	25	25
Curtailments	(3)	2	(1)	—
Settlements	(41)	(50)	(2)	—
Plan amendments	(40)	—	(1)	—
Actuarial losses	876	397	6	16
Retiree Drug Subsidy	—	—	12	10
Benefits paid	(386)	(377)	(79)	(78)
Special termination benefits	—	1	—	—
Exchange rate losses/(gains)	6	(49)	(1)	1
Benefit obligations at end of year	\$ 7,499	\$ 6,704	\$ 582	\$ 589
Fair value of plan assets at beginning of year	\$ 5,766	\$ 5,103	\$ 315	\$ 278
Actual return on plan assets	66	697	10	37
Employer contributions	432	431	24	43
Plan participants' contributions	3	3	25	25
Settlements	(41)	(50)	(2)	—
Retiree Drug Subsidy	—	—	12	10
Benefits paid	(386)	(377)	(79)	(78)
Exchange rate gains/(losses)	2	(41)	—	—
Fair value of plan assets at end of year	\$ 5,842	\$ 5,766	\$ 305	\$ 315
Funded status	\$ (1,657)	\$ (938)	\$ (277)	\$ (274)
Assets/Liabilities recognized:				
Other assets	\$ 39	\$ 37	\$ —	\$ —
Accrued expenses	(33)	(33)	(12)	(13)
Pension and other postretirement liabilities	(1,663)	(942)	(265)	(261)
Funded status	\$ (1,657)	\$ (938)	\$ (277)	\$ (274)
Recognized in accumulated other comprehensive loss:				
Net actuarial loss	\$ 4,297	\$ 3,150	\$ 166	\$ 151
Net obligation at adoption	1	1	—	—
Prior service cost/(benefit)	(39)	—	(8)	(10)
Total	\$ 4,259	\$ 3,151	\$ 158	\$ 141

The accumulated benefit obligation for all defined benefit pension plans was \$7,322 million and \$6,407 million at December 31, 2011 and 2010, respectively.

Additional information related to pension plans was as follows:

Dollars in Millions	2011	2010
Pension plans with projected benefit obligations in excess of plan assets:		
Projected benefit obligation	\$ 7,236	\$ 6,436
Fair value of plan assets	5,540	5,461
Pension plans with accumulated benefit obligations in excess of plan assets:		
Accumulated benefit obligation	\$ 6,867	\$ 6,112
Fair value of plan assets	5,327	5,415

## Actuarial Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31 were as follows:

	Pension Benefits		Other Benefits	
	2011	2010	2011	2010
Discount rate	4.4%	5.2%	4.1%	4.8%
Rate of compensation increase	2.3%	2.4%	2.0%	2.0%

Weighted-average actuarial assumptions used to determine net periodic benefit cost for the years ended December 31 were as follows:

	Pension Benefits			Other Benefits		
	2011	2010	2009	2011	2010	2009
Discount rate	5.2%	5.6%	6.9%	4.8%	5.5%	7.0%
Expected long-term return on plan assets	8.3%	8.3%	8.2%	8.8%	8.8%	8.8%
Rate of compensation increase	2.4%	3.7%	3.6%	2.0%	3.5%	3.5%

The yield on high quality corporate bonds that matches the duration of the benefit obligations is used in determining the discount rate. The Citigroup Pension Discount curve is used in developing the discount rate for the U.S. plans.

Several factors are considered in developing the expected return on plan assets, including long-term historical returns and input from external advisors. Individual asset class return forecasts were developed based upon market conditions, for example, price-earnings levels and yields and long-term growth expectations. The expected long-term rate of return is the weighted-average of the target asset allocation of each individual asset class. Historical long-term actual annualized returns for U.S. pension plans were as follows:

	2011	2010	2009
10 years	5.6%	4.7%	3.6%
15 years	7.0%	7.9%	8.4%
20 years	8.1%	9.3%	8.4%

Pension and postretirement liabilities were increased by \$1.3 billion at December 31, 2011 with a corresponding charge to other comprehensive income as a result of lower than expected return on plan assets (\$414 million) and actuarial losses attributed to the benefit obligation (\$882 million). These actuarial losses resulted from prevailing equity and fixed income market conditions and a reduction in interest rates in 2011.

The expected return on plan assets was determined using the expected rate of return and a calculated value of assets, referred to as the "market-related value." The market-related value exceeded the fair value of plan assets by \$151 million at December 31, 2011. The fair value of plan assets exceeded the market-related value by \$313 million at December 31, 2010. Differences between the assumed and actual returns are amortized to the market-related value on a straight-line basis over a three-year period.

Gains and losses have resulted from changes in actuarial assumptions (such as changes in the discount rate) and from differences between assumed and actual experience (such as differences between actual and expected return on plan assets). These gains and losses (except those differences being amortized to the market-related value) are only amortized to the extent they exceed 10% of the higher of the market-related value or the projected benefit obligation for each respective plan. As a result, approximately \$900 million related to pension benefits is not expected to be amortized during 2012. The majority of the remaining actuarial losses are amortized over the life expectancy of the plans' participants for U.S. plans and expected remaining service periods for most other plans.

Assumed healthcare cost trend rates at December 31 were as follows:

	2011	2010	2009
Healthcare cost trend rate assumed for next year	7.4%	7.9%	8.4%
Rate to which the cost trend rate is assumed to decline (the ultimate trend rate)	4.5%	4.5%	4.5%
Year that the rate reaches the ultimate trend rate	2018	2018	2018

Assumed healthcare cost trend rates have an effect on the amounts reported for the healthcare plans. A one-percentage-point change in assumed healthcare cost trend rates would have the following effects:

Dollars in Millions	1-Percentage-Point Increase	1-Percentage-Point Decrease
Effect on total of service and interest cost	\$ 1	\$ (1)
Effect on postretirement benefit obligation	15	(11)

## Plan Assets

The fair value of pension and postretirement plan assets by asset category at December 31, 2011 and 2010 was as follows:

Dollars in Millions	December 31, 2011				December 31, 2010			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Equity Funds	\$ 236	\$ 1,559	\$ 4	\$ 1,799	\$ 237	\$ 1,665	\$ 7	\$ 1,909
Equity Securities	1,679	—	—	1,679	1,752	—	—	1,752
Fixed Income Funds	203	419	—	622	181	367	—	548
Venture Capital and Limited Partnerships	—	—	408	408	—	—	415	415
Government Mortgage Backed Securities	—	372	8	380	—	391	—	391
Corporate Debt Securities	—	315	10	325	—	309	14	323
Short-Term Investment Funds	—	306	—	306	—	244	—	244
U.S. Treasury and Agency Securities	—	304	—	304	26	112	—	138
Insurance Contracts	—	—	125	125	—	—	144	144
Event Driven Hedge Funds	—	86	—	86	—	86	—	86
Collateralized Mortgage Obligation Bonds	—	63	7	70	—	87	10	97
State and Municipal Bonds	—	34	—	34	—	24	—	24
Asset Backed Securities	—	17	4	21	—	24	7	31
Real Estate	—	12	—	12	—	11	—	11
Cash and Cash Equivalents	(24)	—	—	(24)	(32)	—	—	(32)
Total plan assets at fair value	<u>\$ 2,094</u>	<u>\$ 3,487</u>	<u>\$ 566</u>	<u>\$ 6,147</u>	<u>\$ 2,164</u>	<u>\$ 3,320</u>	<u>\$ 597</u>	<u>\$ 6,081</u>

The investment valuation policies per investment class are as follows:

Level 1 inputs utilize quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs. These instruments include equity securities, equity funds, and fixed income funds publicly traded on a national securities exchange, U.S. treasury and agency securities, and cash and cash equivalents. Cash and cash equivalents are highly liquid investments with original maturities of three months or less at the time of purchase and are recognized at cost, which approximates fair value. Pending trade sales and purchases are included in cash and cash equivalents until final settlement.

Level 2 inputs include observable prices for similar instruments, quoted prices for identical or similar instruments in markets that are not active, and other observable inputs that can be corroborated by market data for substantially the full term of the assets or liabilities. Equity funds, fixed income funds, event driven hedge funds and short-term investment funds classified as Level 2 within the fair value hierarchy are valued at the net asset value of their shares held at year end. Corporate debt securities, government mortgage backed securities, collateralized mortgage obligation bonds, asset backed securities, U.S. treasury and agency securities, state and municipal bonds, and real estate interests classified as Level 2 within the fair value hierarchy are valued utilizing observable prices for similar instruments and quoted prices for identical or similar instruments in markets that are not active.

Level 3 unobservable inputs are used when little or no market data is available. Equity funds, venture capital and limited partnership investments classified as Level 3 within the fair value hierarchy are valued at estimated fair value. The estimated fair value is based on the fair value of the underlying investment values or cost plus or minus accumulated earnings or losses which approximates fair value. Insurance contract interests are carried at contract value, which approximates the estimated fair value and is based on the fair value of the underlying investment of the insurance company. Insurance contracts are held by certain foreign pension plans. Valuation models for corporate debt securities, collateralized mortgage obligation bonds and asset backed securities classified as Level 3 within the fair value hierarchy are based on estimated bids from brokers or other third-party vendor sources that utilize expected cash flow streams and collateral values including assessments of counterparty credit quality, default risk, discount rates and overall capital market liquidity.

The following summarizes the activity for financial assets utilizing Level 3 fair value measurements:

Dollars in Millions	Venture Capital and Limited			
	Partnerships	Insurance Contracts	Other	Total
Fair value at January 1, 2010	\$ 391	\$ 141	\$ 53	\$ 585
Purchases	43	6	3	52
Sales	(2)	(17)	(19)	(38)
Settlements	(66)	—	(3)	(69)
Realized (losses)/gains	34	—	(2)	32
Unrealized gains/(losses)	15	14	7	36
Fair value at December 31, 2010	415	144	39	598
Purchases	53	8	5	66
Sales	(5)	(31)	(3)	(39)
Settlements	(48)	—	(4)	(52)
Realized (losses)/gains	56	—	3	59
Unrealized gains/(losses)	(63)	4	(7)	(66)
Fair value at December 31, 2011	\$ 408	\$ 125	\$ 33	\$ 566

The investment strategy emphasizes equities in order to achieve higher expected returns and lower expenses and required cash contributions over the long-term. A target asset allocation of 70% public equity (58% U.S. and 12% international), 8% private equity and 22% fixed income is maintained for the U.S. pension plans. Investments are well diversified within each of the three major asset categories. Approximately 82% of the U.S. pension plans equity investments are actively managed. Venture capital and limited partnerships are typically valued on a three month lag. Bristol-Myers Squibb Company common stock represents less than 1% of the plan assets at December 31, 2011 and 2010.

#### Contributions

Contributions to the U.S. pension plans were \$343 million in 2011, \$341 million in 2010 and \$656 million in 2009 (including \$27 million by Mead Johnson). Contributions to the U.S. pension plans are expected to approximate \$340 million during 2012, of which \$300 million was contributed in January 2012.

Contributions to the international pension plans were \$88 million in 2011, \$90 million in 2010 and \$133 million in 2009. Contributions to the international plans are expected to range from \$75 million to \$90 million in 2012.

#### Estimated Future Benefit Payments

Dollars in Millions	Pension Benefits	Other Benefits
2012	\$ 384	\$ 50
2013	395	51
2014	406	47
2015	407	45
2016	415	44
Years 2017 – 2021	2,083	202

#### Savings Plan

The principal defined contribution plan is the Bristol-Myers Squibb Savings and Investment Program. The contribution is based on employee contributions and the level of Company match. The qualified defined contribution plans were amended to allow for increased matching and additional Company contributions effective in 2010. The expense related to the plan was \$181 million in 2011, \$188 million in 2010 and \$50 million in 2009.

#### Post Employment Benefit Plan

Post-employment liabilities for long-term disability benefits were \$92 million at both December 31, 2011 and 2010. The expense related to these benefits was \$18 million in 2011 and 2010 and \$21 million in 2009.

### Termination Indemnity Plans

Statutory termination obligations in Europe are recognized on an undiscounted basis assuming employee termination at each measurement date. The liability recognized for these obligations was \$25 million at both December 31, 2011 and 2010.

### Note 20. EMPLOYEE STOCK BENEFIT PLANS

On May 1, 2007, the shareholders approved the 2007 Stock Award and Incentive Plan (the 2007 Plan), which replaced the 2002 Stock Incentive Plan that expired on May 31, 2007. Shares of common stock reserved for issuance pursuant to stock plans, options and conversions of preferred stock were 302 million at December 31, 2011. Shares available to be granted for the active plans, adjusted for the combination of plans, were 108 million at December 31, 2011. Shares for the stock option exercise and share unit vesting are issued from treasury stock. Only shares actually delivered to participants in connection with an award after all restrictions have lapsed will reduce the number of shares reserved. Shares tendered in a prior year to pay the purchase price of options and shares previously utilized to satisfy withholding tax obligations upon exercise continue to be available and reserved.

Executive officers and key employees may be granted options to purchase common stock at no less than the market price on the date the option is granted. Options generally become exercisable ratably over 4 years and have a maximum term of 10 years. Additionally, the plan provides for the granting of stock appreciation rights whereby the grantee may surrender exercisable rights and receive common stock and/or cash measured by the excess of the market price of the common stock over the option exercise price.

Common stock may be granted to key employees, subject to restrictions as to continuous employment. Restrictions expire over a four year period from date of grant. Compensation expense is recognized over the vesting period. A stock unit is a right to receive stock at the end of the specified vesting period but has no voting rights.

Beginning in 2010, market share units were granted to certain executives. Vesting of market share units is conditioned upon continuous employment until vesting date and the payout factor equals at least 60%. The payout factor is the share price on vesting date divided by share price on award date, with a maximum of 200%. The share price used in the payout factor is calculated using an average of the closing prices on the grant or vest date, and the nine trading days immediately preceding the grant or vest date. Vesting occurs ratably over four years.

Long-term performance awards have a three year cycle and are delivered in the form of a target number of performance share units. The number of shares ultimately issued is calculated based on actual performance compared to earnings targets and other performance criteria established at the beginning of the performance period. The awards have annual goals with a maximum payout of 167.5%. If threshold targets are not met for a performance period, no payment is made under the plan for that annual period. Vesting occurs at the end of the three year period.

Stock-based compensation expense is based on awards ultimately expected to vest and is recognized over the vesting period. Forfeitures are estimated based on historical experience at the time of grant and revised in subsequent periods if actual forfeitures differ from those estimates. Stock-based compensation expense was as follows:

Dollars in Millions	Years Ended December 31,		
	2011	2010	2009
Stock options	\$ 27	\$ 50	\$ 78
Restricted stock	79	83	76
Market share units	23	13	—
Long-term performance awards	32	47	29
Total stock-based compensation expense	<u>\$ 161</u>	<u>\$ 193</u>	<u>\$ 183</u>
Continuing operations	\$ 161	\$ 193	\$ 165
Discontinued operations	—	—	18
Total stock-based compensation expense	<u>\$ 161</u>	<u>\$ 193</u>	<u>\$ 183</u>
Deferred tax benefit related to stock-based compensation expense	<u>\$ 56</u>	<u>\$ 63</u>	<u>\$ 60</u>

Share-based compensation activities were as follows:

Shares in Thousands	Stock Options		Restricted Stock Units		Market Share Units		Long-Term Performance Awards	
	Number of Options Outstanding	Weighted-Average Exercise Price of Shares	Number of Nonvested Awards	Weighted-Average Grant-Date Fair Value	Number of Nonvested Awards	Weighted-Average Grant-Date Fair Value	Number of Nonvested Awards	Weighted-Average Grant-Date Fair Value
Balance at January 1, 2011	104,724	\$ 29.02	9,343	\$ 21.53	1,248	\$ 24.69	4,550	\$ 19.83
Granted	—	—	3,358	26.04	1,353	25.83	1,642	25.30
Released/Exercised	(23,703)	23.49	(3,400)	21.92	(325)	24.70	(2,831)	18.89
Adjustments for actual payout	—	—	—	—	(17)	24.70	277	25.38
Forfeited	(10,797)	54.08	(885)	22.20	(277)	25.17	(227)	24.38
Balance at December 31, 2011	<u>70,224</u>	<u>27.04</u>	<u>8,416</u>	<u>23.10</u>	<u>1,982</u>	<u>25.39</u>	<u>3,411</u>	<u>23.53</u>

Total compensation costs related to share-based payment awards not yet recognized and the weighted-average period over which such awards are expected to be recognized at December 31, 2011 were as follows:

Dollars in Millions	Stock Options	Restricted Stock Units	Market Share Units	Long-Term Performance Awards
Unrecognized compensation cost	\$ 13	\$ 135	\$ 27	\$ 30
Expected weighted-average period in years of compensation cost to be recognized	1.1	2.5	2.9	1.5

Additional information related to share-based compensation awards is summarized as follows:

Amounts in Millions, except per share data	2011	2010	2009
Weighted-average grant date fair value (per share):			
Stock options	\$ —	\$ —	\$ 3.60
Restricted stock units	26.04	24.80	17.77
Market share units	25.83	24.69	—
Long-term performance awards	25.30	23.65	15.59
Fair value of options or awards that vested during the year:			
Stock options	\$ 45	\$ 73	\$ 103
Restricted stock units	75	79	74
Market share units	8	—	—
Long-term performance awards	21	56	21
Total intrinsic value of stock options exercised during the year	\$ 154	\$ 47	\$ 6

The following table summarizes significant ranges of outstanding and exercisable options at December 31, 2011 (amounts in millions, except per share data):

Range of Exercise Prices	Options Outstanding				Options Exercisable			
	Number Outstanding (in thousands)	Weighted-Average Remaining Contractual Life (in years)	Weighted-Average Exercise Price Per Share	Aggregate Intrinsic Value	Number Exercisable	Weighted-Average Remaining Contractual Life (in years)	Weighted-Average Exercise Price Per Share	Aggregate Intrinsic Value
\$1 - \$20	13,062	7.16	\$ 17.48	\$ 232	5,997	7.14	\$ 17.37	\$ 107
\$20 - \$30	47,186	3.64	25.25	472	44,986	3.48	25.40	443
\$30 - \$40	28	3.82	30.97	—	28	3.82	30.97	—
\$40 and up	9,948	0.17	48.10	—	9,948	0.17	48.10	—
	<u>70,224</u>	<u>3.80</u>	<u>27.04</u>	<u>\$ 704</u>	<u>60,959</u>	<u>3.33</u>	<u>28.32</u>	<u>\$ 550</u>

The aggregate intrinsic value in the preceding table represents the total pre-tax intrinsic value, based on the closing stock price of \$35.24 on December 31, 2011.

### Fair Value Assumptions

The fair value of stock options was estimated on the grant date using the Black-Scholes option pricing model for stock options with a service condition, and a model applying multiple input variables that determine the probability of satisfying market conditions for options with service and market conditions. The following weighted-average assumptions were used in the valuation:

	2009
Expected volatility	35.8%
Risk-free interest rate	2.4%
Dividend yield	5.7%
Expected life	7.0 yrs

The expected volatility assumption required in the Black-Scholes model was derived by calculating a 10-year historical volatility and weighting that equally with the derived implied volatility. The blended historical and implied volatility approach of expected volatility is believed to be more representative of future stock price trends than using only historical volatility.

The risk-free interest rate assumption is based upon the U.S. Treasury yield curve in effect on the grant date. The dividend yield assumption is based on historical and expected dividend payouts.

The expected life of stock options represents the weighted-average period the stock options will remain outstanding and is a derived output of a lattice-binomial model. The expected life is impacted by all of the underlying assumptions and calibration of the model. The model assumes that employees' exercise behavior is a function of the option's remaining vested life and the extent to which the option is in-the-money. The model estimates the probability of exercise as a function of these two variables based on historical exercises and cancellations on prior option grants made.

The fair value of restricted stock units and long-term performance awards is determined based on the closing trading price of the Company's common stock on the grant date. Beginning in 2010, the fair value of performance share units granted was not discounted because they participate in dividends. The fair value of performance share units granted prior to 2010 was discounted using the risk-free interest rate on the date of grant because they do not participate in dividends.

The fair value of the market share units was estimated on the date of grant using a model applying multiple input variables that determine the probability of satisfying market conditions. The model uses the following input variables:

	2011	2010
Expected volatility	24.3%	24.8%
Risk-free interest rate	1.8%	1.9%
Dividend yield	4.9%	5.8%

Expected volatility is based on the four year historical volatility levels on the Company's common stock and the current implied volatility. The four-year risk-free interest rate was derived from the Federal Reserve, based on the market share units' contractual term. Expected dividend yield is based on historical dividend payments.

### Note 21. LEASES

Minimum rental commitments for non-cancelable operating leases (primarily real estate and motor vehicles) in effect at December 31, 2011, were as follows:

Years Ending December 31,	Dollars in Millions	
2012	\$	136
2013		122
2014		113
2015		96
2016		93
Later years		162
Total minimum rental commitments	\$	722

Operating lease expense was \$136 million in 2011, \$145 million in 2010 and \$149 million in 2009, of which \$17 million in 2009 was included in discontinued operations. Sublease income was not material for the years ended December 31, 2011, 2010 and 2009.

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## **Note 22. LEGAL PROCEEDINGS AND CONTINGENCIES**

The Company and certain of its subsidiaries are involved in various lawsuits, claims, government investigations and other legal proceedings that arise in the ordinary course of business. The Company recognizes accruals for such contingencies when it is probable that a liability will be incurred and the amount of loss can be reasonably estimated. These matters involve patent infringement, antitrust, securities, pricing, sales and marketing practices, environmental, commercial, health and safety matters, consumer fraud, employment matters, product liability and insurance coverage. Litigation expense, net included a \$41 million insurance reimbursement from prior litigation offset by additional reserves for certain average wholesale prices (AWP) litigation in 2010, and a \$125 million securities litigation settlement in 2009. Legal proceedings that are material or that the Company believes could become material are described below.

Although the Company believes it has substantial defenses in these matters, there can be no assurance that there will not be an increase in the scope of pending matters or that any future lawsuits, claims, government investigations or other legal proceedings will not be material. Unless otherwise noted, the Company is unable to assess the outcome of the respective litigation nor is it able to provide an estimated range of potential loss. Furthermore, failure to enforce our patent rights would likely result in substantial decreases in the respective product sales from generic competition.

### **INTELLECTUAL PROPERTY**

#### **PLAVIX\* Litigation – U.S.**

##### Patent Infringement Litigation against Apotex and Related Matters

As previously disclosed, the Company's U.S. territory partnership under its alliance with Sanofi is a plaintiff in a pending patent infringement lawsuit instituted in the United States District Court for the Southern District of New York (District Court) entitled *Sanofi-Synthelabo, Sanofi-Synthelabo, Inc. and Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership v. Apotex*. The suit is based on U.S. Patent No. 4,847,265 (the 265 Patent), a composition of matter patent, which discloses and claims, among other things, the hydrogen sulfate salt of clopidogrel, a medicine made available in the U.S. by the Companies as PLAVIX\*. Also, as previously reported, the District Court upheld the validity and enforceability of the 265 Patent, maintaining the main patent protection for PLAVIX\* in the U.S. through the life of the patent term which now expires on May 17, 2012. The District Court also ruled that Apotex's generic clopidogrel bisulfate product infringed the 265 Patent and permanently enjoined Apotex from engaging in any activity that infringes the 265 Patent, including marketing its generic product in the U.S. until after the patent expires.

Apotex appealed the District Court's decision and on December 12, 2008, the United States Court of Appeals for the Federal Circuit (Circuit Court) affirmed the District Court's ruling sustaining the validity of the 265 Patent. Apotex filed a petition with the Circuit Court for a rehearing *en banc*, and in March 2009, the Circuit Court denied Apotex's petition. The case was remanded to the District Court for further proceedings relating to damages. In July 2009, Apotex filed a petition for writ of certiorari with the U.S. Supreme Court requesting the Supreme Court to review the Circuit Court's decision. In November 2009, the U.S. Supreme Court denied the petition, declining to review the Circuit Court's decision. In December 2009, the Companies filed a motion in the District Court for summary judgment on damages, and in January 2010, Apotex filed a motion seeking a stay of the ongoing damages proceedings pending the outcome of the reexamination of the PLAVIX\* patent by the U.S. Patent and Trademark Office (PTO) described below. In April 2010, the District Court denied Apotex's motion to stay the proceedings. In October 2010, the District Court granted the Companies' summary judgment motion and awarded \$442 million in damages plus costs and interest. Apotex appealed the amount of the damages award; however, the validity of the patent claiming clopidogrel bisulfate has been finally judicially determined in favor of the Companies maintaining patent protection and market exclusivity for PLAVIX\* in the U.S. until May 17, 2012 (including additional six-month pediatric exclusivity period). In October 2011, the Circuit Court upheld the \$442 million damages award and reversed the District Court's award of prejudgment interest. In February 2012, the Companies received payment of the \$442 million damages award plus costs and post-judgment interest of which BMS received \$172 million.

As previously disclosed, the Company's U.S. territory partnership under its alliance with Sanofi is also a plaintiff in five additional patent infringement lawsuits against Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, LTD (Dr. Reddy's), Teva Pharmaceuticals USA, Inc. (Teva), Cobalt Pharmaceuticals Inc. (Cobalt), Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc. (Watson) and Sun Pharmaceuticals (Sun). The lawsuits against Dr. Reddy's, Teva and Cobalt relate to the 265 Patent. In May 2009, Dr. Reddy's signed a consent judgment in favor of Sanofi and BMS conceding the validity and infringement of the 265 Patent. As previously reported, the patent infringement actions against Teva and Cobalt were stayed pending resolution of the Apotex litigation, and the parties to those actions agreed to be bound by the outcome of the litigation against Apotex. Consequently, on July 12, 2007, the District Court entered judgments against Cobalt and Teva and permanently enjoined Cobalt and Teva from engaging in any activity that infringes the 265 Patent until after the patent expires. Cobalt and Teva each filed an appeal. In July 2009, the Circuit Court issued a mandate in the Teva appeal binding Teva to the decision in the Apotex litigation. In August 2009, Cobalt consented to entry of judgment in its appeal agreeing to be bound by Circuit Court's decision in the Apotex litigation. The lawsuit against Watson, filed in October 2004, was based on U.S. Patent No. 6,429,210 (the 210 Patent), which discloses and claims a particular crystalline or polymorph form of the hydrogen sulfate salt of clopidogrel, which is marketed as PLAVIX\*. In December 2005, the Court permitted

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Watson to pursue its declaratory judgment counterclaim with respect to U.S. Patent No. 6,504,030. In January 2006, the Court approved the parties' stipulation to stay this case pending the outcome of the trial in the Apotex matter. On May 1, 2009, BMS and Watson entered into a stipulation to dismiss the case. In April 2007, Pharmastar filed a request for *inter partes* reexamination of the 210 Patent at the PTO. The PTO granted this request in July of 2007 and in July 2009, the PTO vacated the reexamination proceeding. The lawsuit against Sun, filed on July 11, 2008, was based on infringement of the 265 Patent and the 210 Patent. With respect to the 265 Patent, Sun agreed to be bound by the outcome of the Apotex litigation. With respect to the 210 Patent, the parties have settled and in December 2011, the case was dismissed.

Additionally, on November 13, 2008, Apotex filed a lawsuit in New Jersey Superior Court entitled, *Apotex Inc., et al. v. sanofi-aventis, et al.*, seeking payment of \$60 million, plus interest, related to the break-up of the March 2006 proposed settlement agreement. In April 2011, the New Jersey Superior Court granted the Companies' cross-motion for summary judgment motion and denied Apotex's motion for summary judgment. Apotex has appealed these decisions. It is not possible at this time to determine the outcome of any appeal from the New Jersey Superior Court's decisions.

In January 2011, Apotex filed a lawsuit in Florida State Court, Broward County, alleging breach of contract relating to the parties' May 2006 proposed settlement agreement. Discovery is ongoing.

## **PLAVIX\* Litigation – International**

### PLAVIX\* – Australia

As previously disclosed, Sanofi was notified that, in August 2007, GenRx Proprietary Limited (GenRx) obtained regulatory approval of an application for clopidogrel bisulfate 75mg tablets in Australia. GenRx, formerly a subsidiary of Apotex, has since changed its name to Apotex. In August 2007, Apotex filed an application in the Federal Court of Australia seeking revocation of Sanofi's Australian Patent No. 597784 (Case No. NSD 1639 of 2007). Sanofi filed counterclaims of infringement and sought an injunction. On September 21, 2007, the Australian court granted Sanofi's injunction. A subsidiary of the Company was subsequently added as a party to the proceedings. In February 2008, a second company, Spirit Pharmaceuticals Pty. Ltd., also filed a revocation suit against the same patent. This case was consolidated with the Apotex case and a trial occurred in April 2008. On August 12, 2008, the Federal Court of Australia held that claims of Patent No. 597784 covering clopidogrel bisulfate, hydrochloride, hydrobromide, and taurocholate salts were valid. The Federal Court also held that the process claims, pharmaceutical composition claims, and claim directed to clopidogrel and its pharmaceutically acceptable salts were invalid. The Company and Sanofi filed notices of appeal in the Full Court of the Federal Court of Australia (Full Court) appealing the holding of invalidity of the claim covering clopidogrel and its pharmaceutically acceptable salts, process claims, and pharmaceutical composition claims which have stayed the Federal Court's ruling. Apotex filed a notice of appeal appealing the holding of validity of the clopidogrel bisulfate, hydrochloride, hydrobromide, and taurocholate claims. A hearing on the appeals occurred in February 2009. On September 29, 2009, the Full Federal Court of Australia held all of the claims of Patent No. 597784 invalid. In November 2009, the Company and Sanofi applied to the High Court of Australia (High Court) for special leave to appeal the judgment of the Full Court. In March 2010, the High Court denied the Company and Sanofi's request to hear the appeal of the Full Court decision. The case has been remanded to the Federal Court for further proceedings related to damages. It is expected the amount of damages will not be material to the Company.

### PLAVIX\* – EU

As previously disclosed, in 2007, YES Pharmaceutical Development Services GmbH (YES Pharmaceutical) filed an application for marketing authorization in Germany for an alternate salt form of clopidogrel. This application relied on data from studies that were originally conducted by Sanofi and BMS for PLAVIX\* and were still the subject of data protection in the EU. Sanofi and BMS have filed an action against YES Pharmaceutical and its partners in the administrative court in Cologne objecting to the marketing authorization. This matter is currently pending, although these specific marketing authorizations now have been withdrawn from the market.

### PLAVIX\* – Canada (Apotex, Inc.)

On April 22, 2009, Apotex filed an impeachment action against Sanofi in the Federal Court of Canada alleging that Sanofi's Canadian Patent No. 1,336,777 (the 777 Patent) is invalid. The 777 Patent covers clopidogrel bisulfate and was the patent at issue in the prohibition action in Canada previously disclosed in which the Canadian Federal Court of Ottawa rejected Apotex's challenge to the 777 Patent, held that the asserted claims are novel, not obvious and infringed, and granted Sanofi's application for an order of prohibition against the Minister of Health and Apotex, precluding approval of Apotex's Abbreviated New Drug Submission until the patent expires in August 2012, which decision was affirmed on appeal by both the Federal Court of Appeal and the Supreme Court of Canada. On June 8, 2009, Sanofi filed its defense to the impeachment action and filed a suit against Apotex for infringement of the 777 Patent. The trial was completed in June 2011 and in December 2011, the Federal Court issued a decision that the 777 Patent is invalid. Sanofi is appealing this decision though generic companies have entered the market.

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## OTHER INTELLECTUAL PROPERTY LITIGATION

### ABILIFY\*

As previously disclosed, Otsuka has filed patent infringement actions against Teva, Barr Pharmaceuticals, Inc. (Barr), Sandoz Inc. (Sandoz), Synthron Laboratories, Inc (Synthron), Sun Pharmaceuticals (Sun), Zydus Pharmaceuticals USA, Inc. (Zydus), and Apotex relating to U.S. Patent No. 5,006,528, (528 Patent) which covers aripiprazole and expires in April 2015 (including the additional six-month pediatric exclusivity period). Aripiprazole is comarketed by the Company and Otsuka in the U.S. as ABILIFY\*. A non-jury trial in the U.S. District Court for the District of New Jersey (NJ District Court) against Teva/Barr and Apotex was completed in August 2010. In November 2010, the NJ District Court upheld the validity and enforceability of the 528 Patent, maintaining the main patent protection for ABILIFY\* in the U.S. until April 2015. The NJ District Court also ruled that the defendants' generic aripiprazole product infringed the 528 Patent and permanently enjoined them from engaging in any activity that infringes the 528 Patent, including marketing their generic product in the U.S. until after the patent (including the six-month pediatric extension) expires. Sandoz, Synthron, Sun and Zydus are also bound by the NJ District Court's decision. In December 2010, Teva/Barr and Apotex appealed this decision to the U.S. Court of Appeals for the Federal Circuit. Oral argument was held in February 2012.

It is not possible at this time to determine the outcome of any appeal of the NJ District Court's decision. If Otsuka were not to prevail in an appeal, generic competition would likely result in substantial decreases in the sales of ABILIFY\* in the U.S., which would have a material adverse effect on the results of operations and cash flows and could be material to financial condition.

### ATRIPLA\*

In April 2009, Teva filed an aNDA to manufacture and market a generic version of ATRIPLA\*. ATRIPLA\* is a single tablet three-drug regimen combining the Company's SUSTIVA and Gilead's TRUVADA\*. As of this time, the Company's U.S. patent rights covering SUSTIVA's composition of matter and method of use have not been challenged. Teva sent Gilead a Paragraph IV certification letter challenging two of the fifteen Orange Book listed patents for ATRIPLA\*. ATRIPLA\* is the product of a joint venture between the Company and Gilead. In May 2009, Gilead filed a patent infringement action against Teva in the U.S. District Court for the Southern District of New York (SDNY). In January 2010, the Company received a notice that Teva has amended its aNDA and is challenging eight additional Orange Book listed patents for ATRIPLA\*. In March 2010, the Company and Merck, Sharp & Dohme Corp. filed a patent infringement action against Teva also in the SDNY relating to two U.S. Patents which claim crystalline or polymorph forms of efavirenz. In March 2010, Gilead filed two patent infringement actions against Teva in the SDNY relating to six Orange Book listed patents for ATRIPLA\*. Discovery in these matters is ongoing. It is not possible at this time to reasonably assess the outcome of these lawsuits or their impact on the Company.

### BARACLUDE

In August 2010, Teva filed an aNDA to manufacture and market generic versions of BARACLUDE. The Company received a Paragraph IV certification letter from Teva challenging the one Orange Book listed patent for BARACLUDE, U.S. Patent No. 5,206,244. In September 2010, the Company filed a patent infringement lawsuit in the Delaware District Court against Teva for infringement of the listed patent covering BARACLUDE, which triggered an automatic 30-month stay of approval of Teva's aNDA. Discovery in this matter is ongoing. It is not possible at this time to reasonably assess the outcome of this lawsuit or its impact on the Company. A trial is currently scheduled for October 2012.

### SPRYCEL

In September 2010, Apotex filed an aNDA to manufacture and market generic versions of SPRYCEL. The Company received a Paragraph IV certification letter from Apotex challenging the four Orange Book listed patents for SPRYCEL, including the composition of matter patent. In November 2010, the Company filed a patent infringement lawsuit in the U.S. District Court for the District of New Jersey against Apotex for infringement of the four Orange Book listed patents covering SPRYCEL, which triggered an automatic 30-month stay of approval of Apotex's aNDA. In October 2011, the Company received a Paragraph IV notice letter from Apotex informing the Company that it is seeking approval of generic versions of the 80 mg and 140 mg dosage strengths of SPRYCEL and challenging the same four Orange Book listed patents. In November 2011, BMS filed a patent infringement suit against Apotex on the 80 mg and 140 mg dosage strengths in the New Jersey District Court. This case has been consolidated with the suit filed in November 2010. Discovery in this matter is ongoing. It is not possible at this time to reasonably assess the outcome of this lawsuit or its impact on the Company.

### SUSTIVA – EU

In January 2012, Teva obtained a European marketing authorization for Efavirenz Teva 600 mg tablets. In February 2012, the Company and Merck Sharp & Dohme ("Merck") filed lawsuits and requests for injunctions against Teva in the Netherlands, Germany and the U.K. for infringement of Merck's European Patent No. 0582455 and Supplementary Protection Certificates expiring in November 2013. It is not possible at this time to reasonably assess the outcome of these lawsuits or their impact on the Company.

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## GENERAL COMMERCIAL LITIGATION

### Clayworth Litigation

As previously disclosed, the Company, together with a number of other pharmaceutical manufacturers, was named as a defendant in an action filed in California State Superior Court in Oakland, *James Clayworth et al. v. Bristol-Myers Squibb Company, et al.*, alleging that the defendants conspired to fix the prices of pharmaceuticals by agreeing to charge more for their drugs in the U.S. than they charge outside the U.S., particularly Canada, and asserting claims under California's Cartwright Act and unfair competition law. The plaintiffs sought trebled monetary damages, injunctive relief and other relief. In December 2006, the Court granted the Company and the other manufacturers' motion for summary judgment based on the pass-on defense, and judgment was then entered in favor of defendants. In July 2008, judgment in favor of defendants was affirmed by the California Court of Appeals. In July 2010, the California Supreme Court reversed the Court of Appeal's judgment and the matter was remanded to the Superior Court for further proceedings. In March 2011, the defendants' motion for summary judgment was granted and judgment was entered in favor of the defendants. Plaintiffs have appealed this decision.

## PRICING, SALES AND PROMOTIONAL PRACTICES LITIGATION AND INVESTIGATIONS

### ABILIFY\* Federal Subpoena

In January 2012, the Company received a subpoena from the United States Attorney's Office for the Southern District of New York requesting information related to, among other things, the sales and marketing of ABILIFY\*. It is not possible at this time to assess the outcome of this matter or its potential impact on the Company.

### ABILIFY\* State Attorneys General Investigation

In March 2009, the Company received a letter from the Delaware Attorney General's Office advising of a multi-state coalition investigating whether certain ABILIFY\* marketing practices violated those respective states' consumer protection statutes. It is not possible at this time to reasonably assess the outcome of this investigation or its potential impact on the Company.

### AWP Litigation

As previously disclosed, the Company, together with a number of other pharmaceutical manufacturers, has been a defendant in a number of private class actions as well as suits brought by the attorneys general of various states. In these actions, plaintiffs allege that defendants caused the Average Wholesale Prices (AWPs) of their products to be inflated, thereby injuring government programs, entities and persons who reimbursed prescription drugs based on AWP. The Company is a defendant in four state attorneys general suits pending in state courts around the country. Beginning in August 2010, the Company was the defendant in a trial in the Commonwealth Court of Pennsylvania (Commonwealth Court), brought by the Commonwealth of Pennsylvania. In September 2010, the jury issued a verdict for the Company, finding that the Company was not liable for fraudulent or negligent misrepresentation; however, the Commonwealth Court Judge issued a decision on a Pennsylvania consumer protection claim that did not go to the jury, finding the Company liable for \$28 million and enjoining the Company from contributing to the provision of inflated AWP. The Company has moved to vacate the decision and the Commonwealth has moved for a judgment notwithstanding the verdict, which the Court denied. The Company and the Commonwealth have appealed the decision to the Pennsylvania Supreme Court.

### Qui Tam Litigation

In March 2011, the Company was served with an unsealed qui tam complaint filed by three former sales representatives in California Superior Court, County of Los Angeles. The California Department of Insurance has elected to intervene in the lawsuit. The complaint alleges the Company paid kickbacks to California providers and pharmacies in violation of California Insurance Frauds Prevention Act, Cal. Ins. Code § 1871.7. It is not possible at this time to reasonably assess the outcome of this lawsuit or its impact on the Company.

## PRODUCT LIABILITY LITIGATION

The Company is a party to various product liability lawsuits. As previously disclosed, in addition to lawsuits, the Company also faces unfiled claims involving its products.

### PLAVIX\*

As previously disclosed, the Company and certain affiliates of Sanofi are defendants in a number of individual lawsuits in various federal and state courts claiming personal injury damage allegedly sustained after using PLAVIX\*. Currently, over 250 claims are filed primarily in state and Federal courts in New Jersey, Illinois, New York and Pennsylvania. The Company has also executed a tolling agreement with respect to unfiled claims by potential additional plaintiffs. It is not possible at this time to reasonably assess the outcome of these lawsuits or the potential impact on the Company.

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### Reglan

The Company is one of a number of defendants in numerous lawsuits, on behalf of approximately 2,500 plaintiffs, claiming personal injury allegedly sustained after using Reglan or another brand of the generic drug metoclopramide, a product indicated for gastroesophageal reflux and certain other gastrointestinal disorders. The Company, through its generic subsidiary, Apothecan, Inc., distributed metoclopramide tablets manufactured by another party between 1996 and 2000. It is not possible at this time to reasonably assess the outcome of these lawsuits or the potential impact on the Company.

### Hormone Replacement Therapy

The Company is one of a number of defendants in a mass-tort litigation in which plaintiffs allege, among other things, that various hormone therapy products, including hormone therapy products formerly manufactured by the Company (ESTRACE\*, Estradiol, DELESTROGEN\* and OVCON\*) cause breast cancer, stroke, blood clots, cardiac and other injuries in women, that the defendants were aware of these risks and failed to warn consumers. The Company has agreed to resolve the claims of approximately 400 plaintiffs. As of December 31, 2011, the Company remains a defendant in approximately 39 actively pending lawsuits in federal and state courts throughout the U.S. All of the Company's hormone therapy products were sold to other companies between January 2000 and August 2001.

## **ENVIRONMENTAL PROCEEDINGS**

As previously reported, the Company is a party to several environmental proceedings and other matters, and is responsible under various state, federal and foreign laws, including the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), for certain costs of investigating and/or remediating contamination resulting from past industrial activity at the Company's current or former sites or at waste disposal or reprocessing facilities operated by third-parties.

### CERCLA Matters

With respect to CERCLA matters for which the Company is responsible under various state, federal and foreign laws, the Company typically estimates potential costs based on information obtained from the U.S. Environmental Protection Agency, or counterpart state or foreign agency and/or studies prepared by independent consultants, including the total estimated costs for the site and the expected cost-sharing, if any, with other "potentially responsible parties," and the Company accrues liabilities when they are probable and reasonably estimable. The Company estimated its share of future costs for these sites to be \$69 million at December 31, 2011, which represents the sum of best estimates or, where no best estimate can reasonably be made, estimates of the minimal probable amount among a range of such costs (without taking into account any potential recoveries from other parties).

### New Brunswick Facility – Environmental & Personal Injury Lawsuits

Since May 2008, over 250 lawsuits have been filed against the Company in New Jersey Superior Court by or on behalf of current and former residents of New Brunswick, NJ who live or have lived adjacent to the Company's New Brunswick facility. The complaints either allege various personal injuries damages resulting from alleged soil and groundwater contamination on their property stemming from historical operations at the New Brunswick facility, or are claims for medical monitoring. A portion of these complaints also assert claims for alleged property damage. In October 2008, the New Jersey Supreme Court granted Mass Tort status to these cases and transferred them to the New Jersey Superior Court in Atlantic County for centralized case management purposes. The Company intends to defend itself vigorously in this litigation. Discovery is ongoing. In October 2011, 50 additional cases were filed in New Jersey Superior Court and removed by the Company to federal court in Trenton, NJ. Plaintiffs have moved to remand the cases to state court, which the Company has opposed. It is not possible at this time to reasonably assess the outcome of these lawsuits or the potential impact on the Company.

### North Brunswick Township Board of Education

As previously disclosed, in October 2003, the Company was contacted by counsel representing the North Brunswick, NJ Board of Education (BOE) regarding a site where waste materials from E.R. Squibb and Sons may have been disposed from the 1940's through the 1960's. Fill material containing industrial waste and heavy metals in excess of residential standards was discovered during an expansion project at the North Brunswick Township High School, as well as at a number of neighboring residential properties and adjacent public park areas. In January 2004, the New Jersey Department of Environmental Protection (NJDEP) sent the Company and others an information request letter about possible waste disposal at the site, to which the Company responded in March 2004. The BOE and the Township, as the current owners of the school property and the park, are conducting and jointly financing soil remediation work and ground water investigation work under a work plan approved by NJDEP, and have asked the Company to contribute to the cost. The Company is actively monitoring the clean-up project, including its costs. To date, neither the school board

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nor the Township has asserted any claim against the Company. Instead, the Company and the local entities have negotiated an agreement to attempt to resolve the matter by informal means, and avoid litigation. A central component of the agreement is the provision by the Company of interim funding to help defray cleanup costs and assure the work is not interrupted. The Company transmitted interim funding payments in December 2007 and November 2009. The parties commenced mediation in late 2008; however, those efforts were not successful and the parties moved to a binding allocation process. The parties are expected to conduct fact and expert discovery, followed by formal evidentiary hearings and written argument. Hearings likely will be scheduled for mid-to-late 2012. In addition, in September 2009, the Township and BOE filed suits against several other parties alleged to have contributed waste materials to the site. The Company does not currently believe that it is responsible for any additional amounts beyond the two interim payments totaling \$4 million already transmitted. Any additional possible loss is not expected to be material.

## **OTHER PROCEEDINGS**

### Italy Investigation

In July 2011, the Public Prosecutor in Florence, Italy ("Italian Prosecutor") initiated a criminal investigation against the Company's subsidiary in Italy ("BMS Italy"). The allegations against the Company relate to alleged activities of a former employee who left the Company in the 1990s. The Italian Prosecutor has requested as an interim measure that a judicial administrator be appointed to temporarily run the operations of BMS Italy. This request is pending before the Florence Court. It is not possible at this time to assess the outcome of this investigation or its potential impact on the Company.

### SEC Germany Investigation

As previously disclosed, in October 2004, the SEC notified the Company that it was conducting an informal inquiry into the activities of certain of the Company's German pharmaceutical subsidiaries and its employees and/or agents. In October 2006, the SEC informed the Company that its inquiry had become formal. The SEC's inquiry encompasses matters formerly under investigation by the German prosecutor in Munich, Germany, which have since been resolved. The Company understands the inquiry concerns potential violations of the Foreign Corrupt Practices Act. The Company is cooperating with the SEC.

## **Note 23. SUBSEQUENT EVENT**

On February 13, 2012, BMS completed its acquisition of 100% of the outstanding shares of Inhibitex, Inc. (Inhibitex), a clinical-stage biopharmaceutical company focused on developing products to prevent and treat serious infectious diseases, for an aggregate purchase price of approximately \$2.5 billion. Acquisition related costs are expected to approximate \$20 million and will be included in other expense. BMS obtained Inhibitex's lead asset, INX-189, an oral nucleotide polymerase (NS5B) inhibitor in Phase II development for the treatment of chronic hepatitis C infections as well as a few other programs in various stages of development. Although the preliminary purchase price allocation is currently in process; most of the purchase price is expected to be allocated to goodwill and INX-189.

**Note 24. SELECTED QUARTERLY FINANCIAL DATA (UNAUDITED)**

Dollars in Millions, except per share data	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Year
<b>2011</b>					
Net Sales	\$ 5,011	\$ 5,434	\$ 5,345	\$ 5,454	\$ 21,244
Gross Margin	3,668	3,953	3,938	4,087	15,646
Net Earnings	1,367	1,307	1,355	1,231	5,260
Less Net Earnings Attributable to Noncontrolling Interest	381	405	386	379	1,551
Net Earnings Attributable to BMS	986	902	969	852	3,709
EPS - Basic <sup>(1)</sup>	\$ 0.58	\$ 0.53	\$ 0.57	\$ 0.50	\$ 2.18
EPS - Diluted <sup>(1)</sup>	\$ 0.57	\$ 0.52	\$ 0.56	\$ 0.50	\$ 2.16
Dividends declared per common share	\$ 0.33	\$ 0.33	\$ 0.33	\$ 0.34	\$ 1.33
Cash and cash equivalents	\$ 3,405	\$ 3,665	\$ 4,471	\$ 5,776	\$ 5,776
Marketable securities <sup>(2)</sup>	6,453	6,739	6,541	5,866	5,866
<b>2010</b>					
Net Sales	\$ 4,807	\$ 4,768	\$ 4,798	\$ 5,111	\$ 19,484
Gross Margin	3,501	3,491	3,518	3,697	14,207
Net Earnings	1,101	1,268	1,302	842	4,513
Less Net Earnings Attributable to Noncontrolling Interest	358	341	353	359	1,411
Net Earnings Attributable to BMS	743	927	949	483	3,102
EPS - Basic <sup>(1)</sup>	\$ 0.43	\$ 0.54	\$ 0.55	\$ 0.28	\$ 1.80
EPS - Diluted <sup>(1)</sup>	\$ 0.43	\$ 0.53	\$ 0.55	\$ 0.28	\$ 1.79
Dividends declared per common share	\$ 0.32	\$ 0.32	\$ 0.32	\$ 0.33	\$ 1.29
Cash and cash equivalents	\$ 5,135	\$ 5,918	\$ 7,581	\$ 5,033	\$ 5,033
Marketable securities <sup>(2)</sup>	4,638	4,331	3,340	4,949	4,949

(1) Earnings per share for the quarters may not add to the amounts for the year, as each period is computed on a discrete basis.

(2) Marketable securities includes current and non-current assets.

The following specified items affected the comparability of results in 2011 and 2010:

## 2011

Dollars in Millions	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Year
Provision for restructuring	\$ 44	\$ 40	\$ 8	\$ 24	\$ 116
Accelerated depreciation, asset impairment and other shutdown costs	23	18	19	15	75
Pension curtailment and settlement charges	—	—	—	13	13
Process standardization implementation costs	4	10	5	10	29
Gain on sale of product lines, businesses and assets	—	—	(12)	—	(12)
Litigation charges/(recoveries)	(102)	—	—	80	(22)
Upfront, milestone and other licensing payments, net	88	50	69	(20)	187
IPRD impairment	15	—	13	—	28
Product liability charges	26	—	10	(5)	31
Total	98	118	112	117	445
Income taxes on items above	(28)	(34)	(37)	(37)	(136)
Specified tax benefit*	(56)	(15)	—	(26)	(97)
Decrease to Net Earnings	\$ 14	\$ 69	\$ 75	\$ 54	\$ 212

\* Relates to releases of tax reserves that were specified in prior periods.

## 2010

Dollars in Millions	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Year
Provision for restructuring	\$ 11	\$ 24	\$ 15	\$ 63	\$ 113
Impairment and loss on sale of manufacturing operations	200	15	10	11	236
Accelerated depreciation, asset impairment and other shutdown costs	31	27	27	28	113
Pension curtailment and settlement charges	—	5	3	10	18
Process standardization implementation costs	13	6	8	8	35
Litigation charges/(recoveries)	—	—	22	(41)	(19)
Upfront, milestone and other licensing payments	55	17	—	60	132
IPRD impairment	—	—	—	10	10
Acquisition related items	—	—	—	10	10
Product liability charges	—	—	13	4	17
Total	310	94	98	163	665
Income taxes on items above	(86)	(18)	(30)	(46)	(180)
Out-of-period tax adjustment	—	(59)	—	—	(59)
Specified tax charge*	—	—	—	207	207
Decrease to Net Earnings	\$ 224	\$ 17	\$ 68	\$ 324	\$ 633

\* Relates to a tax charge from additional U.S. taxable income from earnings of foreign subsidiaries previously considered to be permanently reinvested offshore.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of  
Bristol-Myers Squibb Company

We have audited the accompanying consolidated balance sheets of Bristol-Myers Squibb Company and subsidiaries (the "Company") as of December 31, 2011 and 2010, and the related consolidated statements of earnings, comprehensive income, and cash flows for each of the three years in the period ended December 31, 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Bristol-Myers Squibb Company and subsidiaries as of December 31, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2011, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2011, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 17, 2012 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ *DELOITTE & TOUCHE LLP*

Parsippany, New Jersey  
February 17, 2012

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**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None.

**Item 9A. CONTROLS AND PROCEDURES**

**Evaluation of Disclosure Controls and Procedures**

As of December 31, 2011, management carried out an evaluation, under the supervision and with the participation of its chief executive officer and chief financial officer, of the effectiveness of the design and operation of its disclosure controls and procedures as such term is defined under Exchange Act Rule 13a-15(e). Based on this evaluation, management has concluded that as of December 31, 2011, such disclosure controls and procedures were effective.

**Management's Report on Internal Control Over Financial Reporting**

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Under the supervision and with the participation of management, including the chief executive officer and chief financial officer, management assessed the effectiveness of internal control over financial reporting as of December 31, 2011 based on the framework in "Internal Control—Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on that assessment, management has concluded that the Company's internal control over financial reporting was effective at December 31, 2011 to provide reasonable assurance regarding the reliability of its financial reporting and the preparation of its financial statements for external purposes in accordance with United States generally accepted accounting principles. Due to its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Deloitte & Touche LLP, an independent registered public accounting firm, has audited the Company's financial statements included in this report on Form 10-K and issued its report on the effectiveness of the Company's internal control over financial reporting as of December 31, 2011, which is included herein.

**Changes in Internal Control Over Financial Reporting**

There were no changes in the Company's internal control over financial reporting during the quarter ended December 31, 2011 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**Item 9B. OTHER INFORMATION**

None.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of  
Bristol-Myers Squibb Company

We have audited the internal control over financial reporting of Bristol-Myers Squibb Company and subsidiaries (the "Company") as of December 31, 2011, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2011, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements of the Company as of and for the year ended December 31, 2011 and our report dated February 17, 2012 expressed an unqualified opinion on those financial statements.

/s/ DELOITTE & TOUCHE LLP

Parsippany, New Jersey  
February 17, 2012

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**PART III**

**Item 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT.**

- (a) Reference is made to the 2012 Proxy Statement to be filed on or about March 20, 2012 with respect to the Directors of the Registrant, which is incorporated herein by reference and made a part hereof in response to the information required by Item 10.
- (b) The information required by Item 10 with respect to the Executive Officers of the Registrant has been included in Part IA of this Form 10-K in reliance on General Instruction G of Form 10-K and Instruction 3 to Item 401(b) of Regulation S-K.

**Item 11. EXECUTIVE COMPENSATION.**

Reference is made to the 2012 Proxy Statement to be filed on or about March 20, 2012 with respect to Executive Compensation, which is incorporated herein by reference and made a part hereof in response to the information required by Item 11.

**Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.**

Reference is made to the 2012 Proxy Statement to be filed on or about March 20, 2012 with respect to the security ownership of certain beneficial owners and management, which is incorporated herein by reference and made a part hereof in response to the information required by Item 12.

**Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.**

Reference is made to the 2012 Proxy Statement to be filed on or about March 20, 2012 with respect to certain relationships and related transactions, which is incorporated herein by reference and made a part hereof in response to the information required by Item 13.

**Item 14. AUDITOR FEES.**

Reference is made to the 2012 Proxy Statement to be filed on or about March 20, 2012 with respect to auditor fees, which is incorporated herein by reference and made a part hereof in response to the information required by Item 14.

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**PART IV**

**Item 15. EXHIBITS and FINANCIAL STATEMENT SCHEDULE.**

(a)

	<u>Page Number</u>
1.	
Consolidated Financial Statements	
<a href="#"><u>Consolidated Statements of Earnings</u></a>	62
<a href="#"><u>Consolidated Statements of Comprehensive Income</u></a>	63
<a href="#"><u>Consolidated Balance Sheets</u></a>	64
<a href="#"><u>Consolidated Statements of Cash Flows</u></a>	65
<a href="#"><u>Notes to Consolidated Financial Statements</u></a>	66-106
<a href="#"><u>Report of Independent Registered Public Accounting Firm</u></a>	107

All other schedules not included with this additional financial data are omitted because they are not applicable or the required information is included in the financial statements or notes thereto.

2.	<a href="#"><u>Exhibits Required to be filed by Item 601 of Regulation S-K</u></a>	113-116
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The information called for by this Item is incorporated herein by reference to the Exhibit Index in this Form 10-K.



## EXHIBIT INDEX

The Exhibits listed below are identified by numbers corresponding to the Exhibit Table of Item 601 of Regulation S-K. The Exhibits designated by two asterisks (\*\*) are management contracts or compensatory plans or arrangements required to be filed pursuant to Item 15. An asterisk (\*) in the Page column indicates that the Exhibit has been previously filed with the Commission and is incorporated herein by reference. Unless otherwise indicated, all Exhibits are part of Commission File Number 1-1136.

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
3a.	Amended and Restated Certificate of Incorporation of Bristol-Myers Squibb Company (incorporated herein by reference to Exhibit 3a to the Form 10-Q for the quarterly period ended June 30, 2005).	*
3b.	Certificate of Correction to the Amended and Restated Certificate of Incorporation, effective as of December 24, 2009 (incorporated herein by reference to Exhibit 3b to the Form 10-K for the fiscal year ended December 31, 2010).	*
3c.	Certificate of Amendment to the Amended and Restated Certificate of Incorporation, effective as of May 7, 2010 (incorporated herein by reference to Exhibit 3a to the Form 8-K dated May 4, 2010 and filed on May 10, 2010).	*
3d.	Certificate of Amendment to the Amended and Restated Certificate of Incorporation, effective as of May 7, 2010 (incorporated herein by reference to Exhibit 3b to the Form 8-K dated May 4, 2010 and filed on May 10, 2010).	*
3e.	Bylaws of Bristol-Myers Squibb Company, as amended as of May 4, 2010 (incorporated herein by reference to Exhibit 3.1 to the Form 8-K dated May 4, 2010 and filed on May 10, 2010).	*
4a.	Letter of Agreement dated March 28, 1984 (incorporated herein by reference to Exhibit 4 to the Form 10-K for the fiscal year ended December 31, 1983).	*
4b.	Indenture, dated as of June 1, 1993, between Bristol-Myers Squibb Company and JPMorgan Chase Bank (as successor trustee to The Chase Manhattan Bank (National Association)) (incorporated herein by reference to Exhibit 4.1 to the Form 8-K dated May 27, 1993 and filed on June 3, 1993).	*
4c.	Form of 7.15% Debenture due 2023 of Bristol-Myers Squibb Company (incorporated herein by reference to Exhibit 4.2 to the Form 8-K dated May 27, 1993 and filed on June 3, 1993).	*
4d.	Form of 6.80% Debenture due 2026 of Bristol-Myers Squibb Company (incorporated herein by reference to Exhibit 4e to the Form 10-K for the fiscal year ended December 31, 1996).	*
4e.	Form of 6.875% Debenture due 2097 of Bristol-Myers Squibb Company (incorporated herein by reference to Exhibit 4f to the Form 10-Q for the quarterly period ended September 30, 1997).	*
4f.	Third Supplemental Indenture, dated August 18, 2003, between Bristol-Myers Squibb Company and JPMorgan Chase Bank, as Trustee, to the indenture dated June 1, 1993 (incorporated herein by reference to Exhibit 4k to the Form 10-Q for the quarterly period ended September 30, 2003).	*
4g.	Form of 5.25% Senior Note due 2013 (incorporated herein by reference to Exhibit 4o to the Form 10-Q for the quarterly period ended September 30, 2003).	*
4h.	Indenture, dated October 1, 2003, between Bristol-Myers Squibb Company, as Issuer, and JPMorgan Chase Bank, as Trustee (incorporated herein by reference to Exhibit 4q to the Form 10-Q for the quarterly period ended September 30, 2003).	*
4i.	Form of Floating Rate Convertible Senior Debenture due 2023 (incorporated herein by reference to Exhibit 4s to the Form 10-Q for the quarterly period ended September 30, 2003).	*
4j.	Specimen Certificate of Common Stock (incorporated herein by reference to Exhibit 4s to the Form 10-K for the fiscal year ended December 31, 2003).	*
4k.	Specimen Certificate of Convertible Preferred Stock (incorporated herein by reference to Exhibit 4s to the Form 10-K for the fiscal year ended December 31, 2003).	*
4l.	Form of Fourth Supplemental Indenture between Bristol-Myers Squibb Company and The Bank of New York, as Trustee, to the indenture dated June 1, 1993 (incorporated herein by reference to Exhibit 4r to the Form 8-K dated November 20, 2006 and filed November 27, 2006).	*
4m.	Form of Fifth Supplemental Indenture between Bristol-Myers Squibb Company and The Bank of New York, as Trustee, to the indenture dated June 1, 1993 (incorporated herein by reference to Exhibit 4.1 to the Form 8-K dated May 1, 2008 and filed on May 7, 2008).	*
4n.	Form of 5.875% Notes due 2036 (incorporated herein by reference to Exhibit 4s to the Form 8-K dated November 20, 2006 and filed November 27, 2006).	*
4o.	Form of 4.375% Notes due 2016 (incorporated herein by reference to Exhibit 4t to the Form 8-K dated November 20, 2006 and filed November 27, 2006).	*
4p.	Form of 4.625% Notes due 2021 (incorporated herein by reference to Exhibit 4u to the Form 8-K dated November 20, 2006 and filed November 27, 2006).	*
4q.	Form of 5.45% Notes due 2018 (incorporated herein by reference to Exhibit 4.2 to the Form 8-K dated May 1, 2008 and filed on May 7, 2008).	*
4r.	Form of 6.125% Notes due 2038 (incorporated herein by reference to Exhibit 4.3 to the Form 8-K dated May 1, 2008 and filed on May 7, 2008).	*

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- 10a. \$1,500,000,000 Five Year Competitive Advance and Revolving Credit Facility Agreement dated as of September 29, 2011 among Bristol-Myers Squibb Company, the borrowing subsidiaries, the lenders named in the agreement, BNP Paribas and The Royal Bank of Scotland plc, as documentation agents, Bank of America N.A., as syndication agent, and JPMorgan Chase Bank, N.A. and Citibank, N.A., as administrative agents (incorporated herein by reference to Exhibit 10.1 to the Form 8-K dated September 29, 2011 and filed on October 4, 2011). \*
  - 10b. SEC Consent Order (incorporated herein by reference to Exhibit 10s to the Form 10-Q for the quarterly period ended September 30, 2004). \*
  - 10c. Bylaws (Statuts) of Sanofi Pharma Bristol-Myers Squibb, a partnership (societe en nom collectif) organized under French law, dated as of June 6, 1997. English Translation (incorporated by reference herein to Exhibit 10.1 to the Form 8-K filed on August 17, 2009). \*
  - 10d. Internal Regulation (Reglement Interieur) of Sanofi Pharma Bristol-Myers Squibb dated as of June 6, 1997 and effective as of January 1, 1997. English Translation (incorporated by reference herein to Exhibit 10.2 to the Form 8-K filed on August 17, 2009).† \*
  - 10e. Partnership Agreement of Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership between Sanofi Pharmaceuticals, Inc. and Bristol-Myers Squibb Company Investco, Inc. dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.3 to the Form 8-K filed on August 17, 2009).† \*
  - 10f. Territory A Alliance Support Agreement between Sanofi and Bristol-Myers Squibb Company dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.4 to the Form 8-K filed on August 17, 2009).† \*
  - 10g. Amendment No. 1 to the Territory A Alliance Support Agreement between Sanofi-Synthelabo and Bristol-Myers Squibb Company dated as of October 17, 2001 (incorporated by reference herein to Exhibit 10.5 to the Form 8-K filed on August 17, 2009).† \*
  - 10h. Territory B Alliance Support Agreement between Sanofi and Bristol-Myers Squibb Company dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.6 to the Form 8-K filed on August 17, 2009). † \*
  - 10i. Amendment No. 1 to the Territory B Alliance Support Agreement between Sanofi-Synthelabo and Bristol-Myers Squibb Company dated as of October 17, 2001 (incorporated by reference herein to Exhibit 10.7 to the Form 8-K filed on August 17, 2009).† \*
  - 10j. Clopidogrel Intellectual Property License and Supply Agreement between Sanofi and Sanofi Pharma Bristol-Myers Squibb dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.8 to the Form 8-K filed on August 17, 2009). † \*
  - 10k. Clopidogrel Intellectual Property License and Supply Agreement between Sanofi and Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.9 to the Form 8-K filed on August 17, 2009). † \*
  - 10l. Product Know-How License Agreement among Sanofi, Bristol-Myers Squibb Company and Sanofi Pharma Bristol-Myers Squibb dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.10 to the Form 8-K filed on August 17, 2009).† \*
  - 10m. Product Know-How License Agreement among Sanofi, Bristol-Myers Squibb Company and Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership dated as of January 1, 1997 (incorporated by reference herein to Exhibit 10.11 to the Form 8-K filed on August 17, 2009). † \*
  - 10n. Restated Development and Commercialization Collaboration Agreement between Otsuka Pharmaceutical Co., Ltd. and Bristol-Myers Squibb Company dated as of October 23, 2001 (incorporated by reference herein to Exhibit 10.12 to the Form 8-K filed on August 17, 2009).† \*
  - 10o. Amendment No. 3 to the Restated Development and Commercialization Collaboration Agreement between Otsuka Pharmaceutical Co., Ltd. and Bristol-Myers Squibb Company dated as of September 25, 2006 (incorporated by reference herein to Exhibit 10.13 to the Form 8-K filed on August 17, 2009).† \*
  - 10p. Amendment No. 5 to the Restated Development and Commercialization Collaboration Agreement between Otsuka Pharmaceutical Co., Ltd. and Bristol-Myers Squibb Company effective as of April 4, 2009 (incorporated by reference herein to Exhibit 10.14 to the Form 8-K filed on August 17, 2009).† \*
  - \*\*10q. Bristol-Myers Squibb Company 1997 Stock Incentive Plan, effective as of May 6, 1997 and as amended effective July 17, 2002 (incorporated herein by reference to Exhibit 10a to the Form 10-Q for the quarterly period ended June 30, 2002). \*
  - \*\*10r. Bristol-Myers Squibb Company 2002 Stock Incentive Plan, effective as of May 7, 2002 and as amended effective June 10, 2008 (incorporated herein by reference to Exhibit 10.1 to the Form 10-Q for the quarterly period ended September 30, 2008). \*
  - \*\*10s. Bristol-Myers Squibb Company 2007 Stock Award and Incentive Plan, effective as of May 1, 2007 and as amended effective June 10, 2008 (incorporated herein by reference to Exhibit 10.2 to the Form 10-Q for the quarterly period ended September 30, 2008). \*
  - \*\*10t. Bristol-Myers Squibb Company TeamShare Stock Option Plan, as amended and restated effective September 10, 2002 (incorporated herein by reference to Exhibit 10c to the Form 10-K for the fiscal year ended December 31, 2002). \*
  - \*\*10u. Form of Non-Qualified Stock Option Agreement under the 2002 Stock Award and Incentive Plan (incorporated herein by reference to Exhibit 10s to the Form 10-K for the fiscal year ended December 31, 2005). \*
  - \*\*10v. Form of Non-Qualified Stock Option Agreement under the 2007 Stock Award and Incentive Plan (incorporated herein by reference to Exhibit 10s to the Form 10-Q for the quarterly period ended March 31, 2007). \*
  - \*\*10w. Form of Performance Shares Agreement for the 2009-2011 Performance Cycle (incorporated herein by reference to Exhibit 10m to the Form 10-K for the fiscal year ended December 31, 2008). \*
  - \*\*10x. Form of Performance Share Units Agreement for the 2010-2012 Performance Cycle (incorporated herein by reference to Exhibit 10aa to the Form 10-K for the fiscal year ended December 31, 2009). \*

**10y.	Form of Performance Share Units Agreement for the 2011-2013 Performance Cycle (incorporated herein by reference to Exhibit 10aa to the Form 10-K for the fiscal year ended December 31, 2010).	*
**10z.	Form of Performance Share Units Agreement for the 2012-2014 Performance Cycle (filed herewith).	E-10-1
**10aa.	Form of Restricted Stock Units Agreement under the 2002 Stock Award and Incentive Plan (incorporated herein by reference to Exhibit 10v to the Form 10-K for the fiscal year ended December 31, 2006).	*
**10bb.	Form of Restricted Stock Units Agreement with five year vesting under the 2007 Stock Award and Incentive Plan (filed herewith).	E-10-2
**10cc.	Form of Restricted Stock Units Agreement with four year vesting under the 2007 Stock Award and Incentive Plan (filed herewith).	E-10-3
**10dd.	Form of Market Share Units Agreement under the 2007 Stock Award and Incentive Plan (filed herewith).	E-10-4
**10ee.	Bristol-Myers Squibb Company Performance Incentive Plan, as amended (as adopted, incorporated herein by reference to Exhibit 2 to the Form 10-K for the fiscal year ended December 31, 1978; as amended as of January 8, 1990, incorporated herein by reference to Exhibit 19b to the Form 10-K for the fiscal year ended December 31, 1990; as amended on April 2, 1991, incorporated herein by reference to Exhibit 19b to the Form 10-K for the fiscal year ended December 31, 1991; as amended effective January 1, 1994, incorporated herein by reference to Exhibit 10d to the Form 10-K for the fiscal year ended December 31, 1993; and as amended effective January 1, 1994, incorporated herein by reference to Exhibit 10d to the Form 10-K for the fiscal year ended December 31, 1994).	*
**10ff.	Bristol-Myers Squibb Company Executive Performance Incentive Plan effective January 1, 1997 (incorporated herein by reference to Exhibit 10b to the Form 10-K for the fiscal year ended December 31, 1996).	*
**10gg.	Bristol-Myers Squibb Company Executive Performance Incentive Plan (effective January 1, 2003 and as amended effective June 10, 2008 incorporated herein by reference to Exhibit 10.3 to the Form 10-Q for the quarterly period ended September 30, 2008).	*
**10hh.	Bristol-Myers Squibb Company 2007 Senior Executive Performance Incentive Plan (as amended and restated effective June 8, 2010 and incorporated herein by reference to Exhibit 10a. to the Form 10-Q for the quarterly period ended June 30, 2010).	*
**10ii.	Benefit Equalization Plan of Bristol-Myers Squibb Company and its Subsidiary or Affiliated Corporations Participating in the Bristol-Myers Squibb Company Retirement Income Plan or the Bristol-Myers Squibb Puerto Rico, Inc. Retirement Income Plan, as amended (as amended and restated as of January 1, 1993, as amended effective October 1, 1993, incorporated herein by reference to Exhibit 10e to the Form 10-K for the fiscal year ended December 31, 1993; and as amended effective February 1, 1995, incorporated herein by reference to Exhibit 10e to the Form 10-K for the fiscal year ended December 31, 1996).	*
**10jj.	Benefit Equalization Plan of Bristol-Myers Squibb Company and its Subsidiary or Affiliated Corporations Participating in the Bristol-Myers Squibb Company Savings and Investment Program, as amended and restated effective as of January 1, 1996 (incorporated herein by reference to Exhibit 10h to the Form 10-K for the fiscal year ended December 31, 2001).	*
**10kk.	Squibb Corporation Supplementary Pension Plan, as amended (as previously amended and restated, incorporated herein by reference to Exhibit 19g to the Form 10-K for the fiscal year ended December 31, 1991; as amended as of September 14, 1993, and incorporated herein by reference to Exhibit 10g to the Form 10-K for the fiscal year ended December 31, 1993).	*
**10ll.	Senior Executive Severance Plan, effective as of April 26, 2007 and as amended effective February 16, 2012 (filed herewith).	E-10-5
**10mm.	Form of Agreement entered into between the Registrant and each of the named executive officers and certain other executives effective January 1, 2009 (incorporated herein by reference to Exhibit 10bb to the Form 10-K for the fiscal year ended December 31, 2008).	*
**10nn.	Bristol-Myers Squibb Company Retirement Income Plan for Non-Employee Directors, as amended March 5, 1996 (incorporated herein by reference to Exhibit 10k to the Form 10-K for the fiscal year ended December 31, 1996).	*
**10oo.	Bristol-Myers Squibb Company 1987 Deferred Compensation Plan for Non-Employee Directors, as amended December 17, 2009 (incorporated herein by reference to Exhibit 10tt to the Form 10-K for the fiscal year ended December 31, 2009).	*
**10pp.	Bristol-Myers Squibb Company Non-Employee Directors' Stock Option Plan, as amended (as approved by the Stockholders on May 1, 1990, incorporated herein by reference to Exhibit 28 to Registration Statement No. 33-38587 on Form S-8; as amended May 7, 1991, incorporated herein by reference to Exhibit 19c to the Form 10-K for the fiscal year ended December 31, 1991), as amended January 12, 1999 (incorporated herein by reference to Exhibit 10m to the Form 10-K for the fiscal year ended December 31, 1998).	*
**10qq.	Bristol-Myers Squibb Company Non-Employee Directors' Stock Option Plan, as amended (as approved by the Stockholders on May 2, 2000, incorporated herein by reference to Exhibit A to the 2000 Proxy Statement dated March 20, 2000).	*
**10rr.	Squibb Corporation Deferral Plan for Fees of Outside Directors, as amended (as adopted, incorporated herein by reference to Exhibit 10e Squibb Corporation 1991 Form 10-K for the fiscal year ended December 31, 1987, File No. 1-5514; as amended effective December 31, 1991 incorporated herein by reference to Exhibit 10m to the Form 10-K for the fiscal year ended December 31, 1992).	*
**10ss.	Amendment to all of the Company's plans, agreements, legal documents and other writings, pursuant to action of the Board of Directors on October 3, 1989, to reflect the change of the Company's name to Bristol-Myers Squibb Company (incorporated herein by reference to Exhibit 10v to the Form 10-K for the fiscal year ended December 31, 1989).	*

12. Statement re computation of ratios (filed herewith).	E-12-1
21. Subsidiaries of the Registrant (filed herewith).	E-21-1
23. Consent of Deloitte & Touche LLP (filed herewith).	E-23-1
31a. Section 302 Certification Letter (filed herewith).	E-31-1
31b. Section 302 Certification Letter (filed herewith).	E-31-2
32a. Section 906 Certification Letter (filed herewith).	E-32-1
32b. Section 906 Certification Letter (filed herewith).	E-32-2
101. The following financial statements from the Bristol-Myers Squibb Company Annual Report on Form 10-K for the years ended December 31, 2011, 2010 and 2009, formatted in Extensible Business Reporting Language (XBRL): (i) consolidated statements of earnings, (ii) consolidated statements of comprehensive income, (iii) consolidated balance sheets, (iv) consolidated statements of cash flows, and (v) the notes to the consolidated financial statements.	

† Confidential treatment has been granted for certain portions which are omitted in the copy of the exhibit electronically filed with the Commission. The omitted information has been filed separately with the Commission pursuant to the Company's application for confidential treatment.

\* Indicates, in this Form 10-K, brand names of products, which are registered trademarks not owned by BMS or its subsidiaries. ERBITUX, ALIMTA and GEMZAR are trademarks of Eli Lilly and Company; AVAPRO/AVALIDE (known in the EU as APROVEL/KARVEA), ISCOVER, KARVEZIDE, COAPROVEL and PLAVIX are trademarks of Sanofi; ABILIFY is a trademark of Otsuka Pharmaceutical Co., Ltd.; TRUVADA is a trademark of Gilead Sciences, Inc.; GLEEVEC is a trademark of Novartis AG; ATRIPLA is a trademark of Bristol-Myers Squibb and Gilead Sciences, LLC; NORVIR is a trademark of Abbott Laboratories; ESTRACE and OVCON are trademarks of Warner-Chilcott Company, LLC; DELESTROGEN is a trademark of JHP Pharmaceuticals, Inc.; and HUMIRA is a trademark of Abbott Laboratories. Brand names of products that are in all capital letters, without an asterisk, are registered trademarks of BMS and/or one of its subsidiaries.



**PERFORMANCE SHARE UNITS AGREEMENT**

Under the Bristol-Myers Squibb Company  
2007 Stock Award and Incentive Plan

**2012-2014 Performance Share Units Award**

Bristol-Myers Squibb Company (the "Company") has granted you a Performance Share Units Award as set forth in the Grant Summary. This award is subject in all respects to the terms, definitions and provisions of the 2007 Stock Award and Incentive Plan (the "Plan") adopted by the Company.

Award Date:

Performance Cycle Start Date: January 1, 2012

Please refer to the Grant Summary for the Target Number of Performance Share Units relating to the 2012-2014 performance cycle:

2012 Performance Share Units (12-14 Cycle): One-third of total award

2013 Performance Share Units (12-14 Cycle): One-third of total award

2014 Performance Share Units (12-14 Cycle): One-third of total award

The year referenced for each of these three "tranches" is the "Performance Year" for that tranche.

The range at which Performance Share Units may be earned for varying performance will be set for each tranche by March 30 of the Performance Year. The range for the 2012 Performance Share Units is included on Exhibit A attached hereto.

**Minimum Performance Condition:** If you have been designated a Covered Employee (as defined in the Plan) for a Performance Year, then a required condition in order for you to earn Performance Share Units for the Performance Year will be that the Minimum Performance Condition has been achieved (in addition to achievement of the Performance Goals). A separate Minimum Performance Condition will be set for each tranche by March 30 of the Performance Year. The Minimum Performance Condition for the 2012 Performance Share Units is included on Exhibit A attached hereto.

**Performance Goal and Earning Date:** A separate Performance Goal will be set for each tranche by March 30 of the Performance Year, specifying the number of Performance Share Units that may be earned for specified levels of performance. The Earning Date will be December 31 of the Performance Year. The Performance Goals for the 2012 Performance Share Units are included on Exhibit A attached hereto.

**Vesting:** Earned Performance Share Units will vest on January 1, 2015, subject to earlier vesting at the times indicated in Sections 6 (including in connection with certain terminations following a Change in Control) and 8.

**Settlement:** Earned and vested Performance Share Units will be settled by delivery of one share of the Company's Common Stock, \$0.10 par value per share ("Shares"), for each Performance Share Unit being settled. Dividend equivalents will accrue and be payable in connection with Performance Share Units at the time and to the extent that the underlying Performance Share Unit becomes payable. Settlement shall occur at the time specified in Section 4 hereof.

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## 1. PERFORMANCE SHARE UNITS AWARD

The Compensation and Management Development Committee of the Board of Directors of Bristol-Myers Squibb Company (the "Committee") has granted to you the opportunity to earn the 2012 Performance Share Units as designated herein subject to the terms, conditions and restrictions set forth in this Agreement. In addition, the Committee hereby indicates its intention to grant to you the opportunity to earn the 2013 Performance Share Units and the 2014 Performance Share Units for the 2012-2014 performance cycle and subject to this Agreement; such grants shall become effective only at such time as the Committee has specified the Minimum Performance Condition (if the Minimum Performance Condition is applicable to you) and the Performance Goal for those Performance Share Units (by March 30 of the relevant Performance Year), except as otherwise provided in this Section 1 and in Sections 6(a) and 6(b). The target number of each tranche of Performance Share Units and the kind of shares deliverable in settlement, the calculation of earnings per share as a Performance Goal, and other terms and conditions of the Performance Share Units are subject to adjustment in accordance with Section 11 hereof and Plan Section 11(c). In the event of a Change in Control, you will become legally entitled to have the grant of Performance Share Units specified hereunder become effective (i) for the Performance Year in effect at the date of the Change in Control, at the time of the Change in Control (if the grant was not previously effective) if you were employed by the Company or a subsidiary or affiliate immediately before the Change in Control, and (ii) for any Performance Year beginning after the year in which the Change in Control occurred, at the beginning of such Performance Year if you remain so employed at that time. In each case relating to Performance Share Units the grant of which is effective at or following a Change in Control, the Minimum Performance Condition and the Performance Goal for such Performance Share Units shall be reasonably achievable and not more difficult to achieve in relation to the Company's budget for that Performance Year than the Minimum Performance Condition and the Performance Goal for any earlier Performance Year was in relation to the budget for that earlier Performance Year.

## 2. CONSIDERATION

As consideration for grant of 2012 Performance Share Units, you shall remain in the continuous employ of the Company and/or its Subsidiaries or affiliates for at least one year from the Performance Cycle Start Date or such lesser period as the Committee shall determine in its sole discretion, and no Performance Share Units shall be payable until after the completion of such one year or lesser period of employment by you (subject to Section 6(c)). No 2013 Performance Share Units or 2014 Performance Share Units shall be granted hereunder unless you have met the one-year continuous employment requirement specified in this Section 2, measured from the Performance Cycle Start Date.

## 3. MINIMUM PERFORMANCE CONDITION AND PERFORMANCE GOALS

The Minimum Performance Condition and the Performance Goals for the 2012 Performance Share Units are specified on the cover page of this Agreement and Exhibit A hereto, and for the 2013 Performance Share Units and 2014 Performance Share Units shall be specified in writing in such manner as the Committee may determine.

## 4. DETERMINATION OF PERFORMANCE SHARE UNITS EARNED AND VESTED; FORFEITURES; SETTLEMENT

By March 15 of the year following each Performance Year, the Committee shall determine the extent to which Performance Share Units have been earned on the basis of the Company's actual performance in relation to (i) the established Minimum Performance Condition and (ii) the established Performance Goals for the Performance Share Units relating to that Performance Year, provided, however, that, in the case of clause (ii), the Committee may exercise its discretion (reserved under Plan Sections 7(a) and 7(b)(v)) to reduce the amount of Performance Share Units deemed earned in

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its assessment of performance in relation to Performance Goals, or in light of other considerations the Committee deems relevant. The Committee shall certify these results in writing in accordance with Plan Section 7(c), subject to any limitation under Section 7 hereof (if you are Disabled during the Performance Year in excess of 26 weeks). Any Performance Share Units that are not, based on the Committee's determination, earned by performance in a Performance Year (or deemed to be earned in connection with a termination of employment under Sections 6 and 8 below), including Performance Share Units that had been potentially earnable by performance in excess of the actual performance levels achieved, shall be canceled and forfeited.

Performance Share Units are subject to vesting based on your service for periods which extend past the applicable Performance Year. The stated vesting date is set forth on the cover page hereof. If, before the stated vesting date, there occurs an event immediately after which you are not an employee of the Company, its subsidiaries or an affiliate of the Company, you will become vested in Performance Share Units only to the extent provided in Section 6 or 8, and any Performance Share Units that have not been earned and vested at or before such event and which cannot thereafter be earned and vested under Sections 6 or 8 shall be canceled and forfeited.

In certain termination events as specified below and in connection with a long-term Disability (as defined in Section 7), you will be entitled to vesting of a "Pro Rata Portion" of the Performance Share Units earned or deemed earned hereunder. For purposes of this Agreement, in the case of a termination of employment, the Pro Rata Portion is calculated as the proportionate number of the total number of Performance Share Units relating to a given Performance Year; provided, however, that the number of days you were employed shall be reduced by the number of days during such Performance Year in which you were Disabled in excess of 26 weeks since the commencement of the Disability. For purposes of this Agreement, in the case of a Disability extending longer than 26 weeks, the Pro Rata Portion is calculated as the proportionate number of the total number of Performance Share Units relating to a given Performance Year minus the number of days you were Disabled in excess of 26 weeks since the commencement of the Disability.

The number of Performance Share Units earned or vested shall be rounded to the nearest whole Performance Share Unit, unless otherwise determined by the Company officers responsible for day-to-day administration of the Plan.

Performance Share Units that become vested while you remain employed by the Company or a subsidiary or affiliate shall be settled at the date between January 1, 2015 and March 15, 2015, at which the Committee determines and certifies the extent to which the Minimum Performance Condition (if the Minimum Performance Condition is applicable to you) and the Performance Goals for the 2014 Performance Share Units have been met, by delivery of one Share for each Performance Share Unit being settled, unless validly deferred in accordance with deferral terms then authorized by the Committee (subject to Plan Section 11(k)). Performance Share Units that become vested under Sections 6(a), 6(b), 6(c) or 8 shall be settled at the times specified therein; provided, however, that settlement of Performance Share Units under Sections 6(a), (b) or (c) shall be subject to the applicable provisions of Plan Section 11(k). (*Note: Plan Section 11(k) could apply if settlement is triggered by a Change in Control or a termination following a Change in Control*). Until Shares are delivered to you in settlement of Performance Share Units, you shall have none of the rights of a stockholder of the Company with respect to the Shares issuable in settlement of the Performance Share Units, including the right to vote the shares and receive distributions other than dividends. (Your rights with respect to dividends are set forth in Section 11 below.) Shares of stock issuable in settlement of Performance Share Units shall be delivered to you upon settlement in certificated form or in such other manner as the Company may reasonably determine.

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## 5. NONTRANSFERABILITY OF PERFORMANCE SHARE UNITS

During the period from the Award Date until the date all of the Performance Share Units have become vested and non-forfeitable and any further period prior to settlement of your Performance Share Units, you may not sell, transfer, pledge or assign any of the Performance Share Units or your rights relating thereto. If you attempt to assign your rights under this Agreement in violation of the provisions herein, the Company's obligation to settle Performance Share Units or otherwise make payments shall terminate.

## 6. RETIREMENT AND OTHER TERMINATIONS (EXCLUDING DEATH)

(a) *Retirement.* In the event of your Retirement (as defined in the Plan) prior to settlement of Performance Share Units and after you have satisfied the one-year employment requirement of Section 2, you will be deemed vested (i) in any Performance Share Units that relate to a Performance Year completed before your Retirement and which have been determined or thereafter are determined by the Committee to have been earned under Section 4, and (ii) with respect to Performance Share Units relating to a Performance Year in progress at the date of your Retirement, in a Pro Rata Portion of the Performance Share Units you would have actually earned for that Performance Year if you had continued to be employed through the date the Committee determines the earning of the Performance Share Units for that Performance Year under Section 4 (for this purpose, if the grant of Performance Share Units relating to the Performance Year in progress at the date of your Retirement has not yet become effective, such grant shall be deemed to be effective immediately before the Retirement and shall have the same terms as applicable to participating employees who remain employed). Any Performance Share Units earned and vested under this Section 6(a) shall be settled at the earlier of (i) the date such Performance Share Units would have settled if you had continued to be employed by the Company or a subsidiary or affiliate, (ii) in the event of a Change in Control, as to previously earned Performance Share Units, promptly upon the Change in Control and, in the case of any unearned Performance Share Units (subject to Section 1), promptly following the date at which the Committee determines the extent to which such Performance Share Units have been earned (in each case subject to Section 6(e) below and Plan Section 11(k)), or (iii) in the event of your death, in the year following the Performance Year in which your Retirement occurred (following the Committee's determination of the extent to which any remaining unearned Performance Share Units have been earned) or, if your death occurred after that year, as promptly as practicable following your death. Following your Retirement, any Performance Share Units that have not been earned and vested and which thereafter will not be deemed earned and vested under this Section 6(a) will be canceled and forfeited.

(b) *Termination by the Company Not For Cause.* In the event of your Termination Not for Cause (as defined in Section 6(f)) by the Company and not during the Protected Period (as defined in Section 6(f)), prior to settlement of Performance Share Units and after you have satisfied the one-year employment requirement of Section 2, you will be deemed vested (i) in any Performance Share Units that relate to a Performance Year completed before such termination and which have been determined or thereafter are determined by the Committee to have been earned under Section 4, and (ii) with respect to Performance Share Units relating to a Performance Year in progress at the date of such termination, in a Pro Rata Portion of the Performance Share Units you would have actually earned for that Performance Year if you had continued to be employed through the date the Committee determines the earning of the Performance Share Units for that Performance Year under Section 4 (for this purpose, if the grant of Performance Share Units relating to the Performance Year in progress at the date of your Termination Not for Cause has not yet become effective, such grant shall be deemed to be effective immediately before your termination and shall have the same terms as applicable to participating employees who remain employed). If you are employed in the United States (including in Puerto Rico), and you are not eligible for Retirement, you shall be entitled to the pro rata vesting described in the preceding sentence only if you

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execute and do not revoke a release in favor of the Company and its predecessors, successors, affiliates, subsidiaries, directors and employees in a form satisfactory to the Company and, where deemed applicable by the Company, a non-compete and/or a non-solicitation agreement; if you fail to execute or revoke the release or fail to execute the non-compete or non-solicitation agreement, you shall forfeit any Performance Share Units that are unvested as of the date your employment terminates. Any Performance Share Units earned and vested under this Section 6(b) shall be settled at the earlier of (i) the date such Performance Share Units would have settled if you had continued to be employed by the Company or a subsidiary or affiliate, (ii) in the event of a Change in Control meeting the conditions of Section 6(e)(ii), as to previously earned Performance Share Units, promptly upon such Change in Control and, in the case of any unearned Performance Share Units (subject to Section 1), promptly following the date at which the Committee determines the extent to which such Performance Share Units have been earned (in each case subject to Section 6(e) below and Plan Section 11(k)), or (iii) in the event of your death, in the year following the Performance Year in which your Termination Not for Cause occurred (following the Committee's determination of the extent to which any remaining unearned Performance Share Units have been earned) or, if your death occurred after that year, as promptly as practicable following your death. Following such Termination Not for Cause, any Performance Share Units that have not been earned and vested and which thereafter will not be deemed earned and vested under this Section 6(b) will be canceled and forfeited.

(c) *Qualifying Termination Following a Change in Control.* In the event that you have a Qualifying Termination as defined in Plan Section 9(c) during the Protected Period (as defined in Section 6(f) below) following a Change in Control (as defined in the Plan), you will be deemed vested (i) in any Performance Share Units that relate to a Performance Year completed before such termination and which have been determined or thereafter are determined by the Committee to have been earned under Section 4, and (ii) with respect to Performance Share Units relating to a Performance Year in progress at the date of your Qualifying Termination (subject to Section 1, but including Performance Share Units otherwise not meeting the one-year requirement of Section 2), in a Pro Rata Portion of the target number of Performance Share Units that could have been earned in the Performance Year. All of your earned and vested Performance Share Units shall be settled promptly (subject to Section 6(e) below and Plan Section 11(k)); provided, however, any additional forfeiture conditions in the nature of a "clawback" contained in Section 10 of this Agreement shall continue to apply to any payment. Upon your Qualifying Termination, any Performance Share Units that have not been deemed earned and vested under this Section 6(c) will be canceled and forfeited.

(d) *Other Terminations.* If you cease to be an employee of the Company and its subsidiaries and affiliates for any reason other than Retirement, Termination Not for Cause, a Qualifying Termination within the Protected Period following a Change in Control, or death, Performance Share Units granted herein that have not become both earned and vested shall be canceled and forfeited and you shall have no right to settlement of any portion of the Performance Share Units.

(e) *Special Distribution Rules to Comply with Code Section 409A.* The Performance Share Units constitute a "deferral of compensation" under Section 409A of the Internal Revenue Code (the "Code"), based on Internal Revenue Service regulations and guidance in effect at the date of grant. As a result, the timing of settlement of your Performance Share Units will be subject to applicable limitations under Code Section 409A. Specifically, each tranche of Performance Share Units will be subject to Plan Section 11(k), including the following restrictions on settlement:

(i) Settlement of the Performance Share Units under Section 6(c) upon a Qualifying Termination will be subject to the requirement that the termination constitute a "separation from service" under Treas. Reg. § 1.409A-1(h), and subject to the six-month delay rule under Plan Section 11(k)(i)(C)(2) if at the time of separation from service you are a "Specified Employee."

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(ii) Settlement of the Performance Share Units under Section 6(a) or 6(b) in the event of a Change in Control will occur only if an event relating to the Change in Control constitutes a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company within the meaning of Treas. Reg. § 1.409A-3(i)(5).

(f) *Definition of "Protected Period" and "Termination Not for Cause."* For purposes of this Section 6, the "Protected Period" means a specific period of time following a Change in Control, such period to be the same as the applicable "protected period" specified by the Committee in your Change-in-Control Agreement or Change-in-Control Plan, as applicable, or such other specific period (not less than one year) specified by the Committee at the time of grant of this Award in the resolutions authorizing the grant of this Award. For purposes of this Section 6, a "Termination Not for Cause" means a Company-initiated termination for reason other than willful misconduct, activity deemed detrimental to the interests of the Company, or disability, provided that you execute a general release and, where required by the Company, a non-solicitation and/or non-compete agreement with the Company.

#### 7. DISABILITY OF PARTICIPANT

For purposes of this Agreement, "Disability" or "Disabled" shall mean qualifying for and receiving payments under a disability plan of the Company or any subsidiary or affiliate either in the United States or in a jurisdiction outside of the United States, and in jurisdictions outside of the United States shall also include qualifying for and receiving payments under a mandatory or universal disability plan or program managed or maintained by the government. If you become Disabled, you will not be deemed to have terminated employment for the period during which, under the applicable Disability pay plan of the Company or a subsidiary or affiliate, you are deemed to be employed and continue to receive Disability payments. Upon the cessation of payments under such Disability pay plan, (i) if you return to employment status with the Company or a subsidiary or affiliate, you will not be deemed to have terminated employment, and (ii) if you do not return to such employment status, you will be deemed to have terminated employment at the date of cessation of such Disability payments, with such termination treated for purposes of the Performance Share Units as a Retirement, death, or voluntary termination based on your circumstances at the time of such termination. If you have been Disabled for a period in excess of 26 weeks in the aggregate during one or more Performance Years, for each affected Performance Year you will earn only a Pro Rata Portion of the Performance Share Units you otherwise would have earned in respect of such a Performance Year.

#### 8. DEATH OF PARTICIPANT

In the event of your death while employed by the Company or a subsidiary and prior to settlement of Performance Share Units but after you have satisfied the one-year employment requirement of Section 2, you will be deemed vested (i) in any Performance Share Units that relate to a Performance Year completed before your death and which have been determined or thereafter are determined by the Committee to have been earned under Section 4, and (ii) with respect to Performance Share Units relating to a Performance Year in progress at the date of your death, in a Pro Rata Portion of the Performance Share Units you would have actually earned for that Performance Year if you had continued to be employed through the date the Committee determines the earning of the Performance Share Units for that Performance Year under Section 4. In this case, your beneficiary shall be entitled to settlement of any of your earned and vested Performance Share Units referred to in clause (i) by the later of the end of the calendar year in which your death occurred or 60 days after your death, and to your earned and vested Performance Share Units referred to in clause (ii) in the year following your year of death as promptly as practicable following the determination of the number of Performance Share Units earned under clause (ii) above. In the case of your death, any Performance Share Units that have not been earned and vested and thereafter will not be deemed earned and vested under this Section 8 will be canceled and forfeited.

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## 9. RESPONSIBILITY FOR TAXES

Regardless of any action the Company or your employer ("Employer") takes with respect to any or all income tax, social security, payroll tax, tax or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or your Employer to be an appropriate charge to you even if technically due by the Company or your Employer ("Tax-Related Items"), you acknowledge that the ultimate liability for all Tax-Related Items is and remains your responsibility and may exceed the amount actually withheld by the Company or your Employer. You further acknowledge that the Company and/or your Employer: (1) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Performance Share Units, including the grant, vesting, earning, or settlement of the Performance Share Units (as applicable), the subsequent sale of any Shares acquired pursuant to such Performance Share Units and the receipt of any dividends and/or dividend equivalents; and (2) do not commit to, and are under no obligation to, structure the terms of the grant or any aspect of the Performance Share Units to reduce or eliminate your liability for Tax-Related Items or achieve any particular result. Further, if you have become subject to tax in more than one jurisdiction between the date of grant and the date of any relevant taxable event, you acknowledge that the Company or your Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to any relevant taxable or tax withholding event, as applicable, you shall pay or make adequate arrangements satisfactory to the Company and/or your Employer to satisfy all Tax-Related Items. In this regard, you authorize the Company and/or your Employer (or any other broker designated by the Company), or their respective agents, at their discretion, to satisfy the obligations with respect to all Tax-Related Items by one or a combination of the following:

- (a) withholding from your wages or other cash compensation paid to you by the Company and/or your Employer; or
- (b) withholding from proceeds of the sale of Shares acquired upon vesting/settlement of the Performance Share Units either through a voluntary sale or through a mandatory sale arranged by the Company (on your behalf pursuant to this authorization); or
- (c) withholding in Shares to be issued upon vesting/settlement of the Performance Share Units.

To avoid negative accounting treatment, the Company may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding amounts or other applicable withholding rates. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, you are deemed to have been issued the full number of Shares subject to the vested Performance Share Units, notwithstanding that a number of the Shares are held back solely for the purpose of paying the Tax-Related Items due as a result of any aspect of your participation in the Plan.

Finally, you shall pay to the Company or your Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if you fail to comply with your obligations in connection with the Tax-Related Items.

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#### 10. FORFEITURE IN THE EVENT OF COMPETITION AND/OR SOLICITATION OR OTHER ACTS

You acknowledge that your continued employment with the Company and its subsidiaries and affiliates and this grant of Performance Share Units are sufficient consideration for this Agreement, including, without limitation, the restrictions imposed upon you by Section 10.

- (a) By accepting the Performance Share Units granted hereby, you expressly agree and covenant that during the Restricted Period (as defined below), you shall not, without the prior consent of the Company, directly or indirectly:
- (i) own or have any financial interest in a Competitive Business (as defined below), except that nothing in this clause shall prevent you from owning one percent or less of the outstanding securities of any entity whose securities are traded on a U.S. national securities exchange (including NASDAQ) or an equivalent foreign exchange;
  - (ii) be actively connected with a Competitive Business by managing, operating, controlling, being an employee or consultant (or accepting an offer to be an employee or consultant) or otherwise advising or assisting a Competitive Business in such a way that such connection might result in an increase in value or worth of any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary or affiliate. You may, however, be actively connected with a Competitive Business after your employment with the Company or a subsidiary terminates for any reason, so long as your connection to the business does not involve any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary and the Company is provided written assurances of this fact from the Competing Company prior to your beginning such connection;
  - (iii) take any action that might divert any opportunity from the Company or any of its affiliates, successors or assigns (the "Related Parties") that is within the scope of the present or future operations or business of any Related Parties;
  - (iv) employ, solicit for employment, advise or recommend to any other person that they employ or solicit for employment or form an association with any person who is employed by the Company or its Related Parties or who has been employed by the Company or its Related Parties within one year of the date your employment with the Company or a subsidiary ceased for any reason whatsoever;
  - (v) contact, call upon or solicit any customer of the Company, or attempt to divert or take away from the Company the business of any of its customers;
  - (vi) contact, call upon or solicit any prospective customer of the Company that you became aware of or were introduced to in the course of your duties for the Company or its Related Parties, or otherwise divert or take away from the Company the business of any prospective customer of the Company; or
  - (vii) engage in any activity that is harmful to the interests of the Company, including, without limitation, any conduct during the term of your employment that violates the Company's Standards of Business Conduct and Ethics, securities trading policy and other policies.

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- (b) Forfeiture. You agree and covenant that, if the Company determines that you have violated any provisions of Section 10(a) above during the Restricted Period, then:
- (i) any portion of the Performance Share Units that have not been settled or paid to you as of the date of such determination shall be immediately canceled and forfeited;
  - (ii) you shall automatically forfeit any rights you may have with respect to the Performance Share Units as of the date of such determination;
  - (iii) if any Performance Share Units have become vested within the twelve-month period immediately preceding a violation of Section 10(a) above (or following the date of any such violation), upon the Company's demand, you shall immediately deliver to it a certificate or certificates for Shares equal to the number of Shares delivered to you in settlement of such vested Performance Share Units if such delivery was made in Shares or you shall pay cash equal to the value of cash paid to you in settlement of such vested Performance Share Units if such payment was made in cash; and
  - (iv) the foregoing remedies set forth in this Section 10(b) shall not be the Company's exclusive remedies. The Company reserves all other rights and remedies available to it at law or in equity.
- (c) Company Policy. You agree that the Company may recover any incentive-based compensation received by you under this Agreement if such recovery is pursuant to a clawback policy approved by the Committee.
- (d) Definitions. For purposes of this Section 10, the following definitions shall apply:
- (i) The Company directly advertises and solicits business from customers wherever they may be found and its business is thus worldwide in scope. Therefore, "Competitive Business" means any person or entity that engages in any business activity that competes with the Company's business in any way, in any geographic area in which the Company engages in business, including, without limitation, any state in the United States in which the Company sells or offers to sell its products from time to time.
  - (ii) "Restricted Period" means the period during which you are employed by the Company or its subsidiaries and affiliates and twelve months following the date that you no longer are employed by the Company or any of its subsidiaries or affiliates for any reason whatsoever.
- (e) Severability. You acknowledge and agree that the period, scope and geographic areas of restriction imposed upon you by the provisions of Section 10 are fair and reasonable and are reasonably required for the protection of the Company. In the event that any part of this Agreement, including, without limitation, Section 10, is held to be unenforceable or invalid, the remaining parts of this Agreement and Section 10 shall nevertheless continue to be valid and enforceable as though the invalid portions were not a part of this Agreement. If any one of the provisions in Section 10 is held to be excessively broad as to period, scope and geographic areas, any such provision shall be construed by limiting it to the extent necessary to be enforceable under applicable law.
- (f) Additional Remedies. You acknowledge that breach by you of this Agreement would cause irreparable harm to the Company and that in the event of such breach, the Company shall have, in addition to monetary damages and other remedies at law, the right to an injunction, specific performance and other equitable relief to prevent violations of your obligations hereunder.

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## 11. DIVIDEND EQUIVALENTS AND OTHER ADJUSTMENTS

- (a) Crediting of Dividend Equivalents. Subject to this Section 11, dividend equivalents shall be credited on your Performance Share Units (other than Performance Share Units that, at the relevant record date, previously have been settled or forfeited) as follows, except that the Committee may specify an alternative treatment from that specified in (i), (ii), or (iii) below for any dividend or distribution:
- (i) *Cash Dividends*. If the Company declares and pays a dividend or distribution on Shares in the form of cash, then a number of additional Performance Share Units shall be credited to you as of the payment date for such dividend or distribution equal to (A) the amount of such dividend on each outstanding Share, multiplied by (B) the number of Performance Share Units credited to you as of the record date for such dividend or distribution, divided by (C) the Fair Market Value of a Share at such payment date. At the time the underlying Performance Share Units become payable, the Company has the discretion to pay any accrued dividend equivalents either in cash or in Shares. You will be eligible to receive dividend equivalents on any Performance Share Units credited to you under this Section 11(a)(i). For purposes of determining the number of Performance Share Units "credited" to you as of the record date of a dividend or distribution in this Section 11, a Performance Share Unit shall not be deemed "credited" until a separate Performance Goal has been set by the Committee for such Performance Share Unit.
  - (ii) *Non-Share Dividends*. If the Company declares and pays a dividend or distribution on Shares in the form of property other than shares, then a number of additional Performance Share Units shall be credited to you as of the payment date for such dividend or distribution equal to (A) the number of Performance Share Units credited to you as of the record date for such dividend or distribution, multiplied by (B) the Fair Market Value of such property actually paid as a dividend or distribution on each outstanding Share at such payment date, divided by (C) the Fair Market Value of a share at such payment date. You will be eligible to receive dividend equivalents on any Performance Share Units credited to you under this Section 11(a)(ii).
  - (iii) *Common Stock Dividends and Splits*. If the Company declares and pays a dividend or distribution on Shares in the form of additional shares, or there occurs a forward split of Shares, then a number of additional Performance Share Units shall be credited to you as of the payment date for such dividend or distribution or forward split equal to (A) the number of Performance Share Units credited to you as of the record date for such dividend or distribution or split, multiplied by (B) the number of additional shares actually paid as a dividend or distribution or issued in such split in respect of each outstanding Share. You will be eligible to receive dividend equivalents on any Performance Share Units credited to you under this Section 11(a)(iii).
- (b) Adjustment of Dividend Equivalents. If any Performance Share Unit is forfeited for any reason, including as a result of the failure to attain the Minimum Performance Condition or the failure to attain the Performance Goals at least at Threshold, any dividend or distribution attributable to such Performance Share Unit, whether in the form of cash or additional Performance Share Units, shall be forfeited on the date on which the underlying Performance Share Unit is forfeited. If any Performance Share Units are paid at greater or smaller than 100% of Target, the amount of dividend equivalents (if any) credited on such Performance Share Units, whether in the form of cash or additional Performance Share Units, shall be increased or decreased proportionately to reflect the payout percentage on the underlying Performance Share Units.

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- (c) Payment of Dividend Equivalents. Any cash payable under this Section 11 shall be included as part of your regular payroll payment as soon as administratively practicable after the settlement date for the underlying Performance Share Units. Any Performance Share Units payable under this Section 11 shall be settled on the settlement date for the underlying Performance Share Unit. When the dividend equivalents you receive under this Section 11, if any, become payable to you, they will be compensation (wages) for tax purposes and will be included on your W-2 form. The Company will be required to withhold applicable taxes on such dividend equivalents. The Company may deduct such taxes in the manner set forth in Section 9 hereof.
- (d) Other Adjustments. The target number of Performance Share Units, the kind of securities deliverable in settlement of Performance Share Units, and any performance measure based on per share results shall be appropriately adjusted in order to prevent dilution or enlargement of your rights with respect to the Performance Share Units upon the occurrence of an event referred to in Plan Section 11(c). In furtherance of the foregoing, in the event of an equity restructuring, as defined in FASB ASC Topic 718, which affects the Shares, you shall have a legal right to an adjustment to your Performance Share Units which shall preserve without enlarging the value of the Performance Share Units, with the manner of such adjustment to be determined by the Committee in its discretion. Any Performance Share Units or related rights which directly or indirectly result from an adjustment to a Performance Share Unit hereunder shall be subject to the same risk of forfeiture and other conditions as apply to the granted Performance Share Unit and will be settled at the same time as the granted Performance Share Unit.

## 12. EFFECT ON OTHER BENEFITS

In no event shall the value, at any time, of the Performance Share Units or any other payment or right to payment under this Agreement be included as compensation or earnings for purposes of any other compensation, retirement, or benefit plan offered to employees of the Company or its subsidiaries or affiliates unless otherwise specifically provided for in such plan. Performance Share Units are not part of normal or expected compensation or salary for any purposes including, but not limited to, calculation of any severance, resignation, termination, redundancy or end of service payments, bonuses, long-service awards, pension or retirement benefits, or similar payments.

## 13. ACKNOWLEDGMENT OF NATURE OF PLAN AND PERFORMANCE SHARE UNITS

In accepting the Performance Share Units, you acknowledge, understand and agree that:

- (a) The Plan is established voluntarily by the Company, it is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;
- (b) The award of Performance Share Units is voluntary and occasional and does not create any contractual or other right to receive future awards of Performance Share Units, or benefits in lieu of Performance Share Units even if Performance Share Units have been awarded repeatedly in the past;
- (c) All decisions with respect to future awards of Performance Share Units, if any, will be at the sole discretion of the Company;

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(d) Your participation in the Plan shall not create a right to further employment with the Employer and shall not interfere with the ability of the Employer to terminate your employment relationship at any time;

(e) Your participation in the Plan is voluntary;

(f) Performance Share Units and the Shares subject to the Performance Share Units are an extraordinary item that do not constitute compensation of any kind for services of any kind rendered to the Company or to the Employer, and Performance Share Units are outside the scope of your employment contract, if any;

(g) The Performance Share Units and your participation in the Plan will not be interpreted to form an employment contract with the Company or any subsidiary or affiliate of the Company;

(h) The future value of the underlying Shares is unknown and cannot be predicted with certainty;

(i) The Performance Share Units and the Shares subject to the Performance Share Units are not intended to replace any pension rights or compensation that you may otherwise be entitled to;

(j) The Performance Share Units and the underlying Shares should not be considered as compensation for, or relating in any way to, past services for the Company, its subsidiaries or affiliates or the Employer; and

(k) No claim or entitlement to compensation or damages arises from the forfeiture of Performance Share Units, resulting from termination of your employment by the Company, any subsidiary or affiliate or your Employer (for any reason whatsoever and whether or not in breach of labor laws), and in consideration of the grant of the Performance Share Units to which you are otherwise not entitled, you irrevocably agree never to institute any claim against the Company or the Employer, waive your ability, if any, to bring such claim, and release the Company, any subsidiary or affiliate and/or the Employer from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, you shall be deemed irrevocably to have agreed not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claims.

#### 14. NO ADVICE REGARDING GRANT

The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan or your acquisition or sale of the underlying Shares. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan.

#### 15. RIGHT TO CONTINUED EMPLOYMENT

Nothing in the Plan or this Agreement shall confer on you any right to continue in the employ of the Company or any subsidiary or affiliate or any specific position or level of employment with the Company or any subsidiary or affiliate or affect in any way the right of the Company or any subsidiary or affiliate to terminate your employment without prior notice at any time for any reason or no reason.

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16. ADMINISTRATION

The Committee shall have full authority and discretion, subject only to the express terms of the Plan, to decide all matters relating to the administration and interpretation of the Plan and this Agreement, and all such Committee determinations shall be final, conclusive, and binding upon the Company, any subsidiary or affiliate, you, and all interested parties. Any provision for distribution in settlement of your Performance Share Units and other obligations hereunder shall be by means of bookkeeping entries on the books of the Company and shall not create in you or any beneficiary any right to, or claim against any, specific assets of the Company, nor result in the creation of any trust or escrow account for you or any beneficiary. You and any of your beneficiaries entitled to any settlement or other payment hereunder shall be a general creditor of the Company.

17. DEEMED ACCEPTANCE

You are required to accept the terms and conditions set forth in this Agreement prior to the end of the first Performance Year in order for you to receive the Award granted to you hereunder. If you wish to decline this Award, you must reject this Agreement prior to the end of the first Performance Year. For your benefit, if you have not rejected the Agreement prior to the end of the first Performance Year, you will be deemed to have automatically accepted this Award and all the terms and conditions set forth in this Agreement. Deemed acceptance will allow the shares to be released to you in a timely manner.

18. AMENDMENT

This Agreement shall be subject to the terms of the Plan, as amended from time to time, except that Performance Share Units which are the subject of this Agreement may not be materially adversely affected by any amendment or termination of the Plan approved after the Award Date without your written consent.

19. SEVERABILITY AND VALIDITY

The various provisions of this Agreement are severable and any determination of invalidity or unenforceability of any one provision shall have no effect on the remaining provisions.

20. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement and Award grant shall be governed by the substantive laws (but not the choice of law rules) of the State of New York. For purposes of litigating any dispute that arises under this Performance Share Unit grant or Agreement, the parties hereby submit to and consent to the jurisdiction of the State of New York, agree that such litigation shall be conducted in the courts of New York, New York, or the federal courts for the United States for the Southern District of New York, and no other courts where this Performance Share Unit grant is made and/or performed.

21. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and heirs of the respective parties.

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## 22. DATA PRIVACY

You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this Agreement by and among, as applicable, your Employer, the Company and its subsidiaries for the exclusive purpose of implementing, administering and managing your participation in the Plan.

You understand that the Company, any subsidiary and/or your Employer may hold certain personal information about you, including, but not limited to, your name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all Performance Share Units or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Plan ("Data").

You understand that Data may be transferred to Morgan Stanley Smith Barney, or such other stock plan service provider as may be selected by the Company in the future, which assists in the implementation, administration and management of the Plan. You authorize the Company, Morgan Stanley Smith Barney and other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing your participation in the Plan, including any requisite transfer of such Data as may be required to a broker, escrow agent or other third party with whom the Shares received upon vesting of the Performance Share Units may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Plan.

## 23. ELECTRONIC DELIVERY

The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through an on-line or electronic systems established and maintained by the Company or a third-party designated by the Company.

## 24. COMPLIANCE WITH LAWS AND REGULATIONS

Notwithstanding any other provisions of this Agreement, you understand that the Company will not be obligated to issue any Shares pursuant to the vesting of the Performance Share Units, if the issuance of such Shares shall constitute a violation by you or the Company of any provision of law or regulation of any governmental authority. Any determination by the Company in this regard shall be final, binding and conclusive.

## 25. ENTIRE AGREEMENT AND NO ORAL MODIFICATION OR WAIVER

This Agreement contains the entire understanding of the parties. This Agreement shall not be modified or amended except in writing duly signed by the parties except that the Company may adopt a modification or amendment to the Agreement that is not materially adverse to you in writing signed only by the Company. Any waiver of any right or failure to perform under this Agreement shall be in writing signed by the party granting the waiver and shall not be deemed a waiver of any subsequent failure to perform.

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For the Company  
Bristol-Myers Squibb Company  
By: \_\_\_\_\_

I have read this Agreement in its entirety. I understand that this Award has been granted to provide a means for me to acquire and/or expand an ownership position in Bristol-Myers Squibb Company. I acknowledge and agree that sales of shares will be subject to the Company's policies regulating trading by employees. In accepting this Award, I hereby agree that Morgan Stanley Smith Barney, or such other vendor as the Company may choose to administer the Plan, may provide the Company with any and all account information for the administration of this Award.

I hereby agree to all the terms, restrictions and conditions set forth in the Agreement.

**PERFORMANCE SHARE UNITS AGREEMENT**

Under the Bristol-Myers Squibb Company  
2007 Stock Award and Incentive Plan

**2012-2014 Performance Share Units Award**  
**2012 Minimum Performance Condition and Performance Goals**

If Participant has been designated a Covered Employee (as defined in the Plan) for the 2012 Performance Year, then a required condition in order for Participant to earn 2012 Performance Share Units in the manner set forth below will be that the Company's Non-GAAP Pretax Earnings for the 2012 fiscal year shall equal or exceed \$[ ] (the "Minimum Performance Condition"). If Participant has not been designated a Covered Employee for the 2012 Performance Year, then Participant shall earn 2012 Performance Share Units in the manner set forth below.

The number of 2012 Performance Share Units earned by Participant shall be determined as of December 31, 2012 (the "Earning Date"), based on the Company's 2012 Net Sales Performance (net of foreign exchange), 2012 Non-GAAP Diluted EPS Performance, and 2012 Adjusted Net Cash Flow from Operating Activities Performance, each as defined below, determined based on the following grid:

Performance Measure	Threshold	Target	Maximum
2012 Net Sales, net of fx (\$=MM)			
2012 Non-GAAP Diluted EPS			
2012 Adjusted Net Cash Flow from Operating Activities (\$=MM)			

Participant shall earn 32.50% of the target number of 2012 Performance Share Units for "Threshold Performance," 100% of the target number of 2012 Performance Share Units for "Target Performance," and 167.50% of the target number of 2012 Performance Share Units for "Maximum Performance." For this purpose, 2012 Net Sales Performance and 2012 Adjusted Net Cash Flow from Operating Activities Performance are weighted 25% each, and 2012 Non-GAAP Diluted EPS Performance is weighted 50%, so the level of earning of 2012 Performance Share Units shall be determined on a weighted-average basis.

Determinations of the Committee regarding 2012 Non-GAAP Pretax Earnings, 2012 Net Sales Performance, 2012 Non-GAAP Diluted EPS Performance, and 2012 Adjusted Net Cash Flow from Operating Activities Performance, and the resulting 2012 Performance Share Units earned, and related matters, will be final and binding on Participant. In making its determinations with respect to 2012 Net Sales Performance, 2012 Non-GAAP Diluted EPS Performance, and 2012 Adjusted Net Cash Flow from Operating Activities Performance, the Committee may exercise its discretion (reserved under Plan Sections 7(a) and 7(b) (v)) to reduce the amount of Performance Share Units deemed earned, in its sole discretion.



**RESTRICTED STOCK UNITS AGREEMENT**  
**UNDER THE BRISTOL-MYERS SQUIBB COMPANY**  
**2007 STOCK AWARD AND INCENTIVE PLAN**

BRISTOL-MYERS SQUIBB COMPANY, a Delaware corporation (the "Company"), has granted to you the Restricted Stock Units ("RSUs") specified in the Grant Summary above, which is incorporated into this Restricted Stock Units Agreement (the "Agreement") and deemed to be a part hereof. The RSUs have been granted to you under Section 6(e) of the 2007 Stock Award and Incentive Plan (the "Plan"), on the terms and conditions specified in the Grant Summary and this Agreement. Capitalized terms used in this Agreement that are not specifically defined herein shall have the meanings ascribed to such terms in the Plan.

**1. RESTRICTED STOCK UNITS AWARD**

The Compensation and Management Development Committee of the Board of Directors of Bristol-Myers Squibb Company (the "Committee") has granted to you on the Award Date an Award of RSUs as designated herein subject to the terms, conditions, and restrictions set forth in this Agreement and the Plan. Each RSU shall represent the conditional right to receive, upon settlement of the RSU, one share of Bristol-Myers Squibb Common Stock ("Common Stock"), or, at the discretion of the Company, the cash equivalent thereof, (subject to any tax withholding as described in Section 4). RSUs include the right to receive dividend equivalents as specified in Section 5 ("Dividend Equivalents"). The purpose of such Award is to motivate and retain you as an employee of the Company or a subsidiary of the Company, to encourage you to continue to give your best efforts for the Company's future success, and to increase your proprietary interest in the Company. Except as may be required by law, you are not required to make any payment (other than payments for taxes pursuant to Section 4 hereof) or provide any consideration other than the rendering of future services to the Company or a subsidiary of the Company.

**2. RESTRICTIONS, FORFEITURES, AND SETTLEMENT**

Except as otherwise provided in this Section 2, RSUs shall be subject to the restrictions and conditions set forth herein during the Restricted Period (as defined below). Vesting of the RSUs is conditioned upon you remaining continuously employed by the Company or a subsidiary of the Company from the Award Date until the relevant vesting date, subject to the provisions of this Section 2. Assuming satisfaction of such employment conditions, the RSUs will become vested and nonforfeitable as follows: one-third on the third anniversary of the Award Date; an additional one-third on the fourth anniversary of the Award Date and the final one-third on the fifth anniversary of the Award Date. In the event you attain age 65 while still an employee of the Company or a subsidiary, all unvested RSUs held by you at least one year from the Award Date will become vested and non-forfeitable, and thereafter, so long as you remain an employee of the Company or a subsidiary after attaining age 65, all other RSUs will become 100% vested one year from the Award Date.

- (a) Nontransferability. During the Restricted Period and any further period prior to settlement of your RSUs, you may not sell, transfer, pledge or assign any of the RSUs or your rights relating thereto.

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- (b) Time of Settlement. RSUs shall be settled promptly upon expiration of the Restricted Period without forfeiture of the RSUs (i.e., upon vesting) by delivery of one share of Common Stock for each RSU being settled, or, at the discretion of the Company, the cash equivalent thereof; provided, however, that settlement of an RSU shall be subject to Plan Section 11(k), including if applicable the six-month delay rule in Plan Sections 11(k)(i)(C)(2) and 11(k)(i)(G). (*Note: This rule may apply to any portion of the RSUs that vest after the time you become Retirement eligible under the Plan, and could apply in other cases as well*). Settlement of RSUs which directly or indirectly result from non-cash Dividend Equivalents on RSUs or adjustments to RSUs shall occur at the time of settlement of, and subject to the restrictions and conditions that apply to, the granted RSU. Settlement of cash amounts which directly or indirectly result from Dividend Equivalents on RSUs or adjustments to RSUs shall be included as part of your regular payroll payment as soon as administratively practicable after the settlement date for the underlying RSUs, and subject to the restrictions and conditions that apply to, the granted RSU. Until shares are delivered to you in settlement of RSUs, you shall have none of the rights of a stockholder of the Company with respect to the shares issuable in settlement of the RSUs, including the right to vote the shares and receive actual dividends and other distributions on the underlying shares of Common Stock (you are entitled to Dividend Equivalents, however). Shares of stock issuable in settlement of RSUs shall be delivered to you upon settlement in certificated form or in such other manner as the Company may reasonably determine. At that time, you will have all of the rights of a stockholder of the Company.
- (c) Retirement and Death. In the event of your Retirement (as that term is defined in the Plan; however, if you attain age 65 before Retirement, RSUs held for at least one year will have vested prior to Retirement) or your death while employed by the Company prior to the end of the Restricted Period, you, or your estate, shall be deemed vested and entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the total number of RSUs granted (taking into account RSUs previously vested), provided that you have been continuously employed by the Company or a subsidiary of the Company for at least one year following the Award Date and your employment has not been terminated by the Company or a subsidiary of the Company for misconduct or other conduct deemed detrimental to the interests of the Company. The formula for determining the proportionate number of your RSUs to become vested and non-forfeitable upon your Retirement or death is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154. In the event of your death prior to the delivery of shares in settlement of RSUs (not previously forfeited), shares in settlement of your RSUs shall be delivered to your estate, upon presentation to the Committee of letters testamentary or other documentation satisfactory to the Committee, and your estate shall succeed to any other rights provided hereunder in the event of your death.
- (d) Termination not for Misconduct/Detrimental Conduct. If you are employed in the United States (including in Puerto Rico), in the event your employment is terminated by the Company for reasons other than misconduct or other conduct deemed detrimental to the interests of the Company, and you are not eligible to Retire, you shall be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the total number of RSUs granted only if you execute and do not revoke a release in favor of the Company and its predecessors, successors, affiliates, subsidiaries, directors and employees in a form satisfactory to the Company and, where deemed applicable by the Company, a non-compete and/or a non-solicitation agreement; if you fail to execute or revoke the release or fail to execute the non-compete or non-solicitation agreement, you shall forfeit any RSUs that are unvested as of the date your employment terminates. The formula for determining the proportionate number of RSUs you are entitled to under this Section 2(d) is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154.

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- (e) Disability. In the event you become Disabled (as that term is defined below), for the period during which you continue to be deemed to be employed by the Company or a subsidiary (i.e., the period during which you receive Disability benefits), you will not be deemed to have terminated employment for purposes of the RSUs. Upon the termination of your receipt of Disability benefits, (i) you will not be deemed to have terminated employment if you return to employment status, and (ii), if you do not return to employment status, you will be deemed to have terminated employment at the date of cessation of payments to you under all disability pay plans of the Company and its subsidiaries, with such termination treated for purposes of the RSUs as a Retirement, death, or voluntary termination based on your circumstances at the time of such termination. For purposes of this Agreement, "Disability" or "Disabled" shall mean qualifying for and receiving payments under a disability plan of the Company or any subsidiary or affiliate either in the United States or in a jurisdiction outside of the United States, and in jurisdictions outside of the United States shall also include qualifying for and receiving payments under a mandatory or universal disability plan or program managed or maintained by the government.
- (f) Qualifying Termination Following Change in Control. In the event your employment is terminated by reason of a Qualifying Termination (as defined in the Plan) during the protection period (as defined in your current Change-in-Control Agreement or Change-in-Control Plan, as applicable) following a Change in Control (as defined in the Plan), the Restricted Period and all remaining restrictions shall expire and the RSUs shall be deemed fully vested.
- (g) Other Termination of Employment. In the event of your voluntary termination, or termination by the Company or a subsidiary for misconduct or other conduct deemed by the Company to be detrimental to the interests of the Company, you shall forfeit all unvested RSUs on the date of termination.
- (h) Other Terms.
- (i) In the event that you fail promptly to pay or make satisfactory arrangements as to the Tax Related Items as provided in Section 4, all RSUs then subject to restriction shall be forfeited by you and shall be deemed to be reacquired by the Company.
  - (ii) You may, at any time prior to the expiration of the Restricted Period, waive all rights with respect to all or some of the RSUs by delivering to the Company a written notice of such waiver.
  - (iii) Termination of employment includes any event if immediately thereafter you are no longer an employee of the Company or any subsidiary of the Company, subject to Section 2(i) hereof. References in this Section 2 to employment by the Company include employment by a subsidiary of the Company. Termination of employment means an event after which you are no longer employed by the Company or any subsidiary of the Company. Such an event could include the disposition of a subsidiary or business unit by the Company or a subsidiary.
  - (iv) Upon any termination of your employment, any RSUs as to which the Restricted Period has not expired at or before such termination shall be forfeited, subject to Sections 2(c)-(f) hereof. Other provisions of this Agreement notwithstanding, in no event will an RSU that has been forfeited thereafter vest or be settled.

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- (i) The following events shall not be deemed a termination of employment:
    - (i) A transfer of you from the Company to a subsidiary, or vice versa, or from one subsidiary to another;
    - (ii) A leave of absence, duly authorized in writing by the Company, for military service or sickness or for any other purpose approved by the Company if the period of such leave does not exceed ninety (90) days; and
    - (iii) A leave of absence in excess of ninety (90) days, duly authorized in writing, by the Company, provided your right to reemployment is guaranteed either by a statute or by contract.

However, your failure to return to active service with the Company or a subsidiary at the end of an approved leave of absence shall be deemed a termination of employment. During a leave of absence as defined in (ii) or (iii), although you will be considered to have been continuously employed by the Company or a subsidiary and not to have had a termination of employment under this Section 2, the Committee may specify that such leave period shall not be counted in determining the period of employment for purposes of the vesting of the RSUs. In such case, the vesting dates for unvested RSUs shall be extended by the length of any such leave of absence.

### 3. FORFEITURE IN THE EVENT OF COMPETITION AND/OR SOLICITATION OR OTHER ACTS

You acknowledge that your continued employment with the Company or a subsidiary and the grant of RSUs is sufficient consideration for this Agreement, including, without limitation, the restrictions imposed upon you by this Section 3.

- (a) By accepting the RSUs, you expressly agree and covenant that during the Restricted Period (as defined below) and the Non-Competition and Non-Solicitation Period (as defined below), you shall not, without the prior consent of the Company, directly or indirectly:
  - (i) own or have any financial interest in a Competitive Business (as defined below), except that nothing in this clause shall prevent you from owning one per cent or less of the outstanding securities of any entity whose securities are traded on a U.S. national securities exchange (including NASDAQ) or an equivalent foreign exchange;
  - (ii) be actively connected with a Competitive Business by managing, operating, controlling, being an employee or consultant (or accepting an offer to be an employee or consultant) or otherwise advising or assisting a Competitive Business in such a way that such connection might result in an increase in value or worth of any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary or affiliate. You may, however, be actively connected with a Competitive Business after your employment with the Company or a subsidiary terminates for any reason, so long as your connection to the business does not involve any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary and the Company is provided written assurances of this fact from the Competing Company prior to your beginning such connection.
  - (iii) take any action that might divert any opportunity from the Company or any of its affiliates, successors or assigns (the "Related Parties") that is within the scope of the present or future operations or business of any Related Parties;

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- (iv) employ, solicit for employment, advise or recommend to any other person that they employ or solicit for employment or form an association with any person who is employed by the Company or its Related Parties or who has been employed by the Company or its Related Parties within one year of the date your employment with the Company or a subsidiary ceased for any reason whatsoever;
  - (v) contact, call upon or solicit any customer of the Company, or attempt to divert or take away from the Company the business of any of its customers;
  - (vi) contact, call upon or solicit any prospective customer of the Company that you became aware of or were introduced to in the course of your duties for the Company or its Related Parties, or otherwise divert or take away from the Company the business of any prospective customer of the Company; or
  - (vii) engage in any activity that is harmful to the interests of the Company, including without limitation, any conduct during the term of your employment that violates the Company's Standards of Business Conduct and Ethics, securities trading policy and other policies.
- (b) Forfeiture. If the Company determines that you have violated any provisions of Section 3(a) above during the Restricted Period or the Non-Competition and Non-Solicitation Period, then you agree and covenant that:
- (i) any unvested portion of the RSUs shall be immediately rescinded;
  - (ii) you shall automatically forfeit any rights you may have with respect to the RSUs as of the date of such determination;
  - (iii) if any part of the RSUs vests within the twelve-month period immediately preceding a violation of Section 3(a) above (or following the date of any such violation), upon the Company's demand, you shall immediately deliver to it a certificate or certificates for shares of the Company's Common Stock that you acquired upon settlement of such RSUs (or an equivalent number of other shares); and
  - (iv) the foregoing remedies set forth in this Section 3(b) shall not be the Company's exclusive remedies. The Company reserves all other rights and remedies available to it at law or in equity.
- (c) Company Policy. You agree that the Company may recover any incentive-based compensation received by you under this Agreement if such recovery is pursuant to a clawback policy approved by the Committee.
- (d) Definitions. For purposes of this Agreement, the following definitions shall apply:
- (i) The Company directly advertises and solicits business from customers wherever they may be found and its business is thus worldwide in scope. Therefore, "Competitive Business" means any person or entity that engages in any business activity that competes with the Company's business in any way, in any geographic area in which the Company engages in business, including, without limitation, any state in the United States in which the Company sells or offers to sell its products from time to time.

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- (ii) "Non-Competition and Non-Solicitation Period" means the period during which you are employed by the Company and twelve months following the date that you cease to be employed by the Company for any reason whatsoever.
  - (iii) "Restricted Period" means, with respect to each RSU, the period from the Award Date until the date such RSU has become vested and non-forfeitable.
- (e) Severability. You acknowledge and agree that the period, scope and geographic areas of restriction imposed upon you by the provisions of Section 3 are fair and reasonable and are reasonably required for the protection of the Company. In the event that all or any part of this Section 3 is held to be unenforceable or invalid, the remaining parts of Section 3 and this Agreement shall nevertheless continue to be valid and enforceable as though the invalid portions were not a part of this Agreement. If any one of the provisions in Section 3 is held to be excessively broad as to period, scope and geographic areas, any such provision shall be construed by limiting it to the extent necessary to be enforceable under applicable law.
- (f) Additional Remedies. You acknowledge that breach by you of this Agreement would cause irreparable harm to the Company and that in the event of such breach, the Company shall have, in addition to monetary damages and other remedies at law, the right to an injunction, specific performance and other equitable relief to prevent violations of your obligations hereunder.

#### 4. RESPONSIBILITY FOR TAXES

Regardless of any action the Company, any subsidiary or affiliate or your employer ("Employer") takes with respect to any or all income tax (including federal, state and local taxes), social security, payroll tax, payment on account or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or the Employer to be an appropriate charge to you even if technically due by the Company or the Employer ("Tax Related Items"), you acknowledge that the ultimate liability for all Tax Related Items is and remains your responsibility and may exceed the amount actually withheld by the Company or the Employer. You further acknowledge that the Company, any subsidiary or affiliate and/or the Employer: (a) make no representations or undertakings regarding the treatment of any Tax Related Items in connection with any aspect of the RSUs, including the grant of the RSUs, the vesting of RSUs, the conversion of the RSUs into shares of Common Stock or the receipt of an equivalent cash payment, the subsequent sale of any shares of Common Stock acquired at vesting and the receipt of any dividends and/or Dividend Equivalents; and, (b) do not commit to structure the terms of the grant or any aspect of the RSUs to reduce or eliminate your liability for Tax Related Items or achieve any particular tax result. Further, if you have become subject to tax in more than one jurisdiction between the Award Date and the date of any relevant taxable event, you acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax Related Items in more than one jurisdiction.

Prior to the relevant taxable event, you shall pay, or make adequate arrangements satisfactory to the Company or the Employer to satisfy all Tax Related Items. In this regard, you authorize the Company or the Employer to withhold all applicable Tax Related Items legally by one or a combination of the following:

- (a) withholding from your wages or other cash compensation payable to you by the Company or the Employer; or

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- (b) withholding from proceeds from the sale of shares of Common Stock to be issued on the vesting/settlement of RSUs either through a voluntary sale or through a mandatory sale arranged by the Company (on your behalf pursuant to this authorization); or
  - (c) withholding in shares of Common Stock to be issued on the vesting/settlement of the RSUs.

To avoid negative accounting treatment, the Company may withhold or account for Tax Related Items by considering applicable minimum withholding amounts or other applicable withholding rates. If the obligation for Tax Related Items is satisfied by withholding in shares of Common Stock, for tax purposes, you are deemed to have been issued the full number of shares of Common Stock subject to the award of RSUs, notwithstanding that a number of the shares of Common Stock are held back solely for the purpose of paying Tax Related Items due as a result of any aspect of your participation in the Plan.

Finally, you shall pay to the Company, a subsidiary or your Employer (as applicable) any amount of Tax Related Items that the Company or the Employer may be required to withhold as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver Common Stock, their cash equivalent or the proceeds of the sale of Common Stock, if you fail to comply with your obligation in connection with the Tax Related Items.

## 5. DIVIDEND EQUIVALENTS AND ADJUSTMENTS

- (a) Dividend Equivalents shall be paid or credited on RSUs (other than RSUs that, at the relevant record date, previously have been settled or forfeited) as follows, except that the Committee may specify an alternative treatment from that specified in (i), (ii), or (iii) below for any dividend or distribution:
  - (i) *Cash Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of cash, then you will be credited, as of the payment date for such dividend or distribution, an amount equal to the number of RSUs credited to you as of the record date for such dividend or distribution multiplied by the amount that would have been paid as a dividend or distribution on each outstanding share of Common Stock at such payment date. Any amounts credited under this Section 5(a)(i) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the amounts are credited and will become payable when the underlying RSU becomes payable. At the time the underlying RSU becomes payable, the Company has the discretion to pay any accrued dividend equivalents either in cash or in shares of Common Stock. If the underlying RSU does not vest or is forfeited, any amounts credited under this Section 5(a)(i) with respect to the underlying RSU will also fail to vest and be forfeited.
  - (ii) *Non-Share Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of property other than shares, then a number of additional RSUs shall be credited to you as of the payment date for such dividend or distribution equal to the number of RSUs credited to you as of the record date for such dividend or distribution multiplied by the Fair Market Value of such property actually paid as a dividend or distribution on each outstanding share of Common Stock at such payment date, divided by the Fair Market Value of a share at such payment date. Any RSUs credited to you under this Section 5(a)(ii) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the RSUs are credited and will become payable when the underlying RSU becomes payable. If the underlying RSU does not vest or is forfeited, any RSUs credited under this Section 5(a)(ii) with respect to the underlying RSU will also fail to vest and be forfeited. You will be eligible to receive Dividend Equivalents on any RSUs credited to you under this Section 5(a)(ii).

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(iii) *Common Stock Dividends and Splits.* If the Company declares and pays a dividend or distribution on Common Stock in the form of additional shares, or there occurs a forward split of Common Stock, then a number of additional RSUs shall be credited to you as of the payment date for such dividend or distribution or forward split equal to the number of RSUs credited to you as of the record date for such dividend or distribution or split multiplied by the number of additional shares actually paid as a dividend or distribution or issued in such split in respect of each outstanding share of Common Stock. Any RSUs credited to you under this Section 5(a)(iii) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the RSUs are credited and will become payable when the underlying RSU becomes payable. If the underlying RSU does not vest or is forfeited, any RSUs credited under this Section 5(a)(iii) with respect to the underlying RSU will also fail to vest and be forfeited. You will be eligible to receive Dividend Equivalents on any RSUs credited to you under this Section 5(a)(iii).

- (b) The number of your RSUs and other related terms shall be appropriately adjusted, in order to prevent dilution or enlargement of your rights with respect to RSUs, to reflect any changes in the outstanding shares of Common Stock resulting from any event referred to in Section 11(c) of the Plan or any other "equity restructuring" as defined in FASB ASC Topic 718, taking into account any RSUs credited to you in connection with such event under Section 5(a).
- (c) When the Dividend Equivalents you receive under this Section 5, if any, become payable to you, they will be compensation (wages) for tax purposes and will be included on your W-2 form. The Company will be required to withhold applicable taxes on such Dividend Equivalents. The Company may deduct such taxes in the manner set forth in Section 4 hereof.

6. EFFECT ON OTHER BENEFITS

In no event shall the value, at any time, of the RSUs or any other payment under this Agreement be included as compensation or earnings for purposes of any other compensation, retirement, or benefit plan offered to employees of the Company or any subsidiary unless otherwise specifically provided for in such plan. The RSUs and the underlying shares of Common Stock (or their cash equivalent) are not part of normal or expected compensation or salary for any purposes including, but not limited to, calculation of any severance, resignation, termination, redundancy or end of service payments, bonuses, long-service awards, pension or retirement benefits, or similar payments.

7. ACKNOWLEDGMENT OF NATURE OF PLAN AND RSUs

In accepting the RSUs, you acknowledge, understand and agree that:

- (a) The Plan is established voluntarily by the Company, it is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;
- (b) The award of RSUs is voluntary and occasional and does not create any contractual or other right to receive future awards of RSUs, or benefits in lieu of RSUs even if RSUs have been awarded repeatedly in the past;

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- (c) All decisions with respect to future awards of RSUs, if any, will be at the sole discretion of the Company;
  - (d) Your participation in the Plan shall not create a right to further employment with the Employer and shall not interfere with the ability of the Employer to terminate your employment relationship at any time;
  - (e) Your participation in the Plan is voluntary;
  - (f) RSUs and the Common Stock subject to the RSUs are an extraordinary item that do not constitute compensation of any kind for services of any kind rendered to the Company or to the Employer, and RSUs are outside the scope of your employment contract, if any;
  - (g) The RSUs and your participation on the Plan will not be interpreted to form an employment contract with the Company or any subsidiary of the Company;
  - (h) The future value of the underlying shares of Common Stock is unknown and cannot be predicted with certainty;
  - (i) The RSUs and the shares of Common Stock subject to the RSUs are not intended to replace any pension rights or compensation that you may otherwise be entitled to;
  - (j) The RSUs and the underlying shares of Common Stock should not be considered as compensation for, or relating in any way to, past services for the Company, its subsidiaries or the Employer; and
  - (k) No claim or entitlement to compensation or damages arises from the forfeiture of RSUs, resulting from termination of your employment by the Company, any subsidiary or your Employer (for any reason whatsoever and whether or not in breach of labor laws), and in consideration of the grant of the RSUs to which you are otherwise not entitled, you irrevocably agree never to institute any claim against the Company or the Employer, waive your ability, if any, to bring such claim, and release the Company, any subsidiary or affiliate and/or the Employer from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, you shall be deemed irrevocably to have agreed not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claims.

8. NO ADVICE REGARDING GRANT

The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan or your acquisition or sale of the underlying shares of Common Stock. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan.

9. RIGHT TO CONTINUED EMPLOYMENT

Nothing in the Plan or this Agreement shall confer on you any right to continue in the employ of the Company or any subsidiary or any specific position or level of employment with the Company or any subsidiary or affect in any way the right of the Company or any subsidiary to terminate your employment without prior notice at any time for any reason or no reason.

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10. ADMINISTRATION; UNFUNDED OBLIGATIONS

The Committee shall have full authority and discretion, subject only to the express terms of the Plan, to decide all matters relating to the administration and interpretation of the Plan and this Agreement, and all such Committee determinations shall be final, conclusive, and binding upon the Company, you, and all interested parties. Any provision for distribution in settlement of your RSUs and other obligations hereunder (including cash amounts set aside under Section 5(a)(i)) shall be by means of bookkeeping entries on the books of the Company and shall not create in you or any beneficiary any right to, or claim against any, specific assets of the Company, nor result in the creation of any trust or escrow account for you or any beneficiary. You and any of your beneficiaries entitled to any settlement or distribution hereunder shall be a general creditor of the Company.

11. DEEMED ACCEPTANCE

You are required to accept the terms and conditions set forth in this Agreement prior to the first vest date in order for you to receive the Award granted to you hereunder. If you wish to decline this Award, you must reject this Agreement prior to the first vest date. For your benefit, if you have not rejected the Agreement prior to the first vest date, you will be deemed to have automatically accepted this Award and all the terms and conditions set forth in this Agreement. Deemed acceptance will allow the shares to be released to you in a timely manner.

12. AMENDMENT

This Agreement shall be subject to the terms of the Plan, as amended from time to time, except that the Award which is the subject of this Agreement may not be materially adversely affected by any amendment or termination of the Plan approved after the Award Date without your written consent.

13. SEVERABILITY AND VALIDITY

The various provisions of this Agreement are severable, and any determination of invalidity or unenforceability of any one provision shall have no effect on the remaining provisions.

14. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement and Award grant shall be governed by the substantive laws (but not the choice of law rules) of the State of New York. For purposes of litigating any dispute that arises under this RSU grant or Agreement, the parties hereby submit to and consent to the jurisdiction of the State of New York, agree that such litigation shall be conducted in the courts of New York, New York, or the federal courts for the United States for the Southern District of New York, and no other courts where this RSU grant is made and/or performed.

15. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and heirs of the respective parties.

16. DATA PRIVACY

***You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this Agreement by and among, as applicable, your Employer, the Company and its subsidiaries for the exclusive purpose of implementing, administering and managing your participation in the Plan.***

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*You understand that the Company, any subsidiary and/or your Employer may hold certain personal information about you, including, but not limited to, your name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all RSUs or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Plan ("Data").*

*You understand that Data may be transferred to Morgan Stanley Smith Barney, or such other stock plan service provider as may be selected by the Company in the future, which assists in the implementation, administration and management of the Plan. You authorize the Company, Morgan Stanley Smith Barney and other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing your participation in the Plan, including any requisite transfer of such Data as may be required to a broker, escrow agent or other third party with whom the shares of Common Stock received upon vesting of the RSUs may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Plan.*

17. ELECTRONIC DELIVERY

The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through an on-line or electronic systems established and maintained by the Company or a third-party designated by the Company.

18. COMPLIANCE WITH LAWS AND REGULATIONS

Notwithstanding any other provisions of this Agreement, you understand that the Company will not be obligated to issue any shares of Common Stock pursuant to the vesting of the RSUs, if the issuance of such Common Stock shall constitute a violation by you or the Company of any provision of law or regulation of any governmental authority. Any determination by the Company in this regard shall be final, binding and conclusive.

19. ENTIRE AGREEMENT AND NO ORAL MODIFICATION OR WAIVER

This Agreement contains the entire understanding of the parties. This Agreement shall not be modified or amended except in writing duly signed by the parties, except that the Company may adopt a modification or amendment to the Agreement that is not materially adverse to you in writing signed only by the Company. Any waiver of any right or failure to perform under this Agreement shall be in writing signed by the party granting the waiver and shall not be deemed a waiver of any subsequent failure to perform.

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For the Company  
Bristol-Myers Squibb Company  
By \_\_\_\_\_

I have read this Agreement in its entirety. I understand that this Award has been granted to provide a means for me to acquire and/or expand an ownership position in Bristol-Myers Squibb Company. I acknowledge and agree that sales of shares will be subject to the Company's policies regulating trading by employees. In accepting this Award, I hereby agree that Morgan Stanley Smith Barney, or such other vendor as the Company may choose to administer the Plan, may provide the Company with any and all account information for the administration of this Award.

I hereby agree to all the terms, restrictions and conditions set forth in the Agreement.



**RESTRICTED STOCK UNITS AGREEMENT**  
UNDER THE BRISTOL-MYERS SQUIBB COMPANY  
2007 STOCK AWARD AND INCENTIVE PLAN

BRISTOL-MYERS SQUIBB COMPANY, a Delaware corporation (the "Company"), has granted to you the Restricted Stock Units ("RSUs") specified in the Grant Summary above, which is incorporated into this Restricted Stock Units Agreement (the "Agreement") and deemed to be a part hereof. The RSUs have been granted to you under Section 6(e) of the 2007 Stock Award and Incentive Plan (the "Plan"), on the terms and conditions specified in the Grant Summary and this Agreement. Capitalized terms used in this Agreement that are not specifically defined herein shall have the meanings ascribed to such terms in the Plan.

1. RESTRICTED STOCK UNITS AWARD

The Compensation and Management Development Committee of the Board of Directors of Bristol-Myers Squibb Company (the "Committee") has granted to you on the Award Date an Award of RSUs as designated herein subject to the terms, conditions, and restrictions set forth in this Agreement and the Plan. Each RSU shall represent the conditional right to receive, upon settlement of the RSU, one share of Bristol-Myers Squibb Common Stock ("Common Stock"), or, at the discretion of the Company, the cash equivalent thereof, (subject to any tax withholding as described in Section 4). RSUs include the right to receive dividend equivalents as specified in Section 5 ("Dividend Equivalents"). The purpose of such Award is to motivate and retain you as an employee of the Company or a subsidiary of the Company, to encourage you to continue to give your best efforts for the Company's future success, and to increase your proprietary interest in the Company. Except as may be required by law, you are not required to make any payment (other than payments for taxes pursuant to Section 4 hereof) or provide any consideration other than the rendering of future services to the Company or a subsidiary of the Company.

2. RESTRICTIONS, FORFEITURES, AND SETTLEMENT

Except as otherwise provided in this Section 2, RSUs shall be subject to the restrictions and conditions set forth herein during the Restricted Period (as defined below). Vesting of the RSUs is conditioned upon you remaining continuously employed by the Company or a subsidiary of the Company from the Award Date until the relevant vesting date, subject to the provisions of this Section 2. Assuming satisfaction of such employment conditions, 25% of the RSUs shall vest on each of the first four anniversaries of the Award Date. In the event you attain age 65 while still an employee of the Company or a subsidiary, all unvested RSUs held by you at least one year from the Award Date will become vested and non-forfeitable, and thereafter, so long as you remain an employee of the Company or a subsidiary after attaining age 65, all other RSUs will become 100% vested one year from the Award Date.

- (a) Nontransferability. During the Restricted Period and any further period prior to settlement of your RSUs, you may not sell, transfer, pledge or assign any of the RSUs or your rights relating thereto.
- (b) Time of Settlement. RSUs shall be settled promptly upon expiration of the Restricted Period without forfeiture of the RSUs (i.e., upon vesting) by delivery of one share of

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Common Stock for each RSU being settled, or, at the discretion of the Company, the cash equivalent thereof; provided, however, that settlement of an RSU shall be subject to Plan Section 11(k), including if applicable the six-month delay rule in Plan Sections 11(k)(i)(C)(2) and 11(k)(i)(G). *(Note: This rule may apply to any portion of the RSUs that vest after the time you become Retirement eligible under the Plan, and could apply in other cases as well).* Settlement of RSUs which directly or indirectly result from non-cash Dividend Equivalents on RSUs or adjustments to RSUs shall occur at the time of settlement of, and subject to the restrictions and conditions that apply to, the granted RSU. Settlement of cash amounts which directly or indirectly result from Dividend Equivalents on RSUs or adjustments to RSUs shall be included as part of your regular payroll payment as soon as administratively practicable after the settlement date for the underlying RSUs, and subject to the restrictions and conditions that apply to, the granted RSU. Until shares are delivered to you in settlement of RSUs, you shall have none of the rights of a stockholder of the Company with respect to the shares issuable in settlement of the RSUs, including the right to vote the shares and receive actual dividends and other distributions on the underlying shares of Common Stock (you are entitled to Dividend Equivalents, however). Shares of stock issuable in settlement of RSUs shall be delivered to you upon settlement in certificated form or in such other manner as the Company may reasonably determine. At that time, you will have all of the rights of a stockholder of the Company.

- (c) **Retirement and Death.** In the event of your Retirement (as that term is defined in the Plan; however, if you attain age 65 before Retirement, RSUs held for at least one year will have vested prior to Retirement) or your death while employed by the Company prior to the end of the Restricted Period, you, or your estate, shall be deemed vested and entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the total number of RSUs granted (taking into account RSUs previously vested), provided that you have been continuously employed by the Company or a subsidiary of the Company for at least one year following the Award Date and your employment has not been terminated by the Company or a subsidiary of the Company for misconduct or other conduct deemed detrimental to the interests of the Company. The formula for determining the proportionate number of your RSUs to become vested and non-forfeitable upon your Retirement or death is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154. In the event of your death prior to the delivery of shares in settlement of RSUs (not previously forfeited), shares in settlement of your RSUs shall be delivered to your estate, upon presentation to the Committee of letters testamentary or other documentation satisfactory to the Committee, and your estate shall succeed to any other rights provided hereunder in the event of your death.
- (d) **Termination not for Misconduct/Detrimental Conduct.** If you are employed in the United States (including in Puerto Rico), in the event your employment is terminated by the Company for reasons other than misconduct or other conduct deemed detrimental to the interests of the Company, and you are not eligible to Retire, you shall be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the total number of RSUs granted only if you execute and do not revoke a release in favor of the Company and its predecessors, successors, affiliates, subsidiaries, directors and employees in a form satisfactory to the Company and, where deemed applicable by the Company, a non-compete and/or a non-solicitation agreement; if you fail to execute or revoke the release or fail to execute the non-compete or non-solicitation agreement, you shall forfeit any RSUs that are unvested as of the date your employment terminates. The formula for determining the proportionate number of RSUs you are entitled to under this Section 2(d) is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154.

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- (e) Disability. In the event you become Disabled (as that term is defined below), for the period during which you continue to be deemed to be employed by the Company or a subsidiary (i.e., the period during which you receive Disability benefits), you will not be deemed to have terminated employment for purposes of the RSUs. Upon the termination of your receipt of Disability benefits, (i) you will not be deemed to have terminated employment if you return to employment status, and (ii), if you do not return to employment status, you will be deemed to have terminated employment at the date of cessation of payments to you under all disability pay plans of the Company and its subsidiaries, with such termination treated for purposes of the RSUs as a Retirement, death, or voluntary termination based on your circumstances at the time of such termination. For purposes of this Agreement, "Disability" or "Disabled" shall mean qualifying for and receiving payments under a disability plan of the Company or any subsidiary or affiliate either in the United States or in a jurisdiction outside of the United States, and in jurisdictions outside of the United States shall also include qualifying for and receiving payments under a mandatory or universal disability plan or program managed or maintained by the government.
- (f) Qualifying Termination Following Change in Control. In the event your employment is terminated by reason of a Qualifying Termination (as defined in the Plan) during the protection period (as defined in your current Change-in-Control Agreement or Change-in-Control Plan, as applicable) following a Change in Control (as defined in the Plan), the Restricted Period and all remaining restrictions shall expire and the RSUs shall be deemed fully vested.
- (g) Other Termination of Employment. In the event of your voluntary termination, or termination by the Company or a subsidiary for misconduct or other conduct deemed by the Company to be detrimental to the interests of the Company, you shall forfeit all unvested RSUs on the date of termination.
- (h) Other Terms.
- (i) In the event that you fail promptly to pay or make satisfactory arrangements as to the Tax Related Items as provided in Section 4, all RSUs then subject to restriction shall be forfeited by you and shall be deemed to be reacquired by the Company.
  - (ii) You may, at any time prior to the expiration of the Restricted Period, waive all rights with respect to all or some of the RSUs by delivering to the Company a written notice of such waiver.
  - (iii) Termination of employment includes any event if immediately thereafter you are no longer an employee of the Company or any subsidiary of the Company, subject to Section 2(i) hereof. References in this Section 2 to employment by the Company include employment by a subsidiary of the Company. Termination of employment means an event after which you are no longer employed by the Company or any subsidiary of the Company. Such an event could include the disposition of a subsidiary or business unit by the Company or a subsidiary.
  - (iv) Upon any termination of your employment, any RSUs as to which the Restricted Period has not expired at or before such termination shall be forfeited, subject to Sections 2(c)-(f) hereof. Other provisions of this Agreement notwithstanding, in no event will an RSU that has been forfeited thereafter vest or be settled.

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- (i) The following events shall not be deemed a termination of employment:
    - (i) A transfer of you from the Company to a subsidiary, or vice versa, or from one subsidiary to another;
    - (ii) A leave of absence, duly authorized in writing by the Company, for military service or sickness or for any other purpose approved by the Company if the period of such leave does not exceed ninety (90) days; and
    - (iii) A leave of absence in excess of ninety (90) days, duly authorized in writing, by the Company, provided your right to reemployment is guaranteed either by a statute or by contract.

However, your failure to return to active service with the Company or a subsidiary at the end of an approved leave of absence shall be deemed a termination of employment. During a leave of absence as defined in (ii) or (iii), although you will be considered to have been continuously employed by the Company or a subsidiary and not to have had a termination of employment under this Section 2, the Committee may specify that such leave period shall not be counted in determining the period of employment for purposes of the vesting of the RSUs. In such case, the vesting dates for unvested RSUs shall be extended by the length of any such leave of absence.

### 3. FORFEITURE IN THE EVENT OF COMPETITION AND/OR SOLICITATION OR OTHER ACTS

You acknowledge that your continued employment with the Company or a subsidiary and the grant of RSUs is sufficient consideration for this Agreement, including, without limitation, the restrictions imposed upon you by this Section 3.

- (a) By accepting the RSUs, you expressly agree and covenant that during the Restricted Period (as defined below) and the Non-Competition and Non-Solicitation Period (as defined below), you shall not, without the prior consent of the Company, directly or indirectly:
  - (i) own or have any financial interest in a Competitive Business (as defined below), except that nothing in this clause shall prevent you from owning one per cent or less of the outstanding securities of any entity whose securities are traded on a U.S. national securities exchange (including NASDAQ) or an equivalent foreign exchange;
  - (ii) be actively connected with a Competitive Business by managing, operating, controlling, being an employee or consultant (or accepting an offer to be an employee or consultant) or otherwise advising or assisting a Competitive Business in such a way that such connection might result in an increase in value or worth of any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary or affiliate. You may, however, be actively connected with a Competitive Business after your employment with the Company or a subsidiary terminates for any reason, so long as your connection to the business does not involve any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary and the Company is provided written assurances of this fact from the Competing Company prior to your beginning such connection.
  - (iii) take any action that might divert any opportunity from the Company or any of its affiliates, successors or assigns (the "Related Parties") that is within the scope of the present or future operations or business of any Related Parties;

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- (iv) employ, solicit for employment, advise or recommend to any other person that they employ or solicit for employment or form an association with any person who is employed by the Company or its Related Parties or who has been employed by the Company or its Related Parties within one year of the date your employment with the Company or a subsidiary ceased for any reason whatsoever;
  - (v) contact, call upon or solicit any customer of the Company, or attempt to divert or take away from the Company the business of any of its customers;
  - (vi) contact, call upon or solicit any prospective customer of the Company that you became aware of or were introduced to in the course of your duties for the Company or its Related Parties, or otherwise divert or take away from the Company the business of any prospective customer of the Company; or
  - (vii) engage in any activity that is harmful to the interests of the Company, including without limitation, any conduct during the term of your employment that violates the Company's Standards of Business Conduct and Ethics, securities trading policy and other policies.
- (b) Forfeiture. If the Company determines that you have violated any provisions of Section 3(a) above during the Restricted Period or the Non-Competition and Non-Solicitation Period, then you agree and covenant that:
- (i) any unvested portion of the RSUs shall be immediately rescinded;
  - (ii) you shall automatically forfeit any rights you may have with respect to the RSUs as of the date of such determination;
  - (iii) if any part of the RSUs vests within the twelve-month period immediately preceding a violation of Section 3(a) above (or following the date of any such violation), upon the Company's demand, you shall immediately deliver to it a certificate or certificates for shares of the Company's Common Stock that you acquired upon settlement of such RSUs (or an equivalent number of other shares); and
  - (iv) the foregoing remedies set forth in this Section 3(b) shall not be the Company's exclusive remedies. The Company reserves all other rights and remedies available to it at law or in equity.
- (c) Company Policy. You agree that the Company may recover any incentive-based compensation received by you under this Agreement if such recovery is pursuant to a clawback policy approved by the Committee.
- (d) Definitions. For purposes of this Agreement, the following definitions shall apply:
- (i) The Company directly advertises and solicits business from customers wherever they may be found and its business is thus worldwide in scope. Therefore, "Competitive Business" means any person or entity that engages in any business activity that competes with the Company's business in any way, in any geographic area in which the Company engages in business, including, without limitation, any state in the United States in which the Company sells or offers to sell its products from time to time.

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- (ii) "Non-Competition and Non-Solicitation Period" means the period during which you are employed by the Company and twelve months following the date that you cease to be employed by the Company for any reason whatsoever.
  - (iii) "Restricted Period" means, with respect to each RSU, the period from the Award Date until the date such RSU has become vested and non-forfeitable.
- (e) Severability. You acknowledge and agree that the period, scope and geographic areas of restriction imposed upon you by the provisions of Section 3 are fair and reasonable and are reasonably required for the protection of the Company. In the event that all or any part of this Section 3 is held to be unenforceable or invalid, the remaining parts of Section 3 and this Agreement shall nevertheless continue to be valid and enforceable as though the invalid portions were not a part of this Agreement. If any one of the provisions in Section 3 is held to be excessively broad as to period, scope and geographic areas, any such provision shall be construed by limiting it to the extent necessary to be enforceable under applicable law.
- (f) Additional Remedies. You acknowledge that breach by you of this Agreement would cause irreparable harm to the Company and that in the event of such breach, the Company shall have, in addition to monetary damages and other remedies at law, the right to an injunction, specific performance and other equitable relief to prevent violations of your obligations hereunder.

#### 4. RESPONSIBILITY FOR TAXES

Regardless of any action the Company, any subsidiary or affiliate or your employer ("Employer") takes with respect to any or all income tax (including federal, state and local taxes), social security, payroll tax, payment on account or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or the Employer to be an appropriate charge to you even if technically due by the Company or the Employer ("Tax Related Items"), you acknowledge that the ultimate liability for all Tax Related Items is and remains your responsibility and may exceed the amount actually withheld by the Company or the Employer. You further acknowledge that the Company, any subsidiary or affiliate and/or the Employer: (a) make no representations or undertakings regarding the treatment of any Tax Related Items in connection with any aspect of the RSUs, including the grant of the RSUs, the vesting of RSUs, the conversion of the RSUs into shares of Common Stock or the receipt of an equivalent cash payment, the subsequent sale of any shares of Common Stock acquired at vesting and the receipt of any dividends and/or Dividend Equivalents; and, (b) do not commit to structure the terms of the grant or any aspect of the RSUs to reduce or eliminate your liability for Tax Related Items or achieve any particular tax result. Further, if you have become subject to tax in more than one jurisdiction between the Award Date and the date of any relevant taxable event, you acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax Related Items in more than one jurisdiction.

Prior to the relevant taxable event, you shall pay, or make adequate arrangements satisfactory to the Company or the Employer to satisfy all Tax Related Items. In this regard, you authorize the Company or the Employer to withhold all applicable Tax Related Items legally by one or a combination of the following:

- (a) withholding from your wages or other cash compensation payable to you by the Company or the Employer; or
- (b) withholding from proceeds from the sale of shares of Common Stock to be issued on the vesting/settlement of RSUs either through a voluntary sale or through a mandatory sale arranged by the Company (on your behalf pursuant to this authorization); or

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- (c) withholding in shares of Common Stock to be issued on the vesting/settlement of the RSUs.

To avoid negative accounting treatment, the Company may withhold or account for Tax Related Items by considering applicable minimum withholding amounts or other applicable withholding rates. If the obligation for Tax Related Items is satisfied by withholding in shares of Common Stock, for tax purposes, you are deemed to have been issued the full number of shares of Common Stock subject to the award of RSUs, notwithstanding that a number of the shares of Common Stock are held back solely for the purpose of paying Tax Related Items due as a result of any aspect of your participation in the Plan.

Finally, you shall pay to the Company, a subsidiary or your Employer (as applicable) any amount of Tax Related Items that the Company or the Employer may be required to withhold as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver Common Stock, their cash equivalent or the proceeds of the sale of Common Stock, if you fail to comply with your obligation in connection with the Tax Related Items.

## 5. DIVIDEND EQUIVALENTS AND ADJUSTMENTS

- (a) Dividend Equivalents shall be paid or credited on RSUs (other than RSUs that, at the relevant record date, previously have been settled or forfeited) as follows, except that the Committee may specify an alternative treatment from that specified in (i), (ii), or (iii) below for any dividend or distribution:
- (i) *Cash Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of cash, then you will be credited, as of the payment date for such dividend or distribution, an amount equal to the number of RSUs credited to you as of the record date for such dividend or distribution multiplied by the amount that would have been paid as a dividend or distribution on each outstanding share of Common Stock at such payment date. Any amounts credited under this Section 5(a)(i) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the amounts are credited and will become payable when the underlying RSU becomes payable. At the time the underlying RSU becomes payable, the Company has the discretion to pay any accrued dividend equivalents either in cash or in shares of Common Stock. If the underlying RSU does not vest or is forfeited, any amounts credited under this Section 5(a)(i) with respect to the underlying RSU will also fail to vest and be forfeited.
- (ii) *Non-Share Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of property other than shares, then a number of additional RSUs shall be credited to you as of the payment date for such dividend or distribution equal to the number of RSUs credited to you as of the record date for such dividend or distribution multiplied by the Fair Market Value of such property actually paid as a dividend or distribution on each outstanding share of Common Stock at such payment date, divided by the Fair Market Value of a share at such payment date. Any RSUs credited to you under this Section 5(a)(ii) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the RSUs are credited and will become payable when the underlying RSU becomes payable. If the underlying RSU does not vest or is forfeited, any RSUs credited under this Section 5(a)(ii) with respect to the underlying RSU will also fail to vest and be forfeited. You will be eligible to receive Dividend Equivalents on any RSUs credited to you under this Section 5(a)(ii).

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(iii) *Common Stock Dividends and Splits.* If the Company declares and pays a dividend or distribution on Common Stock in the form of additional shares, or there occurs a forward split of Common Stock, then a number of additional RSUs shall be credited to you as of the payment date for such dividend or distribution or forward split equal to the number of RSUs credited to you as of the record date for such dividend or distribution or split multiplied by the number of additional shares actually paid as a dividend or distribution or issued in such split in respect of each outstanding share of Common Stock. Any RSUs credited to you under this Section 5(a)(iii) shall be subject to the restrictions and conditions that apply to the RSU with respect to which the RSUs are credited and will become payable when the underlying RSU becomes payable. If the underlying RSU does not vest or is forfeited, any RSUs credited under this Section 5(a)(iii) with respect to the underlying RSU will also fail to vest and be forfeited. You will be eligible to receive Dividend Equivalents on any RSUs credited to you under this Section 5(a)(iii).

- (b) The number of your RSUs and other related terms shall be appropriately adjusted, in order to prevent dilution or enlargement of your rights with respect to RSUs, to reflect any changes in the outstanding shares of Common Stock resulting from any event referred to in Section 11(c) of the Plan or any other "equity restructuring" as defined in FASB ASC Topic 718, taking into account any RSUs credited to you in connection with such event under Section 5(a).
- (c) When the Dividend Equivalents you receive under this Section 5, if any, become payable to you, they will be compensation (wages) for tax purposes and will be included on your W-2 form. The Company will be required to withhold applicable taxes on such Dividend Equivalents. The Company may deduct such taxes in the manner set forth in Section 4 hereof.

6. EFFECT ON OTHER BENEFITS

In no event shall the value, at any time, of the RSUs or any other payment under this Agreement be included as compensation or earnings for purposes of any other compensation, retirement, or benefit plan offered to employees of the Company or any subsidiary unless otherwise specifically provided for in such plan. The RSUs and the underlying shares of Common Stock (or their cash equivalent) are not part of normal or expected compensation or salary for any purposes including, but not limited to, calculation of any severance, resignation, termination, redundancy or end of service payments, bonuses, long-service awards, pension or retirement benefits, or similar payments.

7. ACKNOWLEDGMENT OF NATURE OF PLAN AND RSUs

In accepting the RSUs, you acknowledge, understand and agree that:

- (a) The Plan is established voluntarily by the Company, it is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;
- (b) The award of RSUs is voluntary and occasional and does not create any contractual or other right to receive future awards of RSUs, or benefits in lieu of RSUs even if RSUs have been awarded repeatedly in the past;
- (c) All decisions with respect to future awards of RSUs, if any, will be at the sole discretion of the Company;

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- (d) Your participation in the Plan shall not create a right to further employment with the Employer and shall not interfere with the ability of the Employer to terminate your employment relationship at any time;
  - (e) Your participation in the Plan is voluntary;
  - (f) RSUs and the Common Stock subject to the RSUs are an extraordinary item that do not constitute compensation of any kind for services of any kind rendered to the Company or to the Employer, and RSUs are outside the scope of your employment contract, if any;
  - (g) The RSUs and your participation on the Plan will not be interpreted to form an employment contract with the Company or any subsidiary of the Company;
  - (h) The future value of the underlying shares of Common Stock is unknown and cannot be predicted with certainty;
  - (i) The RSUs and the shares of Common Stock subject to the RSUs are not intended to replace any pension rights or compensation that you may otherwise be entitled to;
  - (j) The RSUs and the underlying shares of Common Stock should not be considered as compensation for, or relating in any way to, past services for the Company, its subsidiaries or the Employer; and
  - (k) No claim or entitlement to compensation or damages arises from the forfeiture of RSUs, resulting from termination of your employment by the Company, any subsidiary or your Employer (for any reason whatsoever and whether or not in breach of labor laws), and in consideration of the grant of the RSUs to which you are otherwise not entitled, you irrevocably agree never to institute any claim against the Company or the Employer, waive your ability, if any, to bring such claim, and release the Company, any subsidiary or affiliate and/or the Employer from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, you shall be deemed irrevocably to have agreed not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claims.

8. NO ADVICE REGARDING GRANT

The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan or your acquisition or sale of the underlying shares of Common Stock. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan.

9. RIGHT TO CONTINUED EMPLOYMENT

Nothing in the Plan or this Agreement shall confer on you any right to continue in the employ of the Company or any subsidiary or any specific position or level of employment with the Company or any subsidiary or affect in any way the right of the Company or any subsidiary to terminate your employment without prior notice at any time for any reason or no reason.

10. ADMINISTRATION; UNFUNDED OBLIGATIONS

The Committee shall have full authority and discretion, subject only to the express terms of the Plan, to decide all matters relating to the administration and interpretation of the Plan and this Agreement, and all such Committee determinations shall be final, conclusive, and binding upon the Company, you,

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and all interested parties. Any provision for distribution in settlement of your RSUs and other obligations hereunder (including cash amounts set aside under Section 5(a)(i)) shall be by means of bookkeeping entries on the books of the Company and shall not create in you or any beneficiary any right to, or claim against any, specific assets of the Company, nor result in the creation of any trust or escrow account for you or any beneficiary. You and any of your beneficiaries entitled to any settlement or distribution hereunder shall be a general creditor of the Company.

11. DEEMED ACCEPTANCE

You are required to accept the terms and conditions set forth in this Agreement prior to the first vest date in order for you to receive the Award granted to you hereunder. If you wish to decline this Award, you must reject this Agreement prior to the first vest date. For your benefit, if you have not rejected the Agreement prior to the first vest date, you will be deemed to have automatically accepted this Award and all the terms and conditions set forth in this Agreement. Deemed acceptance will allow the shares to be released to you in a timely manner.

12. AMENDMENT

This Agreement shall be subject to the terms of the Plan, as amended from time to time, except that the Award which is the subject of this Agreement may not be materially adversely affected by any amendment or termination of the Plan approved after the Award Date without your written consent.

13. SEVERABILITY AND VALIDITY

The various provisions of this Agreement are severable, and any determination of invalidity or unenforceability of any one provision shall have no effect on the remaining provisions.

14. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement and Award grant shall be governed by the substantive laws (but not the choice of law rules) of the State of New York. For purposes of litigating any dispute that arises under this RSU grant or Agreement, the parties hereby submit to and consent to the jurisdiction of the State of New York, agree that such litigation shall be conducted in the courts of New York, New York, or the federal courts for the United States for the Southern District of New York, and no other courts where this RSU grant is made and/or performed.

15. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and heirs of the respective parties.

16. DATA PRIVACY

*You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this Agreement by and among, as applicable, your Employer, the Company and its subsidiaries for the exclusive purpose of implementing, administering and managing your participation in the Plan.*

*You understand that the Company, any subsidiary and/or your Employer may hold certain personal information about you, including, but not limited to, your name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all RSUs or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Plan ("Data").*

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*You understand that Data may be transferred to Morgan Stanley Smith Barney, or such other stock plan service provider as may be selected by the Company in the future, which assists in the implementation, administration and management of the Plan. You authorize the Company, Morgan Stanley Smith Barney and other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing your participation in the Plan, including any requisite transfer of such Data as may be required to a broker, escrow agent or other third party with whom the shares of Common Stock received upon vesting of the RSUs may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Plan.*

17. ELECTRONIC DELIVERY

The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through an on-line or electronic systems established and maintained by the Company or a third-party designated by the Company.

18. COMPLIANCE WITH LAWS AND REGULATIONS

Notwithstanding any other provisions of this Agreement, you understand that the Company will not be obligated to issue any shares of Common Stock pursuant to the vesting of the RSUs, if the issuance of such Common Stock shall constitute a violation by you or the Company of any provision of law or regulation of any governmental authority. Any determination by the Company in this regard shall be final, binding and conclusive.

19. ENTIRE AGREEMENT AND NO ORAL MODIFICATION OR WAIVER

This Agreement contains the entire understanding of the parties. This Agreement shall not be modified or amended except in writing duly signed by the parties, except that the Company may adopt a modification or amendment to the Agreement that is not materially adverse to you in writing signed only by the Company. Any waiver of any right or failure to perform under this Agreement shall be in writing signed by the party granting the waiver and shall not be deemed a waiver of any subsequent failure to perform.

For the Company  
Bristol-Myers Squibb Company  
By \_\_\_\_\_

I have read this Agreement in its entirety. I understand that this Award has been granted to provide a means for me to acquire and/or expand an ownership position in Bristol-Myers Squibb Company. I acknowledge and agree that sales of shares will be subject to the Company's policies regulating trading by employees. In accepting this Award, I hereby agree that Morgan Stanley Smith Barney, or such other vendor as the Company may choose to administer the Plan, may provide the Company with any and all account information for the administration of this Award.

I hereby agree to all the terms, restrictions and conditions set forth in the Agreement.



**MARKET SHARE UNITS AGREEMENT**  
UNDER THE BRISTOL-MYERS SQUIBB COMPANY  
2007 STOCK AWARD AND INCENTIVE PLAN

BRISTOL-MYERS SQUIBB COMPANY, a Delaware corporation (the "Company"), has granted to you the Market Share Units ("MSUs") specified in the Grant Summary above, which is incorporated into this Market Share Units Agreement (the "Agreement") and deemed to be a part hereof. The MSUs have been granted to you under Sections 6(i) and 7 of the 2007 Stock Award and Incentive Plan (the "Plan"), on the terms and conditions specified in the Grant Summary and this Agreement. Capitalized terms used in this Agreement that are not specifically defined herein shall have the meanings ascribed to such terms in the Plan.

1. MARKET SHARE UNITS AWARD

The Compensation and Management Development Committee of the Board of Directors of Bristol-Myers Squibb Company (the "Committee") has granted to you on the Award Date an Award of MSUs as designated herein subject to the terms, conditions, and restrictions set forth in this Agreement and the Plan. Each MSU shall represent the conditional right to receive, upon settlement of the MSU, one share of Bristol-Myers Squibb Common Stock ("Common Stock"), or, at the discretion of the Company, the cash equivalent thereof, (subject to any tax withholding as described in Section 4). MSUs include the right to receive dividend equivalents as specified in Section 5 ("Dividend Equivalents"). The purpose of such Award is to motivate and retain you as an employee of the Company or a subsidiary of the Company, to encourage you to continue to give your best efforts for the Company's future success, to increase your proprietary interest in the Company, and to further align your compensation with the interests of the Company's shareholders. Except as may be required by law, you are not required to make any payment (other than payments for taxes pursuant to Section 4 hereof) or provide any consideration other than the rendering of future services to the Company or a subsidiary of the Company.

2. RESTRICTIONS, FORFEITURES, AND SETTLEMENT

Except as otherwise provided in this Section 2, MSUs shall be subject to the restrictions and conditions set forth herein during the Restricted Period (as defined below). Vesting of the MSUs is conditioned upon you remaining continuously employed by the Company or a subsidiary of the Company from the Award Date until the relevant vesting date, subject to the provisions of this Section 2. In addition, for purposes of vesting, the MSU grant shall be divided into four tranches, each of which shall include 25% of the number of MSUs specified in the Grant Summary above and any additional MSUs and/or cash that results from Dividend Equivalents that are attributable to the MSUs in that tranche.

Assuming satisfaction of such employment conditions, the MSUs shall vest only if the Share Price (as defined below) on the applicable vesting date equals at least 60% of the Share Price on the Award Date. If this threshold condition is satisfied, MSUs shall vest to the extent provided in the following schedule:

(A) Tranche	(B) MSUs in Tranche	(C) Vesting Date	(D) Payout Factor	(E) Number of MSUs Vested
1	25% of Total	1 <sup>st</sup> Anniversary of Award Date	Share Price on vesting date divided by Share Price on Award Date	MSUs in Tranche (Column B) <i>times</i> Payout Factor (Column D)
2	25% of Total	2 <sup>nd</sup> Anniversary of Award Date	Share Price on vesting date divided by Share Price on Award Date	MSUs in Tranche (Column B) <i>times</i> Payout Factor (Column D)
3	25% of Total	3 <sup>rd</sup> Anniversary of Award Date	Share Price on vesting date divided by Share Price on Award Date	MSUs in Tranche (Column B) <i>times</i> Payout Factor (Column D)
4	25% of Total	4 <sup>th</sup> Anniversary of Award Date	Share Price on vesting date divided by Share Price on Award Date	MSUs in Tranche (Column B) <i>times</i> Payout Factor (Column D)

For purposes of the table set forth above—

- (A) "Share Price" shall equal the average of the closing share price of the Company's Common Stock on the vesting date or Award Date, as applicable, and the nine trading days immediately preceding the vesting date or Award Date. If there were no trades on the vesting date or Award Date, the closing price on the most recent date on which there were trades and the nine trading days immediately preceding that date shall be used.
- (B) "Payout Factor" shall be rounded to the nearest hundredth (two places after the decimal), except that if the "Payout Factor" equals more than 2.00, the Payout Factor used in Column E shall be 2.00. Notwithstanding the formula in the table, the Payout Factor for any vesting date that occurs on or after a Change in Control (as defined in the Plan) shall equal the Share Price on the date of the Change in Control divided by the Share Price on the Award Date.

Any MSUs that fail to vest, either because the employment condition is not satisfied or because the Payout Factor on the applicable vesting date is less than 60% shall be forfeited, subject to the special provisions set forth in Sections 2(c)-(g) hereof.

- (a) Nontransferability. During the Restricted Period and any further period prior to settlement of your MSUs, you may not sell, transfer, pledge or assign any of the MSUs or your rights relating thereto.
- (b) Time of Settlement. MSUs shall be settled promptly upon expiration of the Restricted Period without forfeiture of the MSUs (i.e., upon vesting) by delivery of one share of Common Stock for each MSU being settled, or, at the discretion of the Company, the cash equivalent thereof; provided, however, that settlement of an MSU shall be subject to Plan Section 11(k), including, if applicable, the six-month delay rule in Plan Section 11(k)(i)(C) to the extent the MSUs are subject to Section 409A of the Code, payment is on account of your "separation from service" and you are a "key employee," both within the meaning of Section 409A. (*Note: This rule may apply to any portion of the MSUs that vest after the time you become Retirement eligible under the Plan, and could apply in other cases as well*). Settlement of MSUs which directly or indirectly result from non-cash Dividend Equivalents on MSUs or adjustments to MSUs shall occur at the time of settlement of the granted MSUs. Until shares are delivered to you in settlement of MSUs,

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you shall have none of the rights of a stockholder of the Company with respect to the shares issuable in settlement of the MSUs, including the right to vote the shares and receive actual dividends and other distributions on the underlying shares of Common Stock (you are entitled to Dividend Equivalents, however). Shares of stock issuable in settlement of MSUs shall be delivered to you upon settlement in certificated form or in such other manner as the Company may reasonably determine. At that time, you will have all of the rights of a stockholder of the Company.

- (c) Retirement. In the event of your Retirement (as that term is defined in Plan Section 2(v)(i)) at or after your 65<sup>th</sup> birthday and prior to the end of the Restricted Period, the continuous employment requirement shall be eliminated and you shall vest in and be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) any MSUs that have not previously been vested or forfeited, provided that you have been continuously employed by the Company (or a subsidiary) for at least one year following the Award Date and your employment has not been terminated by the Company (or a subsidiary) for misconduct or other conduct deemed detrimental to the interests of the Company. Any MSU that vests upon your Retirement shall vest based on the Payout Factor determined by substituting your last day of work (or the date of a Change in Control, if a Change in Control has occurred before your Retirement) for the vesting date.
- (d) Early Retirement; Termination not for Misconduct/Detrimental Conduct. This Section 2(d) shall apply in the event of (1) your Retirement (as that term is defined in Plan Sections 2(v)(ii) or 2(v)(iii)) (A) at or after age 55 with at least 10 years of service or (B) after attaining eligibility for the "Rule of 70" or (2) the termination of your employment by the Company (or a subsidiary) for reasons other than misconduct or other conduct deemed detrimental to the interests of the Company (and you are not eligible for Retirement). If one of the events described in the preceding sentence occurs before the end of the Restricted Period, the continuous employment requirement shall be eliminated and you shall vest in and be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the MSUs that would otherwise have vested on the vesting date that next follows the date on which the event occurs, provided that you have been continuously employed by the Company (or a subsidiary) for at least one year following the Award Date and your employment has not been terminated by the Company (or a subsidiary) for misconduct or other conduct deemed detrimental to the interests of the Company. Any MSU that vests upon your early Retirement or termination shall vest based on the Payout Factor determined by substituting your last day of work (or the date of a Change in Control, if a Change in Control has occurred before your early Retirement or termination) for the vesting date. If you are employed in the United States (including in Puerto Rico), and you are not eligible for Retirement, you shall be entitled to the pro rata vesting described in the preceding sentence only if you execute and do not revoke a release in favor of the Company and its predecessors, successors, affiliates, subsidiaries, directors and employees in a form satisfactory to the Company and, where deemed applicable by the Company, a non-compete and/or a non-solicitation agreement; if you fail to execute or revoke the release or fail to execute the non-compete or non-solicitation agreement, you shall forfeit any MSUs that are unvested as of the date your employment terminates. The formula for determining the proportionate number of your MSUs to become vested and non-forfeitable upon your early Retirement or involuntary termination not for misconduct or other detrimental conduct is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154.
- (e) Death. In the event of your death during the Restricted Period, the continuous employment requirement shall be eliminated and your estate shall vest in and be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) a proportionate number of the MSUs that would otherwise have vested, provided that you have been

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continuously employed by the Company for at least one year following the Award Date. Any MSU that vests upon your death shall vest based on the Payout Factor determined by substituting your last day of work (or the date of a Change in Control, if a Change in Control has occurred before your death) for the vesting date. The formula for determining the proportionate number of your MSUs to become vested and non-forfeitable upon your death is available by request from the Office of the Corporate Secretary at 345 Park Avenue, New York, New York 10154. In the event of your death prior to the delivery of shares in settlement of MSUs (not previously forfeited), shares in settlement of your MSUs shall be delivered to your estate, upon presentation to the Committee of letters testamentary or other documentation satisfactory to the Committee, and your estate shall succeed to any other rights provided hereunder in the event of your death.

- (f) Disability. In the event you become Disabled (as that term is defined below), for the period during which you continue to be deemed to be employed by the Company or a subsidiary (i.e., the period during which you receive Disability benefits), you will not be deemed to have terminated employment for purposes of the MSUs. Upon the termination of your receipt of Disability benefits, (i) you will not be deemed to have terminated employment if you return to employment status, and (ii), if you do not return to employment status, you will be deemed to have terminated employment at the date of cessation of payments to you under all disability pay plans of the Company and its subsidiaries, with such termination treated for purposes of the MSUs as a Retirement, death, or voluntary termination based on your circumstances at the time of such termination. For purposes of this Agreement, "Disability" or "Disabled" shall mean qualifying for and receiving payments under a disability plan of the Company or any subsidiary or affiliate either in the United States or in a jurisdiction outside of the United States, and in jurisdictions outside of the United States shall also include qualifying for and receiving payments under a mandatory or universal disability plan or program managed or maintained by the government.
- (g) Qualifying Termination Following Change in Control. In the event your employment is terminated by reason of a Qualifying Termination (as defined in the Plan) during the protection period (as referenced in your current Change-in-Control Agreement or the Change-in-Control Plan, as applicable) following a Change in Control (as defined in the Plan), the continuous employment requirement shall be eliminated and you shall vest in and be entitled to settlement of (i.e., the Restricted Period shall expire with respect to) any MSUs that have not previously been forfeited. Any MSU that vests following a Qualifying Termination during the applicable protection period following a Change in Control shall vest based on the Payout Factor determined by substituting the date of the Change in Control for the vesting date.
- (h) Other Termination of Employment. In the event of your voluntary termination, or termination by the Company or a subsidiary for misconduct or other conduct deemed by the Company to be detrimental to the interests of the Company, you shall forfeit all unvested MSUs on the date of termination.
- (i) Other Terms.
  - (i) In the event that you fail promptly to pay or make satisfactory arrangements as to the Tax Related Items as provided in Section 4, all MSUs then subject to restriction shall be forfeited by you and shall be deemed to be reacquired by the Company.

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- (ii) You may, at any time prior to the expiration of the Restricted Period, waive all rights with respect to all or some of the MSUs by delivering to the Company a written notice of such waiver.
  - (iii) Termination of employment includes any event if immediately thereafter you are no longer an employee of the Company or any subsidiary of the Company, subject to Section 2(j) hereof. References in this Section 2 to employment by the Company include employment by a subsidiary of the Company. Termination of employment means an event after which you are no longer employed by the Company or any subsidiary of the Company. Such an event could include the disposition of a subsidiary or business unit by the Company or a subsidiary.
  - (iv) Upon any termination of your employment, any MSUs as to which the Restricted Period has not expired at or before such termination shall be forfeited, subject to Sections 2(c)-(g) hereof. Other provisions of this Agreement notwithstanding, in no event will an MSU that has been forfeited thereafter vest or be settled.
  - (j) The following events shall not be deemed a termination of employment:
    - (i) A transfer of you from the Company to a subsidiary, or vice versa, or from one subsidiary to another;
    - (ii) A leave of absence, duly authorized in writing by the Company, for military service or sickness or for any other purpose approved by the Company if the period of such leave does not exceed ninety (90) days; and
    - (iii) A leave of absence in excess of ninety (90) days, duly authorized in writing, by the Company, provided your right to reemployment is guaranteed either by a statute or by contract.

However, your failure to return to active service with the Company or a subsidiary at the end of an approved leave of absence shall be deemed a termination of employment. During a leave of absence as defined in (ii) or (iii), although you will be considered to have been continuously employed by the Company or a subsidiary and not to have had a termination of employment under this Section 2, the Committee may specify that such leave period shall not be counted in determining the period of employment for purposes of the vesting of the MSUs. In such case, the vesting dates for unvested MSUs shall be extended by the length of any such leave of absence.

### 3. FORFEITURE IN THE EVENT OF COMPETITION AND/OR SOLICITATION OR OTHER ACTS

You acknowledge that your continued employment with the Company or a subsidiary and the grant of MSUs is sufficient consideration for this Agreement, including, without limitation, the restrictions imposed upon you by this Section 3.

- (a) By accepting the MSUs, you expressly agree and covenant that during the Restricted Period (as defined below) and the Non-Competition and Non-Solicitation Period (as defined below), you shall not, without the prior consent of the Company, directly or indirectly:
  - (i) own or have any financial interest in a Competitive Business (as defined below), except that nothing in this clause shall prevent you from owning one per cent or less of the outstanding securities of any entity whose securities are traded on a U.S. national securities exchange (including NASDAQ) or an equivalent foreign exchange;

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- (ii) be actively connected with a Competitive Business by managing, operating, controlling, being an employee or consultant (or accepting an offer to be an employee or consultant) or otherwise advising or assisting a Competitive Business in such a way that such connection might result in an increase in value or worth of any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary or affiliate. You may, however, be actively connected with a Competitive Business after your employment with the Company or a subsidiary terminates for any reason, so long as your connection to the business does not involve any product, technology or service, that competes with any product, technology or service upon which you worked or about which you became familiar as a result of your employment with the Company or a subsidiary and the Company is provided written assurances of this fact from the Competing Company prior to your beginning such connection;
  - (iii) take any action that might divert any opportunity from the Company or any of its affiliates, successors or assigns (the "Related Parties") that is within the scope of the present or future operations or business of any Related Parties;
  - (iv) employ, solicit for employment, advise or recommend to any other person that they employ or solicit for employment or form an association with any person who is employed by the Company or its Related Parties or who has been employed by the Company or its Related Parties within one year of the date your employment with the Company or a subsidiary ceased for any reason whatsoever;
  - (v) contact, call upon or solicit any customer of the Company, or attempt to divert or take away from the Company the business of any of its customers;
  - (vi) contact, call upon or solicit any prospective customer of the Company that you became aware of or were introduced to in the course of your duties for the Company or its Related Parties, or otherwise divert or take away from the Company the business of any prospective customer of the Company; or
  - (vii) engage in any activity that is harmful to the interests of the Company, including without limitation, any conduct during the term of your employment that violates the Company's Standards of Business Conduct and Ethics, securities trading policy and other policies.
- (b) Forfeiture. If the Company determines that you have violated any provisions of Section 3(a) above during the Restricted Period or the Non-Competition and Non-Solicitation Period, then you agree and covenant that:
- (i) any unvested portion of the MSUs shall be immediately rescinded;
  - (ii) you shall automatically forfeit any rights you may have with respect to the MSUs as of the date of such determination;
  - (iii) if any part of the MSUs vests within the twelve-month period immediately preceding a violation of Section 3(a) above (or following the date of any such

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violation), upon the Company's demand, you shall immediately deliver to it a certificate or certificates for shares of the Company's Common Stock that you acquired upon settlement of such MSUs (or an equivalent number of other shares); and

- (iv) the foregoing remedies set forth in this Section 3(b) shall not be the Company's exclusive remedies. The Company reserves all other rights and remedies available to it at law or in equity.
- (c) Company Policy. You agree that the Company may recover any incentive-based compensation received by you under this Agreement if such recovery is pursuant to a clawback policy approved by the Committee.
- (d) Definitions. For purposes of this Agreement, the following definitions shall apply:
  - (i) The Company directly advertises and solicits business from customers wherever they may be found and its business is thus worldwide in scope. Therefore, "Competitive Business" means any person or entity that engages in any business activity that competes with the Company's business in any way, in any geographic area in which the Company engages in business, including, without limitation, any state in the United States in which the Company sells or offers to sell its products from time to time.
  - (ii) "Non-Competition and Non-Solicitation Period" means the period during which you are employed by the Company and twelve months following the date that you cease to be employed by the Company for any reason whatsoever.
  - (iii) "Restricted Period" means, with respect to each MSU, the period from the Award Date until the date such MSU has become vested and non-forfeitable.
- (e) Severability. You acknowledge and agree that the period, scope and geographic areas of restriction imposed upon you by the provisions of Section 3 are fair and reasonable and are reasonably required for the protection of the Company. In the event that all or any part of this Section 3 is held to be unenforceable or invalid, the remaining parts of Section 3 and this Agreement shall nevertheless continue to be valid and enforceable as though the invalid portions were not a part of this Agreement. If any one of the provisions in Section 3 is held to be excessively broad as to period, scope and geographic areas, any such provision shall be construed by limiting it to the extent necessary to be enforceable under applicable law.
- (f) Additional Remedies. You acknowledge that breach by you of this Agreement would cause irreparable harm to the Company and that in the event of such breach, the Company shall have, in addition to monetary damages and other remedies at law, the right to an injunction, specific performance and other equitable relief to prevent violations of your obligations hereunder.

#### 4. RESPONSIBILITY FOR TAXES

Regardless of any action the Company, any subsidiary or affiliate or your employer ("Employer") takes with respect to any or all income tax (including federal, state and local taxes), social security, payroll tax, payment on account or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or the Employer to be an appropriate charge to you even if technically due by the Company or the Employer ("Tax Related Items"), you acknowledge that the

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ultimate liability for all Tax Related Items is and remains your responsibility and may exceed the amount actually withheld by the Company or the Employer. You further acknowledge that the Company, any subsidiary or affiliate and/or the Employer: (a) make no representations or undertakings regarding the treatment of any Tax Related Items in connection with any aspect of the MSUs, including the grant of the MSUs, the vesting of MSUs, the conversion of the MSUs into Common Stock or the receipt of an equivalent cash payment, the subsequent sale of any Common Stock acquired at vesting and the receipt of any dividends and/or Dividend Equivalents; and, (b) do not commit to structure the terms of the grant or any aspect of the MSUs to reduce or eliminate your liability for Tax Related Items or achieve any particular tax result. Further, if you have become subject to tax in more than one jurisdiction between the Award Date and the date of any relevant taxable event, you acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax Related Items in more than one jurisdiction.

Prior to the relevant taxable event, you shall pay, or make adequate arrangements satisfactory to the Company or the Employer to satisfy all Tax Related Items. In this regard, you authorize the Company or the Employer to withhold all applicable Tax Related Items legally by one or a combination of the following:

- (a) withholding from your wages or other cash compensation payable to you by the Company or the Employer; or
- (b) withholding from proceeds from the sale of shares of Common Stock to be issued on the vesting/settlement of MSUs either through a voluntary sale or through a mandatory sale arranged by the Company (on your behalf pursuant to this authorization); or
- (c) withholding in shares of Common Stock to be issued on the vesting/settlement of the MSUs.

To avoid negative accounting treatment, the Company may withhold or account for Tax Related Items by considering applicable minimum withholding amounts or other applicable withholding rates. If the obligation for Tax Related Items is satisfied by withholding in shares of Common Stock, for tax purposes, you are deemed to have been issued the full number of shares of Common Stock subject to the award of MSUs, notwithstanding that a number of the shares of Common Stock are held back solely for the purpose of paying Tax Related Items due as a result of any aspect of your participation in the Plan.

You shall pay to the Company, a subsidiary or your Employer (as applicable) any amount of Tax Related Items that the Company or the Employer may be required to withhold as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver Common Stock, their cash equivalent or the proceeds of the sale of Common Stock, if you fail to comply with your obligation in connection with the Tax Related Items.

#### 5. DIVIDEND EQUIVALENTS AND ADJUSTMENTS

- (a) Dividend Equivalents shall be paid or credited on MSUs (other than MSUs that, at the relevant record date, previously have been settled or forfeited) as follows, except that the Committee may specify an alternative treatment from that specified in (i), (ii), or (iii) below for any dividend or distribution:
  - (i) *Cash Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of cash, then you will be credited, as of the payment date for such dividend or distribution, an amount equal to the number of MSUs credited to you as of the record date for such dividend or distribution, multiplied by the amount that would have been paid as a dividend or distribution on each

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outstanding share of Common Stock at such payment date. Any payment made under this Section 5(a)(i) shall be included as part of your regular payroll payment as soon as administratively practicable after the settlement date for the underlying MSU and shall be subject to the Payout Factor that applies to the underlying MSU. At the time the underlying MSU becomes payable, the Company has the discretion to pay any accrued Dividend Equivalents either in cash or in shares of Common Stock. If the underlying MSU does not vest or is forfeited, any amounts credited under this Section 5(a)(i) with respect to the underlying MSU also will fail to vest and will be forfeited.

- (ii) *Non-Share Dividends.* If the Company declares and pays a dividend or distribution on Common Stock in the form of property other than shares, then a number of additional MSUs shall be credited to you as of the payment date for such dividend or distribution equal to (A) the number of MSUs credited to you as of the record date for such dividend or distribution, multiplied by (B) the Fair Market Value of such property actually paid as a dividend or distribution on each outstanding share of Common Stock at such payment date, divided by (C) the Fair Market Value of a share at such payment date. Any MSUs payable under this Section 5(a)(ii) shall be settled on the settlement date for the underlying MSU and shall be subject to the Payout Factor that applies to the underlying MSU. If the underlying MSU does not vest or is forfeited, any amounts credited under this Section 5(a)(ii) with respect to the underlying MSU also will fail to vest and will be forfeited. You will be eligible to receive Dividend Equivalents on any MSUs credited to you under this Section 5(a)(ii).
  - (iii) *Common Stock Dividends and Splits.* If the Company declares and pays a dividend or distribution on Common Stock in the form of additional shares, or there occurs a forward split of Common Stock, then a number of additional MSUs shall be credited to you as of the payment date for such dividend or distribution or forward split equal to (A) the number of MSUs credited to you as of the record date for such dividend or distribution or split, multiplied by (B) the number of additional shares actually paid as a dividend or distribution or issued in such split in respect of each outstanding share of Common Stock. Any MSUs payable under this Section 5(a)(iii) shall be settled on the settlement date for the underlying MSU and shall be subject to the Payout Factor that applies to the underlying MSU. If the underlying MSU does not vest or is forfeited, any amounts credited under this Section 5(a)(iii) with respect to the underlying MSU also will fail to vest and will be forfeited. You will be eligible to receive Dividend Equivalents on any MSUs credited to you under this Section 5(a)(iii).
- (b) The number of your MSUs and other related terms shall be appropriately adjusted, in order to prevent dilution or enlargement of your rights with respect to MSUs, to reflect any changes in the outstanding shares of Common Stock resulting from any event referred to in Plan Section 11(c) or any other "equity restructuring" as defined in FASB ASC Topic 718, taking into account any MSUs credited to you in connection with such event under Section 5(a).
  - (c) When the Dividend Equivalents you receive under this Section 5, if any, become payable to you, they will be compensation (wages) for tax purposes and will be included on your W-2 form. The Company will be required to withhold applicable taxes on such Dividend Equivalents. The Company may deduct such taxes in the manner set forth in Section 4 hereof.

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6. EFFECT ON OTHER BENEFITS

In no event shall the value, at any time, of the MSUs or any other payment under this Agreement be included as compensation or earnings for purposes of any other compensation, retirement, or benefit plan offered to employees of the Company or any subsidiary unless otherwise specifically provided for in such plan. The MSUs and the underlying shares of Common Stock (or their cash equivalent) are not part of normal or expected compensation or salary for any purposes including, but not limited to, calculation of any severance, resignation, termination, redundancy or end of service payments, bonuses, long-service awards, pension or retirement benefits, or similar payments.

7. ACKNOWLEDGMENT OF NATURE OF PLAN AND MSUs

In accepting the MSUs, you acknowledge, understand and agree that:

- (a) The Plan is established voluntarily by the Company, it is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;
- (b) The award of MSUs is voluntary and occasional and does not create any contractual or other right to receive future awards of MSUs, or benefits in lieu of MSUs even if MSUs have been awarded repeatedly in the past;
- (c) All decisions with respect to future awards of MSUs, if any, will be at the sole discretion of the Company;
- (d) Your participation in the Plan shall not create a right to further employment with the Employer and shall not interfere with the ability of the Employer to terminate your employment relationship at any time;
- (e) Your participation in the Plan is voluntary;
- (f) MSUs and the Common Stock subject to the MSUs are an extraordinary item that do not constitute compensation of any kind for services of any kind rendered to the Company or to the Employer, and MSUs are outside the scope of your employment contract, if any;
- (g) The MSUs and your participation in the Plan will not be interpreted to form an employment contract with the Company or any subsidiary or affiliate of the Company;
- (h) The future value of the underlying shares of Common Stock is unknown and cannot be predicted with certainty;
- (i) The MSUs and the shares of Common Stock subject to the MSUs are not intended to replace any pension rights or compensation that you may otherwise be entitled to;
- (j) The MSUs and the underlying shares of Common Stock should not be considered as compensation for, or relating in any way to, past services for the Company, its subsidiaries or affiliates or the Employer; and
- (k) No claim or entitlement to compensation or damages arises from the forfeiture of MSUs, resulting from termination of your employment by the Company, any subsidiary or affiliate or your Employer (for any reason whatsoever and whether or not in breach of labor laws), and in consideration of the grant of the MSUs to which you are otherwise not entitled, you irrevocably agree never to institute any claim against the Company or the Employer, waive your ability, if any, to bring such claim, and release the Company, any subsidiary or affiliate and/or the Employer from any such claim; if, notwithstanding the foregoing, any

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such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, you shall be deemed irrevocably to have agreed not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claims.

8. NO ADVICE REGARDING GRANT

The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan or your acquisition or sale of the underlying shares of Common Stock. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan.

9. RIGHT TO CONTINUED EMPLOYMENT

Nothing in the Plan or this Agreement shall confer on you any right to continue in the employ of the Company or any subsidiary or affiliate or any specific position or level of employment with the Company or any subsidiary or affiliate or affect in any way the right of the Company or any subsidiary or affiliate to terminate your employment without prior notice at any time for any reason or no reason.

10. ADMINISTRATION; UNFUNDED OBLIGATIONS

The Committee shall have full authority and discretion, subject only to the express terms of the Plan, to decide all matters relating to the administration and interpretation of the Plan and this Agreement, and all such Committee determinations shall be final, conclusive, and binding upon the Company, any subsidiary or affiliate, you, and all interested parties. Any provision for distribution in settlement of your MSUs and other obligations hereunder (including cash amounts set aside under Section 5(a)(i)) shall be by means of bookkeeping entries on the books of the Company and shall not create in you or any beneficiary any right to, or claim against any, specific assets of the Company, nor result in the creation of any trust or escrow account for you or any beneficiary. You and any of your beneficiaries entitled to any settlement or distribution hereunder shall be a general creditor of the Company.

11. DEEMED ACCEPTANCE

You are required to accept the terms and conditions set forth in this Agreement prior to the first vest date in order for you to receive the Award granted to you hereunder. If you wish to decline this Award, you must reject this Agreement prior to the first vest date. For your benefit, if you have not rejected the Agreement prior to the first vest date, you will be deemed to have automatically accepted this Award and all the terms and conditions set forth in this Agreement. Deemed acceptance will allow the shares to be released to you in a timely manner.

12. AMENDMENT

This Agreement shall be subject to the terms of the Plan, as amended from time to time, except that the Award which is the subject of this Agreement may not be materially adversely affected by any amendment or termination of the Plan approved after the Award Date without your written consent.

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13. SEVERABILITY AND VALIDITY

The various provisions of this Agreement are severable, and any determination of invalidity or unenforceability of any one provision shall have no effect on the remaining provisions.

14. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement and Award grant shall be governed by the substantive laws (but not the choice of law rules) of the State of New York. For purposes of litigating any dispute that arises under this MSU grant or Agreement, the parties hereby submit to and consent to the jurisdiction of the State of New York, agree that such litigation shall be conducted in the courts of New York, New York, or the federal courts for the United States for the Southern District of New York, and no other courts where this MSU grant is made and/or performed.

15. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and heirs of the respective parties.

16. DATA PRIVACY

*You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this Agreement by and among, as applicable, your Employer, the Company and its subsidiaries for the exclusive purpose of implementing, administering and managing your participation in the Plan.*

*You understand that the Company, any subsidiary and/or your Employer may hold certain personal information about you, including, but not limited to, your name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all MSUs or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Plan ("Data").*

*You understand that Data may be transferred to Morgan Stanley Smith Barney, or such other stock plan service provider as may be selected by the Company in the future, which assists in the implementation, administration and management of the Plan. You authorize the Company, Morgan Stanley Smith Barney and other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing your participation in the Plan, including any requisite transfer of such Data as may be required to a broker, escrow agent or other third party with whom the shares of Common Stock received upon vesting of the MSUs may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Plan.*

17. ELECTRONIC DELIVERY

The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through an on-line or electronic systems established and maintained by the Company or a third-party designated by the Company.

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18. COMPLIANCE WITH LAWS AND REGULATIONS

Notwithstanding any other provisions of this Agreement, you understand that the Company will not be obligated to issue any shares of Common Stock pursuant to the vesting of the MSUs, if the issuance of such Common Stock shall constitute a violation by you or the Company of any provision of law or regulation of any governmental authority. Any determination by the Company in this regard shall be final, binding and conclusive.

19. ENTIRE AGREEMENT AND NO ORAL MODIFICATION OR WAIVER

This Agreement contains the entire understanding of the parties. This Agreement shall not be modified or amended except in writing duly signed by the parties, except that the Company may adopt a modification or amendment to the Agreement that is not materially adverse to you in writing signed only by the Company. Any waiver of any right or failure to perform under this Agreement shall be in writing signed by the party granting the waiver and shall not be deemed a waiver of any subsequent failure to perform.

For the Company  
Bristol-Myers Squibb Company

By \_\_\_\_\_

I have read this Agreement in its entirety. I understand that this Award has been granted to provide a means for me to acquire and/or expand an ownership position in Bristol-Myers Squibb Company. I acknowledge and agree that sales of shares will be subject to the Company's policies regulating trading by employees. In accepting this Award, I hereby agree that Morgan Stanley Smith Barney, or such other vendor as the Company may choose to administer the Plan, may provide the Company with any and all account information for the administration of this Award.

I hereby agree to all the terms, restrictions and conditions set forth in the Agreement.

**Bristol-Myers Squibb Company  
Senior Executive Severance Plan  
and  
Summary Plan Description**

The information contained in this Severance Plan and Summary Plan Description (SPD) is effective as of the date at the bottom of this page. To ensure that you have the most up-to-date benefit plan information, be sure to review this Plan and SPD in combination with more recent communications to eligible employees.

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Words that appear in **bold** have specific definitions that are included in the Glossary. You should refer to the Glossary as you read this document.

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### **Purpose**

The Compensation and Management Development Committee of the Board of Directors of Bristol-Myers Squibb Company ("BMS" or the "Company") has adopted the Bristol-Myers Squibb Company Senior Executive Severance Plan (the "Plan") for eligible senior executives of the Company and its participating subsidiaries and affiliates ("Participating Employer"). The purpose of the Plan is to provide equitable treatment for terminated senior executives consistent with the values and culture of the Company, provide financial support for senior executives seeking new employment, recognize senior executives' contributions to the Company, and to avoid or mitigate the Company's potential exposure to litigation. The Company further believes that the Plan will aid the Company in attracting and retaining highly qualified senior executives who are essential to its success.

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### **Section 1 – Eligibility to Participate**

You are eligible to participate in the Plan if you are a full-time or part-time active eligible employee who is a senior executive at the E9 grade level or above of the Company or a Participating Employer.

Notwithstanding anything contained herein, you are not eligible to participate in the Plan and are excluded from coverage under the Plan if you are:

- a party to an individual arrangement or a written employment agreement with the Company containing a severance provision other than pursuant to the Plan or a change in control letter agreement with the Company;
- covered by a local practice outside the U.S. and Puerto Rico that provides for severance payments and/or benefits in connection with a voluntary or involuntary termination of employment that are greater than the severance payments and/or benefits set forth herein<sup>1</sup>

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### **Section 2 – Eligibility for Severance Payments and Benefits**

#### ***Right to Severance Payments and Benefits***

You will be eligible to receive the severance payments and benefits provided by this Plan if your employment by the Company or a Participating Employer is terminated for any one or more of the following reasons:

- (a) Involuntary termination by the Company or Participating Employer other than for Cause (as defined below).

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<sup>1</sup> For further information, see "Offset for Executives in Puerto Rico and U.S. Expatriates" and "Pay in Lieu of Notice Periods and Offsets for Executives Employed Outside the U.S. and Puerto Rico Who Are Not U.S. Expatriates" on pages 4-5.

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- (b) You voluntarily terminate your employment within ten (10) business days after the occurrence of any event constituting Good Reason (as defined below).

To qualify for severance payments and benefits under the Plan upon voluntary termination for Good Reason, you must notify the Company in writing of termination for Good Reason specifying the event constituting Good Reason within ten (10) calendar days of the event. Failure for any reason to give written notice of termination of employment for Good Reason shall be deemed a waiver of the right to voluntarily terminate employment and claim Good Reason under this Plan in relation to such event. The Company shall have a period of thirty (30) days in which to cure the Good Reason. If the Good Reason is cured within this period, you will not be entitled to severance payments and benefits hereunder. If the Company waives its right to cure or does not, within the thirty (30) day period, cure the Good Reason, you shall be entitled to severance payments and benefits and your actual termination date shall be determined in the sole discretion of the Company but in no event later than thirty (30) calendar days from the date the Company waives its right to cure or the end of the period in which to cure the Good Reason, whichever is earlier.

***Ineligibility for Severance Payments and Benefits***

Notwithstanding any provision of the Plan, you shall not be eligible for severance payments and benefits under this Plan if your termination of employment occurs by reason of any of the following:

- voluntary termination other than for Good Reason (as defined below);
- mandatory retirement from employment in accordance with Company policy or statutory requirements;
- disability (as defined in the Company's Long-Term Disability Income Plan);
- for Cause;
- refusal, rejecting or declining to accept a transfer to a position with the Company or a Participating Employer, as applicable (for which you are qualified as determined by the Company by reason of knowledge, training, and experience), provided the transfer would not constitute Good Reason for a voluntary termination;
- the sale of all or part of the Company or Participating Employer's business assets if you are offered employment within four (4) weeks of the date your employment with the Company terminates by the acquirer of such assets regardless of the terms and conditions of employment offered by the acquirer, and regardless of whether you accept the offer;
- upon the formation of a joint venture or other business entity in which the Company or a Participating Employer directly or indirectly will own some outstanding voting or other ownership interest if you are offered employment by the joint venture entity or other business entity regardless of the terms and conditions of employment offered by the joint venture entity or other business entity within four (4) weeks of the date your employment with the Company terminates and regardless of whether you accept the offer; or
- you are reporting to a different person.

***Cause***

"Cause" shall mean:

- (i) failure or refusal by you to substantially perform your duties with the Company or a Participating Employer (except where the failure results from incapacity due to disability); or

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- (ii) severe misconduct or engaging in an activity, which may include a failure to take action, deemed detrimental to the interests of the Company or a Participating Employer. Examples of the foregoing include, but are not limited to, acts involving dishonesty, violation of Company or a Participating Employer written policies (which includes BMS Standards of Business Conduct and Ethics), violation of safety rules, disorderly conduct, discriminatory harassment, unauthorized disclosure of Company or a Participating Employer confidential information, or the entry of a plea of nolo contendere to, or the conviction of, a crime.

"Cause" shall be interpreted by the Company in its sole discretion and such interpretation shall be conclusive and binding on all parties.

**Good Reason**

"Good Reason" shall mean the occurrence of any one or more of the following events:

- (i) A material reduction in your Base Pay (as defined in the Glossary).
- (ii) A material reduction in your executive grade level (e.g., the Company changes your job level from an E10 to an E9) resulting in a material diminution of your authority, duties, or responsibilities.
- (iii) A change in the location of your job or office, so that you will be based at a location which is more than 50 miles farther (determined in accordance with the Company's relocation policy) from your primary residence than your work location immediately prior to the proposed change in job or office.

**Section 3 – Severance Payments And Benefits**

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Under the Plan, you are eligible to receive Basic Severance and Supplemental Severance, provided you meet the eligibility criteria for severance payments and benefits in Section 2.

**Basic Severance**

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As Basic Severance, you shall receive severance payments equal to four (4) times your Base Pay (as defined below, *see* page 14). You are not required to sign a separation agreement or general release to receive Basic Severance.

**Supplemental Severance**

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Supplemental Severance is based on your grade level as follows:

<u>Grade Level</u>	<u>Supplemental Severance</u>
E9	74 times your Base Pay (as defined in Glossary)
E10 and above	100 times your Base Pay (as defined in Glossary)

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**Payment of Supplemental Severance is contingent upon your signing a Separation Agreement containing a general release and allowing the general release to become effective (see "Separation Agreement, Including General Release and Restrictive Covenants," below).**

Nothing in this Section 3, the Plan, a change in control letter agreement, an offer letter from the Company or a Participating Employer, a prevailing practice of the Company or a Participating Employer, or any oral statement made by or on behalf of the Company or a Participating Employer shall entitle you to receive duplicate benefits in connection with a voluntary or involuntary termination of employment. For example, you are not eligible for payments and benefits under both this Plan and a change in control letter agreement between you and the Company. The obligation of the Company, to make payments hereunder shall be expressly conditioned upon you not receiving duplicate payments.

***Pay in Lieu of Notice Periods for U.S. and Puerto Rico Executives and U.S. Expatriate Executives***

The Basic Severance and Supplemental Severance payments under the Plan shall not be reduced by any cash payments to which you may be entitled under any federal, state or local plant-closing or mass layoff law (or similar or analogous) law, including, without limitation, pursuant to the U.S. Worker Adjustment and Retraining Notification Act or any state or local "pay in lieu of notice" law or regulation ("WARN Act"); *provided, however*, Basic Severance will be reduced by the payment for time not worked during a WARN Act notice period up to a maximum of four weeks' base pay.

***Offset for Executives in Puerto Rico and U.S. Expatriates***

The Basic Severance and Supplemental Severance payments under the Plan shall be reduced (but not below zero) for executives in Puerto Rico by any payments under Puerto Rico Act 80, as amended on October 7, 2005 and thereafter. The Basic Severance and Supplemental Severance payments under the Plan shall be reduced (but not below zero) for U.S. expatriates with respect to any statutory payments of severance in any country other than the U.S. and the payments and benefits hereunder are conditioned upon statutory payments, if any, being offset.

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***Pay in Lieu of Notice Periods and Offsets for Executives Employed Outside the U.S. and Puerto Rico Who Are Not U.S. Expatriates***

The Basic Severance and Supplemental Severance payments under the Plan shall be reduced (but not below zero) by any cash payments to which you may be entitled under or in respect of any of the following: (i) "pay in lieu of notice" or "notice" laws, (ii) any pay in lieu of notice under your contract of employment, (iii) any damages for breach of your employment contract calculated by reference to any period of notice required to be given to terminate your contract which was not given in full, (iv) any compensation required to be paid by any law of any jurisdiction in respect of the termination of your employment, (v) any law of any jurisdiction with respect to the payment of severance, termination indemnities or other similar payments, or (vi) any contract, agreement, plan, program, practice or arrangement which are payable due to your termination of employment with the Company or an affiliate or subsidiary of the Company (but excluding, for the avoidance of doubt, any payments made on retirement from a retirement savings plan, pension plan or provident fund).

***No Mitigation***

You shall not be required to mitigate the amount of any payment provided for in the Plan by seeking other employment and no such payment shall be offset or reduced by the amount of any compensation or benefits provided to you in any subsequent employment.

***Debt Owed to the Company or a Participating Employer***

If you owe the Company or a Participating Employer money for any reason, including, but not limited to, overpayment of employee benefits self-insured by the Company or Participating Employer, the Company or Participating Employer shall have the right, at its sole discretion, to offset the amount of the debt from your severance payments to the fullest extent permitted by law.

***Separation Agreement, Including General Release and Restrictive Covenants***

The obligation of the Company to pay Supplemental Severance and provide you Benefits Continuation (see "Benefits Continuation" on page 7), shall be and is expressly conditioned upon you timely executing a separation agreement in a form that is satisfactory to the Company (the "Separation Agreement") during the requisite time period and allowing such Separation Agreement to become effective.

As to the Separation Agreement:

- It shall include but not be limited to a general release of claims against the Company, its affiliates and their respective officers, directors, employees and agents, and shall contain certain restrictive covenants and obligations of you including, but not limited to, non-competition and non-solicitation covenants for a period of one-year following your separation date, an agreement by you not to make use of confidential or proprietary information of the Company or its affiliates, an agreement not to disparage or encourage or induce others to disparage the Company, its affiliates or their respective products for a period no more than the period you are receiving payments hereunder, an agreement to return Company property, and an agreement to cooperate with legal matters of the Company in which you might have knowledge.
- The Company will provide a form of such Separation Agreement not later than the date of your Separation from Service.
- You must sign and return the Separation Agreement within the minimum time period required by law and not revoke it during any permitted revocation period<sup>2</sup>, in order for the Separation Agreement to become effective. Otherwise, you will not be eligible for, and the Company shall not have any obligation to, pay you any Supplemental Severance payments.

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<sup>2</sup> In general, the shortest minimum time period for reviewing and signing a general release is 21 days, but that may be longer or shorter depending on the circumstances. Also, in general, individuals have a 5-day period after signing a general release within which to revoke the release. A Separation Agreement will specify these time periods.

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## How Your Benefit Is Paid

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Basic Severance, if payable, will be paid at regular payroll intervals according to your pay schedule prior to your termination.

In general, Supplemental Severance payments, if payable, will not begin until at least eight days after you return a signed Separation Agreement (containing the general release) to the Company, but in no event later than 60 days after your effective date of termination. Supplemental Severance will be paid at regular payroll intervals according to your pay schedule prior to your termination.

It is possible that Basic and Supplemental Severance could constitute payment of deferred compensation under Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"). In that event, payment may be subject to the six-month delay rule and other limitations required to comply with Code Section 409A requirements. *See* "Section 409A" starting on page 11.

The "Severance Pay Period" is defined as the number of weeks' base pay for which you are eligible under the Plan counting both Basic and Supplemental Severance. For example, if you would be eligible for 4 weeks of Basic Severance and 74 weeks of Supplemental Severance, your Severance Pay Period would be 78 weeks.

## Continuation of Employee Benefits For U.S. and Puerto Rico and U.S. Expatriate Executives E9 and Above Only

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During the Severance Pay Period, you are not considered an employee of the Company or a Participating Employer for any purpose – including eligibility under any employee benefit plan. The following benefits, however, will continue to be available as outlined to a U.S. or Puerto Rico senior executive or a U.S. expatriate senior executive in all events at the E9 grade level or above:

### *Health Care Plans*

If you and your dependents were enrolled in the Company's health plan on your termination date, this coverage will continue until the end of the month in which Basic Severance ends. As of the date of your termination of employment, you and your enrolled eligible dependents will be offered the opportunity to elect COBRA continuation coverage and have the opportunity to receive subsidized COBRA:

**Subsidized COBRA:** If you sign and return the Separation Agreement in the requisite time period and allow it to become effective, the Company will subsidize your COBRA until the *end of the month in which occurs* the earlier of (i) fifty-six weeks measured from the date you separated employment with the Company or (ii) the date you begin new employment (the "Benefits Continuation Period").

That means that during the subsidized COBRA period, you would owe the same amount as active employees for the same coverage rather than the standard COBRA rate. However, at the end of the subsidy period, you would then owe the standard COBRA rate to maintain COBRA coverage.

Please note that if you do not sign and return the Separation Agreement in the requisite time period and allow it to become effective, neither you nor your eligible dependents will receive subsidized COBRA; of course, you and your eligible dependents would still be entitled to standard COBRA.

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**Standard COBRA:** Standard COBRA is unsubsidized COBRA, meaning you (and your eligible dependents if they elect separately) would owe the standard COBRA rate for COBRA coverage.

Detailed information about COBRA coverage will be mailed to your home at the time of termination.

***Life Insurance***

Your current level of basic life insurance coverage will continue until the end of the month in which your termination occurs. Thereafter, Company-provided life insurance coverage equal to one times (two times if you are an executive employed in Puerto Rico and retiree eligible (*i.e.*, age 55 or older with at least ten years of service)) your base pay at termination date will be continued until the end of your Benefits Continuation Period.

When you are terminated, if you are participating in the Survivor Income Plan (not applicable for executives in Puerto Rico), Dependent Life Insurance Plan(s), or the Voluntary Life Insurance Plan(s), coverage will end on the last day of the month in which your termination occurs. When your employment terminates, you may have the opportunity to elect to convert all or part of any terminating life insurance coverage to an individual policy with the insurer.

***Long Term Care Plan (not applicable for executives in Puerto Rico)***

If you are participating in the Long Term Care Plan, you may be able to continue coverage directly through the Long Term Care Plan's insurer, Aetna.

***Employee Assistance Program (EAP)***

You may continue to participate in the Employee Assistance Program during the benefits continuation period, as long as you remain eligible for benefits under the Company's Medical Plan. If you elect COBRA continuation coverage, you may continue to participate in the EAP. You will receive additional information regarding participation at the time of your termination.

***Outplacement***

You will be eligible for outplacement services in accordance with the Company's outplacement services that are in effect for executives at your level as of the date your employment ends with the Company, provided you timely sign and return the Separation Agreement (as set forth above).

***Company Perquisites***

Effective December 31, 2007, the Company eliminated the executive perquisite program. As such, no perquisites will be made available to you after your separation from the Company.

***Other Benefits***

Accrued and unused vacation days (including banked vacation), long-term performance awards, vesting and exercising of stock options, vesting of restricted stock and restricted stock units, deferred distributions under the Performance Incentive Plan (PIP) and bonus payments will be determined in accordance with the applicable Company plans, programs and/or policies.

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All other benefit coverage, and eligibility to participate in the Company's plans, will end as of your termination date. These benefits include, but are not limited to:

- contributions to the Dependent Care Reimbursement Account (not applicable for executives in Puerto Rico);
- contributions to and earning service for vesting under the Company's Savings and Investment Program;
- earning additional service for vesting under the Company's Retirement Income Plan; and
- participation in the Company's disability plans.

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**Rule of 70 (for U.S. and Puerto Rico and U.S. expatriate executives E9 and above only)**

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If you are eligible for severance benefits but not eligible to retire<sup>3</sup>, you may qualify for the "Rule of 70" benefits when you are terminated if:

- you sign and return the General Release during the requisite time period and allow it to become effective; and
- on termination, your age plus years of service<sup>4</sup> equals at least 70 (rounded to the next higher whole number); and
- you have a minimum of 10 years of service.

**Example:** If you have been employed for 16.7 years and you are 52 years and 3 months old, you add your years of service without any rounding (16.7) with your age without any rounding (52.25) to get a total number (16.7 + 52.25 = 68.95) This total number is then rounded up to the next whole number (69) and you would not qualify for Rule of 70 benefits.

**Medical Plan**

The Rule of 70 benefits give you the opportunity to extend Medical Plan coverage beyond the end of COBRA coverage as long as you have no other group medical coverage available to you and no other group medical coverage becomes available.

Between the time that COBRA coverage would normally end (the end of your Severance Pay Period or the end of your COBRA continuation period, whichever is later) and until the date you reach age 55, you can continue medical coverage by paying the full cost of medical coverage, plus a 2% administrative fee. After the date you reach age 55, you can continue coverage under the Medical Plan as if you were a retired employee by paying the retiree medical coverage contribution rate in effect at that time.

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<sup>3</sup> To be eligible to retire, you must be at least age 55 and have at least 10 years of service or be at least age 65.

<sup>4</sup> For severance benefits, "years of service" means the total years of employment from your adjusted date of hire to date of termination, rounded up to the next higher whole number. Employees with less than one year of service will not have their length of service rounded up to one whole year.

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### **Retiree Medical Coverage Contribution Rate**

The retiree medical coverage contribution rate, which takes effect at age 55 will be based on your service as of your actual date of termination of employment pursuant to the terms of the Company's medical plans.

Under the Retiree Medical Plan, if you are eligible to enroll in Medicare coverage, Medicare will be your primary coverage and the Company plan will be secondary **whether or not you actually enroll in Medicare**. For more information, you should review the Comprehensive Medical Plan Summary Plan Description specific to retirement. The Company reserves the right to amend, suspend or terminate its Retiree Medical Plan (and your rights with regard thereto), in whole or in part, any time in its sole and absolute discretion.

For more detailed information about retiree medical coverage and the cost-sharing formula, refer to the "Coverage When You Retire" section of the Comprehensive Medical Plan Summary Plan Description.

### ***Retirement Income Plan***

The Rule of 70 gives you the opportunity to receive benefits under the Company's Retirement Income Plan provided you were a participant in the Retirement Income Plan prior to January 1, 2010. If you are Rule of 70 eligible, retirement benefits payable before age 65 are calculated using the same factors as those used for employees who retire at their Early Retirement Date (as defined by the Retirement Income Plan). The Rule of 70 benefits make it possible for eligible participants to receive benefit payments before age 55 with additional reduction factors applied to account for payment over a longer period of time; *provided, however*, this may not be applicable under the BEP-Retirement Income Plan.

For more information about the payment of retirement benefits, refer to the Summary Plan Description of the Retirement Income Plan and the Summary Plan Description of the BEP – Retirement Income Plan.

NOTE: Although eligible for retiree medical coverage, a participant entitled to Rule of 70 benefits is not a Bristol-Myers Squibb Company retiree, regardless of when the participant ultimately chooses benefit payments to begin. Your Human Resources representative will determine whether you qualify for Rule of 70 and advise you at the time of termination.

### ***If You Are Rehired After Termination***

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If you are rehired by the Company or a Participating Employer during the Severance Pay Period, severance payments will terminate.

If you are a terminated employee who is subsequently reinstated to employee status back to the date you were terminated (including reinstatement as the result of an appeal of a claim for disability benefits), all severance benefits must be repaid to the Company or a Participating Employer.

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**Section 4 – Amendment and Plan Termination**

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Bristol-Myers Squibb Company reserves the right to terminate or amend, in whole or in part, the Plan at any time in its sole discretion by resolution adopted by the Compensation and Management Development Committee of the Board of Directors of the Company. The Company reserves the right to implement changes even if they have not been reprinted or substituted in this document.

**Section 5 – Miscellaneous**

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***Employment Status***

The Plan does not constitute a contract of employment and nothing in the Plan provides or may be construed to provide that participation in the Plan is a guarantee of continued employment with the Company, a Participating Employer or any of their respective affiliates.

***Withholding of Taxes***

The Company shall withhold from any amounts payable under the Plan all federal, state, local or other taxes that are legally required to be withheld.

***No Effect on Other Benefits***

Neither the provisions of this Plan nor the severance payments and benefits provided for hereunder shall reduce any amounts otherwise payable to you under any incentive, retirement, stock option, stock bonus, stock ownership, group insurance or other benefit plan.

***Validity and Severability***

The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan, which shall remain in full force and effect, and any prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

***Unfunded Obligation***

All severance payments and benefits under the Plan shall constitute unfunded obligations of the Company. Severance payments shall be made, as due, from the general funds of the Company. The Plan shall constitute solely an unsecured promise by the Company to provide such benefits to you to the extent provided herein. For avoidance of doubt, any health benefits to which you may be entitled under the Plan shall be provided under other applicable employee benefit plans of the Company.

***Type of Plan and Governing Law***

This plan is designed to qualify as a severance pay arrangement within the meaning of Section 3(2)(B)(i) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and is intended to be excepted from the definitions of "employee pension benefit plan" and "pension plan" set forth under Section 3(2) of ERISA and is intended to meet the descriptive requirements of a plan constituting a "severance pay plan" within the meaning of the regulations published by the Secretary of Labor. The Plan and all rights thereunder shall be governed and construed in accordance with ERISA and, to the extent not preempted by Federal law, with the laws of the state of New York.

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## **Section 409A**

### ***Notwithstanding any other provision of the Plan:***

#### **Statement of Intent**

To the fullest extent possible, amounts and other benefits payable under the Plan are intended to be exempt from the definition of "nonqualified deferred compensation" under Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") in accordance with one or more exemptions available under the final Treasury regulations promulgated under Code Section 409A. To the extent that any such amount or benefit is or becomes subject to Code Section 409A, this Plan is intended to comply with the applicable requirements of Code Section 409A with respect to such amounts or benefits. This Plan shall be interpreted and administered to the extent possible in a manner consistent with the foregoing statement of intent.

#### **Exemption**

To the fullest extent possible, amounts and other benefits payable under the Plan are intended to be exempt from the definition of "nonqualified deferred compensation" under Code Section 409A including, but not limited to, being exempt from Section 409A:

- as short-term deferrals under Treasury Regulation Section 1.409A-1(b)(4) (in general, a short-term deferral is an amount that is payable no later than March 15 of the year following the year in which the amount becomes due and payable); and
- as to payments not qualifying as short-term deferrals, to the extent that the payments do not exceed two times the lesser of (1) the employee's total annual compensation based on the employee's annual rate of pay for the prior taxable year (adjusted for any increases that were expected to continue indefinitely) or (2) the limitation under Code Section 401(a)(17) for the year in which the employee has a Separation from Service (as defined below) (\$245,000 in 2011 (2x = \$490,000)) *and* such payments are made no later than December 31 of the second year following a Separation from Service (the "409A Severance Limit").

#### **Separation from Service**

To the extent any payment under the Plan is or may become subject to Code Section 409A, such payment(s) shall be made only if you in fact experience a "separation from service" within the meaning of Code Section 409A(a)(2)(A)(i) and final Treas. Reg. Section 1.409A-1(h)("Separation from Service").

The transfer of an employee between related companies within the Company will not be deemed a Separation from Service for purposes of Code Section 409A if the transfer from the Company or a Participating Employer is to an entity that is 50% or more owned or under common control with the transferring entity; *provided, however*, for purposes of determining whether a Separation from Service has occurred, the Company may use a smaller percentage as low as 20% if it determines there exists legitimate business criteria.

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### **Separate Payments**

Each installment payment of Basic Severance and Supplemental Severance (i.e., the amount payable in each payroll period) shall be deemed a separate payment for all purposes, including for purposes of Code Section 409A.

### **Specified Employees**

A "Specified Employee" is an employee of the Company who is one of the top 50 highest paid employees as determined by the Company. Code Section 409A provides for a six-month delay with respect to certain payments under Code Section 409A to Specified Employees. Under the Plan, Specified Employees may receive up to the 409A Severance Limit without regard to a six-month delay however, payments in excess of the 409A Severance Limit that would have been paid within six months following the Specified Employee's separation date will be paid the first business day of the seventh month following the separation date, or, if earlier, the date of the Specified Employee's death (the "Delayed Payment Date").

### **No Company Liability Under Code Section 409A**

In no event whatsoever shall the Company be liable for any taxes, penalties or interest that may be imposed on you pursuant to Section 409A or under any other similar provision of state tax law, including but not limited to, damages for failing to comply with Section 409A and/or any other similar provision of state tax law.

### **Limitation on Offsets**

No payment under the Plan that constitutes a deferral of compensation under Code Section 409A may be offset against any of your indebtedness or as a result of any other payment or benefit to you if and to the extent that such offset would constitute a change in the time of payment (including as a result of deemed substitution of the indebtedness or other payment or benefit for the deferred compensation) not compliant with Code Section 409A.

### **Timing of Certain Payments**

If any amount payable during a fixed period following separation from service is subject to Code Section 409A and the fixed period over which such amount is payable could begin in one year or a subsequent year (depending on when you sign and return the Separation Agreement) payment shall commence in the subsequent year regardless of when the Participant returns the Separation Agreement.

### ***Payment Capped***

If at any time, it shall be determined by the Company's independent auditors that any payment or benefit to you pursuant to this Plan ("Potential Parachute Payment") is or will become subject to the excise tax imposed by Section 4999 of the Code or any similar tax payable under any United States federal, state, local, foreign or other law ("Excise Taxes), then the Potential Parachute Payment payable to you shall be reduced to the largest amount which would both (a) not cause any Excise Tax to be payable by you and (b) not cause any Potential Parachute Payments to become nondeductible by the Company by reason of Section 280G of the Code (or any successor provision).

### ***Assignment***

The Plan shall inure to the benefit of and shall be enforceable by your personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If you should die while any amount is still payable to you under the Plan had you continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of the Plan to your estate in a single lump-sum within 90 days of your death. Your rights under the Plan shall not otherwise be transferable or subject to lien or attachment.

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***Other Benefits***

Nothing in this document is intended to guarantee that benefit levels or costs will remain unchanged in the future in any other plan, program or arrangement of the Company. The Company and its affiliates and subsidiaries reserve the right to terminate, amend, modify, suspend, or discontinue any other plan, program or arrangement of the Company or its subsidiaries or affiliates in accordance with such, plan, program and arrangement and applicable law.

***Oral Statements***

The payments and benefits hereunder shall supersede any oral statements made by any employee, officer or Board member of the Company regarding severance payments and benefits.

***Successors and Assigns***

This Plan shall be binding upon and inure to the benefit of the Company and its successors and assigns and shall be binding upon and insure to the benefit of you and your legal representatives, heirs and legatees.

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**Section 6 – Administrative Information About Your Plan**

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***Employer Identification Number***

Bristol-Myers Squibb Company's employer identification number is #22-0790350.

***Claim for Benefits***

If you believe you are entitled to payments and benefits under the Plan, contact the Plan Administrator in writing. A claim must be made within six (6) months of your termination date. Any claim made beyond six (6) months after your termination date shall be time barred and you will be expressly precluded from receiving any severance payments and/or benefits under the Plan.

***Claims Review Procedures***

Only the Plan Administrator or his or her delegate (identified in "Other Administrative Facts") has the authority to decide claims. This means that if someone other than the Plan Administrator, for example, your HR Generalist, says that you are not eligible for severance, that statement is not a decision on a claim for benefits – you would still have the right to make a claim and get an official decision from the Plan Administrator or Plan Administrator's delegate. You will be provided written or electronic notification by the Plan Administrator (or his or her delegate) if you are denied payments and benefits under the Plan or of any other adverse benefit determination. The notice shall provide the specific reason(s) for the determination and reference to the specific Plan provisions on which the determination is based, a description of any additional material or information necessary to perfect the claim and an explanation why such material or information is necessary (if applicable), a description of the Plan's appeal procedures, including the time limits and a statement of your right to bring a civil action following an appeal.

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If a claim for benefits under the Plan is denied in full or in part or you receive some other adverse benefit determination, you\* may appeal the decision to the Plan Administrator. To appeal a decision, you\* must submit a written document through the U.S. Postal Service or other courier service appealing the denial of the claim within 60 days after the date of the claim denial. If you do not submit an appeal within this 60 day period, you will not be entitled to appeal the denial or adverse benefit determination. You\* may also include information or other documentation in support of your claim. Upon request, you will be provided reasonable access to and copies of, all documents, records and other information relevant (as defined by ERISA) to your claim. You may have a qualified person represent you\* during the appeal process. You\* will be notified of a decision within 60 days (which may be extended to 120 days, if required) of the date your appeal is received. If an extension of time is required by the plan, you\* will receive notice of the reason for the extension within the initial 60-day period and a date by which you can expect a decision.

Any decision on appeal shall be final, conclusive and binding upon all parties. If the appeal is denied, however, you will be advised of your right to file a claim in court. It is the intent of the Company that the standard of review applied by a court of law or a professional arbitrator to any challenge to a denial of benefits on final appeal under these procedures shall be an arbitrary and capricious standard and not a *de novo* review.

#### ***Legal Action***

You may not bring a lawsuit to recover benefits under the Plan until you have exhausted the internal administrative process described above. No legal action may be commenced at all unless commenced no later than one (1) year following the issuance of a final decision on the claim for benefits, or the expiration of the appeal decision period if no decision is issued. This one-year statute of limitations on suits for all benefits shall apply in any forum where you may initiate such a suit.

#### ***Participating Employers***

A complete list of Bristol-Myers Squibb Company, affiliates, subsidiaries or divisions that participate in the Plan may be obtained from the Plan Administrator by written request. (See the chart at the end of this section for the name and address of the Plan Administrator.)

#### ***Plan Administrator***

The administration of the Plan is the responsibility of the Plan Administrator. The Plan Administrator has the discretionary authority and responsibility for, among other things, determining eligibility for benefits and construing and interpreting the terms of the Plan. In addition, the Plan Administrator has the authority, at its discretion, to delegate its responsibility to others. The chart at the end of this section contains the name and address of the Plan Administrator.

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\* Or your duly authorized representative.

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## **Section 7 – Your Rights and Privileges Under ERISA**

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As a participant in the Plan, you are entitled to certain rights and protection under ERISA. ERISA provides that you shall be entitled to:

### ***Receive Information About Your Plan and Benefits***

Examine, without charge, at the Plan Administrator's office and at other specified locations all documents governing the plan filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.

Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the plan and updated summary plan description. The administrator may make a reasonable charge for the copies.

### ***Prudent Actions by Plan Fiduciaries***

In addition to creating certain rights for you, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

### ***Enforce Your Rights***

If your claim for a welfare benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a medical child support order, you may file suit in a Federal court.

If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

### ***Assistance With Your Questions***

If you have any questions about your plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining

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documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration at 1-866-444-EBSA (3272) or accessing their website at <http://www.dol.gov/ebsa>.

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**Section 8 – Other Administrative Facts**

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**Senior Executive Severance Plan**

<b>Name of Plan</b>	Bristol-Myers Squibb Company Senior Executive Severance Plan
<b>Type of Plan</b>	"Welfare" plan
<b>Plan Records</b>	Kept on a calendar-year basis
<b>Plan Year</b>	January 1 – December 31
<b>Plan Funding</b>	Company and participating employers provide severance benefits from general revenues.
<b>Plan Sponsor</b>	Bristol-Myers Squibb Company
<b>Plan Number</b>	554
<b>Plan Administrator and Named Fiduciary</b>	Bristol-Myers Squibb Company c/o Senior Vice President, Human Resources, Public Affairs, Philanthropy 345 Park Avenue New York, NY 10154 Telephone: (212) 546-4000
<b>Agent for Service of Legal Process on the Plan</b>	Bristol-Myers Squibb Company c/o Senior Vice President, Human Resources, Public Affairs, Philanthropy 345 Park Avenue New York, NY 10154 Telephone: (212) 546-4000
<b>Trustee</b>	Not applicable
<b>Insurance Company</b>	Not applicable

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## Glossary

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It is important to know the following terms as they apply to the Senior Executive Severance Plan.

Base Pay	Your weekly base rate of pay at your termination date, including salary reductions under Code sections 132(f), 125, 137, or 401(k), and excluding overtime, bonuses, income from stock options, stock grants, dividend equivalents, benefits-in-kind, allowances (including, but not limited to car values, vacation bonuses, food coupons) or other incentives, and any other forms of extra compensation. No foreign service or expatriate allowances shall be included in determining the amount of severance payments payable under the Plan.
Full-Time, Active, Eligible Employee	An employee who is scheduled to work a minimum of 28 hours per week and does not include as a leased worker (employed and paid by another company), independent contractor or consultant, even if later determined to be or to have been a common law employee of the Company or a Participating Employer.
Outsourced	An employee's position is considered outsourced if the Company has arranged for a third party to provide the services to the Company that the employee had been providing immediately prior to the outsourcing.
Part-Time, Active, Eligible Employee	An employee who is scheduled to work a minimum of 14 hours per week and less than 28 hours per week and does not include a leased worker (employed and paid by another company), independent contractor or consultant, even if later determined to be or to have been a common law employee of the Company or a Participating Employer.
Years of Service	For severance benefits, the total years of employment from your adjusted date of hire to date of termination, rounded up to the next higher whole number. Employees with less than one year of service will not have their length of service rounded up to one whole year.

## Computation of Earnings to Fixed Charges

## Ratio of Earnings to Fixed Charges:

Dollars in Millions	Year Ended December 31,				
	2011	2010	2009	2008	2007
<b>Earnings</b>					
Earnings from continuing operations before income taxes	\$ 6,981	\$ 6,071	\$ 5,602	\$ 4,776	\$ 2,523
Less:					
Noncontrolling interest in pre-tax income of subsidiaries that have not incurred fixed charges	2,323	2,074	1,717	1,444	1,106
Equity in net income of affiliates	281	313	550	617	524
Capitalized interest	—	8	13	21	24
Income adjusted for equity income	4,377	3,676	3,322	2,694	869
Add:					
Fixed charges	190	201	242	387	497
Distributed income of equity investments	283	313	550	590	488
<b>Total Earnings</b>	<u>\$ 4,850</u>	<u>\$ 4,190</u>	<u>\$ 4,114</u>	<u>\$ 3,671</u>	<u>\$ 1,854</u>
<b>Fixed Charges</b>					
Interest expense	\$ 145	\$ 145	184	\$ 310	\$ 422
Capitalized interest	—	8	13	21	24
One-third of rental expense <sup>(1)</sup>	45	48	45	56	51
<b>Total Fixed Charges</b>	<u>\$ 190</u>	<u>\$ 201</u>	<u>\$ 242</u>	<u>\$ 387</u>	<u>\$ 497</u>
<b>Ratio of Earnings to Fixed Charges</b>	25.53	20.85	17.00	9.49	3.73

(1) Rents included in the computation consist of one-third of rental expense which the Company believes to be a reasonable estimate of an interest factor in its leases.

Subsidiaries of Bristol-Myers Squibb Company

345 Park Corporation  
A.G. Medical Services, P.A.  
Adnexus, a Bristol-Myers Squibb R&D Company  
Allard Labs Acquisition G.P.  
Amira Pharmaceuticals, Inc.  
Apothecon, Inc.  
Blisa Acquisition G.P.  
BMS Benelux Holdings B.V.  
BMS Bermuda Nominees L.L.C.  
BMS Data Acquisition Company LLC  
BMS Forex Company  
B-MS GeneRx  
BMS Holdings  
BMS Holdings Spain, S.L.  
BMS International Insurance Company Limited  
BMS Investco SAS  
BMS Korea Holdings L.L.C.  
BMS Latin American Nominees L.L.C.  
BMS Luxembourg Partners, L.L.C.  
BMS Omega Bermuda Holdings Finance Ltd.  
BMS Pharmaceutical Korea Limited  
BMS Pharmaceuticals Germany Holdings B.V.  
BMS Pharmaceuticals International Holdings Netherlands B.V.  
BMS Pharmaceuticals Korea Holdings B.V.  
BMS Pharmaceuticals Mexico Holdings B.V.  
BMS Pharmaceuticals Netherlands Holdings B.V.  
BMS Real Estate LLC  
BMS Spain Investments, Inc.  
Bristol (Iran) S.A.  
Bristol Iran Private Company Limited  
Bristol Laboratories Inc.  
Bristol Laboratories International, S.A.  
Bristol Laboratories Medical Information Systems Inc.  
Bristol-Myers (Andes) L.L.C.  
Bristol-Myers (Private) Limited  
Bristol-Myers de Venezuela S.C.A.  
Bristol-Myers K.K.  
Bristol-Myers Middle East S.A.L.  
Bristol-Myers Overseas Corporation  
Bristol-Myers Squibb & Gilead Sciences, LLC  
Bristol-Myers Squibb (China) Investment Co., Ltd.  
Bristol-Myers Squibb (Israel) Ltd.  
Bristol-Myers Squibb (NZ) Limited  
Bristol-Myers Squibb (Proprietary) Limited  
Bristol-Myers Squibb (Shanghai) Trading Co. Ltd.  
Bristol-Myers Squibb (Singapore) Pte. Limited  
Bristol-Myers Squibb (Taiwan) Ltd.  
Bristol-Myers Squibb (West Indies) Ltd.  
Bristol-Myers Squibb A.E.  
Bristol-Myers Squibb Aktiebolag  
Bristol-Myers Squibb and Gilead Sciences Limited  
Bristol-Myers Squibb Argentina S. R. L.  
Bristol-Myers Squibb Australia Pty. Ltd.  
Bristol-Myers Squibb B.V.  
Bristol-Myers Squibb Belgium S.A.  
Bristol-Myers Squibb Bulgaria EOOD  
Bristol-Myers Squibb Business Services Limited  
Bristol-Myers Squibb Canada Co.

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Bristol-Myers Squibb Canada International Limited  
Bristol-Myers Squibb Caribbean Company  
Bristol-Myers Squibb de Colombia S.A.  
Bristol-Myers Squibb de Costa Rica Sociedad Anonima  
Bristol-Myers Squibb de Guatemala, S.A.  
Bristol-Myers Squibb de Mexico, S. de R.L. de C.V.  
Bristol-Myers Squibb Delta Company Limited  
Bristol-Myers Squibb Ecuador Cia. Ltd.  
Bristol-Myers Squibb Egypt, LLC  
Bristol-Myers Squibb EMEA  
Bristol-Myers Squibb Farmaceutica Portuguesa S.A.  
Bristol-Myers Squibb Farmaceutica S.A.  
Bristol-Myers Squibb Ges. m.b.H.  
Bristol-Myers Squibb GmbH & Co. KGaA  
Bristol-Myers Squibb Holding Germany GmbH & Co. KG  
Bristol-Myers Squibb Holdings 2002 Limited  
Bristol-Myers Squibb Holdings Germany Verwaltungs GmbH  
Bristol-Myers Squibb Holdings Ireland  
Bristol-Myers Squibb Holdings Limited  
Bristol-Myers Squibb Holdings Pharma Ltd. Liability Company  
Bristol-Myers Squibb Ilaclari, Inc.  
Bristol-Myers Squibb India Pvt. Ltd.  
Bristol-Myers Squibb International Company  
Bristol-Myers Squibb International Corporation  
Bristol-Myers Squibb Investco, L.L.C.  
Bristol-Myers Squibb Luxembourg International S.C.A.  
Bristol-Myers Squibb Luxembourg S.a.r.l.  
Bristol-Myers Squibb Manufacturing Company  
Bristol-Myers Squibb Marketing Services S.R.L.  
Bristol-Myers Squibb MEA GmbH  
Bristol-Myers Squibb Middle East & Africa FZ-LLC  
Bristol-Myers Squibb Norway Ltd.  
Bristol-Myers Squibb Nutricionales de Mexico, S. de R.L. de C.V.  
Bristol-Myers Squibb Peru S.A.  
Bristol-Myers Squibb Pharma (HK) Ltd  
Bristol-Myers Squibb Pharma (Thailand) Limited  
Bristol-Myers Squibb Pharma Company  
Bristol-Myers Squibb Pharma EEIG  
Bristol-Myers Squibb Pharma Holding Company, LLC  
Bristol-Myers Squibb Pharma Ventures Corporation  
Bristol-Myers Squibb Pharmaceutical Trading Kft  
Bristol-Myers Squibb Pharmaceuticals  
Bristol-Myers Squibb Pharmaceuticals Limited  
Bristol-Myers Squibb Polska Sp. z o.o.  
Bristol-Myers Squibb Products S.A.  
Bristol-Myers Squibb Puerto Rico, Inc.  
Bristol-Myers Squibb Puerto Rico/Sanofi Pharmaceutical Partnership Puerto Rico  
Bristol-Myers Squibb S.r.l.  
Bristol-Myers Squibb SA (Baar)  
Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership  
Bristol-Myers Squibb Sanofi-Synthelabo Partnership  
Bristol-Myers Squibb Sanofi-Synthelabo Puerto Rico  
Bristol-Myers Squibb Sarl (France)  
Bristol-Myers Squibb Service Ltd.  
Bristol-Myers Squibb Services Sp. z o.o.  
Bristol-Myers Squibb Sp. z o.o.  
Bristol-Myers Squibb spol. s r.o.  
Bristol-Myers Squibb Superannuation Plan Pty. Ltd.  
Bristol-Myers Squibb Trustees Ltd.  
Bristol-Myers Squibb Verwaltungs GmbH  
Bristol-Myers Squibb, S.A.  
Bristol-Myers Squibb/Astrazeneca EEIG

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Bristol-Myers Squibb/Pfizer EEIG  
Bristol-Myers Squibb/Sanofi Pharmaceuticals Partnership  
Compania Bristol-Myers Squibb de Centro America  
Convatec-Produtos Medicos, Limitada  
E. R. Squibb & Sons Inter-American Corporation  
E. R. Squibb & Sons Limited  
E. R. Squibb & Sons, L.L.C.  
EWI Corporation  
FermaVir Pharmaceuticals, Inc.  
FermaVir Research, Inc.  
GenPharm International, Inc.  
Grove Insurance Company Ltd.  
Heyden Farmaceutica Portuguesa Limitada  
Inhibitex, Inc.  
Kosan Biosciences Incorporated  
Lawrence Laboratories  
Linson Investments Limited  
Little Sycamore Limited  
Mead Johnson (Manufacturing) Jamaica Limited  
Mead Johnson Farmaceutica Limitada  
Mead Johnson Jamaica Ltd.  
Medarex, Inc.  
O.o.o. Bristol-Myers Squibb  
O.o.o. Bristol-Myers Squibb Manufacturing  
Oy Bristol-Myers Squibb (Finland) AB  
Princeton Pharmaceutical Products, Inc.  
Princeton-Produtos Farmaceuticos, LDA  
Route 22 Real Estate Holding Corporation  
Sanofi Pharma Bristol-Myers Squibb SNC  
Sino-American Shanghai Squibb Pharmaceuticals Limited  
Societe Francaise de Complements Alimentaires(S.O.F.C.A.)  
Squibb (Nigeria) Limited  
Squibb Farmaceutica Portuguesa, Limitada  
Squibb Manufacturing Company  
Squibb Middle East S.A. (Panama)  
Swords Laboratories  
Tri-Supply Limited  
Unterstützungskasse Bristol-Myers Squibb GmbH  
Westwood-Intrafin, S.A.  
Westwood-Squibb Pharmaceuticals, Inc.  
ZymoGenetics Paymaster, LLC  
ZymoGenetics, Inc.  
ZymoGenetics, LLC

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 33-33682, 33-62496, 333-114107, 333-117818 and 333-150471 on Form S-3, and Nos. 33-30856, 33-38411, 33-38587, 33-44788, 333-47403, 33-52691, 33-30756-02, 33-58187, 333-02873, 333-65424, 333-107414 and 333-144893 on Form S-8, of our reports dated February 17, 2012, relating to the consolidated financial statements of Bristol-Myers Squibb Company and subsidiaries (the "Company") and the effectiveness of the Company's internal control over financial reporting, appearing in this Annual Report on Form 10-K of the Company for the year ended December 31, 2011.

*/s/ DELOITTE & TOUCHE LLP*

Parsippany, New Jersey  
February 17, 2012

**CERTIFICATION BY THE CHIEF EXECUTIVE OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Lamberto Andreotti, certify that:

1. I have reviewed this annual report on Form 10-K of Bristol-Myers Squibb Company;
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
  - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 17, 2012

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/s/ LAMBERTO ANDREOTTI

Lamberto Andreotti  
Chief Executive Officer

E-31-1

**CERTIFICATION BY THE CHIEF FINANCIAL OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Charles Bancroft, certify that:

1. I have reviewed this annual report on Form 10-K of Bristol-Myers Squibb Company;
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
  - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 17, 2012

/s/ CHARLES BANCROFT

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Charles Bancroft  
Chief Financial Officer

**Certification by the Chief Executive Officer Pursuant to 18 U. S. C. Section 1350, as  
Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

Pursuant to 18 U. S. C. Section 1350, I, Lamberto Andreotti, hereby certify that, to the best of my knowledge, Bristol-Myers Squibb Company's Annual Report on Form 10-K for the year ended December 31, 2011 (the Report), as filed with the Securities and Exchange Commission on February 17, 2012, fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Bristol-Myers Squibb Company.

/s/ LAMBERTO ANDREOTTI

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Lamberto Andreotti  
Chief Executive Officer  
February 17, 2012

E-32-1

**Certification by the Chief Financial Officer Pursuant to 18 U. S. C. Section 1350, as  
Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

Pursuant to 18 U. S. C. Section 1350, I, Charles Bancroft, hereby certify that, to the best of my knowledge, Bristol-Myers Squibb Company's Annual Report on Form 10-K for the year ended December 31, 2011 (the Report), as filed with the Securities and Exchange Commission on February 17, 2012, fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Bristol-Myers Squibb Company.

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/s/ CHARLES BANCROFT

Charles Bancroft  
Chief Financial Officer  
February 17, 2012

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