
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of report (Date of earliest event reported): **April 23, 2009**

EXACT SCIENCES CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

000-32179

(Commission File Number)

02-0478229

(IRS Employer Identification No.)

100 Campus Drive, Marlborough, Massachusetts

(Address of Principal Executive Offices)

01752

(Zip Code)

Registrant's telephone number, including area code: **(508) 683-1200**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(b) On April 23, 2009, Michael E. Singer informed EXACT Sciences Corporation (the “Company”) that he will not stand for re-election to the Company’s Board of Directors when his term expires at the Company’s upcoming 2009 annual meeting of stockholders on July 17, 2009.

(d) On April 24, 2009, based on the recommendation of the Corporate Governance and Nominating Committee, the Company’s Board of Directors elected Katherine Napier as a Class I member of the Board and James Connelly as a Class II member of the Board. Ms. Napier and Mr. Connelly have not been elected to any committees of the Board.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On April 24, 2009, the Board approved an amendment and restatement of Section 1.10 of Article I of the Company’s Amended and Restated By-laws, effective immediately. Section 1.10 was amended and restated to:

- clarify that compliance with the notice procedures set forth in the Amended and Restated By-Laws is the exclusive means for a stockholder to make nominations or submit other business at a meeting of stockholders (other than matters properly brought under Rule 14a-8 of the Securities Exchange Act of 1934, as amended);
- provide that a stockholder’s written notice to bring a proposal or nomination before an annual meeting of stockholders must be received by the Secretary of the Company not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year’s annual meeting of stockholders;
- require that any stockholder making a proposal or nomination state in its advance notice whether such stockholder will solicit the Company’s stockholders and whether such stockholder is party to any voting or other arrangement regarding the proposal or nomination;
- require that any stockholder making a proposal or nomination provide a statement of the equity holdings of such stockholder and its affiliates, including all “synthetic equity instruments” (e.g., derivatives, swaps, hedges, etc.), voting rights, rights to fees, dividends, or other material rights, and update such statement prior to the meeting; and
- require that any stockholder making a proposal or nomination provide updates and supplements to its advance notice, as necessary.

The full text of the amendment is attached hereto as Exhibit 3.1.

The description of the changes to Section 1.10 of the Amended and Restated By-laws is qualified in its entirety by reference to the copy of the amendment filed as Exhibit 3.1 to this Report on Form 8-K, which is incorporated by reference herein.

Item 7.01 Regulation FD Disclosure.

On April 27, 2009, the Company issued a press release, a copy of which is being furnished as Exhibit 99.1 to this Report on Form 8-K.

The information in this Item 7.01 and Exhibit 99.1 attached hereto is intended to be furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934 (the “Exchange Act”) or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Exchange Act, except as expressly set forth by specific reference in such filing.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

3.1 Amendment to Amended and Restated By-laws of the Company

99.1 Press Release issued by the Company on April 27, 2009, furnished herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

EXACT Sciences Corporation

April 27, 2009

By: /s/ Maneesh Arora
Maneesh Arora
Senior Vice President and Chief Financial Officer

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
3.1	Amendment to Amended and Restated By-laws of the Company
99.1	Press Release issued by the Company on April 27, 2009, furnished herewith

**AMENDMENT TO
AMENDED AND RESTATED BY-LAWS
OF
EXACT SCIENCES CORPORATION**

Article I, Section 1.10 of the Amended and Restated By-laws of EXACT SCIENCES CORPORATION is hereby deleted in its entirety and replaced with the following:

“1.10. INTRODUCTION OF BUSINESS AT MEETINGS.

A. ANNUAL MEETINGS OF STOCKHOLDERS.

(1) Nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (a) by or at the direction of the Board of Directors or (b) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this Section 1.10, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.10. For the avoidance of doubt, the foregoing clause (b) shall be the exclusive means for a stockholder to bring nominations or business properly before an annual meeting of stockholders (other than matters properly brought under Rule 14a-8 (or any successor rule) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)), and such stockholder must comply with the notice and other procedures set forth in Section 1.10 of this By-law to bring such nominations or business properly before an annual meeting of stockholders.

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (b) of paragraph (A)(1) of this Section 1.10, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (ii) the stockholder must have provided any updates or supplements to such notice at the times and in the forms required by this Section 1.10, (iii) the stockholder, together with the beneficial owner(s), if any, on whose behalf the nomination or business proposal is made, must have acted in accordance with the representations set forth in the Solicitation Statement (as defined below) required by this Section 1.10 and (iv) the business proposed by the stockholder must otherwise be a proper matter for stockholder action. To be timely, a stockholder’s written notice shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the date of the preceding year’s annual meeting, provided, however, that if either (i) the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after the first anniversary date of the preceding year’s annual meeting or (ii) no annual meeting of stockholders were held in the preceding year, notice by the stockholder to be timely must be so received not earlier than the close of business on the ninetieth (90th) day prior to such annual meeting and not later than the close of business on the later of the sixtieth (60th) day prior to such annual meeting or the close of business on the tenth (10th) day

following the day on which public announcement of the date of such meeting is first made by the Corporation. Such stockholder's written notice shall set forth:

- (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected);
- (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of each Proposing Person (as defined below);
- (c) (i) the name and address of the stockholder giving the notice, as they appear on the Corporation's books, and the names and addresses of the other Proposing Persons (if any) and (ii) as to each Proposing Person the following information: (A) the class or series and number of all shares of capital stock of the Corporation which are, directly or indirectly, owned beneficially or of record by such Proposing Person or any of its affiliates or associates (as such terms are defined in Rule 12b-2 promulgated under the Exchange Act), including any shares of any class or series of capital stock of the Corporation as to which such Proposing Person or any of its affiliates or associates has a right to acquire beneficial ownership at any time in the future, (B) all Synthetic Equity Interests (as defined below) in which such Proposing Person or any of its affiliates or associates, directly or indirectly, holds an interest including a description of the material terms of each such Synthetic Equity Interest, including without limitation, identification of the counterparty to each such Synthetic Equity Interest and disclosure, for each such Synthetic Equity Interest, as to (x) whether or not such Synthetic Equity Interest conveys any voting rights, directly or indirectly, in such shares to such Proposing Person, (y) whether or not such Synthetic Equity Interest is required to be, or is capable of being, settled through delivery of such shares and (z) whether or not such Proposing Person and/or, to the extent known, the counterparty to such Synthetic Equity Interest has entered into other transactions that hedge or mitigate the economic effect of such Synthetic Equity Interest, (C) any proxy (other than a revocable proxy given in response to a public proxy solicitation made pursuant to, and in accordance with, the Exchange Act), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to, directly or indirectly, vote any shares of any class or series of capital stock of the Corporation, (D) any rights to dividends or other distributions on the shares of any class or series of capital stock of the Corporation, directly or indirectly, owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, and (E) any performance-related fees (other than an asset based fee) that such Proposing Person, directly or indirectly, is entitled to based on any increase or decrease in the value of shares of any class or series of capital stock of the Corporation or any Synthetic Equity Interests (the disclosures to be made pursuant to the foregoing subclauses (A) through (E) are referred to, collectively, as "Material Ownership Interests") and (iii) a description of

the material terms of all agreements, arrangements or understandings (whether or not in writing) entered into by any Proposing Person or any of its affiliates or associates with any other person for the purpose of acquiring, holding, disposing or voting of any shares of any class or series of capital stock of the Corporation;

(d) (i) a description of all agreements, arrangements or understandings by and among any of the Proposing Persons, or by and among any Proposing Persons and any other person (including with any proposed nominees), pertaining to the nomination(s) or other business proposed to be brought before the meeting of stockholders (which description shall identify the name of each other person who is party to such an agreement, arrangement or understanding), and (ii) identification of the names and addresses of other stockholders (including beneficial owners) known by any of the Proposing Persons to support such nominations or other business proposal(s), and to the extent known the class and number of all shares of the Corporation's capital stock owned beneficially or of record by such other stockholder(s) or other beneficial owner(s); and

(e) a statement whether or not the stockholder giving the notice and/or the other Proposing Person(s), if any, will deliver a proxy statement and form of proxy to holders of, in the case of a business proposal, at least the percentage of voting power of all of the shares of capital stock of the Corporation required under applicable law to approve the proposal or, in the case of a nomination or nominations, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by such Proposing Person to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder (such statement, the "Solicitation Statement").

For purposes of this Section 1.10 of these By-laws, the term "Proposing Person" shall mean the following persons: (i) the stockholder of record providing the notice of nominations or business proposed to be brought before a stockholders' meeting, and (ii) the beneficial owner(s), if different, on whose behalf the nominations or business proposed to be brought before a stockholders' meeting is made. For purposes of this Section 1.10 of these By-laws, the term "Synthetic Equity Interest" shall mean any transaction, agreement or arrangement (or series of transactions, agreements or arrangements), including, without limitation, any derivative, swap, hedge, repurchase or so-called "stock borrowing" agreement or arrangement, the purpose or effect of which is to, directly or indirectly: (a) give a person or entity economic benefit and/or risk similar to ownership of shares of any class or series of capital stock of the Corporation, in whole or in part, including due to the fact that such transaction, agreement or arrangement provides, directly or indirectly, the opportunity to profit or avoid a loss from any increase or decrease in the value of any shares of any class or series of capital stock of the Corporation, (b) mitigate loss to, reduce the economic risk of or manage the risk of share price changes for, any person or entity with respect to any shares of any class or series of capital stock of the Corporation, (c) in any manner otherwise provide the opportunity to profit or avoid a loss from any decrease in the value of any shares of any class or series of capital stock of the Corporation, or (d) increase or decrease the voting power of any person or entity with respect to any shares of any class or series of capital stock of the Corporation.

(3) A stockholder providing timely notice of nominations or business proposed to be brought before a meeting of stockholders shall further update and supplement such notice, if necessary, so that the information (including, without limitation, the Material Ownership Interests information) provided or required to be provided in such notice pursuant to this By-law shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to such meeting of stockholders, and such update and supplement shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the fifth (5th) business day after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than the close of business on the eighth (8th) business day prior to the date for the meeting (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting).

(4) Notwithstanding anything in the second sentence of paragraph (A)(2) of this Section 1.10 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least seventy (70) days prior to the first anniversary of the preceding year's annual meeting (or, if the annual meeting is held more than thirty (30) days before or sixty (60) days after such anniversary date, at least seventy (70) days prior to such annual meeting), a stockholder's notice required by this Section 1.10 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

B. SPECIAL MEETINGS OF STOCKHOLDERS.

Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice of the special meeting, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.10 (including the procedures to update and supplement the notice). If the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if (i) such stockholder delivers written notice thereof to the Secretary at the principal executive offices of the Corporation not earlier than the ninetieth (90th) day prior to such special

meeting nor later than the later of (x) the close of business on the sixtieth (60th) day prior to such special meeting or (y) the close of business on the tenth (10th) day following the day on which public announcement is first made of the date of such special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting, (ii) such stockholder's written notice includes the information required to be provided in subparagraphs (a), (c), (d) and (e) of paragraph (A)(2) of this Section 1.10, and (iii) such stockholder has provided updates or supplements (if any) to such notice at the times and in the forms required by paragraph (A)(3) of this Section 1.10. For the avoidance of doubt, for a stockholder to bring nominations before a special meeting of stockholders, such stockholder must comply with the notice and other procedures set forth in this Section 1.10 and this shall be the exclusive means for a stockholder to bring such nominations properly before a special meeting.

C. GENERAL.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 1.10 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.10. Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.10 and, if any proposed nomination or business is not in compliance herewith, to declare that such defective proposal or nomination shall be disregarded.

(2) In no event shall the adjournment, postponement or rescheduling of any previously scheduled meeting of stockholders commence a new time period for the giving of a stockholder's notice under this Section 1.10. For purposes of this Section 1.10, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, PR Newswire, Reuters or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 1.10, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 1.10 shall be deemed to affect any rights of (i) stockholders to have proposals included in the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor rule) under the Exchange Act and, to the extent required by such Rule, have such proposals considered and voted on at an annual meeting of stockholders or (ii) the holders of any series of Preferred Stock to elect directors under specified circumstances."

Adopted and effective as of April 24, 2009.

Contact:

Maneesh Arora

Chief Financial Officer, Exact Sciences Corp.

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For Immediate Release

Connelly, Napier Appointed to Exact Sciences' Board of Directors

MARLBOROUGH, Mass., April 27, 2009 — Exact Sciences Corp. (Nasdaq: EXAS) today announced that James P. Connelly and Katherine S. Napier have joined the company's board of directors.

Mr. Connelly, 62, is a partner in the Foley & Lardner LLP law firm, where he has served as founding chairman of its Health Law Practice. He brings to the Exact Sciences' board of directors more than 25 years experience providing strategic business and legal advice to large health care systems, medical group practices, national and regional laboratories, and emerging biotechnology and life sciences companies. He was a director of Third Wave Technologies Inc. from 2005 until its acquisition by Hologic Inc. in 2008. Mr. Connelly earned his bachelor's degree from Marquette University and his law degree from the Georgetown University Law Center, where he was editor-in-chief of the *Georgetown Law Review*.

Ms. Napier, 54, is a 20-year veteran of Procter & Gamble, where from 1979 to 2002, she rose from assistant brand manager to vice president and general manager of the company's North American pharmaceutical business. That business experienced unprecedented growth during her five-year tenure, which included the launch of the osteoporosis drug Actonel. Actonel grew to \$1 billion in revenue more quickly than any of the company's brands. Ms. Napier also served as senior vice president of marketing at McDonald's Corp., where she led the company's reinvigoration of its business with women and families. She received her bachelor's degree in economics and studio fine arts from Georgetown University, and earned a master of business administration degree in marketing and finance from Xavier University. Ms. Napier serves on the board of directors of the Alberto Culver Co., Catholic Health Care Partners, Xavier University, and the board of visitors of Wake Forest University Calloway School of Business. She was a director of Mentor Corp. before its acquisition earlier this year by Johnson & Johnson and of Third Wave Technologies Inc. until its acquisition by Hologic Inc. in 2008.

"We are delighted to welcome Jim and Kay to Exact's board of directors," said Kevin T. Conroy, president and chief executive of Exact. "Both have impressive sets of experience in their own right. The combination of Jim's and Kay's strategy, financing, technology and marketing backgrounds, particularly in the molecular diagnostics market, are a powerful addition to our board at this important time in the company's history."

Michael E. Singer, whose term expires in July, has decided not to stand for re-election to the board. Mr. Singer said he accomplished what he believed was needed for the company, including the completion of the Genzyme transaction and the recruitment of new executive

management, in which he played a key role. The growing time commitment required at a start-up company which Mr. Singer serves as chief executive also was a factor in his decision.

"I am delighted to have served on Exact Sciences' board, a company in which I have been a substantial shareholder for many years and was interested in helping put in the right direction," Mr. Singer said. "As a shareholder, I am delighted that we were able to hire Kevin Conroy and Maneesh Arora to lead the company. I am also thrilled we have been able to attract the high-quality board members who have worked with Kevin and Maneesh and deeply understand the intricacies of the molecular diagnostics field."

"We are grateful to Michael for his very wise counsel during his tenure on our board," said Patrick J. Zenner, chairman of the board of Exact. "Michael brought a unique, incisive perspective to the company during a critical time. He can take great pride in his contributions to Exact's substantial accomplishments during his tenure as a director."

About Exact Sciences Corp.

Exact Sciences Corp. is a molecular diagnostics company focused on the eradication of cancer through the early detection of pre-cancers and adenomas. The company has exclusive intellectual property protecting its non-invasive, molecular screening technology for the detection of colorectal cancer, the second-leading cause of cancer deaths in the United States. Stool-based DNA technology is included in the colorectal cancer screening guidelines of the American Cancer Society and the U.S. Multi-Society Task Force on Colorectal Cancer.
