

ev3 Inc.
Form SC 13D
June 11, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No.)*

ev3 INC.

(Name of Issuer)

Common Stock, \$0.01 par value per share

(Title of Class of Securities)

26928A200

(CUSIP Number)

John H. Masterson

Senior Vice President and General Counsel

Covidien

15 Hampshire Street, Mansfield, Massachusetts 02048

Edgar Filing: ev3 Inc. - Form SC 13D

(508) 261-8000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

with copies to:

Keith Higgins

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110

(617) 951-7000

June 1, 2010

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. "

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page. The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SCHEDULE 13D

CUSIP No. 26928A200

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)

Covidien plc

98-0624794

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF, BK

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

..

6. Citizenship or Place of Organization

Ireland

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

Each 22,674,168

9. Sole Dispositive Power

Reporting

Person

10. Shared Dispositive Power

With

22,674,168

11. Aggregate Amount Beneficially Owned by Each Reporting Person

22,674,168

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

..

13. Percent of Class Represented by Amount in Row (11)

19.8%

14. Type of Reporting Person (See Instructions)

CO, HC

SCHEDULE 13D

CUSIP No. 26928A200

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)

Covidien International Finance S.A.

98-0518567

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF, BK

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

..

6. Citizenship or Place of Organization

Luxembourg

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

Each 22,674,168

9. Sole Dispositive Power

Reporting

Person

10. Shared Dispositive Power

With

22,674,168

11. Aggregate Amount Beneficially Owned by Each Reporting Person

22,674,168

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

..

13. Percent of Class Represented by Amount in Row (11)

19.8%

14. Type of Reporting Person (See Instructions)

CO, HC

SCHEDULE 13D

CUSIP No. 26928A200

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)

Covidien Group S.a.r.l.

98-0202595

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

WC, BK

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

..

6. Citizenship or Place of Organization

Luxembourg

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

Each 22,674,168

9. Sole Dispositive Power

Reporting

Person 10. Shared Dispositive Power

With

22,674,168

11. Aggregate Amount Beneficially Owned by Each Reporting Person

22,674,168

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

..

13. Percent of Class Represented by Amount in Row (11)

19.8%

14. Type of Reporting Person (See Instructions)

CO

SCHEDULE 13D

CUSIP No. 26928A200

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)

COV Delaware Corporation

27-2709328

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF, BK

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

..

6. Citizenship or Place of Organization

Delaware

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

Each 22,674,168

9. Sole Dispositive Power

Reporting

Person

10. Shared Dispositive Power

With

22,674,168

11. Aggregate Amount Beneficially Owned by Each Reporting Person

22,674,168

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

..

13. Percent of Class Represented by Amount in Row (11)

19.8%

14. Type of Reporting Person (See Instructions)

CO

ITEM 1. SECURITY AND ISSUER.

This Statement on Schedule 13D relates to the Common Stock, \$0.01 par value per share of ev3 Inc. (*ev3*), a Delaware corporation. The principal executive offices of ev3 are located at 3033 Campus Drive, Plymouth, MN 55441.

ITEM 2. IDENTITY AND BACKGROUND.

This Statement is being jointly filed by Covidien plc, Covidien International Finance S.A., Covidien Group S.a.r.l. and COV Delaware Corporation (the *Reporting Persons*) pursuant to Rule 13d-1 under the Securities and Exchange Act of 1934, as amended (the *Act*). Set forth below is certain information with respect to each Reporting Person.

Covidien plc

Covidien plc, an Irish company, is a publicly held, global healthcare company focused on the development, manufacture and sale of healthcare products for use in clinical and home settings. Covidien plc operates its businesses through three segments: Medical Devices, Pharmaceuticals and Medical Supplies. Covidien plc's principal place of business and principal office is located at Cherrywood Business Park, Block G, First Floor, Loughlinstown, Co. Dublin, Ireland.

To the best of Covidien plc's knowledge as of the date hereof, set forth in Schedule I to this Schedule 13D and incorporated herein by reference is the following information with respect to each director and executive officer of Covidien plc:

- (1) name;
- (2) business address;
- (3) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted; and
- (4) citizenship.

During the last five years, neither Covidien plc nor, to the best of its knowledge, any of its directors or executive officers has been (1) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (2) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding has been or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Covidien International Finance S.A. (CIFSA)

CIFSA, a Luxembourg corporation, is a wholly-owned subsidiary of Covidien plc. CIFSA is a holding company established in December 2006 to directly and indirectly own substantially all of the operating subsidiaries of Covidien plc, to issue notes and to perform treasury operations for Covidien plc. Otherwise, CIFSA conducts no independent business. CIFSA's principal place of business and principal office is located at 3b Bld Prince Henri, L-1724, Luxembourg.

To the best of the knowledge CIFSA as of the date hereof, set forth in Schedule I to this Schedule 13D and incorporated herein by reference is the following information with respect to each director of CIFSA:

- (1) name;
- (2) business address;

Edgar Filing: ev3 Inc. - Form SC 13D

- (3) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted; and

- (4) citizenship.

During the last five years, neither CIFSA nor, to the best of its knowledge, any of its directors has been (1) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (2) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding has been or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws. The managing directors of CIFSA are the functional equivalents of executive officers.

Covidien Group S.a.r.l. (Covidien Group)

Covidien Group is a company duly formed under the laws of Luxembourg. Covidien Group is a wholly-owned subsidiary of CIFSA and owns several operating subsidiaries of Covidien plc. Covidien Group's principal place of business and principal office is located at 3b Bld Prince Henri, L-1724, Luxembourg.

To the best of the knowledge Covidien Group as of the date hereof, set forth in Schedule I to this Schedule 13D and incorporated herein by reference is the following information with respect to each manager of Covidien Group:

- (1) name;
- (2) business address;
- (3) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted; and
- (4) citizenship.

During the last five years, neither Covidien Group nor, to the best of its knowledge, any of its managers has been (1) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (2) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding has been or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws. The managers of Covidien Group are the functional equivalents of directors and the general managers of Covidien Group are the functional equivalents of executive officers.

COV Delaware Corporation (Purchaser)

Purchaser, a Delaware corporation, is a direct wholly-owned subsidiary of Covidien Group and has not conducted any business other than in respect to the potential acquisition of all outstanding capital stock of ev3. Purchaser's principal place of business and principal office is 15 Hampshire Street, Mansfield, MA 02048.

To the best of Purchaser's knowledge as of the date hereof, set forth in Schedule I to this Schedule 13D and incorporated herein by reference is the following information with respect to each director and executive officer of Purchaser:

- (1) name;
- (2) business address;
- (3) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted; and

Edgar Filing: ev3 Inc. - Form SC 13D

(4) citizenship.

During the last five years, neither Purchaser nor, to the best of its knowledge, any of its directors or executive officers has been (1) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (2) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding has been or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

On June 1, 2010, Covidien Group, Purchaser and ev3 entered into an Agreement and Plan of Merger (the *Merger Agreement*) pursuant to which Purchaser will commence a tender offer (the *Offer*) to acquire (i) all of the issued and outstanding common stock, \$0.01 par value per share, of ev3 (the *Shares*), at \$22.50 per share, paid to the seller, in cash for each outstanding Share (the *Offer Price*) less any applicable withholding taxes and without payment of interest, and, subject to the satisfaction or waiver of the conditions set forth in the Offer and the Merger Agreement, after consummation of the Offer, Purchaser will merge with and into ev3 (the *Merger*), whereupon Purchaser's separate corporate existence will cease and ev3 will continue as the surviving corporation and as a wholly owned subsidiary of Covidien Group.

As an inducement to enter into the Merger Agreement, and in consideration thereof, Covidien Group and Purchaser entered into a Tender and Voting Agreement (the *Tender and Voting Agreement*), dated as of the date of the Merger Agreement, with Warburg, Pincus Equity Partners, L.P., Warburg, Pincus Netherlands Equity Partners I, C.V., and Warburg, Pincus Netherlands Equity Partners III, C.V. (each, a *Stockholder* and, collectively, the *Stockholders*). Pursuant to the Tender and Voting Agreement, the Stockholders agreed to tender in the Offer 27,151,570 Shares owned by the Stockholders (approximately 24% of the Shares outstanding as of June 7, 2010) and not to withdraw such tender unless the Offer shall have been terminated in accordance with its terms.

Pursuant to the Tender and Voting Agreements, each Stockholder has irrevocably appointed Covidien Group as proxy for the Stockholder to vote an aggregate of 22,674,168 Shares (approximately 19.8% of the Shares outstanding as of June 7, 2010) as to which such Stockholder has voting power and in Stockholder's name, place and stead, at any annual, special or other meeting or action of the shareholders of ev3, as applicable, or at any adjournment thereof, whether before or after the time at which Purchaser first accepts any Shares for payment pursuant to the Offer, solely for the adoption of the Merger Agreement. Additionally, the Stockholders granted Covidien Group an irrevocable option (the *Purchase Option*) to purchase all right, title and interest of the Stockholders in and to the 22,674,168 Shares held by the Stockholders, with a price per share equal to the Offer Price. Covidien Group may exercise the Purchase Option in whole, but not in part, if, but only if, (a) Purchaser has acquired Shares pursuant to the Offer and (b) Stockholder has failed to tender into the Offer 22,674,168 Shares or has withdrawn the tender of 22,674,168 Shares into the Offer in breach of Stockholders' Tender and Voting Agreement. Covidien Group may exercise the Purchase Option at any time within the 60 days following the date when such Purchase Option becomes exercisable.

Shared dispositive power with respect to 22,674,168 Shares owned by the Stockholders may be deemed to have been acquired through execution of the Tender and Voting Agreement. Covidien Group has not expended any funds in connection with the execution of the Tender and Voting Agreement, except for the transaction expenses (funded from Covidien Group's working capital) otherwise to be incurred in connection with the Offer and the Merger.

Covidien Group and Purchaser estimate that, if Purchaser acquires all of the Shares (on a fully-diluted basis) pursuant to the Offer, the total cash amount required to purchase such Shares and to cover estimated fees and expenses will be approximately U.S. \$2.72 billion. Covidien Group or one of its affiliates will provide all funding required by Purchaser in connection with the Offer from a combination of (i) cash on hand and (ii) a senior unsecured term loan facility in an aggregate amount not to exceed \$1.25 billion (the *Facility*).

CIFSA received a debt commitment letter, dated June 1, 2010 (as amended by the Joinder Agreement to Commitment Letter dated June 11, 2010, the *Debt Commitment Letter*), from Morgan Stanley Senior Funding, Inc. (*MSSF*) and the Additional Commitment Parties (as defined therein, and together with MSSF the *Commitment Parties*), pursuant to which, subject to the terms and conditions set forth therein, in connection with the Offer and the Merger, the Commitment Parties have committed to provide the Facility. Under the Debt Commitment Letter, MSSF has the right to syndicate all or a portion of its commitments to one or more financial institutions or other lenders (along with MSSF, such institutions and lenders are collectively referred to as the *Lenders*) which are, until the date that is 75 days after the date of the Debt Commitment Letter, subject to CIFSA's approval in its sole discretion and thereafter will be selected by MSSF in consultation with CIFSA, provided that CIFSA shall have a consent right if such lender is not a commercial or investment bank whose senior, unsecured, long-term indebtedness has an investment grade rating by not less than two of Standard & Poor Ratings Services, Moody's Investor Service, Inc. or Fitch, Inc. Any such syndication will be arranged by MSSF, as the sole lead arranger and sole bookrunner.

The documentation governing the Facility has not been finalized and, accordingly, the actual terms of the Facility may differ from those described in this Schedule 13D.

The conditions precedent to the incurrence of loans under the Facility consist of, among others:

(x) there shall not have occurred since September 25, 2009 any event, development or circumstance that has had or could reasonably be expected to have a material adverse effect on the consolidated financial condition, business or operations of Covidien plc and its subsidiaries taken as a whole, and (y) there not occurring and be continuing since the date of the Debt Commitment Letter, an Acquired Business Material Adverse Effect (as defined below). An Acquired Business Material Adverse Effect is any material adverse change in, or material adverse effect on, the business, financial condition or results of operations of ev3 and its subsidiaries, taken as a whole; provided, however, that certain events and circumstances will not be taken into account in determining whether there has been or will be, an Acquired Business Material Adverse Effect, including, without limitation, changes in general economic conditions or financial markets to the extent they have not had, or would reasonably be expected not to have, a materially disproportionate effect on ev3 and its subsidiaries relative to other companies in the same industry, changes resulting from the execution or announcement of the Merger Agreement, force majeure events, changes in generally accepted accounting principles or in the accounting rules and regulations, change in law, the effects of any legal proceedings made or brought by stockholders of either Covidien plc or ev3 against either Covidien plc or the ev3 asserting allegations of breach of fiduciary duty relating to the Merger Agreement or violations of securities laws in connection with the Schedule 14D-9, the proxy statement of ev3, if any, and each other document required to be filed by ev3 with the Securities and Exchange Commission (the SEC) or required to be distributed or otherwise disseminated to all holders of Shares in connection with the transactions contemplated by the Merger Agreement; any action required to comply with the rules and regulations of the SEC or required by the Merger Agreement, any decrease in the market price or trading volume of common stock of ev3, any failure to meet any projections, or any fluctuations in foreign currency exchange rates;

the negotiation, execution and delivery on or before December 31, 2010 of definitive documentation for the Facility, consistent with the terms of the Debt Commitment Letter and the term sheet therein;

(i) all of the conditions precedent to the consummation of the Offer shall have been satisfied in accordance with the Offer to Purchase, the Letter of Transmittal and the Tender Offer Statement on Schedule TO relating to the Offer (such documents, including all exhibits thereto and as they may be amended, supplemented or otherwise modified from time to time, are collectively referred to herein as the *Tender Offer Documents*, which shall be reasonably satisfactory to MSSF) and the Merger Agreement as in effect on the date of the Debt Commitment Letter and (ii) no provision of any Tender Offer Document or the Merger Agreement shall have been waived, amended, supplemented or otherwise modified in a manner materially adverse to the interests of the Lenders (without the prior written consent of MSSF);

the Lenders have received (i) audited consolidated financial statements of Covidien plc and ev3 for the three most recent fiscal years ended at least 90 days prior to the date on which all conditions precedent to the consummation of the Offer are satisfied or waived (the *Effective Date*), and (ii) unaudited interim consolidated financial statements of Covidien plc and ev3 for each of the first three quarterly periods subsequent to the date of the latest financial statements delivered pursuant to clause (i) of this paragraph and ended at least 45 days prior to the Effective Date;

the Commitment Parties have received all fees required to be paid on, and all expenses for which invoices have been presented at least one business day prior to, the Effective Date;

the Lenders have received the following: (a) customary legal opinions from (i) counsel to the CIFSA and (ii) local counsel to Covidien plc, (b) customary resolutions and other evidence of authority, (c) customary officers' certificates, (d) good standing certificates (to the extent applicable) in the jurisdiction of organization of CIFSA, Covidien plc and Covidien Ltd., (e) a customary certificate from the chief financial officer of Covidien plc with respect to the solvency (on a consolidated basis) of Covidien plc and its subsidiaries as of the Effective Date, (f) if requested by any Lender at least two business days prior to the Effective Date, a promissory note of CIFSA, (g) a borrowing notice and (h) all documentation and other information reasonably requested by MSSF or any Lender under applicable know your customer and anti-money laundering rules and regulations, including the PATRIOT Act (each of the documents referred to in the foregoing clauses (a), (b), (c), (e) and (g) shall be in form and substance reasonably satisfactory to MSSF);

Edgar Filing: ev3 Inc. - Form SC 13D

there exists no injunction or other form of temporary restraining order with respect to the financing for the Offer and the Merger; and

MSSF shall have received confirmation that not less than two of the following ratings shall have been obtained with respect to the senior, unsecured, long-term indebtedness for borrowed money of CIFSA that is not guaranteed by any other person other than Covidien Ltd. and Covidien plc or subject to any other credit enhancement: (i) at least BBB- by S&P, (ii) at least Baa3 by Moody's and (iii) at least BBB- from Fitch, in each case with a stable or better outlook, which ratings and outlooks shall have been reaffirmed within 30 days prior to the Effective Date.

The Facility will accrue interest at a rate per annum, at the election of CIFSA, equal to either (a) an alternate base rate or (b) an adjusted LIBO rate for a one, two, three or six month interest period, in each case plus a margin which fluctuates based upon our ratings from Standard & Poor Ratings Services, Moody's Investor Service, Inc. or Fitch, Inc. The alternate base rate will be the highest of (i) the federal funds effective rate from time to time plus 1/2 of 1.00%, (ii) the rate of interest per annum from time to time published in the Money Rates section of The Wall Street Journal as being the Prime Lending Rate or, if more than one rate is published as the Prime Lending Rate, then the highest of such rates (each change in the Prime Lending Rate to be effective as of the date of publication in The Wall Street Journal of a Prime Lending Rate that is different from that published on the preceding domestic business day); provided, that, in the event that The Wall Street Journal shall, for any reason, fail or cease to publish the Prime Lending Rate, MSSF (acting in a commercially reasonable manner and in good faith) shall choose a reasonably comparable index or source to use as the basis for the Prime Lending Rate and (iii) the one month Adjusted LIBO Rate plus 1.00%. The adjusted LIBO rate will be determined by reference to settlement rates established for deposits in dollars in the London interbank market for a period equal to the interest period of the loan and the maximum reserve percentages established by the Board of Governors of the U.S. Federal Reserve to which our lenders are subject. If the Facility is not repaid in full within three months following the Effective Date, the applicable margin will increase by 25 basis points on the date that is 90 days following the Effective Date, and shall increase by an additional 25 basis points on the date that is 180 days following the Effective Date and by an additional 50 basis points on the date that is 270 days following the Effective Date.

It is anticipated that borrowings under the Facility will be required to be prepaid in amounts equal to:

100% of the net proceeds of any sale or issuance of equity or issuance of debt securities or incurrence of indebtedness (other than proceeds received from (i) borrowings under existing syndicated credit facility commitments, (ii) commercial paper issuances, (iii) any refinancing of any existing indebtedness (other than (A) bilateral credit facilities in excess of \$50 million in aggregate and (B) syndicated credit facilities) of Covidien plc or any of its subsidiaries to the extent the maturity date of such refinanced indebtedness is no more than 120 days from the date of such refinancing, (iv) any bilateral credit facilities not exceeding \$200 million in aggregate entered into for working capital purposes or otherwise in the ordinary course of business, (v) any equity issuance pursuant to director or employee stock or option plans and similar arrangements, (vi) any equity issued as consideration for an acquisition or investment, which issuance does not result in cash proceeds and (vii) certain other customary exceptions to be agreed), or the committed amount of any new syndicated credit facilities incurred (including the amount by which any such existing commitments under CIFSA's existing syndicated credit facilities is increased) by Covidien plc or any of its subsidiaries; and

100% of the net proceeds of any sale or other disposition (including as a result of casualty or condemnation) by Covidien plc or any of its subsidiaries of any assets (except for the sale of inventory in the ordinary course of business and certain other dispositions to be agreed on) provided, that no such proceeds shall be required to be applied to repay the Facility or reduce any commitments as described above unless they exceed \$50 million for any individual transaction or series of related transactions or \$150 million in the aggregate following the date of the Debt Commitment Letter.

The Facility may be prepaid at par by CIFSA without premium or penalty (other than the payment of customary breakage amounts) in minimum amounts to be agreed upon. Any loans prepaid pursuant to the Facility may not be reborrowed.

The Facility will be subject to standard terms and conditions for financings of this kind, including standard representations and warranties, affirmative and negative covenants and events of default.

The foregoing summary of the Facility and the Debt Commitment Letter does not purport to be a complete description of the terms and conditions of these agreements and is qualified in its entirety by reference to the Debt Commitment Letter, which has been filed as Exhibit 3 to this Schedule 13D. Reference is made to such exhibit for a more complete description of the terms and conditions of the Facility, and such exhibit is incorporated herein by reference. If CIFSA draws on the Facility in connection with the acquisition of ev3, CIFSA intends to repay such borrowings under the Facility from working capital or refinance such borrowings with commercial paper or other permanent financing.

A copy of the Merger Agreement is attached as Exhibit 2 to this Schedule 13D. A form of the Tender and Voting Agreement is included as Annex II to the Merger Agreement. References to, and descriptions of, the Merger Agreement and the Tender and Voting Agreement as set forth above in this Item 3 are qualified in their entirety by reference to the copies of the Merger Agreement and the form of Tender and Voting Agreement included as Exhibit 2 to this Schedule 13D and which are incorporated herein in their entirety by this reference. The information set forth and/or incorporated by reference in Item 6 is hereby incorporated by reference into this Item 3.

ITEM 4. PURPOSE OF TRANSACTION.

The information set forth and/or incorporated by reference in Items 2 and 3 is hereby incorporated by reference into this Item 4.

The purpose of entering into the Merger Agreement and the Tender and Voting Agreement, and the purpose of the Offer, is to enable Covidien Group and Purchaser to acquire control of, and ultimately the entire equity interest in, ev3. The Offer is conditioned upon, among other things, there being validly tendered and not withdrawn prior to the expiration of the Offer (as extended in accordance with the Merger Agreement) that number of Shares which, when added to any Shares owned by Purchaser and Covidien Group or their subsidiaries, or with respect to which Purchaser and Covidien Group have, directly or indirectly, voting power, represents at least a majority of the then issued and outstanding Shares (which, for purposes of such calculation, includes Shares issuable pursuant to outstanding options and other rights, other than options or other rights that would be exercisable only after December 31, 2010), and the applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and certain antitrust laws in foreign jurisdictions, having expired or been terminated. Subject to the terms of the Merger Agreement and applicable law, Purchaser reserves the right to withdraw the Offer and to not take up and pay for any Shares deposited in the Offer unless each of the conditions to the Offer is satisfied or, where permitted, waived at or prior to the expiration of the Offer.

Pursuant to the Merger Agreement, ev3 has granted Purchaser an irrevocable option (the *Top-Up Option*) to purchase at a price per share equal to the Offer Price that number of newly issued Shares (the *Top-Up Shares*) equal to the lowest number of Shares that, when added to the number of Shares owned by Purchaser, Covidien Group or their subsidiaries at the time of exercise of the Top-Up Option (including all Shares validly tendered and not properly withdrawn in the Offer at the time the Shares are accepted for payment but excluding Shares tendered pursuant to guaranteed delivery procedures that have not yet been delivered), will constitute one Share more than 90% of all of the outstanding Shares (assuming the issuance of the Top-Up Shares). The Top-Up Option must be exercised if, following the time we accept the Shares for payment in the Offer, 75% or more of the Shares outstanding (excluding Shares tendered pursuant to guaranteed delivery procedures that have not yet been delivered) will be owned by Purchaser or Covidien Group and each of their subsidiaries and after giving effect to the exercise of the Top-Up Option, Purchaser, Covidien Group and their subsidiaries would own one Share more than 90% of the Shares outstanding (after giving effect to the issuance of the Top-Up Shares but excluding Shares tendered pursuant to guaranteed delivery procedures that have not yet been delivered). Purchaser may exercise the Top-Up Option once at any time following the time at which Purchaser first accepts any Shares for payment pursuant to the Offer. However, the Top-Up Option will not be exercisable for a number of Shares in excess of the Shares authorized and unissued at the time of exercise of the Top-Up Option (less the maximum number of Shares potentially necessary for issuance with respect to all outstanding stock options, restricted stock, restricted stock units or other obligations of ev3) and is subject to the conditions, unless waived by ev3, that no provision of any applicable law and no applicable order or injunction or other judgment will prohibit the exercise of the Top-Up Option or the delivery of the Top-Up Shares. The purpose of this provision is to facilitate a short-form merger following completion of the Offer.

If the conditions of the Offer are satisfied or waived and Purchaser takes up and pays for any Shares validly deposited under the Offer, Purchaser intends to acquire any Shares not deposited under the Offer through a merger

under Delaware General Corporation Law, or through a subsequent offering period, in each case for cash consideration per Share equal to the Offer Price. The exact timing and details of any such transaction will depend upon a number of factors, including the number of Shares acquired pursuant to the Offer. Although Purchaser intends to effect such a transaction generally on the terms described herein, it is possible that such a transaction may be delayed or abandoned or may be proposed on different terms.

The Merger Agreement provides that, upon the payment by Purchaser for any Shares accepted by Purchaser for payment pursuant to the Offer and from time to time thereafter so long as Covidien Group directly or indirectly beneficially owns not less than a majority of the issued and outstanding Shares, Covidien Group shall be entitled to designate up to such number of directors, rounded up to the next whole number, on ev3's board of directors as is equal to the product of (i) the total number of directors on the ev3 board of directors (giving effect to the election or appointment of any additional directors designated by Covidien Group) and (ii) the percentage that the number of Shares beneficially owned by Covidien Group and/or Purchaser (including Shares accepted for payment in the Offer and the Shares purchased by exercise of the Top-Up Option, if any) bears to the total number of Shares outstanding, and ev3 will, upon request by Purchaser, promptly increase the size of ev3's board of directors or use its reasonable best efforts to secure the resignations of such number of directors as is necessary to provide Purchaser with such level of representation and shall cause Purchaser's designees to be so elected or appointed. At such time, ev3 will, upon Covidien Group's request, also cause individuals designated by Purchaser to constitute the same percentage as such individuals represent of the entire ev3 board of directors on (i) each committee of ev3's board of directors (other than any committee of such board of directors comprised solely of those directors who were directors of ev3 as of the date of the Merger Agreement established to take action under the Merger Agreement); (ii) each board of directors and each committee thereof of each wholly owned subsidiary of ev3 and (iii) the designees, appointees or other similar representatives of ev3 on each board of directors (or other similar governing body) and each committee thereof of each non-wholly owned subsidiary of ev3. Following the designation of Covidien Group's director designees until the effective time of the Merger, Covidien Group and Purchaser have agreed to use their reasonable best efforts to cause the ev3 board to include at least 3 Continuing Directors (as defined below) and to cause the board committees of ev3 and its subsidiaries to include at least 1 Continuing Director. A *Continuing Director* is a member of the ev3 board as of the date of the Merger Agreement or a person selected by the Continuing Directors then in office, each of whom is an independent director under Nasdaq rules. The approval of a majority of Continuing Directors (or the sole Continuing Director if there shall be only 1 Continuing Director) is required in order to (i) amend, modify or terminate the Merger Agreement, or agree or consent to any amendment, modification or termination of the Merger Agreement, in any case on behalf of ev3, (ii) extend the time for performance of, or waive, any of the obligations or other acts of the Covidien Group or Purchaser under the Merger Agreement, (iii) waive or exercise any of the ev3's rights under the Merger Agreement, (iv) waive any condition to ev3's obligations under the Merger Agreement, (v) amend ev3's certificate of incorporation or bylaws, (vi) authorize any agreement between ev3 or any of ev3's subsidiaries, on the one hand, and Covidien Group, Purchaser or any of their affiliates, on the other hand, or (vii) make any other determination with respect to any action to be taken or not to be taken by or on behalf of ev3 relating to the Merger Agreement or the transactions contemplated by the Merger Agreement.

The Merger Agreement provides that during the period from the date of the Merger Agreement until the earlier of the termination of the Merger Agreement pursuant to its terms or the time we first accept any Shares for payment pursuant to the Offer, ev3 will, except to the extent that Covidien Group otherwise consents in writing, except as otherwise expressly provided in the Merger Agreement, or except as may be required by law, carry on its business in the ordinary and usual course in all material respects consistent with past practice. Without limiting the generality of the foregoing, without the prior written consent of Covidien Group (such consent not to be unreasonably withheld, conditioned or delayed) and except as otherwise specifically provided in, or in furtherance of any action permitted to be taken by, the Merger Agreement, during the period from the date of the Merger Agreement and continuing until the earlier of the termination of the Merger Agreement pursuant to its terms or the time we first accept any Shares for payment pursuant to the Offer, ev3 has agreed to:

Use reasonable best efforts to preserve intact its current business organization;

Use reasonable best efforts to maintain its relationships with customers, suppliers and others having business dealings with it;

Use reasonable best efforts to notify and consult with Covidien Group promptly (i) after receipt of any material communication from any governmental entity or inspections of any manufacturing or clinical trial site and before giving any material submission to a governmental entity and (ii) prior to making any material change to a study protocol, adding new trials, making any material change to a manufacturing plan or process, or making a material change to the development timeline for any of its product candidates or programs;

Use reasonable best efforts to preserve intact and keep available the services of present employees of ev3 and its subsidiaries;

Use reasonable best efforts to keep in effect casualty, product liability, workers' compensation and other insurance policies in coverage amounts substantially similar to those in effect at the date of the Merger Agreement;

Use reasonable best efforts to preserve and protect the intellectual property owned by ev3 and its subsidiaries;

Not amend its certificate of incorporation or bylaws;

Not issue, deliver, sell, dispose of, pledge or otherwise encumber, or authorize or propose the issuance, sale, disposition or pledge or other encumbrance of (i) any shares of capital stock of any class or any other ownership interest of ev3 or any of its subsidiaries, or any securities or rights convertible into, exchangeable for, or evidencing the right to subscribe for any shares of capital stock or any other ownership interest of ev3 or any of its subsidiaries, or any rights, warrants, options, calls, commitments or any other agreements of any character to purchase or acquire any shares of capital stock or any other ownership interest of ev3 or any of its subsidiaries or any securities or rights convertible into, exchangeable for, or evidencing the right to subscribe for, any shares of capital stock or any other ownership interest of ev3 or any of its subsidiaries, or (ii) any other securities of ev3 or any of its subsidiaries in respect of, in lieu of, or in substitution for, Shares outstanding on the date of the Merger Agreement, except for (A) Shares to be issued or delivered (1) pursuant to any of ev3's equity or stock plans for its employees (the *Company Stock Plans*), (2) in connection with acquisitions consistent with past practice or (3) pursuant to the Agreement and Plan of Merger dated as of June 2, 2009, by and among ev3, Starsky Merger Sub, Inc., Starsky Acquisition Sub, Inc., Chestnut Medical Technologies, Inc. and CMT SR, Inc., (B) the issuance, grant or delivery of up to an aggregate amount of 750,000 equity awards to certain of its employees, directors and consultants or (C) the exercise of the Top-Up Option;

Not redeem, purchase or otherwise acquire, or propose to redeem, purchase or otherwise acquire, any outstanding Shares, other than (x) from holders of options to purchase Shares in full or partial payment of the exercise price, or (y) in connection with the withholding of taxes payable by any holder of options to purchase shares, restricted stock or restricted stock units upon the exercise, settlement or vesting thereof, in each case to the extent required or permitted under the terms of such equity awards or any applicable Company Stock Plan;

Not split, combine, subdivide or reclassify any Shares or declare, set aside for payment or pay any dividend or other distribution in respect of any Shares or otherwise make any payments to stockholders in their capacity as such; provided that this prohibition does not apply to dividends or distributions declared, set aside for payment or paid by wholly owned subsidiaries of ev3 to ev3 or any other wholly owned subsidiary of ev3;

Not adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of ev3 or any of its subsidiaries, other than the Offer, the Merger or the transactions contemplated by the Merger Agreement;

Not acquire, sell, lease, dispose of, pledge or encumber any assets, other than (i) acquisitions in existing or related lines of business of ev3 or any of its subsidiaries as to which the aggregate consideration for all such acquisitions does not exceed \$2,000,000, (ii) sales, leases, dispositions, pledges or encumbrances of assets with an aggregate fair market value of less than \$2,000,000, or (iii) sales or transfers of inventory in the ordinary course of business;

(i) other than in the ordinary course of business consistent with past practice, not incur any indebtedness for borrowed money in addition to that incurred as of the date of the Merger Agreement or guarantee any such indebtedness or make any loans, advances or capital contributions to, or investments in, any other person or entity, other than (A) to ev3 or any wholly owned subsidiary of ev3 or (B) strategic investments as to which the aggregate consideration for all such investments does not exceed \$2,000,000, or (ii) not pay, discharge or satisfy any material claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction of (1) in the ordinary course of business and consistent with past practice, liabilities reflected or reserved against in ev3's consolidated balance sheet as of April 4, 2010, (2) liabilities incurred in the ordinary course of business since April 4, 2010, or (3) all amounts under the Loan and Security Agreement, dated June 28, 2006, by and among Silicon Valley Bank and certain of ev3's subsidiaries;

Not change the compensation payable to any officer, director, employee, agent or consultant, or enter into any employment, severance, retention or other agreement or arrangement with any officer, director, employee, agent or consultant of ev3 or any of its subsidiaries, or adopt, or increase the benefits (including fringe benefits) under, any employee benefit plan or otherwise, except (A), in each case, as required by law or in accordance with existing agreements provided to Covidien Group and disclosed in the Disclosure Schedule to the Merger Agreement and (B), in the case of compensation for employees, agents or consultants who are not officers or directors, in the ordinary course of business consistent with past practice unless the total compensation payable to such employee, agent or consultant (including base, bonus opportunity at target, equity, sign-on bonus and relocation) equals or exceeds \$200,000; or make any loans to any of its directors, officers or employees, agents or consultants, or make any change in its existing borrowing or lending arrangements for or on behalf of any such persons pursuant to an employee benefit plan or otherwise;

except as may be contemplated by the Merger Agreement, in the ordinary course of business consistent with past practices or to the extent required or advisable to comply with applicable law, not terminate or materially amend any ev3 employee benefit plans;

Not change in any material respect any of the accounting methods used by ev3 unless required by generally accepted accounting principles or applicable law;

Not enter into a material contract or amend, terminate or waive, release or assign any material rights or claims with respect to any material contract in any material respect;

Not settle (i) any suit, action, claim, proceeding or investigation that is disclosed in ev3's reports filed with the SEC prior to the date of the Merger Agreement or (ii) any other suit, action, claim, proceeding or investigation;

Not make, revise, or amend any material tax election or settle or compromise any material federal, state, local, or foreign tax liability, change any material tax accounting period, change any material method of tax accounting, enter into any closing agreement relating to any material tax, file any amended tax return, file any tax return in a manner inconsistent with past practice, surrender any right to claim a material tax refund, or consent to any waiver or extension of the statute of limitations applicable to any material tax claim or assessment; and

Not enter into any contract, agreement, commitment or arrangement to do any of the items prohibited by clauses (g) through (s) above.

Following completion of the Offer and the Merger, the Reporting Persons intend to operate the ev3 business through one or more subsidiaries of Covidien plc under the direction of Covidien plc's management. The Reporting Persons intend to continue to review the business, operations, capitalization and management of ev3. Accordingly, the Reporting Persons reserve the right to change their plans and intentions at any time, as they deem appropriate.

If permitted by applicable law, subsequent to the completion of the Offer and a short-form merger or any subsequent offering period, if necessary, the Reporting Persons intend to delist the Shares from The Nasdaq Global Select Market.

Except as otherwise set forth in this Schedule 13D, the Reporting Persons have no present plans or proposals which relate to or would result in:

- a) The acquisition by any person of additional securities of the issuer, or the disposition of securities of the issuer;
- b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the issuer or any of its subsidiaries;
- c) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;
- d) Any change in the present board of directors or management of the issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;
- e) Any material change in the present capitalization or dividend policy of the issuer;
- f) Any other material change in the issuer's business or corporate structure including but not limited to, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote is required by section 13 of the Investment Company Act of 1940;
- g) Changes in the issuer's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the issuer by any person;
- h) Causing a class of securities of the issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;
- i) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or
- j) Any action similar to any of those enumerated above.

ITEM 5. INTEREST IN SECURITIES OF THE ISSUER.

The information set forth and/or incorporated by reference in Items 2, 3 and 4 is hereby incorporated by reference into this Item 5.

- a) As of the date hereof, the Reporting Persons own no Shares. For purposes of Rule 13d-3 under the Exchange Act, however, as a result of entering into the Tender and Voting Agreement, the Reporting Persons may be deemed to possess beneficial ownership of an aggregate of 22,674,168 Shares, representing approximately 19.8% of the fully diluted outstanding Shares outstanding as of June 7, 2010. The Reporting Persons and the other persons listed on Schedule I hereto, however, disclaim beneficial ownership of such Shares, and this statement shall not be construed as an admission that any of the Reporting Persons or those listed on Schedule I hereto is the beneficial owner for any purpose of the Shares covered by this 13D disclosure.

Except as set forth in this Schedule 13D, (1) to the best of Covidien plc's knowledge as of the date hereof, neither Covidien plc nor any of its directors and executive officers named in Schedule I hereto owns any Shares, (2) to the best of CIFSA's knowledge as of the date hereof, neither

Edgar Filing: ev3 Inc. - Form SC 13D

CIFSA nor any of its directors and executive officers named in Schedule I hereto owns any Shares, (3) to the best of Covidien Group's knowledge as of the date hereof, neither Covidien Group nor any of its directors and executive officers named in Schedule I hereto owns any Shares, and (4) to the best of Purchaser's knowledge as of the date hereof, neither Purchaser nor any of its directors and executive officers named in Schedule I hereto owns any Shares.

- b) Prior to June 1, 2010, none of the Reporting Persons owned or was the beneficial owner (as defined in Rule 13d-3 promulgated under the Exchange Act) of any Shares. Upon execution of the Tender and Voting Agreement, the Reporting Persons may be deemed to have acquired beneficial ownership (as defined in Rule 13d-3 promulgated under the Exchange Act) of Shares, because pursuant to the Tender and Voting Agreement, the Reporting Persons may be deemed to have acquired the shared power to vote or direct the vote and to dispose or to direct the disposition of the 22,674,168 Shares, representing approximately 19.8% of the fully diluted outstanding Shares outstanding as of June 7, 2010. Upon the consummation of the Offer, the Reporting Persons would have sole voting and investment power over such Shares.
- c) Except for the transactions described herein, (1) to the best of Covidien plc's knowledge as of the date hereof, neither Covidien plc nor any of its directors and executive officers named in Schedule I hereto has effected any transaction in Shares during the past 60 days, (2) to the best of CIFSA's knowledge as of the date hereof, neither CIFSA nor any of its directors and executive officers named in Schedule I hereto has effected any transaction in Shares during the past 60 days, (3) to the best of Covidien Group's knowledge as of the date hereof, neither Covidien Group nor any of its directors and executive officers named in Schedule I hereto has effected any transaction in Shares during the past 60 days and (4) to the best of Purchaser's knowledge as of the date hereof, neither Purchaser nor any of its directors and executive officers named in Schedule I hereto has effected any transaction in Shares during the past 60 days.
- d) Other than the Stockholders identified in Item 3 party to the Tender and Voting Agreement in the form of Annex II to Exhibit 2 to this Schedule 13D and incorporated herein by reference, (1) to the best of Covidien plc's knowledge as of the date hereof, neither Covidien plc nor any of its directors and executive officers named in Schedule I hereto has or knows any other person who has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any Shares beneficially owned by Covidien plc, (2) to the best of CIFSA's knowledge as of the date hereof, neither CIFSA nor any of its directors and executive officers named in Schedule I hereto has or knows any other person who has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any Shares beneficially owned by CIFSA, (3) to the best of Covidien Group's knowledge as of the date hereof, neither Covidien Group nor any of its directors and executive officers named in Schedule I hereto has or knows any other person who has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any Shares beneficially owned by Covidien Group, and (4) to the best of Purchaser's knowledge as of the date hereof, neither Purchaser nor any of its directors and executive officers named in Schedule I hereto has or knows any other person who has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any Shares beneficially owned by Purchaser.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER.

The information set forth and/or incorporated by reference in Items 2 through 5 is hereby incorporated by reference into this Item 6.

As described in Item 3, on June 1, 2010, Covidien Group and Purchaser entered into the Tender and Voting Agreement with the Stockholders. During the term of the Tender and Voting Agreement, except as otherwise provided therein, each Stockholder agreed not to: (A) directly or indirectly, sell, transfer, assign, pledge, hypothecate, tender, encumber or otherwise dispose of or limit its right to vote in any manner any of the 27,151,570 Shares they own in the aggregate, or agree to do any of the foregoing; (B) take any action which would have the effect of preventing or disabling a Stockholder from performing its obligations under the Tender and Voting Agreement; and (C) subject to certain covenants in the Merger Agreement that are applicable to ev3, directly or indirectly (i) initiate, solicit or knowingly encourage, or knowingly take any action to facilitate the making of, any offer or proposal which constitutes or is reasonably likely to lead to any Acquisition Proposal (as defined in the Merger Agreement), (ii) provide any non-public information or data to, any person (other than Covidien Group or any of its affiliates or Representatives) relating to any Acquisition Proposal, (iii) enter into or execute, or propose to enter into or execute, any agreement relating to an Acquisition Proposal or (iv) approve, endorse, recommend or

make or authorize any statement, recommendation, or solicitation in support of any Acquisition Proposal or any offer or proposal relating to an Acquisition Proposal. Each Stockholder further agreed to immediately cease and cause to be terminated any existing activities, discussions or negotiations with any such other parties conducted heretofore with respect to any of the foregoing and to notify Covidien Group immediately if any party contacts the Stockholder following the date of the Tender and Voting Agreement (other than Purchaser or Covidien Group) concerning any Acquisition Proposal or any other sale, transfer, pledge or other disposition or conversion of any Shares.

Except for the agreements described above, to the knowledge of Covidien Group and Purchaser, there are no contracts, arrangements, understandings or relationships (legal or otherwise), including, but not limited to, transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies, between the persons enumerated in Item 2, and any other person, with respect to any securities of ev3, including any securities pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities other than standard default and similar provisions contained in loan agreements.

References to, and descriptions of, the Merger Agreement and the Tender and Voting Agreement as set forth above in this Item 6 are qualified in their entirety by reference to the copies of the Merger Agreement and the Form of Tender and Voting Agreement included as Exhibit 2 to this Schedule 13D and which is incorporated herein in its entirety by this reference.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS.

Exhibit	Description
1	Joint Filing Agreement, between Covidien plc, Covidien International Finance S.A., Covidien Group S.a.r.l. and COV Delaware Corporation, dated June 11, 2010.
2	Agreement and Plan of Merger, by and among Covidien Group S.a.r.l., COV Delaware Corporation, and ev3 Inc., dated June 1, 2010.
3	Debt Commitment Letter, by and among Covidien plc, Covidien International Finance S.A. and Morgan Stanley Senior Funding, Inc., dated June 1, 2010, and Joinder Agreement to Commitment Letter, by and among the parties thereto, dated June 11, 2010.

SIGNATURES

After reasonable inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this Statement is true, complete and correct.

Dated: June 11, 2010

COVIDIEN PLC

By: /s/ John W. Kapples
Name: John W. Kapples
Title: Vice President and Secretary

COVIDIEN INTERNATIONAL FINANCE S.A.

By: /s/ Michelangelo F. Stefani
Name: Michelangelo F. Stefani
Title: General Manager

COVIDIEN GROUP S.A.R.L.

By: /s/ Michelangelo F. Stefani
Name: Michelangelo F. Stefani
Title: Managing Director

COV DELAWARE CORPORATION

By: /s/ Matthew J. Nicolella
Name: Matthew J. Nicolella
Title: Vice President and Assistant Secretary

SCHEDULE 1

The names of the directors and executive officers (or functional equivalents) of Covidien Group, Purchaser, CIFSA and Covidien plc and their present principal occupations or employment are set forth below. Unless otherwise indicated, (i) the principal business address for each director of Covidien plc is Cherrywood Business Park, Block G, First Floor, Loughlinstown, Co. Dublin, Ireland, and the business telephone number for each such director or officer is +353 1 439-3000 (ii) the principal business address for each director of CIFSA is 3b Bld Prince Henri, L-1724, Luxembourg, (iii) the principal business address for each manager of Covidien Group is 3b Bld Prince Henri, L-1724, Luxembourg, and (iv) the principal business address for each officer of Covidien plc and each director and officer of Purchaser is 15 Hampshire Street, Mansfield, MA 02048, and the business telephone number for each such director and officer is (508) 261-8000. Unless otherwise indicated, each director and executive officer (or functional equivalent) is a citizen of the United States. References below to Covidien include Covidien plc, its predecessor, Covidien Ltd., and the healthcare business of Tyco International for all periods prior to the separation of Covidien Ltd. from Tyco International.

COVIDIEN PLC

Directors

Richard J. Meelia Chairman of the Board of Directors, President and Chief Executive Officer of Covidien. Mr. Meelia is also President of the Purchaser. Mr. Meelia's principal business address is 15 Hampshire Street, Mansfield, Massachusetts 02048 and his business telephone number is (508) 261-8000.

Craig Arnold Vice Chairman and Chief Operating Officer, Industrial Sector of Eaton Corporation, a diversified industrial manufacturer.

Robert H. Brust Chief Financial Officer of Sprint Nextel Corporation, a wireless and wireline communications company.

John M. Connors, Jr. Chairman Emeritus of Hill, Holliday, Connors, Cosmopolos, Inc., a full-service advertising agency that is part of The Interpublic Group of Companies, Inc.

Christopher J. Coughlin Executive Vice President and Chief Financial Officer of Tyco International, a global provider of security products and services, fire protection and detection products and services, valves and controls, and other industrial products.

Timothy M. Donahue Member of the Board of Directors of Eastman Kodak Company, NVR, Inc. and Tyco International Ltd.

Kathy J. Herbert Member of the Board of Directors of Covidien plc.

Randall J. Hogan, III Chairman and Chief Executive Officer of Pentair, Inc., an industrial manufacturing company.

Dennis H. Reilley Member of the Board of Directors of H.J. Heinz Company, Marathon Oil Corporation and The Dow Chemical Company.

Tadataka Yamada President of the Global Health Program of the Bill & Melinda Gates Foundation.

Joseph A. Zaccagnino Member of the Board of Directors of NewAlliance Bancshares, Inc.

Officers

Richard J. Meelia See above under Covidien plc Directors.

Charles J. Dockendorff Executive Vice President and Chief Financial Officer of Covidien and Vice President of Purchaser.

Jose E. Almeida Senior Vice President & President, Medical Devices of Covidien.

Timothy R. Wright Senior Vice President of Covidien and President, Pharmaceuticals of Covidien. Mr. Wright's principal business address is 675 McDonnell Blvd., Hazelwood, Missouri 63042 and his business telephone number is (314) 654-2000.

Eric A. Kraus Senior Vice President, Corporate Communications and Public Affairs of Covidien.

John H. Masterson Senior Vice President and General Counsel of Covidien and Vice President and Assistant Secretary of Purchaser.

Amy A. McBride-Wendell Senior Vice President, Strategy and Business Development of Covidien.

Michael P. Dunford Senior Vice President, Human Resources of Covidien.

Richard G. Brown, Jr. Vice President, Chief Accounting Officer and Corporate Controller of Covidien and Vice President of Purchaser.

Kevin G. DaSilva Vice President and Treasurer of Covidien, member of the board of directors of CIFSA and member of the board of directors and Vice President and Treasurer of Purchaser.

Eric C. Green Vice President and Chief Tax Officer of Covidien, member of the board of directors of CIFSA and Vice President and Assistant Treasurer of Purchaser.

Coleman N. Lannum Vice President, Investor Relations of Covidien.

James C. Clemmer President, Medical Supplies Sector of Covidien.

COVIDIEN INTERNATIONAL FINANCE S.A.

Anton Stadtbaumer Member of the board of directors of CIFSA, manager of Covidien Group and Regional Treasurer of Covidien Finance GmbH. Mr. Stadtbaumer's principal business address is Victor von Bruns Strasse 19, 8212 Neuhausen am Rheinfall, Switzerland and his business telephone number is +41 52 556 0677. Mr. Stadtbaumer has German citizenship.

Michelangelo Stefani Managing director of CIFSA. Mr. Stefani has Italian citizenship.

Kevin G. DaSilva See above under Covidien plc Officers.

Eric C. Green See above under Covidien plc Officers.

Erik De Gres Member of the board of directors of CIFSA. Mr. De Gres has Belgian citizenship.

Thomas Ford Member of the board of directors of CIFSA and Manager and Deputy General Counsel-EMEA of Covidien Group. Mr. Ford has United Kingdom citizenship.

COVIDIEN GROUP S.A.R.L.

Anton Stadtbaumer See above under Covidien International Finance S.A.

Michelangelo Stefani See above under Covidien International Finance S.A.

Eric C. Green See above under Covidien plc Officers.

Erik De Gres See above under Covidien International Finance S.A.

Thomas Ford See above under Covidien International Finance S.A.

COV DELAWARE CORPORATION

Directors

Kevin G. DaSilva See above under Covidien plc Officers.

John W. Kapples Vice President and Secretary of Purchaser and Covidien plc.

Matthew J. Nicolella Vice President and Assistant Secretary of Purchaser and Vice President and Chief Mergers & Acquisitions/Licensing Counsel of Tyco Healthcare Group LP d/b/a/ Covidien.

Officers

Richard J. Meelia See above under Covidien plc Directors.

Richard G. Brown See above under Covidien plc Officers.

Stephen C. Carey Vice President and Assistant Treasurer of Purchaser and Vice President, Tax Reporting of Tyco Healthcare Group LP d/b/a/ Covidien.

Kevin G. DaSilva See above under Covidien plc Officers.

Charles J. Dockendorff See above under Covidien plc Officers.

Lisa K. Golod Vice President and Assistant Treasurer of Purchaser and Vice President, Tax Planning of Tyco Healthcare Group LP d/b/a/ Covidien.

Eric. C. Green See above under Covidien plc Officers.

John W. Kapples See above under COV Delaware Corporation Directors.

John H. Masterson See above under Covidien plc Officers.

Matthew J. Nicolella See above under COV Delaware Corporation Directors.

Lawrence T. Weiss Vice President and Assistant Secretary of Purchaser and Vice President and Chief International Counsel of Tyco Healthcare Group LP d/b/a/ Covidien.

JOINT FILING AGREEMENT

In accordance with Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended, the undersigned hereby agree that this Statement on Schedule 13D relating to the beneficial ownership of Common Stock, \$0.01 par value per share, of ev3 Inc. is being filed with the Securities and Exchange Commission on behalf of each of them. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated: June 11, 2010

COVIDIEN PLC

By: /s/ John W. Kapples
Name: John W. Kapples
Title: Vice President and Secretary

COVIDIEN INTERNATIONAL FINANCE S.A.

By: /s/ Michelangelo F. Stefani
Name: Michelangelo F. Stefani
Title: General Manager

COVIDIEN GROUP S.A.R.L.

By: /s/ Michelangelo F. Stefani
Name: Michelangelo F. Stefani
Title: Managing Director

COV DELAWARE CORPORATION

By: /s/ Matthew J. Nicolella
Name: Matthew J. Nicolella
Title: Vice President and Assistant Secretary

AGREEMENT AND PLAN OF MERGER

by and among

COVIDIEN GROUP S.A.R.L.,

COV DELAWARE CORPORATION,

and

EV3 INC.

June 1, 2010

TABLE OF CONTENTS

	Page
ARTICLE I THE OFFER	2
Section 1.1 The Offer.	2
Section 1.2 Company Action.	5
Section 1.3 Directors.	5
Section 1.4 Top-Up Option.	7
ARTICLE II THE MERGER	8
Section 2.1 The Merger.	8
Section 2.2 Closing and Effective Time of the Merger	9
Section 2.3 Meeting of Company Stockholders to Approve the Merger.	10
Section 2.4 Merger Without Meeting of Stockholders	10
ARTICLE III CONVERSION OF SHARES	11
Section 3.1 Conversion of Securities	11
Section 3.2 Exchange of Certificates and Book Entry Shares.	11
Section 3.3 Shares of Dissenting Stockholders.	13
Section 3.4 Company Equity Awards.	13
Section 3.5 Withholding Tax	14
ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE COMPANY	15
Section 4.1 Organization.	15
Section 4.2 Capitalization.	16
Section 4.3 Authorization; Validity of Agreement; Company Action	16
Section 4.4 Consents and Approvals; No Violations	17
Section 4.5 SEC Reports; Disclosure Controls and Procedures.	17
Section 4.6 No Undisclosed Liabilities	18
Section 4.7 Absence of Certain Changes	18
Section 4.8 Material Contracts.	18
Section 4.9 Employee Benefit Plans; ERISA.	19
Section 4.10 Litigation.	21
Section 4.11 Compliance with Law; Permits.	21
Section 4.12 Intellectual Property.	22
Section 4.13 Taxes	23
Section 4.14 Tangible Assets	24
Section 4.15 Environmental.	24
Section 4.16 Labor Matters.	25
Section 4.17 Brokers or Finders	26
Section 4.18 Regulatory Compliance.	26
Section 4.19 Vote Required	27
Section 4.20 Company Board Recommendation	27
Section 4.21 Disclosure Documents.	27
Section 4.22 Interested Party Transactions	27
Section 4.23 Opinion of Financial Advisor	28
Section 4.24 Directors and Officers	28
ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE PARENT AND THE PURCHASER	28
Section 5.1 Organization	28
Section 5.2 Authorization; Validity of Agreement; Necessary Action	28

	Page
Section 5.3	29
Section 5.4	29
Section 5.5	30
Section 5.6	30
Section 5.7	30
Section 5.8	30
Section 5.9	30
Section 5.10	31
Section 5.11	31
Section 5.12	31
Section 5.13	31
ARTICLE VI COVENANTS	31
Section 6.1	31
Section 6.2	33
Section 6.3	34
Section 6.4	37
Section 6.5	37
Section 6.6	38
Section 6.7	39
Section 6.8	39
Section 6.9	40
Section 6.10	41
Section 6.11	41
Section 6.12	41
Section 6.13	41
Section 6.14	41
Section 6.15	42
Section 6.16	42
Section 6.17	42
Section 6.18	42
Section 6.19	42
Section 6.20	42
ARTICLE VII CONDITIONS	43
Section 7.1	43
Section 7.2	43
ARTICLE VIII TERMINATION	43
Section 8.1	43
Section 8.2	44
ARTICLE IX MISCELLANEOUS	45
Section 9.1	45
Section 9.2	46
Section 9.3	46
Section 9.4	47
Section 9.5	47
Section 9.6	47
Section 9.7	47
Section 9.8	47

		Page
Section 9.9	Jurisdiction	47
Section 9.10	Service of Process	48
Section 9.11	Specific Performance.	48
Section 9.12	Assignment	48
Section 9.13	Expenses	49
Section 9.14	Headings	49
Section 9.15	Currency	49
Section 9.16	Construction; Interpretation	49
Section 9.17	Waivers	49
Section 9.18	WAIVER OF JURY TRIAL	49
Section 9.19	Financing Sources Arrangements	49

LIST OF DEFINED TERMS

A	
Acquisition Proposal	36
Affiliates	6
Agreement	1, 52
Agreement Date	1
Alternative Acquisition Agreement	36
Alternative Financing	41
Antitrust Laws	39
<u>Assignee</u>	48
B	
Balance Sheet Date	18
<u>Bank</u>	40
<u>Benefit Plans</u>	19
Book Entry Shares	11
Business Day	2
C	
<u>CERCLA</u>	25
Certificate of Merger	9
Certificates	11
Change of Recommendation	35
Chestnut Merger Agreement	9
Closing	9
Closing Date	9
Company	1
Company Board	1
Company Board Recommendation	1
Company Bylaws	15
Company Charter	15
Company Common Stock	1
Company Disclosure Documents	16
Company Disclosure Schedule	15
Company Equity Plans	14
Company Material Adverse Effect	15
Company Restricted Stock	14
Company RSUs	14
Company SEC Reports	17
Company Stock Option	14
Company Stockholder Approval	27
Company Stockholders	1
Company's Knowledge	19
Confidentiality Agreement	34
Consideration Fund	11
Continuing Director	6
<u>Continuing Employees</u>	37
Contract	17
D	
<u>Debt Financing Letter</u>	30
<u>Delisting Period</u>	42
DGCL	8