

FLOWERS FOODS INC
Form 8-K
February 19, 2019

UNITED STATES
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): February 19, 2019 (February 15, 2019)

FLOWERS FOODS, INC.

(Exact name of registrant as specified in its charter)

Georgia
(State or other jurisdiction

of incorporation)

1-16247
(Commission

File Number)

58-2582379
(I.R.S. Employer

Identification No.)

1919 Flowers Circle, Thomasville, GA
(Address of principal executive offices)

31757
(Zip Code)

Registrant's telephone number, including area code: (229) 226-9110

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))
Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On February 15, 2019, Allen L. Shiver, president and chief executive officer of Flowers Foods, Inc. (the Company) and a member of the board of directors of the Company (the Board), notified the Company that he will retire from those positions, effective as of the Company's 2019 Annual Meeting of Shareholders (the Transition Date).

In connection with Mr. Shiver's retirement, on February 15, 2019, the Board elected A. Ryals McMullian, 49, who has served as the Company's chief operating officer since June 27, 2018, to serve as the Company's president and chief executive officer, effective as of the Transition Date.

Effective as of the Transition Date, the Board has approved the following changes to Mr. McMullian's compensation as a result of his promotion: (i) Mr. McMullian's annual base salary will increase to \$700,000; (ii) Mr. McMullian's target bonus percentage under the Company's 2019 Annual Executive Bonus Plan (the Bonus Plan) will be 100% of his base salary; and (iii) in combination with grants already made, Mr. McMullian's target award opportunity under the 2019 long term incentive program under the Company's 2014 Omnibus Equity and Incentive Compensation Plan (the Omnibus Plan) will be increased to a value of approximately \$1.6 million. In addition, Mr. McMullian will be entitled to receive on the Transition Date a one-time award of time-based restricted stock pursuant to the Omnibus Plan in the amount of \$1,000,000, vesting 100% on the fourth anniversary of the date of grant, provided that Mr. McMullian remains employed by the Company during this period. The information about Mr. McMullian required under Item 401(d) and Item 404(a) of Regulation S-K is incorporated by reference from the Company's proxy statement for the Company's 2018 Annual Meeting of Shareholders filed with the Securities and Exchange Commission on April 2, 2018.

In connection with Mr. Shiver's retirement, the Company and Mr. Shiver have entered into a retirement agreement and general release (the Agreement), dated as of February 15, 2019. Pursuant to the terms of the Agreement, Mr. Shiver will: (i) receive a retirement payment of \$1,319,231, which is equivalent to one week of base salary for each year of service to the Company *plus* 26 weeks of prorated cash bonus at 100% of target bonus percentage under the Bonus Plan; (ii) receive six months of continued health care premiums under COBRA; (iii) retain all benefits vested in accordance with their terms as of the Transition Date under the Company's benefit programs; and (iv) continue to be eligible to participate in the Company's benefit programs until the Transition Date. Under the terms of the Agreement, Mr. Shiver will act as a non-executive special advisor to the Company through December 31, 2019.

The foregoing description of the Agreement is qualified in its entirety by reference to the Agreement, a copy of which is attached hereto as Exhibit 10.1 and is incorporated herein by reference. A copy of the press release issued by the Company announcing the foregoing is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit

Number Description

10.1	<u>Retirement Agreement and General Release, dated as of February 15, 2019, between Flowers Foods, Inc. and Allen L. Shiver</u>
99.1	<u>Press Release of Flowers Foods, Inc. dated February 19, 2019</u>

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.

FLOWERS FOODS, INC.

By: /s/ R. Steve Kinsey
 Name: R. Steve Kinsey
 Title: Chief Financial Officer and
 Chief Administrative Officer

Date: February 19, 2019

tents

Separately, our quarterly revenues have historically been affected by a variety of seasonal factors, including the structure of our sales force incentive compensation plans, which are common in the software industry. The operating margins of our businesses are affected by seasonal factors in a similar manner as our revenues (in particular, our new software licenses business) as certain expenses within our cost structure are relatively fixed in the short-term.

Constant Currency Presentation

Our international operations have provided and will continue to provide a significant portion of our total revenues and expenses. As a result, total revenues and expenses will continue to be affected by changes in the U.S. Dollar against major international currencies. In order to provide a framework for assessing how our underlying businesses performed excluding the effect of foreign currency fluctuations, we compare the percent change in the results from one period to another period in this Quarterly Report using constant currency disclosure. To present this information, current and comparative prior period results for entities reporting in currencies other than U.S. Dollars are converted into U.S. Dollars at the exchange rate in effect on May 31, 2008, which was the last day of our prior fiscal year, rather than the actual exchange rates in effect during the respective periods. For example, if an entity reporting in Euros had revenues of 1.0 million Euros from products sold on November 30, 2008 and November 30, 2007, our financial statements would reflect revenues of \$1.30 million in the first half of fiscal 2009 (using 1.30 as the month-end average exchange rate for the period) and \$1.48 million in the first half of fiscal 2008 (using 1.48 as the month-end average exchange rate for the period). The constant currency presentation would translate the results for the three and six months ended November 30, 2008 and 2007 using the May 31, 2008 exchange rate and indicate, in this example, no change in revenues during the period. In each of the tables below, we present the percent change based on actual, unrounded results in reported currency and in constant currency.

Total Revenues and Operating Expenses

	Three Months Ended November 30,				Six Months Ended November 30,			
	Percent Change				Percent Change			
(Dollars in millions)	2008	Actual	Constant	2007	2008	Actual	Constant	2007

*Total Revenues by
 Geography:*

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Americas	\$ 2,904	9%	12%	\$ 2,674	\$ 5,591	11%	12%	\$ 5,049
EMEA ⁽¹⁾	1,881	1%	13%	1,865	3,711	9%	13%	3,394
Asia Pacific ⁽²⁾	822	6%	13%	774	1,636	17%	18%	1,399
Total revenues	5,607	6%	12%	5,313	10,938	11%	13%	9,842
Total Operating Expenses	3,632	3%	8%	3,531	7,442	9%	10%	6,843
Total Operating Margin	\$ 1,975	11%	20%	\$ 1,782	\$ 3,496	17%	19%	\$ 2,999
Total Operating Margin %	35%			34%	32%			31%
% Revenues by Geography:								
Americas	52%			50%	51%			51%
EMEA	34%			35%	34%			35%
Asia Pacific	14%			15%	15%			14%
Total Revenues by Business:								
Software	\$ 4,476	8%	14%	\$ 4,159	\$ 8,648	13%	15%	\$ 7,629
Services	1,131	-2%	5%	1,154	2,290	3%	6%	2,213
Total revenues	\$ 5,607	6%	12%	\$ 5,313	\$ 10,938	11%	13%	\$ 9,842
% Revenues by Business:								
Software	80%			78%	79%			78%
Services	20%			22%	21%			22%

(1) Comprised of Europe, the Middle East and Africa

(2) Asia Pacific includes Japan

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Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: Our operating results for the second quarter of fiscal 2009 were significantly impacted by the strengthening of the U.S. Dollar relative to other major international currencies. These currency variances resulted in a reduction to our total revenues growth of 6 percentage points during the second quarter of fiscal 2009. On a constant currency basis, total revenues increased in the second quarter of fiscal 2009 primarily due to higher new software license revenues in all regions resulting from increased demand for our database and middleware products, higher software license update and product support revenues in all regions due to the high attachment rate of support contracts to our new software licenses and the renewal of substantially all of our customer support contracts, and incremental revenues from our recent acquisitions. On a constant currency basis, new software license revenues contributed 13% to the growth in total revenues, software license updates and product support revenues contributed 78% and services revenues contributed 9%. Excluding the effect of currency rate fluctuations, the Americas contributed 46% to the increase in total revenues, EMEA contributed 39% and Asia Pacific contributed 15%.

Currency variances resulted in a reduction to our operating expense growth of 5 percentage points during the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, the increase in operating expenses in the second quarter of fiscal 2009 is primarily due to higher salary expenses and travel expenses (a portion of our travel expenses are billable to our customers as consulting revenues) associated with increased headcount levels (primarily resulting from our acquisition of BEA in the fourth quarter of fiscal 2008), higher stock-based compensation expenses (resulting from our assumption of BEA stock options and a higher fair value associated with our fiscal 2009 grants that is primarily attributable to a higher volatility input) and higher amortization of intangible assets resulting from our acquisitions (primarily BEA) that we completed since the second quarter of fiscal 2008. These increases were partially offset by constant currency decreases in our commissions and bonus expenses and benefits expenses. The decrease in our benefits expenses resulted primarily from a \$70 million change in expenses related to our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets. See discussion under Non-Operating Income, net below.

Currency variances resulted in a reduction of 9 percentage points to our total operating margin growth during the second quarter of fiscal 2009. On a constant currency basis and reported currency basis, total operating margin and total operating margin as a percentage of total revenues increased during the second quarter of fiscal 2009 as the growth rate of our total revenues exceeded the growth rate of our total operating expenses due to the relatively fixed nature of certain of our operating expenses in the short-term.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: Currency variances resulted in a reduction to our total revenues of 2 percentage points during the first half of fiscal 2009. Excluding these currency variances, total revenues increased in the first half of fiscal 2009 due to similar reasons as noted above. Excluding the effects of currency rate fluctuations, new software license revenues contributed 15% to the growth in total revenues, software license updates and product support revenues contributed 75% and services revenues contributed 10%. Excluding the effect of currency rate fluctuations, the Americas contributed 46% to the increase in total revenues, EMEA contributed 34% and Asia Pacific contributed 20%.

On a constant currency basis, the increase in operating expenses, operating margin and operating margin as a percentage of revenues in the first half of fiscal 2009 was primarily due to similar reasons as noted above.

Supplemental Disclosure Related to Certain Charges

To supplement our consolidated financial information we believe the following information is helpful to an overall understanding of our past financial performance and prospects for the future. You should review the introduction under Results of Operations (above) for a discussion of the inherent limitations in comparing pre- and post-acquisition

information.

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Our operating results include the following business combination accounting adjustments and expenses related to acquisitions as well as certain other significant expense items:

(in millions)	Three Months Ended November 30,		Six Months Ended November 30,	
	2008	2007	2008	2007
Support deferred revenues ⁽¹⁾	\$ 80	\$ 51	\$ 171	\$ 115
Amortization of intangible assets ⁽²⁾	427	290	839	575
Acquisition related charges ⁽³⁾⁽⁵⁾	21	22	71	68
Restructuring ⁽⁴⁾	17	6	31	6
Stock-based compensation ⁽⁵⁾	89	63	175	131
Income tax effect ⁽⁶⁾	(184)	(122)	(353)	(259)
	\$ 450	\$ 310	\$ 934	\$ 636

- (1) In connection with purchase price allocations related to our acquisitions, we have estimated the fair values of the support obligations assumed. Due to our application of business combination accounting rules, we did not recognize software license updates and product support revenues related to support contracts that would have otherwise been recorded by the acquired businesses as independent entities, in the amounts of \$80 million and \$51 million for the three months ended November 30, 2008 and 2007, respectively, and \$171 million and \$115 million for the six months ended November 30, 2008 and 2007, respectively. Approximately \$71 million and \$20 million of estimated software license updates and product support revenues related to support contracts assumed will not be recognized during the remainder of fiscal 2009 and fiscal 2010, respectively, that would otherwise be recognized by the acquired businesses as independent entities due to the application of these business combination accounting rules. To the extent customers renew these support contracts, we expect to recognize revenues for the full contract value over the support renewal period.
- (2) Represents the amortization of intangible assets acquired in connection with our acquisitions, primarily BEA, Hyperion, Siebel and PeopleSoft. As of November 30, 2008, estimated future amortization expenses related to intangible assets are as follows (in millions):

Remainder of Fiscal 2009	\$ 886
Fiscal 2010	1,645
Fiscal 2011	1,356
Fiscal 2012	1,209
Fiscal 2013	1,077
Fiscal 2014	876
Thereafter	1,052
Total	\$ 8,101

- (3) Acquisition related and other expenses primarily consist of in-process research and development expenses, stock-based compensation expenses, integration related professional services, personnel related costs for

transitional employees, certain business combination adjustments after the purchase price allocation period has ended, and certain other operating expenses, net.

- (4) Restructuring expenses during the first half of fiscal 2009 and fiscal 2008 relate to Oracle employee severance in connection with a restructuring plan initiated in the second quarter, and amended in the fourth quarter, of fiscal 2008.
- (5) Stock-based compensation is included in the following operating expense line items of our condensed consolidated statements of operations (in millions):

	Three Months Ended November 30, 2008		Six Months Ended November 30, 2008		2007	
Sales and marketing	\$	16	\$	13	\$	26
Software license updates and product support		3		3		7
Cost of services		3		3		8
Research and development		45		25		52
General and administrative		22		19		38
Subtotal		89		63		131
Acquisition related charges and other		6		4		37
Total	\$	95	\$	67	\$	168

Stock-based compensation included in acquisition related and other expenses resulted from unvested options assumed from acquisitions whose vesting was accelerated upon termination of the employees pursuant to the terms of those options.

- (6) The income tax effects presented were calculated as if the above described charges were not included in our results of operations for each of the respective periods presented.

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Software includes new software licenses and software license updates and product support.

New Software Licenses: New software license revenues represent fees earned from granting customers licenses to use our database and middleware as well as our application software products. We continue to place significant emphasis, both domestically and internationally, on direct sales through our own sales force. We also continue to market our products through indirect channels. Sales and marketing expenses are largely personnel related and include commissions earned by our sales force for the sale of our software products, and also include marketing program costs and amortization of intangible assets.

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
<i>New Software License Revenues:</i>								
Americas	\$ 751	0%	3%	\$ 752	\$ 1,286	3%	4%	\$ 1,251
EMEA	557	-7%	7%	598	978	0%	6%	976
Asia Pacific	318	0%	5%	318	599	13%	15%	529
Total revenues	1,626	-3%	5%	1,668	2,863	4%	7%	2,756
<i>Expenses:</i>								
Sales and marketing ⁽¹⁾	1,130	4%	11%	1,082	2,223	9%	10%	2,044
Stock-based compensation	16	25%	25%	13	35	36%	36%	26
Amortization of intangible assets ⁽²⁾	201	51%	51%	132	394	51%	51%	261
Total expense	1,347	10%	15%	1,227	2,652	14%	15%	2,331
<i>Total Margin</i>	\$ 279	-37%	-23%	\$ 441	\$ 211	-50%	-35%	\$ 425
<i>Total Margin %</i>	17%			26%	7%			15%

% Revenues by Geography:

Americas	46%			45%	45%			46%
EMEA	34%			36%	34%			35%
Asia Pacific	20%			19%	21%			19%

Revenues by Product:

Database and middleware	\$ 1,146	4%	12%	\$ 1,102	\$ 2,034	13%	16%	\$ 1,796
Applications	469	-15%	-9%	553	799	-14%	-11%	929
Total revenues by product	1,615	-3%	5%	1,655	2,833	4%	7%	2,725
Other revenues	11	-19%	-17%	13	30	-5%	-5%	31
Total new software license revenues	\$ 1,626	-3%	5%	\$ 1,668	\$ 2,863	4%	7%	\$ 2,756

% Revenues by Product:

Database and middleware	71%			67%	72%			66%
Applications	29%			33%	28%			34%

(1) Excluding stock-based compensation

(2) Included as a component of Amortization of Intangible Assets in our condensed consolidated statements of operations

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: New software license revenues growth was unfavorably affected by foreign currency rate fluctuations of 8 percentage points in the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, total new software license revenues increased by 5% in the second quarter of fiscal 2009 as a result of a 12% increase in database and middleware revenues, partially offset by a 9% decrease in applications revenues. Excluding the effect of currency rate fluctuations, the Americas contributed 29%, EMEA contributed 50% and Asia Pacific contributed 21% to the increase in new software license revenues.

Excluding the effect of currency rate fluctuations of 8 percentage points, database and middleware revenues grew 12% in the second quarter of fiscal 2009 and 15% over the trailing 4-quarters as a result of increased demand for our database and middleware products as well as incremental revenues from acquired companies. In reported currency, BEA products contributed \$127 million, and other recently acquired products contributed \$5 million to the total database and middleware revenues growth in the second quarter of fiscal 2009.

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Excluding the effect of currency rate fluctuations of 6 percentage points, application new software license revenues generally decreased on a constant currency basis across all geographic regions. The decline in our applications revenues growth for the second quarter of fiscal 2009 was affected by the high growth in our applications revenues for the second quarter of fiscal 2008 against which our current quarter's applications revenues were compared. In reported currency, our recently acquired products contributed \$10 million to our applications revenues in the second quarter of fiscal 2009. On a constant currency basis, applications revenues increased by 6% over the trailing 4-quarters due to our offering of a broad suite of products to a diverse customer base and incremental revenues from acquired companies.

In reported currency, new software license revenues earned from transactions over \$0.5 million declined by 1% in the second quarter of fiscal 2009, primarily due to unfavorable currency variations, and increased to 47% of new software license revenues in the second quarter of fiscal 2009 from 46% in the second quarter of fiscal 2008.

Total sales and marketing expenses were favorably impacted by 5 percentage points of currency variations during the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, sales and marketing expenses increased in the second quarter of fiscal 2009 primarily due to higher salaries and travel expenses resulting from increased headcount, higher commissions expenses associated with increased revenues (on a constant currency basis) and higher amortization of intangible assets. These increases were partially offset by a decrease in our benefits expenses resulting from a current quarter reduction in our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets. See discussion under Non-Operating Income, net below.

Total new software license margin and margin as a percentage of revenues decreased as our total new software license expenses growth, in particular our higher amortization of intangible assets, exceeded our revenues growth.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: New software license revenues growth was unfavorably affected by foreign currency rate fluctuations of 3 percentage points. Excluding the effect of currency rate fluctuations, total new software license revenues increased by 7% in the first half of fiscal 2009 as a result of a 16% increase in database and middleware revenues, partially offset by a 11% decrease in applications revenues. Excluding the effect of currency rate fluctuations, the Americas contributed 28%, EMEA contributed 32% and Asia Pacific contributed 40% to the increase in new software license revenues.

In reported currency, BEA products contributed \$211 million, and other recently acquired products contributed \$7 million to the total database and middleware revenue growth in the first half of fiscal 2009.

In reported currency, recently acquired products contributed \$15 million to applications revenues in the first half of fiscal 2009.

New software license revenues earned from transactions over \$0.5 million increased by 8% in the first half of fiscal 2009 and increased to 46% of new software license revenues in the first half of fiscal 2009 from 44% in the first half of fiscal 2008.

Sales and marketing expenses increased in the first half of fiscal 2009 primarily due to similar reasons noted above. Total new software license margin and margin as a percentage of revenues decreased primarily due to the same reasons noted above.

Software License Updates and Product Support: Software license updates grant customers rights to unspecified software product upgrades and maintenance releases issued during the support period. Product support includes internet access to technical content as well as internet and telephone access to technical support personnel in our

global support centers. Expenses associated with our software license updates and product support line of business include the cost of providing the support services, largely personnel related expenses, and the amortization of our intangible assets associated with software support contracts and customer relationships obtained from our acquisitions.

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(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
<i>Software License Updates and Product Support Revenues:</i>								
Americas	\$ 1,576	16%	19%	\$ 1,353	\$ 3,132	18%	18%	\$ 2,661
EMEA	924	10%	22%	837	1,941	19%	20%	1,631
Asia Pacific	350	17%	22%	301	712	22%	22%	581
Total revenues	2,850	14%	20%	2,491	5,785	19%	19%	4,873
<i>Expenses:</i>								
Software license updates and product support ⁽¹⁾	254	4%	11%	243	533	14%	15%	467
Stock-based compensation	3	1%	1%	3	6	-1%	-1%	7
Amortization of intangible assets ⁽²⁾	212	46%	46%	144	417	45%	45%	287
Total expenses	469	20%	24%	390	956	25%	26%	761
Total Margin	\$ 2,381	13%	20%	\$ 2,101	\$ 4,829	18%	18%	\$ 4,112
Total Margin %	84%			84%	84%			84%
<i>% Revenues by Geography:</i>								
Americas	55%			54%	54%			55%
EMEA	32%			34%	34%			33%
Asia Pacific	13%			12%	12%			12%

(1) Excluding stock-based compensation

(2) Included as a component of Amortization of Intangible Assets in our condensed consolidated statements of operations

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: The growth in our software license updates and product support revenues was unfavorably affected by foreign currency rate fluctuations of 6 percentage points in the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, software license updates and product support revenues increased in the second quarter of fiscal 2009 as a result of new software licenses sold with substantially all customers electing to purchase support contracts during the trailing 4-quarter period (in particular our fourth quarter of fiscal 2008, which was our largest new software license sales quarter during the trailing 4-quarter period), the renewal of substantially all of the customer base eligible for renewal in the current fiscal year and incremental revenues from the expansion of our customer base from acquisitions. Excluding the effect of currency rate fluctuations, the Americas contributed 49%, EMEA contributed 38% and Asia Pacific contributed 13% to the increase in software license updates and product support revenues.

In reported currency, software license updates and product support revenues in the second quarter of fiscal 2009 include incremental revenues of \$126 million from BEA and \$8 million from other recently acquired companies. As a result of our acquisitions, we recorded adjustments to reduce support obligations assumed to their estimated fair

values at the acquisition dates. Due to our application of business combination accounting rules, software license updates and product support revenues related to support contracts in the amounts of \$80 million and \$51 million that would have been otherwise recorded by our acquired businesses as independent entities, were not recognized in the second quarter of fiscal 2009 and 2008, respectively. Historically, substantially all of our customers, including customers from acquired companies, renew their support contracts when such contracts are eligible for renewal. To the extent these underlying support contracts are renewed, we will recognize the revenues for the full value of these contracts over the support periods, the substantial majority of which are one year.

Total software license updates and product support expenses were favorably impacted by 4 percentage points of currency variations during the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, software license updates and product support expenses increased due to higher salary expenses associated with increased headcount to support the expansion of our customer base and higher amortization expenses resulting from additional intangible assets acquired since the beginning of fiscal 2008 (primarily our acquisition of BEA). These

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increases were partially offset by constant currency decreases in our commissions and bonus expenses and by a constant and reported currency decrease in our benefits expenses. The decrease in our benefits expenses resulted from a current quarter reduction in our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets. See discussion under Non-Operating Income, net below.

Total software license updates and product support margin increased due to an increase in revenues, while margin as a percentage of revenues remained constant as revenue increases were offset by increases in our amortization of intangible assets.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: On a constant currency basis, the growth in our software license updates and product support revenues and expenses is primarily attributable to the same reasons noted above. On a constant currency basis, the Americas contributed 50%, EMEA contributed 36% and Asia Pacific contributed 14% to the increase in software license updates and product support revenues. Software license updates and product support revenues in the first half of fiscal 2009 included incremental contributions of \$237 million from BEA and \$32 million from other recently acquired companies. Software license updates and product support revenues related to support contracts in the amounts of \$171 million and \$115 million that would have been otherwise recorded by our acquired businesses as independent entities, were not recognized in the first half of fiscal 2009 and 2008, respectively, for the reasons noted above.

On a constant currency basis, software license updates and product support expenses increased for similar reasons as noted above. Total software license updates and product support margin increased due to an increase in revenues, while margin as a percentage of revenues remained constant as revenue increases were offset by increases in our amortization of intangible assets.

Services

Services consist of consulting, On Demand and education.

Consulting: Consulting revenues are earned by providing services to customers in the design, implementation, deployment and upgrade of our database and middleware software products as well as application software products. The cost of providing consulting services consists primarily of personnel related expenditures.

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
Consulting Revenues:								
Americas	\$ 430	0%	4%	\$ 432	\$ 875	1%	3%	\$ 865
EMEA	303	-8%	3%	331	601	-1%	3%	604
Asia Pacific	109	-4%	5%	114	232	11%	14%	209
Total revenues	842	-4%	4%	877	1,708	2%	5%	1,678
Expenses:								
Cost of services ⁽¹⁾	708	-5%	2%	747	1,491	3%	5%	1,443
Stock-based compensation	2	-20%	-20%	2	3	-30%	-30%	5
Amortization of intangible assets ⁽²⁾	11	10%	10%	10	21	3%	3%	20

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Total expenses	721	-5%	2%	759	1,515	3%	5%	1,468
Total Margin	\$ 121	2%	13%	\$ 118	\$ 193	-8%	-1%	\$ 210
Total Margin %	14%			14%	11%			13%
% Revenues by Geography:								
Americas	51%			49%	51%			52%
EMEA	36%			38%	35%			36%
Asia Pacific	13%			13%	14%			12%

(1) Excluding stock-based compensation

(2) Included as a component of Amortization of Intangible Assets in our condensed consolidated statements of operations

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Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: Consulting revenues growth was unfavorably affected by foreign currency rate fluctuations of 8 percentage points in the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, consulting revenues increased during the second quarter of fiscal 2009 primarily due to an increase in application software implementations associated with the sales of certain of our application software products and incremental revenues from our recent acquisitions, primarily BEA. Excluding the effect of currency rate fluctuations, the Americas contributed 47%, EMEA contributed 35% and Asia Pacific contributed 18% to the increase in consulting revenues.

Consulting expenses were favorably impacted by 7 percentage points of currency variations during the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, salary expenses were relatively constant with the corresponding prior year period. Consulting expenses increased on a constant currency basis during the second quarter of fiscal 2009 as a result of higher infrastructure and travel expenses (the majority of which are rebillable to customers). These increases were partially offset by constant currency decreases in our commissions and bonus expenses and by a constant and reported currency decrease in our benefits expenses. The decrease in our benefits expenses resulted from a current quarter reduction in our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets. See discussion under Non-Operating Income, net below.

Total consulting margin and margin as a percentage of revenues remained constant during the second quarter of fiscal 2009, primarily as a result of unfavorable currency variations of 11 percentage points.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: Excluding the effect of currency rate fluctuations, the growth in consulting revenues was generally due to similar reasons as noted above with the Americas contributing 34%, EMEA contributing 26% and Asia Pacific contributing 40% to the growth in consulting revenues. Consulting expenses generally increased during the first half of fiscal 2009 for similar reasons as noted above, but also included an increase in external contractor expenses incurred during the first quarter of fiscal 2009.

On a constant currency basis, consulting margin and margin as a percentage of revenues decreased during the first half of fiscal 2009 due to expense growth exceeding revenue growth during the first quarter of fiscal 2009 and due to the aforementioned unfavorable currency variations that affected margin during the second quarter of fiscal 2009.

On Demand: On Demand includes our Oracle On Demand, CRM On Demand and Advanced Customer Services offerings. Oracle On Demand provides multi-featured software and hardware management, and maintenance services for our database and middleware as well as our applications software delivered either at our data center facilities, at select partner data centers, or at customer facilities. CRM On Demand is a service offering that provides our customers with our CRM software functionality delivered via a hosted solution that we manage. Advanced Customer Services consists of configuration and performance analysis, personalized support and on-site technical services. The cost of providing On Demand services consists primarily of personnel related expenditures, technology infrastructure expenditures and facilities costs.

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(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
On Demand Revenues:								
Americas	\$ 104	14%	16%	\$ 91	\$ 210	17%	18%	\$ 179
EMEA	58	8%	19%	54	118	13%	15%	104
Asia Pacific	27	22%	31%	22	56	33%	36%	42
Total revenues	189	13%	19%	167	384	18%	19%	325
Expenses:								
Cost of services ⁽¹⁾	151	-5%	1%	158	310	0%	2%	310
Stock-based compensation	1	22%	22%	1	2	11%	11%	2
Amortization of intangible assets ⁽²⁾	3	-1%	-1%	4	7	0%	0%	7
Total expenses	155	-5%	1%	163	319	0%	2%	319
Total Margin	\$ 34	671%	572%	\$ 4	\$ 65	906%	669%	\$ 6
Total Margin %	18%			3%	17%			2%
% Revenues by Geography:								
Americas	55%			55%	55%			55%
EMEA	31%			32%	31%			32%
Asia Pacific	14%			13%	14%			13%

(1) Excluding stock-based compensation

(2) Included as a component of Amortization of Intangible Assets in our condensed consolidated statements of operations

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: On Demand revenue growth was unfavorably affected by foreign currency rate fluctuations of 6 percentage points in the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, On Demand revenues increased in the second quarter of fiscal 2009 due to an increase in each service category's subscription base as a greater number of customers engaged us to provide IT outsourcing solutions. On a constant currency basis, Advanced Customer Services, Oracle On Demand and CRM On Demand contributed 56%, 39% and 5% to our On Demand revenues growth, respectively. Excluding the effect of currency rate fluctuations, the Americas contributed 45%, EMEA contributed 33% and Asia Pacific contributed 22% to the increase in On Demand revenues.

Excluding the effect of favorable currency rate fluctuations of 6 percentage points, On Demand expenses increased slightly in the second quarter of fiscal 2009 due to higher personnel related costs resulting from additional employees hired to support the increase in On Demand revenues. This expense increase was almost entirely offset by a shift of certain U.S. based costs to global support centers in lower cost countries, decreases in bonus expenses, and a decrease in certain of our benefits expenses.

Total On Demand margin and margin as a percentage of revenues improved primarily as a result of our Oracle On Demand business, which increased revenues while managing operating expenses to a lower level than in the second quarter of fiscal 2008. Our Advanced Customer Services margin percentages also improved modestly in comparison to the second quarter of fiscal 2008.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: On a constant currency basis, On Demand revenues, expenses, margin and margin as a percentage of revenues increased for similar reasons as noted above. Excluding the effect of currency rate fluctuations, Advanced Customer Services, Oracle On Demand and CRM On Demand contributed 53%, 39% and 8%, respectively, to the growth in On Demand revenues. In constant currency, the Americas contributed 50% to the growth in On Demand revenues, EMEA contributed 26% and Asia Pacific contributed 24%.

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Education: Education revenues are earned by providing instructor-led, media-based and internet-based training in the use of our database and middleware software products as well as applications software products. Education expenses primarily consist of personnel related expenditures, facilities and external contractor costs.

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
Education Revenues:								
Americas	\$ 43	-7%	-4%	\$ 46	\$ 87	-6%	-6%	\$ 93
EMEA	39	-12%	-3%	45	74	-6%	-5%	79
Asia Pacific	18	-5%	1%	19	37	-1%	0%	38
Total revenues	100	-9%	-3%	110	198	-6%	-4%	210
Expenses:								
Cost of services ⁽¹⁾	77	-8%	-2%	84	158	-2%	-2%	161
Stock-based compensation		*	*		1	-41%	-41%	1
Total expenses	77	-8%	-2%	84	159	-2%	-2%	162
Total Margin	\$ 23	-9%	-7%	\$ 26	\$ 39	-17%	-16%	\$ 48
Total Margin %	23%			24%	20%			23%
% Revenues by Geography:								
Americas	43%			41%	44%			44%
EMEA	39%			41%	37%			38%
Asia Pacific	18%			18%	19%			18%

⁽¹⁾ Excluding stock-based compensation

* Not meaningful

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: Excluding the effect of unfavorable currency rate fluctuations of 6 percentage points, education revenues decreased in the second quarter of fiscal 2009 as customers reduced spending on discretionary services such as our educational program offerings in the Americas and EMEA geographic regions. These decreases were partially offset by incremental revenues from our recently acquired companies. On a constant currency basis, the Americas and EMEA geographic regions declined 4% and 3%, respectively, in the second quarter of fiscal 2009, while the Asia Pacific region slightly increased.

Excluding the effect of favorable currency rate fluctuations of 6 percentage points, education expenses declined slightly in comparison to the second quarter of fiscal 2008, primarily as a result of our headcount reductions pursuant to our 2008 Oracle Restructuring Plan.

Education margin and margin as a percentage of revenues decreased in the second quarter of fiscal 2009 due primarily to a reduction in revenues.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: Excluding the effect of currency rate fluctuations, the decreases for education revenues, expenses, margin and margin as a percentage of revenues were due generally to the same reasons as noted above. On a constant currency basis, revenues in the Americas and EMEA geographic regions declined 6% and 5%, respectively, in the first half of fiscal 2009, while the Asia Pacific region was constant.

Research and Development Expenses: Research and development expenses consist primarily of personnel related expenditures. We intend to continue to invest significantly in our research and development efforts because, in our judgment, they are essential to maintaining our competitive position.

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(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	Percent Change				Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
Research and development ⁽¹⁾	\$ 606	-7%	-3%	\$ 649	\$ 1,278	0%	2%	\$ 1,274
Stock-based compensation	45	83%	83%	25	82	56%	56%	52
Total expenses	\$ 651	-3%	0%	\$ 674	\$ 1,360	3%	4%	\$ 1,326
% of Total Revenues	12%			12%	12%			13%

⁽¹⁾ Excluding stock-based compensation

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: Total research and development expenses were favorably affected by 3 percentage points of currency variations during the second quarter of fiscal 2009. On a constant currency basis, total research and development expenses were constant as increases in salary expenses from higher headcount and stock-based compensation expenses (resulting from higher fair values assigned to our fiscal 2009 grants due to a higher volatility input and also due to our assumption of unvested stock awards for BEA employees) were offset by a decrease in bonus expenses and a decrease in certain of our benefits expenses. The decrease in our benefits expenses resulted from a current quarter reduction in our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets. See discussion under Non-Operating Income, net below. The increase in our headcount was the combined result of our recent acquisitions and our hiring of additional personnel to develop new functionality for our existing products. Research and development headcount as of the end of the second quarter of fiscal 2009 increased by approximately 2,000 employees, or 10%, in comparison to the second quarter of fiscal 2008.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: On a constant currency basis, research and development expenses increased modestly due to an increase in salary and stock-based compensation expenses described above, partially offset by the bonus and benefits expense declines described above.

General and Administrative Expenses: General and administrative expenses primarily consist of personnel related expenditures for information technology, finance, legal and human resources support functions.

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	Percent Change				Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
General and administrative ⁽¹⁾	\$ 152	-19%	-14%	\$ 187	\$ 333	-8%	-7%	\$ 364
Stock-based compensation	22	16%	16%	19	46	18%	18%	38
Total expenses	\$ 174	-16%	-11%	\$ 206	\$ 379	-6%	-4%	\$ 402
% of Total Revenues	3%			4%	3%			4%

⁽¹⁾ Excluding stock-based compensation

General and administrative expenses were affected by 5 percentage points of favorable currency variations during the second quarter of fiscal 2009. Excluding the effect of currency rate fluctuations, general and administrative expenses decreased during the second quarter of fiscal 2009 as a result of a decrease in bonus expenses and a decrease in certain of our benefits expenses. The decrease in our benefits expenses resulted from a current quarter reduction in our deferred compensation plan liability. This benefits expense decrease was offset by a loss in our deferred compensation plan assets (see discussion under Non-Operating Income, net below). These decreases were partially offset by slightly higher personnel related costs associated with increased headcount to support our expanding operations and increased stock-based compensation expenses resulting from a higher valuation of our fiscal 2009 stock option grants (the higher valuation is attributable to a higher volatility input used in the fair value calculation and is derived from the implied volatility of our longest-term, publicly traded options). During the first half of fiscal 2009, general and administrative expenses decreased for similar reasons as those noted above.

Table of Contents***Amortization of Intangible Assets:***

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
Software support agreements and related relationships	\$ 138	42%	42%	\$ 98	\$ 272	40%	40%	\$ 194
Developed technology	181	45%	45%	124	354	44%	44%	245
Core technology	63	47%	47%	43	125	45%	45%	86
Customer contracts	37	118%	118%	17	72	112%	112%	34
Trademarks	8	0%	0%	8	16	6%	6%	16
Total amortization of intangible assets	\$ 427	47%	47%	\$ 290	\$ 839	46%	46%	\$ 575

Amortization of intangible assets increased in the fiscal 2009 periods presented above due to the amortization of acquired intangibles from BEA and other acquisitions that we consummated since the beginning of the second quarter of fiscal 2008. See Note 4 of Notes to Condensed Consolidated Financial Statements for additional information regarding our intangible assets (including weighted average useful lives) and related amortization expenses.

Acquisition Related and Other Expenses: Acquisition related and other expenses primarily consist of in-process research and development expenses, integration related professional services, stock-based compensation expenses, personnel related costs for transitional employees, certain business combination adjustments after the purchase price allocation period has ended, and certain other expenses, net. Stock-based compensation expenses included in acquisition related and other expenses relate to unvested options assumed from acquisitions whereby vesting was accelerated upon termination of the employees pursuant to the original terms of those options.

(Dollars in millions)	Three Months Ended November 30,				Six Months Ended November 30,			
	2008	Percent Change		2007	2008	Percent Change		2007
		Actual	Constant			Actual	Constant	
In-process research and development	\$ 2	*	*	\$	\$ 6	-19%	-19%	\$ 7
Transitional employee related costs	4	-73%	-72%	15	31	66%	68%	19
Stock-based compensation	6	42%	42%	4	11	-70%	-70%	37
Business combination adjustments	1	*	*		10	*	*	
Professional fees and other, net	8	122%	133%	3	13	160%	160%	5
Total acquisition related charges	\$ 21	0%	1%	\$ 22	\$ 71	4%	6%	\$ 68

* Not meaningful

Fiscal Second Quarter 2009 Compared to Fiscal Second Quarter 2008: Acquisition related charges and other expenses decreased slightly during the second quarter of fiscal 2009 due to lower transitional employee related expenses in comparison to the corresponding prior year period, which included the settlement of certain acquired company employee related liabilities.

First Half Fiscal 2009 Compared to First Half Fiscal 2008: On a constant currency basis, acquisition related charges and other expenses increased slightly due to higher transitional employee related expenses resulting primarily from our acquisition of BEA and an increase in business combination adjustments, partially offset by lower stock-based compensation expenses from stock option accelerations.

Restructuring expenses: Restructuring expenses consist primarily of Oracle employee severance costs and may include charges for duplicate facilities in order to improve our Oracle-based cost structure prospectively. For additional information regarding our Oracle-based restructuring plans, as well as restructuring activities of our acquired companies, please see Note 5 of Notes to Condensed Consolidated Financial Statements.

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(Dollars in millions)	Three Months Ended November 30, Percent Change				Six Months Ended November 30, Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
Restructuring expenses	\$ 17	196%	260%	\$ 6	\$ 31	429%	495%	\$ 6

During the second quarter of fiscal 2008, our management approved, committed to, and initiated the Oracle Fiscal 2008 Restructuring Plan (2008 Plan) as a result of certain management and operational changes that are intended to improve efficiencies in our Oracle-based operations. Our 2008 Plan was amended in the fourth quarter of fiscal 2008 to include the expected effects resulting from our acquisition of BEA. The total estimated costs associated with the 2008 Plan are approximately \$111 million, of which \$31 million and \$6 million were incurred during the first half of fiscal 2009 and 2008, respectively, and are primarily related to employee severance. The majority of these estimated costs are expected to be incurred over the course of fiscal 2009. Our estimated costs are preliminary and may be subject to change in future periods.

Interest Expense:

(Dollars in millions)	Three Months Ended November 30, Percent Change				Six Months Ended November 30, Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
Interest expense	\$ 157	76%	76%	\$ 89	\$ 317	74%	74%	\$ 183

Interest expense increased in the fiscal 2009 periods presented above due to higher average borrowings resulting from our issuance of \$5.0 billion of senior notes in April 2008.

Non-Operating Income, net: Non-operating income, net consists primarily of interest income, net foreign currency exchange gains and losses, the minority owners' share in the net profits of our majority-owned Oracle Financial Services Software Limited (formerly i-flex solutions limited) and Oracle Japan subsidiaries, and other income including net realized gains and losses related to all of our investments and net unrealized gains and losses related to the small portion of our investment portfolio that we classify as trading.

(Dollars in millions)	Three Months Ended November 30, Percent Change				Six Months Ended November 30, Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
Interest income	\$ 97	9%	20%	\$ 89	\$ 185	13%	17%	\$ 163
Foreign currency gains (losses), net	(22)	-205%	-159%	21	(12)	-146%	-107%	27
Minority interests in income	(19)	-16%	-22%	(16)	(35)	-23%	-28%	(29)
Other income (losses), net	(48)	-272%	-270%	28	(48)	-226%	-221%	38
Total non-operating income, net	\$ 8	-94%	-78%	\$ 122	\$ 90	-55%	-45%	\$ 199

Non-operating income, net decreased during the second quarter of fiscal 2009 as a result of net foreign currency transaction losses of \$22 million (in comparison to net foreign currency transaction gains of \$21 million in the corresponding prior year period), and \$53 million of losses (in comparison to a \$17 million gain recognized in the corresponding prior year period) recognized on marketable securities that we classify as trading that support our deferred compensation plan obligations. These amounts are included in Other income (losses), net in the table above. We account for our deferred compensation plan assets and obligations pursuant to EITF 97-14, *Accounting for Deferred Compensation Arrangements Where Amounts Earned Are Held in a Rabbi Trust and Invested*, which requires that the changes in obligations associated with our deferred compensation plan be recorded in our operating expenses while the corresponding change in the plan assets be recorded in non-operating income, net. The changes in obligations and asset values of the plan are equal and offsetting, such that there is no impact to our income before provision for income taxes during the second quarter of fiscal 2009 or any other periods presented. Non-operating income, net decreased during the first half of fiscal 2009 due to similar reasons as noted above.

Provision for Income Taxes: The effective tax rate in all periods presented is the result of the mix of income earned in various tax jurisdictions that apply a broad range of income tax rates. The provision for income taxes

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differs from the tax computed at the U.S. federal statutory income tax rate due primarily to state taxes and earnings considered as indefinitely reinvested in foreign operations. Future effective tax rates could be adversely affected if earnings are lower than anticipated in countries where we have lower statutory rates, by unfavorable changes in tax laws and regulations, or by adverse rulings in tax related litigation.

(Dollars in millions)	Three Months Ended November 30, Percent Change				Six Months Ended November 30, Percent Change			
	2008	Actual	Constant	2007	2008	Actual	Constant	2007
Provision for income taxes	\$ 530	3%	14%	\$ 512	\$ 896	3%	6%	\$ 871
Effective tax rate	29.0%			28.2%	27.4%			28.9%

The provision for income taxes increased during the fiscal 2009 periods presented above in comparison to the corresponding periods of fiscal 2008. The increases were attributable primarily to the mix of worldwide income, which was affected by unfavorable changes in foreign currency exchange rates, which disproportionately affected our profits in relatively low-tax jurisdictions. These increases were partially offset by reinstatement of the U.S. research and development tax credit under the Emergency Economic Stabilization Act of 2008, which was signed into law on October 3, 2008, and was retroactive to January 1, 2008.

Liquidity and Capital Resources

(Dollars in millions)	November 30, 2008	Change	May 31, 2008
Working capital	\$ 7,175	-11%	\$ 8,074
Cash, cash equivalents and marketable securities	\$ 10,646	-4%	\$ 11,043

Working capital: The decrease in working capital as of November 30, 2008 in comparison to May 31, 2008 was primarily due to an increase in our stock repurchases during the first half of fiscal 2009 in comparison to recent prior periods (we used \$2.3 billion of cash for stock repurchases during the first half of fiscal 2009 in comparison to \$1.0 billion used for stock repurchases during the first half of fiscal 2008), cash used for our acquisitions, and from the decline in value of our net current assets held by certain of our foreign subsidiaries as result of the strengthening in the U.S. Dollar during the first half of fiscal 2009 (the offset to which is recorded to accumulated other comprehensive income (loss) on our consolidated balance sheet). Our working capital may be impacted by all three of the aforementioned factors in future periods, the amounts and timing of which are variable. These decreases were partially offset by the favorable impact to our net current assets of our net income generated during the first half of fiscal 2009.

Cash, cash equivalents and marketable securities: Cash and cash equivalents primarily consist of deposits held at major banks, money market funds, Tier-1 commercial paper, U.S. Treasury obligations, U.S. government agency and government sponsored enterprise obligations, and other securities with original maturities of 90 days or less. Marketable securities primarily consist of time deposits held at major banks, Tier-1 commercial paper, corporate notes, U.S. Treasury obligations and U.S. government agency and government sponsored enterprise obligations. Cash, cash equivalents and marketable securities include \$10.1 billion held by our foreign subsidiaries as of November 30, 2008. The amount of cash, cash equivalents and marketable securities that we report in U.S. Dollars for the majority of the cash held by these subsidiaries is subject to translation variance caused by changes in foreign currency exchange rates as of the end of each respective reporting period (the offset to which is recorded to accumulated other

comprehensive income (loss) on our consolidated balance sheet). As the U.S. Dollar strengthened against most major international currencies during the first half of fiscal 2009, the amount of cash, cash equivalents and marketable securities that we reported in U.S. Dollars for these subsidiaries declined relative to what we would have reported using a constant currency rate as of May 31, 2008. The decrease in cash, cash equivalents and marketable securities at November 30, 2008 in comparison to May 31, 2008 was also due to cash used for our acquisitions and repurchases of our common stock (see discussion above), partially offset by an increase in our operating cash flows resulting primarily from the collection of our trade receivables generated from our higher sales volumes.

Days sales outstanding, which is calculated by dividing period end accounts receivable by average daily sales for the quarter, was 52 days at November 30, 2008 compared with 63 days at May 31, 2008. The days sales outstanding

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calculation excludes the adjustment that reduces our acquired software license updates and product support obligations to fair value. Our decline in days sales outstanding is primarily due to the collection, in our first half of fiscal 2009, of large license and support balances outstanding as of May 31, 2008.

(Dollars in millions)	Six Months Ended November 30,		
	2008	Change	2007
Cash provided by operating activities	\$ 3,990	21%	\$ 3,303
Cash used for investing activities	\$ (2,207)	48%	\$ (1,487)
Cash used for financing activities	\$ (1,928)	25%	\$ (1,544)

Cash flows from operating activities: Our largest source of operating cash flows is cash collections from our customers following the purchase and renewal of their software license updates and product support agreements. Payments from customers for software license updates and product support agreements are generally received near the beginning of the contracts terms, which are generally one year in length. We also generate significant cash from new software license sales and, to a lesser extent, services. Our primary uses of cash from operating activities are for personnel related expenditures as well as payments related to taxes and leased facilities.

Net cash provided by operating activities increased in the first half of fiscal 2009 primarily due to higher net income and the collection of fourth quarter fiscal 2008 and first quarter fiscal 2009 trade receivables associated with higher sales volumes.

Cash flows from investing activities: The changes in cash flows from investing activities primarily relate to acquisitions and the timing of purchases, maturities and sales of our investments in marketable securities. We also use cash to invest in capital and other assets to support our growth.

Net cash used for investing activities increased in the first half of fiscal 2009 due to an increase in cash used to purchase marketable securities (net of proceeds received from sales and maturities), an increase in cash used for acquisitions, net of cash acquired, and higher capital expenditures primarily related to real estate assets purchased for operational use.

Cash flows from financing activities: The changes in cash flows from financing activities primarily relate to borrowings and payments under debt obligations as well as stock repurchases and proceeds from stock option exercise activity.

Net cash used by financing activities in the first half of fiscal 2009 increased compared to the first half of fiscal 2008 due to increased stock repurchases (see discussion in Working Capital above and in Note 8 of Notes to Condensed Consolidated Financial Statements for additional information). This increase was partially offset by a reduction in the amount of debt repayments made (the commercial paper issued to finance the fiscal 2007 acquisition of Hyperion was repaid in the first quarter of fiscal 2008) and a reduction in proceeds from the exercise of employee stock options.

Free cash flow: To supplement our statements of cash flows presented on a GAAP basis, we use non-GAAP measures of cash flows on a trailing 4-quarter basis to analyze cash flows generated from our operations. We believe free cash flow is also useful as one of the bases for comparing our performance with our competitors. The presentation of non-GAAP free cash flow is not meant to be considered in isolation or as an alternative to net income as an indicator of our performance, or as an alternative to cash flows from operating activities as a measure of liquidity. We calculate free cash flows as follows:

(Dollars in millions)	Trailing 4-Quarters Ended November 30,		
	2008	Change	2007
Cash provided by operating activities	\$ 8,089	16%	\$ 6,957
Capital expenditures ⁽¹⁾	(486)	32%	(369)
Free cash flow	\$ 7,603	15%	\$ 6,588
Net income	\$ 5,750		\$ 4,781
Free cash flow as a percent of net income	132%		138%

⁽¹⁾ Represents capital expenditures as reported in cash flows from investing activities in our condensed consolidated statements of cash flows presented in accordance with U.S. generally accepted accounting principles.

Table of Contents***Long-Term Customer Financing***

We offer certain of our customers the option to acquire our software products and service offerings through separate long-term payment contracts. We generally sell contracts that we have financed on a non-recourse basis to financial institutions. We record the transfers of amounts due from customers to financial institutions as sales of financial assets because we are considered to have surrendered control of these financial assets. In the first half of fiscal 2009 and 2008, \$442 million and \$317 million, respectively, or approximately 15% and 11%, respectively, of our new software license revenues were financed through our financing division.

Contractual Obligations

The contractual obligations presented in the table below represent our estimates of future payments under fixed contractual obligations and commitments. Changes in our business needs, cancellation provisions, changing interest rates and other factors may result in actual payments differing from these estimates. We cannot provide certainty regarding the timing and amounts of payments. We have presented below a summary of the most significant assumptions used in our information within the context of our consolidated financial position, results of operations and cash flows. The following is a summary of our contractual obligations as of November 30, 2008:

(Dollars in millions)	Total	Year Ending May 31,						
		2009	2010	2011	2012	2013	2014	Thereafter
Principal payments on borrowings ⁽¹⁾	\$ 11,250	\$ 1,000	\$ 1,000	\$ 2,250	\$	\$ 1,250	\$	\$ 5,750
Capital leases ⁽²⁾	3	2	1					
Interest payments on borrowings ⁽¹⁾	5,206	299	552	506	392	392	330	2,735
Operating leases ⁽³⁾	1,400	205	354	261	190	127	75	188
Purchase obligations ⁽⁴⁾	371	282	67	5	2	3	3	9
Funding commitments ⁽⁵⁾	3	3						
Total contractual obligations	\$ 18,233	\$ 1,791	\$ 1,974	\$ 3,022	\$ 584	\$ 1,772	\$ 408	\$ 8,682

⁽¹⁾ Our borrowings (excluding capital leases) consist of the following as of November 30, 2008:

	Principal Balance
Floating rate senior notes due May 2009	\$ 1,000
Floating rate senior notes due May 2010	1,000
5.00% senior notes due January 2011, net of discount of \$4	2,246
4.95% senior notes due April 2013	1,250
5.25% senior notes due January 2016, net of discount of \$8	1,992
5.75% senior notes due April 2018, net of discount of \$1	2,499
6.50% senior notes due April 2038, net of discount of \$2	1,248

Total borrowings	\$	11,235
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Our floating rate senior notes due May 2009 and May 2010 bore interest at a rate of 2.15% and 2.19%, respectively, as of November 30, 2008. In fiscal 2008, we entered into two interest rate swap agreements that have the economic effect of modifying the variable interest obligations associated with our floating rate senior notes due May 2009 and May 2010 so that the interest payable on the senior notes effectively became fixed at a rate of 4.62% and 4.59%, respectively. Interest payments were calculated based on terms of the related agreements and include estimates based on the effective interest rates as of November 30, 2008 for variable rate borrowings after consideration of the aforementioned interest rate swap agreements.

- (2) Represents remaining payments under capital leases assumed from acquisitions.
- (3) Primarily represents leases of facilities and includes future minimum rent payments for facilities that we have vacated pursuant to our restructuring and merger integration activities. We have approximately \$272 million in facility obligations, net of estimated sublease income, in accrued restructuring for these locations in our condensed consolidated balance sheet at November 30, 2008.
- (4) Represents amounts associated with agreements that are enforceable, legally binding and specify terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the payment.
- (5) Represents the maximum additional capital we may need to contribute toward our venture fund investments, which are payable upon demand.

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Excluded from the table above are agreements that we entered into during fiscal 2009 in which we agreed to acquire certain companies but, as of November 30, 2008, had not yet closed these transactions. We expect these transactions, which were not significant individually or in the aggregate, to close during the third quarter of fiscal 2009.

As of November 30, 2008, we have \$1.7 billion of unrecognized tax benefits recorded on our condensed consolidated balance sheet. We have reached certain settlement agreements with relevant taxing authorities to pay approximately \$68 million of these liabilities (these amounts have been excluded from the table above due to the uncertainty of when they might be settled). Although it remains unclear as to when payments pursuant to these agreements will be made, some or all may be made in fiscal 2009. We cannot make a reasonably reliable estimate of the period in which the remainder of our unrecognized tax benefits will be settled or released with the relevant tax authorities, although we believe it is reasonably possible that certain of these liabilities could be settled or released during fiscal 2009.

We believe that our current cash, cash equivalents and marketable securities and cash generated from operations will be sufficient to meet our working capital, capital expenditures and contractual obligations. In addition, we believe we could fund our acquisitions, including the aforementioned acquisitions that we expect to close during the third quarter of fiscal 2009, and repurchase common stock with our internally available cash, cash equivalents and marketable securities, cash generated from operations, our existing available debt capacity, additional borrowings or from the issuance of additional securities.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to investors.

Stock Options

Our stock option program is a key component of the compensation package we provide to attract and retain certain of our talented employees and align their interests with the interests of existing stockholders. We recognize that options dilute existing stockholders and have sought to control the number of options granted while providing competitive compensation packages. Consistent with these dual goals, our cumulative potential dilution since June 1, 2005 has been a weighted average annualized rate of 1.5% per year. The potential dilution percentage is calculated as the average annualized new options granted and assumed, net of options forfeited by employees leaving the company, divided by the weighted average outstanding shares during the calculation period. This maximum potential dilution will only result if all options are exercised. Some of these options, which have 10 year exercise periods, have exercise prices substantially higher than the current market price of our common stock. At November 30, 2008, 55% of our outstanding stock options had exercise prices in excess of the current market price. Consistent with our historical practices, we do not expect that dilution from future grants before the effect of our stock repurchase program will exceed 2.0% per year for our ongoing business. In recent years, our stock repurchase program has more than offset the dilutive effect of our stock option program; however, we may reduce the level of our stock repurchases in the future as we may use our available cash for acquisitions, to repay indebtedness or for other purposes. At November 30, 2008, the maximum potential dilution from all outstanding and unexercised option awards, regardless of when granted and regardless of whether vested or unvested and including options where the strike price is higher than the current market price, was 8.0%.

The Compensation Committee of the Board of Directors reviews and approves the organization-wide stock option grants to selected employees, all stock option grants to executive officers and any individual stock option grants in excess of 100,000 shares. A separate Plan Committee, which is an executive officer committee, approves individual

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stock option grants up to 100,000 shares to non-executive officers and employees. Stock option activity from June 1, 2005 through November 30, 2008 is summarized as follows (shares in millions):

Options outstanding at May 31, 2005	469
Options granted	257
Options assumed	143
Options exercised	(362)
Forfeitures and cancellations	(101)
Options outstanding at November 30, 2008	406
Average annualized options granted and assumed, net of forfeitures	76
Average annualized stock repurchases	176
Shares outstanding at November 30, 2008	5,046
Basic weighted average shares outstanding from June 1, 2005 through November 30, 2008	5,163
Options outstanding as a percent of shares outstanding at November 30, 2008	8.0%
In the money options outstanding (based on our November 30, 2008 stock price) as a percent of shares outstanding at November 30, 2008	3.6%
Weighted average annualized options granted and assumed, net of forfeitures and before stock repurchases, as a percent of weighted average shares outstanding from June 1, 2005 through November 30, 2008	1.5%
Weighted average annualized options granted and assumed, net of forfeitures and after stock repurchases, as a percent of weighted average shares outstanding from June 1, 2005 through November 30, 2008	-1.9%

Our Compensation Committee approves the annual organization-wide option grants to certain key employees. These annual option grants are made during the ten business day period following the second trading day after the announcement of our fiscal fourth quarter earnings report. During the first half of fiscal 2009, we made our annual grant of stock options on July 3, 2008 and made or assumed other grants totaling 67 million shares, which were partially offset by forfeitures of 5 million shares.

Recent Accounting Pronouncements

For information with respect to recent accounting pronouncements and the impact of these pronouncements on our consolidated financial statements, see Note 1 of Notes to Condensed Consolidated Financial Statements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

During the first half of fiscal 2009, there were no significant changes to our quantitative and qualitative disclosures about market risk. Please refer to Part II, Item 7A. Quantitative and Qualitative Disclosures about Market Risk included in our Annual Report on Form 10-K for our fiscal year ended May 31, 2008 for a more complete discussion of the market risks we encounter.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures. Our Chief Executive Officer and our Chief Financial Officer, after evaluating the effectiveness of our disclosure controls and procedures (as defined in the Securities Exchange Act of 1934 (Exchange Act) Rules 13a-15(e) or 15d-15(e)) as of the end of the period covered by this quarterly report, have concluded that our disclosure controls and procedures are effective based on their evaluation of these controls

and procedures required by paragraph (b) of Exchange Act Rules 13a-15 or 15d-15.

Changes in Internal Control over Financial Reporting. There were no changes in our internal control over financial reporting that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls. Our management, including our Chief Executive Officer and Chief Financial Officer, believes that our disclosure controls and procedures and internal control over financial reporting are effective at the reasonable assurance level. However, our management does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and all

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fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

The material set forth in Note 12 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 of this quarterly report on Form 10-Q is incorporated herein by reference.

Item 1A. Risk Factors

The effects of the recent global economic crisis may impact our business, operating results or financial condition.

The recent global economic crisis has caused a general tightening in the credit markets, lower levels of liquidity, increases in the rates of default and bankruptcy, and extreme volatility in credit, equity and fixed income markets. These macroeconomic developments could negatively affect our business, operating results or financial condition in a number of ways. For example, current or potential customers may be unable to fund software purchases, which could cause them to delay, decrease or cancel purchases of our products and services or to not pay us or to delay paying us for previously purchased products and services. In some financial markets, institutions may decrease or discontinue their purchase of the long-term customer financing contracts that we have traditionally sold on a non-recourse basis. As a result, we may hold more of these contracts ourselves or require more customers to purchase our products and services on a cash basis. In addition, financial institution failures may cause us to incur increased expenses or make it more difficult either to utilize our existing debt capacity or otherwise obtain financing for our operations, investing activities (including the financing of any future acquisitions), or financing activities (including the timing and amount of any repurchases of our common stock or debt we may make in the future). Finally, our investment portfolio, which includes short-term debt securities, is generally subject to general credit, liquidity, counterparty, market and interest rate risks that may be exacerbated by the recent global financial crisis. If the banking system or the fixed income, credit or equity markets continue to deteriorate or remain volatile, our investment portfolio may be impacted and the values and liquidity of our investments could be adversely affected.

In addition to the above and other information set forth in this report, you should carefully consider the factors discussed in Part I, Item 1A. Risk Factors in our Annual Report on Form 10-K for our fiscal year ended May 31, 2008. The risks discussed in our Annual Report on Form 10-K could materially affect our business, financial condition and future results. The risks described in our Annual Report on Form 10-K are not the only risks facing us. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially and adversely affect our business, financial condition or operating results.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Our Board of Directors has approved a program to repurchase shares of our common stock to reduce the dilutive effect of our stock option and stock purchase plans and to repurchase shares opportunistically. On October 20, 2008 we announced that our Board of Directors had approved the expansion of our repurchase program by \$8.0 billion

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and as of November 30, 2008, approximately \$7.7 billion was available for share repurchases pursuant to our stock repurchase program.

Our stock repurchase authorization does not have an expiration date and the pace of our repurchase activity will depend on factors such as our working capital needs, our cash requirements for acquisitions, our debt repayment obligations or repurchases of our debt, our stock price, and economic and market conditions. Our stock repurchases may be effected from time to time through open market purchases or pursuant to a Rule 10b5-1 plan. Our stock repurchase program may be accelerated, suspended, delayed or discontinued at any time.

The following table summarizes the stock repurchase activity for the three months ended November 30, 2008 and the approximate dollar value of shares that may yet be purchased pursuant to our stock repurchase programs:

		Total Number of Shares		Average Price Paid	Total Number of Shares Purchased as Part of Publicly Announced Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Programs
(in millions, except per share amounts)		Purchased		Per Share		
September 1, 2008	September 30, 2008	8.6	\$	19.79	8.6	\$ 1,540.4
October 1, 2008	October 31, 2008	27.7	\$	17.00	27.7	\$ 9,068.8
November 1, 2008	November 30, 2008	81.1	\$	16.69	81.1	\$ 7,713.4
Total		117.4	\$	16.99	117.4	

Item 4. Submission of Matters to a Vote of Security Holders

Set forth is information concerning each matter submitted to a vote at the Annual Meeting of Stockholders on October 10, 2008.

Proposal No. 1: The stockholders elected each of the following persons as a director to hold office until the 2009 Annual Meeting of Stockholders or until earlier retirement, resignation or removal.

Director's Name	Votes For (in millions)	Votes Withheld (in millions)
Jeffrey O. Henley	4,623	86
Lawrence J. Ellison	4,579	130
Donald L. Lucas	4,435	274
Michael J. Boskin	4,609	99
Jack F. Kemp	4,612	97
Jeffrey S. Berg	3,685	1,024
Safra A. Catz	4,624	85

Hector Garcia-Molina	3,811	898
H. Raymond Bingham	4,655	54
Charles E. Phillips, Jr.	4,603	106
Naomi O. Seligman	3,824	885
George H. Conrades	4,584	125
Bruce R. Chizen	4,655	54

Proposal No. 2: The stockholders approved the adoption of Oracle's Fiscal Year 2009 Executive Bonus Plan with 3,843 million affirmative votes, 821 million negative votes and 46 million votes abstaining.

Proposal No. 3: The stockholders ratified the appointment of Ernst & Young LLP as Oracle's independent registered public accounting firm for the fiscal year ended May 31, 2009 with 4,669 million affirmative votes, 8 million negative votes and 32 million votes abstaining.

Proposal No. 4: The stockholders voted against a stockholder proposal to adopt a policy that provides stockholders the opportunity at each annual stockholder meeting to vote on a non-binding, advisory resolution proposed by management to ratify the compensation of the named executive officers set forth in the Company's proxy statement

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Summary Compensation Table and accompanying narrative disclosure with 1,184 million affirmative votes, 2,692 million negative votes, 168 million votes abstaining and 665 million broker non-votes.

Item 6. Exhibits

Exhibit Number	Exhibit Title
10.24 ⁽¹⁾	Description of the Fiscal Year 2009 Executive Bonus Plan
31.01	Certification Pursuant to Section 302 of the Sarbanes-Oxley Act Lawrence J. Ellison
31.02	Certification Pursuant to Section 302 of the Sarbanes-Oxley Act Jeff Epstein
32.01	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act

⁽¹⁾ Incorporated by reference to Oracle Corporation's current report on Form 8-K filed on October 16, 2008.

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SIGNATURES

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

ORACLE CORPORATION

Date: December 22, 2008

By: /s/ Jeff Epstein

Jeff Epstein
Executive Vice President and
Chief Financial Officer

Date: December 22, 2008

By: /s/ William Corey West

William Corey West
Senior Vice President, Corporate Controller and Chief
Accounting Officer