

JACK IN THE BOX INC /NEW/

Form 10-K/A

January 04, 2011

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K/A
Amendment No. 1**

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

**FOR THE FISCAL YEAR ENDED OCTOBER 3, 2010
COMMISSION FILE NUMBER 1-9390
JACK IN THE BOX INC.**

(Exact name of registrant as specified in its charter)

Delaware

95-2698708

(State of Incorporation)

(I.R.S. Employer Identification No.)

9330 Balboa Avenue, San Diego, CA

92123

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code (858) 571-2121

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

Title of each class
Common Stock, \$0.01 par value

Name of each exchange on which registered
NASDAQ

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

Indicate by check mark whether the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes ☐ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.

Yes ☐ No ☐

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☐ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 and Regulations S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes ☐ No ☐

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

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

Large accelerated
filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Smaller reporting
company ☐

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

The aggregate market value of the common stock held by non-affiliates of the registrant, computed by reference to the closing price reported in the NASDAQ Composite Transactions as of April 11, 2010, was approximately \$1,302.3 million.

Number of shares of common stock, \$0.01 par value, outstanding as of the close of business November 18, 2010 52,904,990.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement to be filed with the Securities and Exchange Commission in connection with the 2011 Annual Meeting of Stockholders are incorporated by reference into Part III hereof.

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**Amendment No. 1 to the Annual Report on Form 10-K
For the Year Ended October 3, 2010
EXPLANATORY NOTE**

Jack in the Box Inc. is filing this amendment to Form 10-K for the fiscal year ended October 3, 2010, as filed with the Securities and Exchange Commission on November 24, 2010 (the Original Filing). The purpose of the filing of this Amendment is solely to (1) correct the total number of company-owned and company-leased restaurant buildings noted in a table within Item 2. Properties and (2) correct the 2006 and 2007 selling, general and administrative expense rates noted in the table under Item 6. Selected Financial Data.

Except as described above, no other changes have been made to the Original Filing and this Form 10K/A does not amend, update or change the financial statements or any other items or disclosures in the Original Filing.

In addition, we have filed the following exhibits herewith:

- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
 - 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
 - 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
 - 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
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The following table sets forth information regarding our Jack in the Box and Qdoba restaurant properties as of October 3, 2010:

| | Company- Operated | Franchised | Total |
|--|------------------------------|-------------------|--------------|
| Company-owned restaurant buildings: | | | |
| On company-owned land | 101 | 131 | 232 |
| On leased land | 312 | 330 | 642 |
| Subtotal | 413 | 461 | 874 |
| Company-leased restaurant buildings on leased land | 731 | 637 | 1,368 |
| Franchise directly-owned or directly-leased restaurant buildings | | 489 | 489 |
| Total restaurant buildings | 1,144 | 1,587 | 2,731 |

Our leases generally provide for fixed rental payments (with cost-of-living index adjustments) plus real estate taxes, insurance and other expenses. In addition, less than 20% of the leases provide for contingent rental payments between 1% and 11% of the restaurant's gross sales once certain thresholds are met. We have generally been able to renew our restaurant leases as they expire at then-current market rates. The remaining terms of ground leases range from approximately one year to 58 years, including optional renewal periods. The remaining lease terms of our other leases range from approximately one year to 47 years, including optional renewal periods. At October 3, 2010, our restaurant leases had initial terms expiring as follows:

| Fiscal Year | Number of Restaurants | |
|--------------------|------------------------------|---|
| | Ground Leases | Land and Building Leases |
| 2011 - 2015 | 157 | 377 |
| 2016 - 2020 | 176 | 580 |
| 2021 - 2025 | 176 | 306 |
| 2026 and later | 133 | 105 |

Our principal executive offices are located in San Diego, California in an owned facility of approximately 150,000 square feet. We also own our 70,000 square foot Innovation Center and approximately four acres of undeveloped land directly adjacent to it. Qdoba's corporate support center is located in a leased facility in Wheat Ridge, Colorado. We also lease seven distribution centers, with remaining terms ranging from seven to 15 years, including optional renewal periods.

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Our fiscal year is 52 or 53 weeks, ending the Sunday closest to September 30. All years presented include 52 weeks, except for 2010 which includes 53 weeks. The selected financial data reflects Quick Stuff as discontinued operations for fiscal years 2006 through 2009. The following selected financial data of Jack in the Box Inc. for each fiscal year was extracted or derived from our audited financial statements.

| | 2010 | 2009 | Fiscal Year 2008 | 2007 | 2006 |
|--|---------------------------------------|--------------|---------------------|--------------|--------------|
| | (in thousands, except per share data) | | | | |
| Statements of Earnings Data: | | | | | |
| Total revenues | \$ 2,297,531 | \$ 2,471,096 | \$ 2,539,561 | \$ 2,513,431 | \$ 2,381,244 |
| Total operating costs and expenses | 2,230,609 | 2,318,470 | 2,390,022 | 2,334,526 | 2,244,383 |
| Gains on the sale of company-operated restaurants, net | (54,988) | (78,642) | (66,349) | (38,091) | (40,464) |
| Total operating costs and expenses, net | 2,175,621 | 2,239,828 | 2,323,673 | 2,296,435 | 2,203,919 |
| Earnings from operations | 121,910 | 231,268 | 215,888 | 216,996 | 177,325 |
| Interest expense, net | 15,894 | 20,767 | 27,428 | 23,335 | 12,056 |
| Income taxes | 35,806 | 79,455 | 70,251 | 68,982 | 58,845 |
| Earnings from continuing operations | \$ 70,210 | \$ 131,046 | \$ 118,209 | \$ 124,679 | \$ 106,424 |
| Earnings per Share and Share Data: | | | | | |
| Earnings per share from continuing operations: | | | | | |
| Basic | \$ 1.27 | \$ 2.31 | \$ 2.03 | \$ 1.91 | \$ 1.52 |
| Diluted | \$ 1.26 | \$ 2.27 | \$ 1.99 | \$ 1.85 | \$ 1.48 |
| Weighted-average shares outstanding Diluted (1) | 55,843 | 57,733 | 59,445 | 67,263 | 71,834 |
| Market price at year-end | \$ 21.47 | \$ 20.07 | \$ 22.06 | \$ 32.42 | \$ 26.09 |
| Other Operating Data: | | | | | |
| Jack in the Box restaurants: | | | | | |
| Company-operated average unit volume (3) | \$ 1,297 | \$ 1,420 | \$ 1,439 | \$ 1,430 | \$ 1,358 |
| Change in company-operated same-store sales (4) | (8.6)% | (1.2)% | 0.2% | 6.1% | 4.8% |
| Change in franchise-operated same-store sales (4) | (7.8)% | (1.3)% | 0.1% | 5.3% | 3.5% |
| Change in system same-store sales (4) | (8.2)% | (1.3)% | 0.2% | 5.8% | 4.5% |
| Qdoba restaurants: | | | | | |
| | \$ 923 | \$ 905 | \$ 946 | \$ 953 | \$ 933 |

System average unit volume

(3)

Change in system same-store

sales (4)

2.8%

(2.3)%

1.6%

4.6%

5.9%

SG&A rate

10.6%

10.5%

10.4%

10.8%

11.8%

Capital expenditures related to

continuing operations

\$ 95,610

\$ 153,500

\$ 178,605

\$ 148,508

\$ 135,022

Balance Sheet Data (at end of period):

Total assets

\$ 1,407,092

\$ 1,455,910

\$ 1,498,418

\$ 1,374,690

\$ 1,513,499

Long-term debt

352,630

357,270

516,250

427,516

254,231

Stockholders' equity (2)

520,463

524,489

457,111

409,585

706,633

- (1) Weighted-average shares reflect the impact of common stock repurchases under Board-approved programs.
- (2) Fiscal 2007 includes a reduction in stockholders' equity of \$363.4 million related to shares repurchased and retired during the year.
- (3) 2010 average unit volume is adjusted to exclude the 53rd week for the purpose of comparison to prior years.
- (4) Same-store sales, sales growth and average unit volume presented on a system-wide basis include company and franchise restaurants. Franchise sales represent sales at all franchise restaurants and are revenues to our franchisees. We do not record franchise sales as revenues; however, our royalty revenues are calculated based on a percentage of franchise sales. We believe franchise and system sales growth information is useful to investors as a significant indicator of the overall strength of our business as it incorporates our significant revenue drivers which are company and franchise same-store sales as well as net unit development. Company, franchise and system same-store sales growth includes the results of all restaurants that have been open more than one year.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

JACK IN THE BOX INC.

By: /S/ JERRY P. REBEL

Jerry P. Rebel

Executive Vice President and Chief Financial
Officer

(principal financial officer)

(Duly Authorized Signatory)

Date: January 4, 2011