

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 24, 2021



LivaNova PLC

(Exact Name of Registrant as Specified in its Charter)

England and Wales
(State or Other Jurisdiction
of Incorporation)

001-37599
(Commission
File Number)

98-1268150
(IRS Employer
Identification No.)

20 Eastbourne Terrace
London, W2 6LG
United Kingdom
(Address of Principal Executive Offices)

+44 20 33250660
(Registrant's Telephone Number, Including Area Code)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions 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))

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

Title of each class	Trading Symbol(s)	Name on each exchange on which registered
Ordinary Shares - £1.00 par value per share	LIVN	NASDAQ Global Market

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 1.01 Entry into a Material Definitive Agreement

Amendment to Senior Secured Term Loan Facility

On February 24, 2021 LivaNova USA, Inc., as borrower (in such capacity, the “Borrower”), and LivaNova PLC, as holdings (in such capacity, “Holdings”), entered into an amendment (the “Amendment”) to the credit agreement, dated June 10, 2020 (the “Credit Agreement” and, as amended, the “Amended Credit Agreement”) with Ares Capital Corporation, as administrative agent and collateral agent (the “Agent”), and the other lenders from time to time parties thereto (the “Lenders”).

Pursuant to the Amendment, the definition of “Consolidated EBITDA” is amended to add back a non-cash reserve or accrual in an amount not to exceed \$43,000,000 as a loss contingency liability as required under GAAP in connection with the clean-up of a hazardous waste storage site and contaminated areas located in Saluggia, Italy, solely in the case of the periods ending December 31, 2020, March 31, 2021, June 30, 2021 and September 30, 2021.

The Amendment also provides for LivaNova, Inc. and CardiacAssist, Inc., subsidiaries of LivaNova USA, Inc., to be additional borrowers under the Credit Agreement and for ACF Finco I LP to replace Ares Capital Corporation as administrative agent and collateral agent to the Credit Agreement.

The Amended Credit Agreement is governed by New York law.

The foregoing is a summary only and does not purport to be a complete description of all of the terms, provisions, covenants, and agreements contained in the Amended Credit Agreement, and is subject to and qualified in its entirety by reference to the full text of the Amended Credit Agreement, which is filed as Exhibit 10.1 hereto.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 above is incorporated by reference into this Item 2.03.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

<u>Exhibit</u>	<u>Description</u>
10.1	<u>Amended Credit Agreement among LivaNova USA, Inc., LivaNova, Inc. and CardiacAssist, Inc., as Borrowers, LivaNova PLC, as Holdings, and ACF Finco I LP, as Agent, dated as of February 24, 2021.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

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.

LivaNova PLC

Date: February 24, 2021

By: /s/ Keyna Skeffington

Name: Keyna Skeffington

Title: Senior Vice President & General Counsel

AMENDMENT NO. 2 to CREDIT AGREEMENT

THIS AMENDMENT NO. 2 TO CREDIT AGREEMENT (this "Agreement") is entered into as of February 24, 2021 by and among LIVANOVA USA INC., a Delaware corporation (the "Borrower"), LIVANOVA PLC, a company incorporated under the laws of England and Wales ("Holdings"), the Lenders party hereto and ARES CAPITAL CORPORATION, a Maryland Corporation, as administrative agent (in such capacity, the "Administrative Agent").

WITNESSETH:

WHEREAS, the Borrower, Holdings, the Administrative Agent and the Lenders are parties to that certain Credit Agreement dated as of June 10, 2020 (as amended, restated, supplemented or modified prior to the date hereof, the "Existing Credit Agreement", and as amended by this Agreement, and as may be further amended, restated, supplemented, or modified, the "Credit Agreement"); unless otherwise defined herein, capitalized terms used herein shall have the respective meanings assigned to such terms in the Credit Agreement, as amended by this Agreement; and

WHEREAS, the Borrower, Holdings, the Administrative Agent and each of the Lenders signatory hereto, constituting not less than the Required Lenders, desire to amend the Credit Agreement, subject to the terms and conditions set forth herein, as more fully set forth below.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties agree as follows:

1. Amendments to the Existing Credit Agreement. The Existing Credit Agreement is hereby amended as follows:

a. by deleting clause (xi) of the definition of "Consolidated EBITDA" and replacing it in its entirety as follows:

"(xi) non-cash reserve or accrual in an amount not to exceed \$43,000,000 as a loss contingency liability as required by GAAP per ASC 450 in connection with the clean-up of a hazardous waste storage site and contaminated areas located in Saluggia Italy, solely in the case of the periods ending December 31, 2020, March 31, 2021, June 30, 2021 and September 30, 2021, it being understood no amount shall be added pursuant to this clause (xi) to the extent duplicative of any such reserves or accruals that are included in clauses (xii) below;"

2. Conditions. The effectiveness of the amendments set forth in Section 1, of this Agreement are subject to the satisfaction of the following conditions precedent:

a. Agreement. The Administrative Agent shall have received a copy of this Agreement in form and substance reasonably satisfactory to the Administrative Agent, executed and delivered by each of the parties hereto.

b. *Revolving Credit Amendment.* The Administrative Agent shall have received a copy of the amendment to the Revolving Credit Agreement in form and substance reasonably satisfactory to the Administrative Agent, executed and delivered by each of the parties hereto.

c. *Representations and Warranties.* As of the date hereof, the representations and warranties contained in Section 3 below shall, after giving effect to this Agreement and the transactions contemplated hereby, be true and correct.

d. *Payment of Other Fees and Expenses.* All costs, fees, expenses (including, without limitation, reasonable, documented, out-of-pocket legal fees) and other compensation payable to the Administrative Agent in connection with this Agreement or any other Loan Document shall have been paid (or shall be paid concurrently with the effectiveness of this Agreement).

3. Representations and Warranties. Each of Borrower and Holdings, on behalf of itself and the other Loan Parties, hereby represents and warrants to the Administrative Agent and each Lender as follows:

a. the execution, delivery and performance by each of the Loan Parties of this Agreement have been duly authorized by all necessary organizational action, and do not and will not:

1. contravene the terms of any of that Person's Organizational Documents;

2. conflict with or result in any breach or contravention of, or result in the creation of any Lien under, any document evidencing any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; or

3. violate any Requirement of Law in any respect, except, as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

b. such Loan Party has the power and authority to execute, deliver and perform its obligations under this Agreement and the Credit Agreement, as modified hereby;

c. this Agreement constitutes the legal, valid and binding obligations of each such Person which is a party hereto, enforceable against such Person in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability;

d. immediately after giving effect to this Agreement and the transactions contemplated hereby, each of the representations and warranties contained in the Credit Agreement and the other Loan Documents is true and correct in all material respects (without duplication of any materiality qualifier contained therein) on and as of the date hereof as if made on the date hereof (except for (i) representations and warranties that speak as of a specific date, which shall be true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such specific date and (ii) the representations and warranties under Section 4.9 (last sentence) and 4.29 of the Credit Agreement, which shall be true and correct in all material respect as of the Closing Date);

e. after giving effect to this Agreement and the transactions contemplated hereby, no Default or Event of Default exists or would result therefrom; and

4. No Modification. Except as expressly set forth herein, nothing contained herein shall be deemed to constitute a waiver of compliance with any term or condition contained in the Credit Agreement or any of the other Loan Documents or constitute a course of conduct or dealing among the parties. Except as expressly stated herein, the Administrative Agent and Lenders reserve all rights, privileges and remedies under the Loan Documents. Except as amended hereby, the Credit Agreement and other Loan Documents remain unmodified and in full force and effect. All references in the Loan Documents to the Credit Agreement shall be deemed to be references to the Credit Agreement, as modified hereby. This Agreement shall constitute a Loan Document.

5. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic mail (in “.pdf” or similar format) shall be effective as delivery of a manually executed counterpart hereof. The words “execution,” “execute”, “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; *provided* that notwithstanding anything contained herein to the contrary no Agent is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by such Agent pursuant to procedures approved by it.

6. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that none of the Loan Parties may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Administrative Agent and each Lender.

7. **GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.**

8. Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9. Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement as of the date set forth above.

LIVANOVA USA, INC.,
a Delaware corporation

By: /s/ Damien McDonald
Name: Damien McDonald
Title: Vice President

LIVANOVA PLC,
a company incorporated under the laws of England and Wales

By: Damien McDonald
Name: Damien McDonald
Title: CEO

[Signature Page to Amendment No. 2]

ADMINISTRATIVE AGENT AND REQUIRED LENDER:

ARES CAPITAL CORPORATION, as the Administrative Agent and a
Required Lender

By: /s/ Scott Lem

Name: Scott Lem

Title: Authorized Signatory

[Signature Page to Amendment No. 2]

REQUIRED LENDERS:
CION ARES DIVERSIFIED CREDIT FUND

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

ARES JASPER FUND, L.P.,
By: Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

ARES CSIDF HOLDINGS, LLC,
By: Ares Capital Management LLC, as a servicer

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

**ARES SENIOR DIRECT LENDING MASTER FUND DESIGNATED
ACTIVITY COMPANY**,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory
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ARES SENIOR DIRECT LENDING PARALLEL FUND (L), L.P.,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

ARES SENIOR DIRECT LENDING PARALLEL FUND (U), L.P.,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

ARES SDL HOLDINGS (U) INC.,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

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ARES SFERS HOLDINGS LLC,
By: Ares Capital Management LLC, its servicer

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

CHIMNEY TOPS LOAN FUND, LLC,
By: Ares Capital Management LLC, its servicer

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

AC AMERICAN FIXED INCOME IV, L.P.,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

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AO MIDDLE MARKET CREDIT FINANCING L.P.,
By: AO Middle Market Credit Financing GP Ltd., its general partner

By: /s/ K. Patel
Name: K. Patel
Title: Director

By: /s/ Jeremy Ehrlich
Name: Jeremy Ehrlich
Title: Director

NATIONWIDE LIFE INSURANCE COMPANY,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

NATIONWIDE MUTUAL INSURANCE COMPANY,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

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GREAT AMERICAN INSURANCE COMPANY,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

GREAT AMERICAN LIFE INSURANCE COMPANY,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

BLUE EAGLE 2019-1, LTD.,
By: Global Atlantic Financial Company, its collateral manager
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory
[Signature Page to Amendment No. 2]

BOWHEAD IMC LP,
By: Ares Capital Management LLC, its investment manager

By: /s/ Scott Lem
Name: Scott Lem
Title: Authorized Signatory

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AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.

By: /s/ Eyal Karsh
Name: Eyal Karsh
Title: Authorized Signer

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CDPQ REVENU FIXE VIII INC.

By: /s/ Thomas Cockburn

Name: Thomas Cockburn

Title: Senior Director, Corporate Credit

By: /s/ Jerome Marquis

Name: Jerome Marquis

Title: Managing Director, Head of Corporate Credit
[Signature Page to Amendment No. 2]

**BELUGA IMC TRUSTEE INC., as a trustee for BELUGA IMC INV
TRUST**

By: /s/ Kenton Freitag
Name: Kenton Freitag
Title: Vice President

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