SODEXHO ALLIANCE SA
Form S-8
November 30, 2004

As filed with the Securities and Exchange Commission on November 30, 2004

Registration No. 333-______

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

SODEXHO ALLIANCE, SA

(Exact name of Registrant as specified in its charter)

REPUBLIC OF FRANCE	**Not applicable**
(State or Other jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

3, avenue Newton
78180 Montigny-le-Bretonneux
FRANCE
011-33-1-30-85-75-00
(Address of principal executive offices)

Sodexho Alliance January 2004 Stock Option Plan A
Sodexho Alliance January 20, 2004 Stock Option Plan B
Sodexho Alliance January 20, 2004 Stock Option Plan C

(Full Title of the Plan)

Robert A. Stern, Esq.
Senior Vice President and General Counsel
Sodexho, Inc.
9801 Washingtonian Boulevard
Gaithersburg, Maryland 20878
301-987-4000
(Telephone Number, Including Area Code, of Agent For Service)
With copies to:

Jean McLoughlin, Esq. **Davis Polk & Wardwell** **450 Lexington Avenue** **New York, NY 10017** **212-450-4000**	**Siân Herbert-Jones** **Chief Financial Officer** **Sodexho Alliance, SA** **3, avenue Newton** **78180 Montigny-le-Bretonneux** **FRANCE** **011-33-1-30-85-75-00**

CALCULATION OF REGISTRATION FEE

Title of Each Class Of Securities to be Registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Ordinary Shares, par value Euro 4 each, of Sodexho Alliance, SA(1)	1,009,683(2)	$32.59(3)	$32,905,568.97(3)	$4,169.15

(1) The ordinary shares being registered hereby with respect to Sodexho Alliance January 2004 Stock Option Plan A, Sodexho Alliance January 20, 2004 Stock Option Plan B and Sodexho Alliance January 20, 2004 Stock Option Plan C (collectively, the "Sodexho Alliance Plans") may be represented, in certain cases, by the Registrant's American Depositary Shares, evidenced by American Depositary Receipts. This represents ordinary shares reserved for issuance or which may be purchased pursuant to the options granted to U.S. employees under the Sodexho Alliance Plans.

(2) Plus an additional indeterminate number of shares as may be issuable pursuant to the anti-dilution provisions of the Sodexho Alliance Plans.

(3) Estimated in accordance with Rule 457(h) solely for the purpose of calculating the registration fee of options granted and outstanding, based on a weighted average exercise price of $32.59 (Euro 24.50), which has been computed using the dollar/euro Federal Reserve Bank of New York Noon Buying Rate of U.S. $1.33 per Euro 1.00 on November 29, 2004.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of this Registration Statement on Form S-8 will be sent or given to participants in the Sodexho Alliance Plans as specified under Rule 428(b)(i) under the Securities Act of 1933, as amended (the "Securities Act"). Such documents are not required to be, and are not being, filed by Sodexho Alliance, SA ("Sodexho Alliance" or "Registrant") with the Securities and Exchange Commission (the "Commission"), either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such documents, together with the documents incorporated by reference herein pursuant to Item 3 of Part II of this Registration Statement on Form S-8, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by Sodexho Alliance with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act") are incorporated herein by reference:

(a) The annual report on Form 20-F of Sodexho Alliance for the fiscal year ended August 31, 2004.

(b) All reports filed by Sodexho Alliance pursuant to Section 13(a) or 15(d) of the Exchange Act since August 31, 2004, the end of the fiscal year covered by Sodexho Alliance's Form 20-F referred to in (a).

(c) The description of Sodexho Alliance's ordinary shares, par value Euro 4 each, and American Depositary Receipts evidencing American Depositary Shares, each American Depositary Share representing one ordinary share of Sodexho Alliance, contained in Item (10) of Sodexho Alliance's Form 20-F referred to in (a).

In addition, all documents filed by Sodexho Alliance with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the Registration Statement and to be a part hereof from the date of the filing of such documents.

Any statement contained herein or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes hereof or of the related prospectus to the extent that a statement contained herein or in any other subsequently filed document which is also incorporated or deemed to be incorporated herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Paul, Hastings, Janofsky & Walker (Europe) LLP (Aline Poncelet) is opining on the legality of the shares being registered (see Exhibit 5 hereto) and is regularly employed by Sodexho Alliance as its outside counsel.

Item 6. Indemnification of Directors and Officers.

Sodexho Alliance has provided for the indemnification of its directors and officers with respect to general civil liability which they may incur with their activity on behalf of Sodexho Alliance.

Sodexho Alliance maintains insurance, at its own expense, to protect itself and any director, officer, employee or agent of Sodexho Alliance or of any other entity affiliated with Sodexho Alliance against any civil liability, loss or expense, other than liability arising out of willful misconduct.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	
4(a)	Sodexho Alliance Restated Corporate *Statuts* (English Translation) (incorporated by reference to Exhibit 1 to the registration statement on Form 20-F filed by Sodexho Alliance on March 19, 2002, under the Exchange Act; see File No. 1-31274).
4(b)	Form of Deposit Agreement among Sodexho Alliance, The Bank of New York, as depositary, and the Owners and Holders of American Depositary Receipts (incorporated by reference to Exhibit A filed

pursuant to Item 3 to the Form F-6 filed by Sodexho Alliance on March 21, 2002 under the Exchange Act; see File No. 333-84970).

5	Opinion of Paul, Hastings, Janofsky & Walker (Europe) LLP.
23.1	Consent of Counsel (Included in Exhibit 5).
23.2	Consent of PricewaterhouseCoopers Audit.
24	Powers of Attorney.
99.1	Sodexho Alliance January 2004 Stock Option Plan A.
99.2	Sodexho Alliance January 20, 2004 Stock Option Plan B.
99.3	Sodexho Alliance January 20, 2004 Stock Option Plan C.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrants annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plans annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant, Sodexho Alliance, certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Paris, France, on this 30th day of November, 2004.

Sodexho Alliance, SA

By: /s/ Siân Herbert-Jones

Name: Siân Herbert-Jones
Title: Chief Financial Officer

Signature	Title	Date
* Pierre Bellon	Chairman and Chief Executive Officer	November 30, 2004
* Remi Baudin	Vice Chairman	November 30, 2004

* Astrid Bellon	Member of the Board	November 30, 2004
* Bernard Bellon	Member of the Board	November 30, 2004
* François-Xavier Bellon	Member of the Board	November 30, 2004
* Sophie Clamens	Member of the Board	November 30, 2004
* Paul Jeanbart	Member of the Board	November 30, 2004
* Charles Milhaud	Member of the Board	November 30, 2004
* François Périgot	Member of the Board	November 30, 2004
* Èdouard de Royère	Member of the Board	November 30, 2004
* Nathalie Szabo	Member of the Board	November 30, 2004

Signature	Title	Date
*	Member of the Board	November 30, 2004
H.J. Mark Tompkins		
*	Chief Financial Officer	November 30, 2004
Siân Herbert-Jones		

*By: /s/ Siân Herbert-Jones

Siân Herbert-Jones
Attorney-in-fact

AUTHORIZED REPRESENTATIVE

/s/ Robert A. Stern

Robert A. Stern, as the duly authorized representative of Sodexho Alliance in the United States

Date: November 30, 2004

EXHIBIT INDEX

Exhibit Number	
4(a)	Sodexho Alliance Restated Corporate *Statuts* (English Translation) (incorporated by reference to Exhibit 1 to the registration statement on Form 20-F filed by Sodexho Alliance on March 19, 2002, under the Exchange Act; see File No. 1-31274).
4(b)	Form of Deposit Agreement among Sodexho Alliance, The Bank of New York, as depositary, and the Owners and Holders of American Depositary Receipts (incorporated by reference to Exhibit A filed pursuant to Item 3 to the Form F-6 filed by Sodexho Alliance on March 21, 2002 under the Exchange Act; see File No. 333-84970).
5	Opinion of Paul, Hastings, Janofsky & Walker (Europe) LLP.
23.1	Consent of Counsel (Included in Exhibit 5).
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herit;font-size:10pt;"> primarily as a result of: (i) assets acquired during 2017 and (ii) development and redevelopment projects placed into operations during 2017 and 2018, partially offset by: (i) the deconsolidation of RIDEA II during the first quarter of 2017 and (ii) dispositions of real estate throughout 2017.

General and administrative expenses

General and administrative expenses increased for the three months ended March 31, 2018 primarily as a result of severance and related charges resulting from the departure of our former Executive Chairman in March 2018.

Gain (loss) on sales of real estate, net

During the three months ended March 31, 2018, we sold two SHOP facilities and recognized total net gain on sales of real estate of $21 million. During the three months ended March 31, 2017, we sold 64 senior housing triple-net assets, four life science facilities, and a 40% interest in RIDEA II and recognized total net gain on sales of real estate of $317 million.

Other income (expense), net

Other income (expense), net, decreased for the three months ended March 31, 2018 primarily as a result of: (i) a loss on consolidation of seven U.K. care homes in March 2018 (see Note 15 to the Consolidated Financial Statements for additional information) and (ii) a gain on sale of our Four Seasons Notes in March 2017. The decrease in other income (expense), net was partially offset by the impairment recovery upon sale of our Tandem Mezzanine Loan during the first quarter of 2018.

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Equity income (loss) from unconsolidated joint ventures

The decrease in equity income from unconsolidated joint ventures for the three months ended March 31, 2018 was the result of decreased income primarily from our investments in RIDEA II and the CCRC JV.

Liquidity and Capital Resources

We anticipate that our cash flow from operations, available cash balances and cash from our various financing activities will be adequate for at least the next 12 months for purposes of: (i) funding recurring operating expenses; (ii) meeting debt service requirements; and (iii) satisfying our distributions to our stockholders and non-controlling interest members.

Our principal investing needs for the next 12 months are to:

- fund capital expenditures, including tenant improvements and leasing costs; and
- fund future acquisition, transactional and development activities.

We anticipate satisfying these future investing needs using one or more of the following:

- sale or exchange of ownership interests in properties;
- draws on our credit facilities;
- issuance of additional debt, including unsecured notes and mortgage debt; and/or
- issuance of common or preferred stock.

Access to capital markets impacts our cost of capital and ability to refinance maturing indebtedness, as well as our ability to fund future acquisitions and development through the issuance of additional securities or secured debt. Credit ratings impact our ability to access capital and directly impact our cost of capital as well. For example, our revolving line of credit facility accrues interest at a rate per annum equal to LIBOR plus a margin that depends upon our credit ratings. We also pay a facility fee on the entire revolving commitment that depends upon our credit ratings. At April 30, 2018, we had a credit rating of BBB from Fitch, Baa2 from Moody’s and BBB from S&P Global on our senior unsecured debt securities.

Cash Flow Summary

The following summary discussion of our cash flows is based on the consolidated statements of cash flows and is not meant to be an all-inclusive discussion of the changes in our cash flows for the periods presented below.

The following table sets forth changes in cash flows (in thousands):

	Three Months Ended March 31,		
	2018	2017	Change
Net cash provided by (used in) operating activities	$196,164	$193,129	$ 3,035
Net cash provided by (used in) investing activities	10,728	1,733,763	(1,723,035)
Net cash provided by (used in) financing activities	(171,238)	(1,238,969)	1,067,731

Operating Cash Flows

The decrease in operating cash flow is primarily the result of: (i) decreased NOI related to dispositions during 2017, including the sale of 64 senior housing triple-net assets during the first quarter of 2017 and (ii) a reduction in resident fees and services, partially offset by a reduction in operating expenses, due to the partial sale and deconsolidation of RIDEA II during the first quarter of 2017. The decline in operating cash flow is partially offset by (i) 2017 acquisitions, (ii) annual rent increases, (iii) developments and redevelopments placed in service during 2017 and the first quarter of 2018, and (iv) decreased interest paid as a result of debt repayments during 2017. Our cash flow from operations is dependent upon the occupancy levels of our buildings, rental rates on leases, our tenants’ performance on their lease obligations, the level of operating expenses and other factors.

Investing Cash Flows

The following are significant investing activities for the three months ended March 31, 2018:

- received net proceeds of $163 million primarily from the sale of our Tandem Mezzanine Loan and real estate; and
- made investments of $159 million primarily for the development of real estate.

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The following are significant investing activities for the three months ended March 31, 2017:

- received net proceeds of $1.7 billion from the sale of real estate, including the sale and recapitalization of RIDEA II;
- received net proceeds of $185 million primarily from the sale of our Four Seasons investments and DFL repayment; and
- made investments of $121 million primarily for the development of real estate.

Financing Cash Flows

The following are significant financing activities for the three months ended March 31, 2018:

- made net borrowings of $70 million under our bank line of credit;
- paid $63 million to purchase Brookdale's noncontrolling interest in RIDEA I; and
- paid cash dividends on common stock of $174 million.

The following are significant financing activities for the three months ended March 31, 2017:

- made net repayments of $1.1 billion under our bank line of credit, term loans and mortgage debt; and
- paid dividends on common stock of $174 million.

Debt

See Note 9 in the Consolidated Financial Statements for information about our outstanding debt.

See "2018 Transaction Overview" for further information regarding our significant financing activities through May 3, 2018.

Equity

At March 31, 2018, we had 470 million shares of common stock outstanding, equity totaled $5.5 billion, and our equity securities had a market value of $11.1 billion.

At March 31, 2018, non-managing members held an aggregate of 4 million units in five limited liability companies ("DownREITs") for which we are the managing member. The DownREIT units are exchangeable for an amount of cash approximating the then-current market value of shares of our common stock or, at our option, shares of our common stock (subject to certain adjustments, such as stock splits and reclassifications). At March 31, 2018, the DownREIT units were convertible into 7 million shares of our common stock.

At-The-Market Program

In June 2015, we established an at-the-market program, in connection with the renewal of our shelf registration statement. Under this program, we may sell shares of our common stock from time to time having an aggregate gross sales price of up to $750 million through a consortium of banks acting as sales agents or directly to the banks acting as principals. There was no activity during the three months ended March 31, 2018 and, at March 31, 2018, $676 million of our common stock remained available for sale under the at-the-market program. Actual future sales will depend upon a variety of factors, including but not limited to market conditions, the trading price of our common stock and our capital needs. We have no obligation to sell the remaining shares available for sale under our program.

Shelf Registration

We filed a prospectus with the SEC as part of a registration statement on Form S-3ASR, using a shelf registration process. Our current shelf registration statement expires in June 2018, at which time we expect to file a new shelf registration statement. Under the "shelf" process, we may sell any combination of the securities described in the prospectus through one or more offerings. The securities described in the prospectus include common stock, preferred stock, depositary shares, debt securities and warrants.

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Off-Balance Sheet Arrangements

We own interests in certain unconsolidated JVs as described in Note 7 to the Consolidated Financial Statements. Except in limited circumstances, our risk of loss is limited to our investment in the JV and any outstanding loans receivable. In addition, we have certain properties which serve as collateral for debt that is owed by a previous owner of certain of our facilities. Our risk of loss for these certain properties is limited to the outstanding debt balance plus penalties, if any. We have no other material off-balance sheet arrangements that we expect would materially affect our liquidity and capital resources except for commitments and operating leases included in our Annual Report on Form 10-K for the year ended December 31, 2017 in "Contractual Obligations" under "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations."

Non-GAAP Financial Measures Reconciliations

The following is a reconciliation from net income (loss) applicable to common shares, the most directly comparable financial measure calculated and presented in accordance with GAAP, to FFO, FFO as adjusted and FAD (in thousands, except per share data):

	Three Months Ended March 31, 2018			2017		
Net income (loss) applicable to common shares	$	39,841		$	460,375	
Real estate related depreciation and amortization	143,250			136,554		
Real estate related depreciation and amortization on unconsolidated joint ventures	17,388			15,039		
Real estate related depreciation and amortization on noncontrolling interests and other	(2,543		)	(3,972		)
Other depreciation and amortization	1,296			3,010		
Loss (gain) on sales of real estate, net	(20,815		)	(317,258		)
Loss (gain) upon consolidation of real estate, net[1]	41,017			—		
Taxes associated with real estate dispositions[2]	—			(5,499		)
FFO applicable to common shares	219,434			288,249		
Distributions on dilutive convertible units	—			2,803		
Diluted FFO applicable to common shares	$	219,434		$	291,052	
	469,695			475,173		

Weighted average shares outstanding - diluted FFO						
Impact of adjustments to FFO:						
Transaction-related items	$	1,942		$	1,057	
Other impairments (recoveries), net[3]	(3,298		)	(50,895		)
Severance and related charges[4]	8,738			—		
Litigation costs	406			1,838		
Foreign currency remeasurement losses (gains)	130			(77		)
Total adjustments	$	7,918		$	(48,077	)
FFO as adjusted applicable to common shares	$	227,352		$	240,172	
Distributions on dilutive convertible units and other	1,711			2,877		
Diluted FFO as adjusted applicable to common shares	$	229,063		$	243,049	
Weighted average shares outstanding - diluted FFO as adjusted	474,363			475,173		

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	Three Months Ended March 31,	
	2018	2017
FFO as adjusted applicable to common shares	$227,352	$240,172
Amortization of deferred compensation(5)	3,420	3,765
Amortization of deferred financing costs	3,336	3,858
Straight-line rents	(10,686)	(7,396)
FAD capital expenditures(6)	(19,118)	(22,077)
Lease restructure payments	299	540
CCRC entrance fees(7)	3,027	3,649
Deferred income taxes	(2,140)	(2,374)
Other FAD adjustments	(3,754)	(1,582)
FAD applicable to common shares	201,736	218,555
Distributions on dilutive convertible units	—	2,803
Diluted FAD applicable to common shares	$201,736	$221,358

	Three Months Ended March 31,	
	2018	2017
Diluted earnings per common share	$0.08	$0.97
Depreciation and amortization	0.34	0.32
Loss (gain) on sales of real estate, net	(0.04)	(0.67)
Loss (gain) upon consolidation of real estate, net(1)	0.09	—
Taxes associated with real estate dispositions(2)	—	(0.01)
Diluted FFO per common share	$0.47	$0.61
Other impairments (recoveries), net(3)	(0.01)	(0.10)
Severance and related charges(4)	0.02	—
Diluted FFO as adjusted per common share	$0.48	$0.51

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(1) For the three months ended March 31, 2018, represents the loss on consolidation of seven U.K. care homes.

(2) For the three months ended March 31, 2017, represents income tax benefit associated with the disposition of real estate assets in our RIDEA II transaction.

(3) For the three months ended March 31, 2018, represents the impairment recovery upon sale of our Tandem Health Care mezzanine loan ("Tandem Mezzanine Loan") in March 2018. For the three months ended March 31, 2017, represents the impairment recovery upon the sale of our Four Seasons Health Care senior notes in the first quarter of 2017.

(4) For the three months ended March 31, 2018, relates to the departure of our former Executive Chairman, including $6 million of cash severance and $3 million of equity award vestings.

(5) Excludes $3 million related to the acceleration of deferred compensation for restricted stock units that vested upon the departure of our former Executive Chairman, which is included in severance and related charges for the three months ended March 31, 2018.

(6) Excludes our share of recurring capital expenditures, leasing costs, and tenant and capital improvements from unconsolidated joint ventures (reported in "Other FAD adjustments").

(7) Represents our 49% share of non-refundable entrance fees as the fees are collected by our CCRC JV, net of reserves and CCRC JV entrance fee amortization.

For a reconciliation of NOI and Adjusted NOI to net income (loss), refer to Note 12 to the Consolidated Financial Statements. For a reconciliation of SPP NOI and Adjusted NOI to total portfolio NOI and Adjusted NOI by segment, refer to the analysis of each segment in “Results of Operations” above.

Critical Accounting Policies

The preparation of financial statements in conformity with U.S. GAAP requires our management to use judgment in the application of accounting policies, including making estimates and assumptions. We base estimates on the best information available to us at the time, our experience and on various other assumptions believed to be reasonable under the circumstances. These estimates affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting periods. If our judgment or interpretation of the facts and circumstances relating to various transactions or other matters had been different, it is possible that different accounting would have been applied, resulting in a different presentation of our consolidated financial statements. From time to time, we re-evaluate our estimates and assumptions. In the event estimates or assumptions prove to be different from actual results, adjustments are made in subsequent periods to reflect more current estimates and assumptions about matters that are inherently uncertain. A summary of our critical accounting policies is included in our Annual Report on Form 10-K for the year ended December 31, 2017

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in “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations” and Note 2 to the Consolidated Financial Statements. There have been no significant changes to our critical accounting policies during 2018.

Recent Accounting Pronouncements

See Note 2 to the Consolidated Financial Statements for the impact of new accounting standards.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to various market risks, including the potential loss arising from adverse changes in interest rates and foreign currency exchange rates, specifically the British pound sterling (“GBP”). We use derivative financial instruments in the normal course of business to mitigate interest rate and foreign currency risk. We do not use derivative financial instruments for speculative or trading purposes. Derivatives are recorded on the consolidated balance sheets at fair value (see Note 18 to the Consolidated Financial Statements).

To illustrate the effect of movements in the interest rate and foreign currency markets, we performed a market sensitivity analysis on our hedging instruments. We applied various basis point spreads to the underlying interest rate curves and foreign currency exchange rates of the derivative portfolio in order to determine the change in fair value. Assuming a one percentage point change in the underlying interest rate curve, the estimated change in fair value of each of the underlying derivative instruments would not exceed $2 million. Assuming a one percentage point change in the underlying foreign currency exchange rates, the estimated change in fair value of each of the underlying derivative instruments would not exceed $2 million.

Interest Rate Risk. At March 31, 2018, our exposure to interest rate risk is primarily on our variable rate debt. At March 31, 2018, $43 million of our variable-rate debt was hedged by interest rate swap transactions. The interest rate swaps are designated as cash flow hedges, with the objective of managing the exposure to interest rate risk by converting the interest rates on our variable-rate debt to fixed interest rates.

Interest rate fluctuations will generally not affect our future earnings or cash flows on our fixed rate debt and assets until their maturity or earlier prepayment and refinancing. If interest rates have risen at the time we seek to refinance our fixed rate debt, whether at maturity or otherwise, our future earnings and cash flows could be adversely affected by additional borrowing costs. Conversely, lower interest rates at the time of refinancing may reduce our overall borrowing costs. However, interest rate changes will affect the fair value of our fixed rate instruments. A one percentage point increase or decrease in interest rates would change the fair value of our fixed rate debt by approximately $278 million and $340 million, respectively, and would not materially impact earnings or cash flows. Conversely, changes in interest rates on variable rate debt and investments would change our future earnings and cash flows, but not materially impact the fair value of those instruments. Assuming a one percentage point increase in the interest rate related to the variable-rate debt and variable-rate investments, and assuming no other changes in the outstanding balance at March 31, 2018, our annual interest expense and interest income would increase by approximately $13 million and $1 million, respectively.

Foreign Currency Risk. At March 31, 2018, our exposure to foreign currencies primarily relates to U.K. investments in leased real estate, loans receivables and related GBP denominated cash flows. Our foreign currency exposure is partially mitigated through the use of GBP-denominated borrowings and a foreign currency swap contract. Based solely on our operating results for the three months ended March 31, 2018, including the impact of existing hedging arrangements, if the value of the GBP relative to the U.S. dollar were to increase or decrease by 10% compared to the average exchange rate during the quarter ended March 31, 2018, our cash flows would have decreased or increased, as applicable, by less than $1 million.

Market Risk. We have investments in marketable debt securities classified as held-to-maturity because we have the positive intent and ability to hold the securities to maturity. Held-to-maturity securities are recorded at amortized cost and adjusted for the amortization of premiums and discounts through maturity. We consider a variety of factors in evaluating an other-than-temporary decline in value, such as: the length of time and the extent to which the market value has been less than our current adjusted carrying value; the issuer’s financial condition, capital strength and near-term prospects; any recent events specific to that issuer and economic conditions of its industry; and our investment horizon in relationship to an anticipated near-term recovery in the market value, if any. At March 31, 2018, both the fair value and carrying value of marketable debt securities was $19 million.

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Item 4. Controls and Procedures

Disclosure Controls and Procedures. We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer), to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by Rules 13a-15(b) and 15d-15(b) of the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer), of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31, 2018. Based upon that evaluation, our Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer) concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of March 31, 2018.

Changes in Internal Control Over Financial Reporting. There were no changes in our internal control over financial reporting (as such term as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter to which this report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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PART II. OTHER INFORMATION
Item 1. Legal Proceedings
See the “Legal Proceedings” section of Note 10 to the Consolidated Financial Statements for information regarding legal proceedings, which information is incorporated by reference in this Item 1.
Item 1A. Risk Factors
There are no material changes to the risk factors previously disclosed in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2017.
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds
(a)
None.
(b)
None.
(c)
The following table sets forth information with respect to purchases of our common stock made by us or on our behalf during the three months ended March 31, 2018.

Period Covered	Total Number Of Shares Purchased(1)	Average Price Paid Per Share	Total Number Of Shares (Or Units) Purchased As Part Of Publicly Announced Plans Or Programs	Maximum Number (Or Approximate Dollar Value) Of Shares (Or Units) That May Yet Be Purchased Under The Plans Or Programs
January 1-31, 2018	44	$ 23.33	—	—
February 1-28, 2018	83,997	23.30	—	—
March 1-31, 2018	8,572	21.64	—	—
Total	92,613	25.41	—	—

(1) Represents shares of our common stock withheld under our equity incentive plans to offset tax withholding obligations that occur upon vesting of restricted shares. The value of the shares withheld is based on the closing price of our common stock on the last trading day prior to the date the relevant transaction occurs.

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Item 6. Exhibits

2.1	Separation and Distribution Agreement, dated October 31, 2016, by and between HCP and Quality Care Properties, Inc. (incorporated herein by reference to Exhibit 2.1 to HCP's Current Report on Form 8-K filed October 31, 2016).
3.1	Articles of Restatement of HCP, dated June 1, 2012, as supplemented by the Articles Supplementary, dated July 31, 2017 (incorporated herein by reference to Exhibit 3.1 to HCP's Quarterly Report on Form 10-Q filed November 2, 2017).
3.2	Fifth Amended and Restated Bylaws of HCP, as amended through July 27, 2017 (incorporated herein by reference to Exhibit 3.2 to HCP's Quarterly Report on Form 10-Q filed November 2, 2017).
10.1	Amendment No. 1 to HCP, Inc. 2014 Performance Incentive Plan.*
10.2	Form of 2014 Performance Incentive Plan 3-Year LTIP RSU Agreement (adopted 2018).*
10.3	Form of 2014 Performance Incentive Plan Retentive LTIP RSU Agreement (adopted 2018).*
31.1	Certification by Thomas M. Herzog, HCP's Principal Executive Officer, Pursuant to Securities Exchange Act Rule 13a-14(a).*
31.2	Certification by Peter A. Scott, HCP's Principal Financial Officer, Pursuant to Securities Exchange Act Rule 13a-14(a).*
32.1	Certification by Thomas M. Herzog, HCP's Principal Executive Officer, Pursuant to Securities Exchange Act Rule 13a-14(b) and 18 U.S.C. Section 1350.**
32.2	Certification by Peter A. Scott, HCP's Principal Financial Officer, Pursuant to Securities Exchange Act Rule 13a-14(b) and 18 U.S.C. Section 1350.**
101.INS	XBRL Instance Document.*
101.SCH	XBRL Taxonomy Extension Schema Document.*
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.*
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.*
101.LAB	XBRL Taxonomy Extension Labels Linkbase Document.*
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.*

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* Filed herewith.
** Furnished herewith.

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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 thereunto duly authorized.
Date: May 3, 2018 HCP, Inc.

(Registrant)

/s/ THOMAS M. HERZOG
Thomas M. Herzog
President and Chief Executive Officer
(Principal Executive Officer)

/s/ PETER A. SCOTT
Peter A. Scott
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

/s/ SHAWN G. JOHNSTON
Shawn G. Johnston
Senior Vice President and
Chief Accounting Officer
(Principal Accounting Officer)