

# SECURITIES AND EXCHANGE COMMISSION

## FORM 8-K

Current report filing

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### FILER

#### **TMS INC /OK/**

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SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 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): August 5, 2004

TMS, INC.

(Exact name of registrant as specified in its charter)

Oklahoma  
(State or other  
Jurisdiction of  
Incorporation)

0-18250  
(Commission  
File Number)

91-1098155  
(I.R.S. Employer  
Identification No.)

206 West Sixth Avenue  
P.O. Box 1358  
Stillwater, Oklahoma 74074

(405) 377-0880

(Address, including zip code, and telephone numbers, including area code, of  
Principal executive offices)

ITEM 5. OTHER EVENTS AND REGULATION FD DISCLOSURE

On August 5, 2004, we entered into an agreement to sell the assets of our Component Product Technology division to Pegasus Imaging Corporation. The value of the transaction is estimated at \$2.9 million and includes approximately \$2.2 in cash and \$.7 million in assumed liabilities. The terms of the transaction, along with a plan for liquidation of TMS and a cash distribution to shareholders, will be submitted to shareholders for approval within the next thirty to sixty days.

Under the terms of the asset agreement with Pegasus, the final cash purchase price will be based on certain aspects of our financial performance through September 30, 2004 and collection of accounts receivable until the planned liquidation date. Pegasus will also assume liabilities for our non-cancelable office leases, selected employee expenses and customer support and maintenance obligations. We expect the final transaction with Pegasus will close in October 2004 after approval by our shareholders.

Our membership interest in VSC Technologies, LLC, an entity that we formed with Measurement Incorporated in October 2002, is not part of the asset sale to Pegasus, but a sale of such interest is a condition to closing. We expect that our liquidation plan will include sale of our membership interest in the LLC to Measurement Incorporated, however the terms of such sale are still being negotiated. Measurement Incorporated founder Dr. Henry Scherich was a member of the TMS board beginning in June 2003, however he resigned as a director effective July 12, 2004.

Upon approval by our shareholders, we plan to use the cash proceeds from the assets sale to Pegasus Imaging and the sale of our membership interest in the LLC to make a one-time cash distribution to our shareholders upon liquidation. The final cash available for distribution will be net of payments and provisions for certain liabilities, including professional fees and other costs necessary to secure and finalize the asset sales transactions, payments made to satisfy certain of our employee obligations, payments for professional and other costs associated with winding up the affairs of TMS, and final payment of income taxes not covered by our tax operating loss carryforwards. We plan to liquidate by December 31, 2004.

## ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS

### (a) Exhibits

Exhibit	Name of Exhibit
99.1	Press Release of August 12, 2004 titled "TMS Reaches Agreement to Sell Assets of Division to Pegasus Imaging Corporation"

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## PRESS RELEASE

# ***TMS, Inc. Reaches Agreement to Sell Assets of Division to Pegasus Imaging Corporation***

**STILLWATER, OK- August 12, 2004-** TMS, Inc. (OTC Bulletin Board: TMSS), today announced it had reached an agreement to sell the assets of its Component Product Technology division to Pegasus Imaging Corporation. The value of the transaction is estimated at \$2.9 million and includes approximately \$2.2 million in cash and \$.7 million in assumed liabilities. The terms of the transaction, along with a plan for liquidation of TMS and a cash distribution to shareholders, will be submitted to shareholders for approval within the next thirty to sixty days.

“Over the past year, the board of directors and management of TMS carefully evaluated various economic factors associated with continuing to operate as a publicly held company relative to our current size and the growth potential of our existing products and services,” said Debbie Mosier, TMS president. “We currently estimate that nine percent of our revenue is used to cover the costs of being publicly held and that those costs will only continue to increase as more provisions of the Sarbanes-Oxley Act of 2002 go into effect,” continued Mosier.

“As a result of our review of the economic and operational factors, the board of directors and management engaged in a formal process to evaluate various strategic alternatives for the Company. These alternatives included: continuing to operate and attempt to grow the revenue, reducing expenses, raising additional capital to expand operations, ‘going private,’ and sale of the Company or a sale of some or all of its assets. Based on that process, we determined it was in the best interest of TMS shareholders to sell the Company or substantially all its assets and began the process of looking for potential buyers. We are very pleased to have reached an agreement with Pegasus that we believe is fair and in the best interest of the shareholders.”

Under the terms of the asset agreement with Pegasus, the final cash purchase price, currently estimated at \$2.2 million, will be based on certain aspects of TMS’ financial performance through September 30, 2004 and collection of accounts receivable until the planned liquidation date. Pegasus will also assume approximately \$700,000 in liabilities for non-cancelable office leases, selected employee expenses and customer support and maintenance obligations. TMS expects the final transaction with Pegasus to close in October 2004 after approval by TMS shareholders.

**Interest in VSC Technologies, LLC.**

TMS retains its interest in VSC Technologies, LLC, an entity that it formed with Measurement Incorporated (“MI”) in October 2002 to jointly develop the Virtual Scoring Center™ image-based scoring system (“VSC®”), however, reaching an acceptable agreement to sell its interest is a condition to closing the Pegasus transaction. TMS is currently negotiating the sale of its membership interest in the LLC to MI. Measurement Incorporated plans to use the VSC® system, which is still under development, to capture and score tests in its own operations. MI founder Dr. Henry Scherich was a member of the TMS board beginning in June 2003, however he resigned as a director effective July 12, 2004.

Upon approval by its shareholders, TMS plans to use the cash proceeds from Pegasus Imaging and sale of its interest in VSC Technologies, LLC to make a one-time cash distribution to its shareholders upon liquidation. The final cash available for distribution will be net of payments and provisions for liabilities of the Company, including professional fees and other costs necessary to secure and finalize the asset sales transactions, payments made to satisfy certain TMS employee obligations, payments for professional and other costs associated with winding up the affairs of the company, and final payment of income taxes not covered by the Company’s tax operating loss carryforwards. TMS plans to liquidate by December 31, 2004.

### **About Measurement Incorporated**

Measurement Incorporated is an employee-owned corporation that contracts with state departments of education, other educational agencies, and private businesses to develop and score educational tests. Founded in Durham, North Carolina in 1980 by Henry Scherich, Ph.D., Measurement Incorporated specializes in the development and hand scoring of essay exams and open-ended performance test items at all educational levels. For more information about Measurement Incorporated or its products, visit the website at <http://www.measinc.com> or call 1-919-683-2413.

### **About Pegasus Imaging Corporation**

Founded in 1991 and headquartered in Tampa, Florida, Pegasus Imaging Corporation delivers digital imaging software development components, image compression and image editing technologies. Technology is delivered as Microsoft .NET controls, COM controls, VCL’s and DLL’s. The company provides solutions for medical imaging, document imaging, color/photo imaging, video applications and more. Multiple platforms are supported, including Windows, Linux, Solaris, IBM AIX and Mac. For more information about Pegasus Imaging Corporation or its products, visit the website at <http://www.jpg.com> or call 1-813-875-7575.

### **About TMS, Inc.**

TMS, Inc. is a publicly held technology company that provides image viewing, image enhancement and forms processing applications, software developer tools and custom programming for businesses worldwide. Founded in 1981 and based in Stillwater, Oklahoma, the company has shipped its document imaging software to more than 1,800,000 users worldwide. For more information about TMS and its products, visit the website at <http://www.tmsinc.com> or call 1-405-377-0880.

VSC and Virtual Scoring Center are trademarks or registered trademarks of VSC Technologies, LLC. All other trademarks are the property of their respective owners.

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