

METABASIS THERAPEUTICS INC  
Form SC TO-I  
December 09, 2008

As filed with the Securities and Exchange Commission on December 9, 2008

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE TO**

(Rule 13e-4)

**Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)**  
**of the Securities Exchange Act of 1934**

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**METABASIS THERAPEUTICS, INC.**

(Name of Subject Company (Issuer) and Filing Person (Offeror))

**Options to Purchase Common Stock, \$0.001 Par Value Per Share,**  
**With an Exercise Price Equal to or Greater Than \$1.50 Per Share**

(Title of Class of Securities)

59101M105

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(CUSIP Number of Class of Securities (Underlying Common Stock))

**Paul K. Laikind, Ph.D.**

**President, Chief Executive Officer and Interim Chief Financial Officer**

**Metabasis Therapeutics, Inc.**

**11119 North Torrey Pines Road**

**La Jolla, California 92037**

**(858) 587-2770**

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing person)

Copies to:

**Frederick T. Muto, Esq.**

**Jason L. Kent, Esq.**

**Cooley Godward Kronish LLP**

**4401 Eastgate Mall**

**San Diego, California 92121**

**(858) 550-6000**

**CALCULATION OF FILING FEE**

**Transaction Valuation\***  
**\$866,663**

**Amount of Filing Fee\*\***  
**\$34.06**

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\* Estimated solely for purposes of calculating the amount of the filing fee. The calculation of the transaction valuation assumes that all option grants to purchase the issuer's common stock that are eligible for exchange will be exchanged for new option grants and cancelled pursuant to this offer. These option grants cover 2,848,093 shares of the issuer's Common Stock and have a value of \$866,663, calculated using the Black-Scholes method, as of December 5, 2008.

\*\* The amount of the filing fee, calculated in accordance with Rule 0-11(b) of the Securities Exchange Act of 1934, as amended, equals \$39.30 per million of the aggregate amount of the transaction value. The transaction valuation set forth above was calculated for the sole purpose of determining the filing fee, and should not be used for any other purpose.

- Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: Not applicable.  
Form or Registration No.: Not applicable.

Filing Party: Not applicable.  
Date Filed: Not applicable.

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- Third-party tender offer subject to Rule 14d-1.

- Issuer tender offer subject to Rule 13e-4.

- Going-private transaction subject to Rule 13e-3.

- Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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**ITEM 1. SUMMARY TERM SHEET.**

The information set forth in the Offer to Exchange Outstanding Options To Purchase Common Stock, filed as Exhibit 99.(a)(1)(A) hereto (the *Offer to Exchange* ), under the section entitled *Summary Term Sheet* is incorporated into this Item 1 by reference.

**ITEM 2. SUBJECT COMPANY INFORMATION.**

(a) **Name and Address.** The name of the issuer is Metabasis Therapeutics, Inc., a Delaware corporation ( *Metabasis* ), the address of its principal executive office is 11119 North Torrey Pines Road, La Jolla, California, 92037 and the telephone number of its principal executive office is (858) 587-2770. The information set forth in the Offer to Exchange under Section 16 *Information About Us* is incorporated into this Item 2(a) by reference.

(b) **Securities.** This Tender Offer Statement on Schedule TO relates to the Offer to Exchange, pursuant to which Metabasis is offering certain option holders the opportunity to exchange outstanding options to purchase shares of Metabasis common stock, par value \$0.001 per share, that were originally granted under Metabasis Amended and Restated 2001 Equity Incentive Plan (the 2001 Plan ) and that have an exercise price that is equal to or greater than \$1.50 per share, for replacement options to purchase shares of Metabasis common stock to be granted under the 2001 Plan. As of December 5, 2008, options to purchase approximately 2,848,093 shares of Metabasis common stock were eligible for exchange in the Offer (as defined in the Offer to Exchange). Metabasis is making the Offer upon the terms and subject to the conditions described in the Offer to Exchange. The information set forth in the Offer to Exchange under the section entitled *Summary Term Sheet* and under Section 1 *Number of Options; Expiration Date* is incorporated into this Item 2(b) by reference.

(c) **Trading Market and Price.** The information set forth in the Offer to Exchange under Section 7 *Price Range of Common Stock* is incorporated into this Item 2(c) by reference.

**ITEM 3. IDENTITY AND BACKGROUND OF FILING PERSON.**

(a) **Name and Address.** The filing person is the subject company, Metabasis Therapeutics, Inc. The information set forth under Item 2(a) above is incorporated into this Item 3(a) by reference. The information set forth in the Offer to Exchange under Schedule A *Information About our Directors and Executive Officers* is incorporated into this Item 3(a) by reference.

**ITEM 4. TERMS OF THE TRANSACTION.**

(a) **Material Terms.** The information set forth in the Offer to Exchange under the sections entitled *Offer to Exchange Outstanding Options and Summary Term Sheet* and Section 1 *Number of Options; Expiration Date*, Section 3 *Procedures*, Section 4 *Change in Election*, Section 5 *Acceptance of Eligible Option Grants for Exchange and Cancellation and Issuance of Replacement Options*, Section 6 *Conditions of the Offer*, Section 8 *Exchange Ratio*, Section 9 *Source and Amount of Consideration; Terms of Replacement Options*, Section 11 *Status of Eligible Option Grants Acquired by us in the Offer*, Section 12 *Legal Matters; Regulatory Approvals*, Section 13 *Material U.S. Federal Income Tax Consequences*, Section 14 *Extension of the Offer; Termination; Amendment*, and the section entitled *Stock Option Exchange Questions and Answers* is incorporated into this Item 4(a) by reference.

(b) **Purchases.** The information set forth in the Offer to Exchange under Section 10 *Interests of Directors and Officers; Transactions and Arrangements Involving the Eligible Option Grants* is incorporated into this Item 4(b) by reference.

**ITEM 5. PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS.**

(e) **Agreements Involving the Subject Company's Securities.** The information set forth in the Offer to Exchange under Section 1 *Number of Options; Expiration Date*, Section 9 *Source and Amount of Consideration; Terms of Replacement Options* and Section 10 *Interests of Directors and Officers; Transactions and Arrangements Involving the Eligible Option Grants* is incorporated into this Item 5(e) by reference. The 2001 Plan and the Form of Stock Option Agreement pursuant to the 2001 Plan, filed as Exhibit 99.(d)(1), are incorporated into this Item 5(e) by reference.

**ITEM 6. PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS.**

(a) **Purposes.** The information set forth in the Offer to Exchange under Section 2 *Purpose of the Offer* is incorporated into this Item 6(a) by reference.

(b) **Use of Securities Acquired.** The information set forth in the Offer to Exchange under Section 5 *Acceptance of Eligible Option Grants for Exchange and Cancellation and Issuance of Replacement Options* and Section 11 *Status of Eligible Option Grants Acquired by us in the Offer* is incorporated into this Item 6(b) by reference.

(c) **Plans.** The information set forth in the Offer to Exchange under Section 2 *Purpose of the Offer*, Section 16 *Information About Us* and Section 17 *Additional Information* is incorporated into this Item 6(c) by reference.

**ITEM 7. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.**

(a) **Source of Funds.** The information set forth in the Offer to Exchange under Section 1 *Number of Options; Expiration Date*, Section 9 *Source and Amount of Consideration; Terms of Replacement Options* and Section 15 *Fees and Expenses* is incorporated into this Item 7(a) by reference.

(b) **Conditions.** The information set forth in the Offer to Exchange under Section 6 *Conditions of the Offer* is incorporated into this Item 7(b) by reference.

(d) **Borrowed Funds.** Not applicable.

**ITEM 8. INTEREST IN THE SECURITIES OF THE SUBJECT COMPANY.**

(a) **Securities Ownership.** The information set forth in the Offer to Exchange under Section 10 *Interests of Directors and Officers; Transactions and Arrangements Involving the Eligible Option Grants* is incorporated into this Item 8(a) by reference.

(b) **Securities Transactions.** The information set forth in the Offer to Exchange under Section 10 *Interests of Directors and Officers; Transactions and Arrangements Involving the Eligible Option Grants* is incorporated into this Item 8(b) by reference.

**ITEM 9. PERSONS/ASSETS, RETAINED, EMPLOYED, COMPENSATED OR USED.**

(a) **Solicitations or Recommendations.** The information set forth in the Offer to Exchange in the section entitled *Offer to Exchange Outstanding Options - Important* and Section 15 *Fees and Expenses* is incorporated into this Item 9(a) by reference.

**ITEM 10. FINANCIAL STATEMENTS.**

(a) **Financial Information.** The information set forth in Item 8 *Financial Statements and Supplementary Data* of Metabasis Annual Report on Form 10-K for its fiscal year ended December 31, 2007, filed with the Securities and Exchange Commission (the *SEC*) on March 17, 2008 and the information set forth in Item 1 *Financial Statements* of Metabasis Quarterly Reports on Form 10-Q for its fiscal quarters ended March 31, 2008, June 30, 2008 and September 30, 2008, filed with the SEC on May 2, 2008, August 11, 2008 and November 10, 2008, respectively, is incorporated into this Item 10(a) by reference. The information set forth in the Offer to Exchange under Section 16 *Information About Us* and Section 17 *Additional Information* is incorporated into this Item 10(a) by reference. Metabasis Annual Report on Form 10-K and Quarterly Reports on Form 10-Q can also be accessed electronically on the SEC's website at <http://www.sec.gov>.

(b) **Pro Forma Financial Information.** Not applicable.

**ITEM 11. ADDITIONAL INFORMATION.**

**(a) Agreements, Regulatory Requirements and Legal Proceedings.**

(1) The information set forth in the Offer to Exchange under Section 10 *Interests of Directors and Officers; Transactions and Arrangements Involving the Eligible Option Grants* is incorporated into this Item 11(a)(1) by reference.

(2) The information set forth in the Offer to Exchange under Section 12 *Legal Matters; Regulatory Approvals* is incorporated into this Item 11(a)(2) by reference.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.

**(b) Other Material Information.** Not applicable.



**ITEM 12. EXHIBITS.**

<b>Exhibit Number</b>	<b>Description</b>
99.(a)(1)(A)	Offer to Exchange Outstanding Options to Purchase Common Stock, dated December 8, 2008.
99.(a)(1)(B)	Form of Election Form.
99.(a)(1)(C)	Form of Notice of Withdrawal.
99.(a)(1)(D)	Form of Confirmation of Receipt of Election Form.
99.(a)(1)(E)	Form of Confirmation of Receipt of Notice of Withdrawal.
99.(a)(1)(F)	Form of E-Mail Reminder of Expiration Date.
99.(a)(1)(G)	E-Mail dated December 2, 2008 from Paul K. Laikind Ph.D. to holders of Eligible Option Grants, filed with the SEC on Schedule TO-C on December 3, 2008 and incorporated herein by reference.
99.(a)(1)(H)	E-Mail dated December 8, 2008 from Metabasis stock administration department to holders of Eligible Option Grants.
99.(a)(1)(I)	Powerpoint presentation to employees explaining the Offer, as presented to employees on December 9, 2008.
99.(a)(1)(J)	Annual Report on Form 10-K for the fiscal year ended December 31, 2007, filed with the SEC on March 17, 2008 and incorporated herein by reference.
99.(a)(1)(K)	Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2008, filed with the SEC on May 2, 2008 and incorporated herein by reference.
99.(a)(1)(L)	Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2008, filed with the SEC on August 11, 2008 and incorporated herein by reference.
99.(a)(1)(M)	Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2008, filed with the SEC on November 10, 2008 and incorporated herein by reference.
99.(a)(2)	not applicable.
99.(a)(3)	not applicable.
99.(a)(4)	not applicable.
99.(a)(5)	not applicable.
99.(b)	not applicable.
99.(d)(1)	Metabasis Therapeutics, Inc. Amended and Restated 2001 Equity Incentive Plan and Form of Stock Option Agreement thereunder, filed as Exhibit 10.2 to Metabasis Annual Report on Form 10-K, filed with the SEC on March 13, 2007 and incorporated herein by reference.
99.(g)	not applicable.
99.(h)	not applicable.

**ITEM 13. INFORMATION REQUIRED BY SCHEDULE 13E-3.**

Not applicable.

**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: December 8, 2008

**METABASIS THERAPEUTICS, INC.**

By: /s/ Paul K. Laikind  
Paul K. Laikind, Ph.D.  
President, Chief Executive Officer and  
Interim Chief Financial Officer

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