

SYMS CORP
Form 10-Q
October 05, 2007

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 10-Q

(Mark One)

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

for the quarterly period ended **September 1, 2007**

OR

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

for the transition period from _____ to _____

Commission File Number 1-8546

SYMS CORP

(Exact Name of Registrant as Specified in Its Charter)

NEW JERSEY

(State or Other Jurisdiction of
Incorporation or Organization)

22-2465228

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

Syms Way, Secaucus, New Jersey

(Address of Principal Executive Offices)

07094

(Zip Code)

(201) 902-9600

(Registrant's Telephone Number, Including Area Code)

Not applicable

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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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 is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check One):

Large Accelerated Filer Accelerated Filer Non-Accelerated Filer

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

Yes No

At September 25, 2007 the latest practicable date, there were 14,681,179 shares outstanding of Common Stock, par value \$0.05 per share.

SYMS CORP AND SUBSIDIARIES
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Condensed Consolidated Balance Sheets

(In thousands except per share amounts)

	September 1, 2007 (Unaudited)	March 3, 2007 (NOTE)	August 26, 2006 (Unaudited)
ASSETS			
Current Assets			
Cash and cash equivalents	\$ 17,475	\$ 27,912	\$ 37,543
Receivables	2,007	1,726	2,323
Merchandise inventories - Net	65,766	63,809	68,846
Deferred income taxes	3,092	3,092	6,325
Assets held for sale	5,576	1,780	-
Prepaid expenses and other current assets	4,267	5,054	3,559
TOTAL CURRENT ASSETS	98,183	103,373	118,596
PROPERTY AND EQUIPMENT - Net	99,141	104,323	105,784
DEFERRED INCOME TAXES	12,557	12,557	5,511
OTHER ASSETS	20,454	19,306	19,083
TOTAL ASSETS	\$ 230,335	\$ 239,559	\$ 248,974
LIABILITIES AND SHAREHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accounts payable	\$ 29,839	\$ 21,678	\$ 30,150
Accrued expenses	3,045	10,141	8,119
Accrued insurance	132	165	273
Obligations to customers	3,991	3,958	3,614
TOTAL CURRENT LIABILITIES	37,007	35,942	42,156
OTHER LONG TERM LIABILITIES	1,363	1,548	1,740
COMMITMENTS AND CONTINGENCIES			
SHAREHOLDERS' EQUITY			
Preferred stock, par value \$100 per share. Authorized 1,000 shares; none outstanding	-	-	-
Common stock, par value \$0.05 per share. Authorized 30,000 shares; 14,681 shares outstanding (net of 3,987 treasury shares) on September 1, 2007; 14,701 shares outstanding as of March 3, 2007 (net of 3,968 treasury shares) and 14,404 shares outstanding (net of 3,879 treasury shares) on August 26, 2006	789	789	770
Additional paid-in capital	19,264	19,264	16,810
Treasury stock	(41,669)	(41,383)	(39,625)
Retained earnings	213,581	223,399	227,123
TOTAL SHAREHOLDERS' EQUITY	191,965	202,069	205,078
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	\$ 230,335	\$ 239,559	\$ 248,974

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NOTE: The balance sheet at March 3, 2007 has been derived from the audited financial statements at that date but does not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements.

See Notes to Condensed Consolidated Financial Statements

SYMS CORP AND SUBSIDIARIES

Condensed Consolidated Statements of Operations

(In thousands, except per share amounts)

	13 Weeks Ended		26 Weeks Ended	
	September 1, 2007	August 26, 2006	September 1, 2007	August 26, 2006
	(Unaudited)		(Unaudited)	
Net sales	\$ 61,384	\$ 62,683	\$ 128,531	\$ 128,876
Cost of goods sold	38,854	39,498	77,711	77,980
Gross profit	22,530	23,185	50,820	50,896
Expenses:				
Selling, general and administrative	17,850	18,449	36,186	37,139
Advertising	781	1,084	3,595	4,135
Occupancy	4,529	4,653	8,725	9,109
Depreciation and amortization	1,805	2,022	3,784	4,238
Gain on sale of real estate	-	-	-	(10,424)
Asset impairment charge	745	-	745	-
Net income (loss) from operations	(3,180)	(3,023)	(2,215)	6,699
Other income	(151)	(7)	(166)	(167)
Interest income	(278)	(547)	(638)	(991)
Net income (loss) before income taxes	(2,751)	(2,469)	(1,411)	7,857
Provision (benefit) for income taxes	(1,329)	(1,096)	(663)	3,492
Net income (loss)	\$ (1,422)	\$ (1,373)	\$ (748)	\$ 4,365
Net income (loss) per share-basic	\$ (0.10)	\$ (0.09)	\$ (0.05)	\$ 0.30
Weighted average shares outstanding-basic	14,696	14,495	14,698	14,710
Net income (loss) per share-diluted	\$ (0.10)	\$ (0.09)	\$ (0.05)	\$ 0.29
Weighted average shares outstanding- diluted	14,696	14,495	14,698	15,085

See Notes to Condensed Consolidated Financial Statements

SYMS CORP AND SUBSIDIARIES

Condensed Consolidated Statements of Cash Flows

(In thousands)

	26 Weeks Ended	
	September	August 26,
	1,	2006
	2007	(Unaudited)
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	\$ (748)	\$ 4,365
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	3,784	4,238
Asset impairment charge	745	-
Gain on disposal of assets	10	(10,432)
(Increase) decrease in operating assets:		
Receivables	(281)	255
Merchandise inventories	(1,957)	(11,377)
Prepaid expenses and other current assets	787	2,497
Other assets	(1,163)	(1,061)
Increase (decrease) of operating liabilities:		
Accounts payable	8,161	15,234
Accrued expenses	(7,379)	448
Obligations to customers	33	(11)
Other long term liabilities	(185)	220
Net cash provided by operating activities	1,807	4,376
CASH FLOWS FROM INVESTING ACTIVITIES:		
Expenditures for property and equipment	(3,155)	(3,273)
Proceeds from sale of assets	17	16,254
Net cash provided by (used in) investing activities	(3,138)	12,981
CASH FLOWS FROM FINANCING ACTIVITIES:		
Payment of dividends	(8,820)	-
Exercise of options	-	155
Stock repurchase	(286)	(9,976)
Net cash used in financing activities	(9,106)	(9,821)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(10,437)	7,536
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	27,912	30,007
CASH AND CASH EQUIVALENTS, END OF PERIOD	\$ 17,475	\$ 37,543
SUPPLEMENTAL CASH FLOW INFORMATION:		
Cash paid during the period for:		
Interest	\$ 92	\$ 106
Income taxes paid (net of refunds)	\$ 2,260	\$ 2,367

See Notes to Condensed Consolidated Financial Statements

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**Notes to Condensed Consolidated Financial Statements
13 and 26 Weeks Ended September 1, 2007 and August 26, 2006**

(Unaudited)

Note 1 - The Company

Syms Corp (the "Company") operates a chain of 33 "off-price" retail clothing stores located throughout the United States in Northeastern and Middle Atlantic regions and in the Midwest, Southeast and Southwest. Each Syms store offers a broad range of first quality, in season merchandise bearing nationally recognized designer or brand-name labels for men, women and children.

Note 2 - Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the 13-week and 26- week periods ended September 1, 2007 are not necessarily indicative of the results that may be expected for the entire fiscal year ending March 1, 2008. For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's annual report on Form 10-K for the fiscal year ended March 3, 2007.

Note 3 - Accounting Period

The Company's fiscal year ends the Saturday nearest to the end of February. The fiscal year ending March 1, 2008 will be comprised of 52 weeks. The fiscal year ended March 3, 2007 was comprised of 53 weeks.

Note 4 - Merchandise Inventories

Merchandise inventories are stated at the lower of cost (first in, first out) or market, as determined by the retail inventory method.

Note 5 - Bank Credit Facilities

The Company has a revolving credit agreement with a bank for a line of credit not to exceed \$30,000,000 through May 1, 2008. The agreement contains financial covenants, with respect to consolidated tangible net worth, as defined as working capital and maximum capital requirements, including dividends (defined to include cash repurchases of capital stock), as well as other financial ratios. The Company is in compliance with all covenants as of September 1, 2007. Except for funds provided from this revolving credit agreement, the Company has satisfied its operating and capital expenditure requirements, including those for the operations and expansion of stores, from internally generated funds. As of September 1, 2007, March 3, 2007 and August 26, 2006, there were no outstanding borrowings under this agreement. At September 1, 2007, March 3, 2007 and August 26, 2006, the Company had \$795,600, \$955,619 and \$1,391,097 respectively, in outstanding letters of credit under this agreement.

SYMS CORP AND SUBSIDIARIES**Note 6 - Net Income/(Loss) Per Share**

In accordance with SFAS 128, basic net income/(loss) per share has been computed based upon the weighted average common shares outstanding. Diluted net income/(loss) per share gives effect to outstanding stock options.

Net income/(loss) per share has been computed as follows:

	13 Weeks Ended		26 Weeks Ended	
	September 1, 2007	August 26, 2006	September 1, 2007	August 26, 2006
Basic net income (loss) per share:				
Net income (loss)	\$ (1,422)	\$ (1,373)	\$ (748)	\$ 4,365
Average shares outstanding	14,696	14,495	14,698	14,710
Basic net income (loss) per share	\$ (0.10)	\$ (0.09)	\$ (0.05)	\$ 0.30
Diluted net income (loss) per share:				
Net income (loss)	\$ (1,422)	\$ (1,373)	\$ (748)	\$ 4,365
Average shares outstanding	14,696	14,495	14,698	14,710
Stock options	-	-	-	375
Total average equivalent shares	14,696	14,495	14,698	15,085
Diluted net income (loss) per share	\$ (0.10)	\$ (0.09)	\$ (0.05)	\$ 0.29

In periods with losses, options were excluded from the computation of diluted net income per share because the effect would be anti-dilutive.

Options to purchase 329,732 and 716,907 shares of common stock at prices ranging from \$5.21 to \$15.01 per share were outstanding as of September 1, 2007 and August 26, 2006.

Note 7 □ Recent Accounting Pronouncements

In June 2006, the FASB issued Interpretation No. 48 (□FIN 48□), Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109. The objective of this interpretation prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. FIN 48 is effective for the fiscal years beginning after December 15, 2006. This did not have a material impact on the results of operations or financial position of the Company (See Note 9).

In September 2006, the FASB issued SFAS No. 157, □Fair Value Measurements,□ which establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. SFAS No. 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. The adoption of SFAS No. 157 is not expected to have a material impact on the results of operations or the financial position of the Company.

In February 2007, the FASB issued FAS No. 159, □The Fair Value Option for Financial Assets and Financial Liabilities, including an amendment of FASB Statement No. 115,□ which permits entities to choose to measure many financial instruments and certain other items at fair value that are not currently required to be measured at

fair value. SFAS No. 159 also establishes presentation and disclosure requirements designed to facilitate comparisons between entities that choose different measurement attributes for similar types of assets and liabilities. SFAS No. 159 does not affect any existing accounting

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literature that requires certain assets and liabilities to be carried at fair value. SFAS No. 159 is effective for fiscal years beginning after November 15, 2007. The adoption of SFAS No. 159 is not expected to have a material impact on our results of operations or our financial position.

Note 8 □ Accounting for Stock-Based Compensation

The Company's Amended and Restated Stock Option and Appreciation Plan allows for the granting of incentive stock options, as defined in Section 422A of the Internal Revenue Code of 1986 (as amended), non-qualified stock options or stock appreciation rights. The plan requires that incentive stock options be granted at an exercise price not less than the fair market value of the Common Stock on the date the option is granted. The exercise price of the option for holders of more than 10% of the voting rights of the Company must be not less than 110% of the fair market value of the Common Stock on the date of grant. Non-qualified options and stock appreciation rights may be granted at any exercise price. The Company has reserved 1,500,000 shares of common stock for issuance thereunder. The Company is no longer issuing options under its Amended and Restated Incentive Stock Option and Appreciation Plan.

No option or stock appreciation rights may be granted under the Amended and Restated Incentive Stock Option Plan after July 28, 2013. The maximum exercise period for any option or stock appreciation right under the plan is ten years from the date the option is granted (five years for any optionee who holds more than 10% of the voting rights of the Company).

On July 14, 2005, at the annual meeting of shareholders of the Company, the shareholders of the Company approved the 2005 Stock Option Plan (the "2005 Plan"), which 2005 Plan was adopted by the Board of Directors of the Company on April 7, 2005 subject to shareholder approval. The 2005 Plan permits the grant of options, share appreciation rights, restricted shares, restricted share units, performance units, performance shares, cash-based awards and other share-based awards. Key employees, non-employee directors, and third party service providers of the Company who are selected by a committee designated by the Board of Directors of the Company are eligible to participate in the 2005 Plan. The maximum number of shares issuable under the Plan is 850,000, subject to certain adjustments in the event of changes to the Company's capital structure.

The 2005 Plan requires that incentive stock options be granted at an exercise price not less than the fair market value of the Common Stock on the date the option is granted. The exercise price of such options for holders of more than 10% of the voting stock of the Company must be not less than 110% of the fair market value of the Common Stock on the date of grant. The exercise price of non-qualified options and stock appreciation rights must not be less than fair market value.

The maximum exercise period for any option or stock appreciation right under the 2005 Plan is ten years from the date the option is granted (five years for any incentive stock options issued to a person who holds more than 10% of the voting stock of the Company).

The 2005 Plan permits the Company to issue restricted shares, restricted share units, performance units, cash-based awards and other share-based awards with such term and conditions (including applicable vesting conditions) as the Company shall determine, subject to certain terms and conditions set forth in the 2005 Plan.

Effective February 25, 2006, the Company adopted the provisions of FAS No. 123(R), "Share-Based Payment" (FAS123(R)). Under FAS123(R), share-based compensation cost is measured at grant date, based on the estimated fair value of the award, and is recognized as expense over the requisite service period. The Company adopted the provisions of FAS123(R) using a modified prospective application. Under this method, compensation cost is recognized for all share-based payments granted, modified or settled after the date of adoption, as well as for any unvested awards that were granted prior to the date of adoption. Prior periods are not revised for comparative purposes. Because the Company previously adopted only the pro forma disclosure provisions of SFAS 123, it will recognize compensation cost relating to the unvested portion of awards granted prior to the date of adoption using the same estimate of the grant-date fair value and the same attribution method used to determine the pro forma disclosures under SFAS 123, except that forfeitures rates will be estimated for all options, as required by FAS123(R).

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The fair value of each option award is estimated on the date of grant using a Black-Scholes option valuation model. Expected volatility is based on the historical volatility of the price of the Company's stock. The risk-free interest rate is based on U.S. Treasury issues with a term equal to the expected life of the option. The Company uses historical data to estimate expected dividend yield, expected life and forfeiture rates. There were no options granted during the six months ended September 1, 2007, and all options previously issued are fully vested.

Stock option activity during the six months ended September 1, 2007 is as follows:

(In thousands, except per share amounts)

	Number Of options	Weighted Average Exercise Price	Average Remaining Contracted Term (years)	Aggregate Intrinsic Value
Outstanding at March 3, 2007	330	\$11.18	-	-
Options granted	-	-	-	-
Options exercised	-	-	-	-
Options forfeited	-	-	-	-
Options outstanding at September 1, 2007	330	\$11.18	3.15	\$1,718
Options exercisable at September 1, 2007	330	\$11.18	3.15	\$1,718

As of September 1, 2007, there was no total unrecognized stock-based compensation cost related to options granted under our plans that will be recognized in future periods.

Note 9 □ Income Taxes

Effective March 1, 2007, we adopted Financial Accounting Standards Board (FASB) Interpretation No. 48 (Fin No. 48), □Accounting for Uncertainty in Income Taxes□, which clarifies the accounting and disclosure for uncertainty in income taxes. As a result of the adoption, we recorded as a cumulative effect adjustment, a decrease to beginning retained earnings of approximately \$247,000 and increased our accruals for uncertain tax positions and related interest and penalties by a corresponding amount. As of the adoption date, this \$247,000 represents our liability for uncertain tax positions.

The entire \$247,000 would favorably impact our effective tax rate if these liabilities were reversed. We do not expect to pay any of this \$247,000 within the following twelve months.

We recognize interest and, if applicable, penalties, which could be assessed, related to uncertain tax positions in income tax expense. As of the adoption date, the total amount of accrued interest and penalties was \$165,000, before federal and state tax effect. For the quarter ended September 1, 2007, we recorded approximately \$3,420 in interest before federal and state tax effect.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**Special Note Regarding Forward-Looking Statements**

The Quarterly Report (including but not limited to factors discussed below, in the □Management's Discussion and Analysis of Financial Condition and Results of Operations,□ as well as those discussed elsewhere in this Quarterly Report on Form 10-Q) includes forward-looking statements (within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities and Exchange Act of 1934) and information relating to the Company that are based on the beliefs of the management of the Company as well as assumptions made by and information currently available to the management of the Company. When used in this Quarterly Report, the words □anticipate,□ □believe,□ □estimate,□ □expect,□ □intend,□ □plan,□ and similar expressions, as they relate to the Com

or the management of the Company, identify forward-looking statements. Such statements reflect the current views of the Company with

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respect to future events, the outcome of which is subject to certain risks, including among others general economic and market conditions, decreased consumer demand for the Company's products, possible disruptions in the Company's computer or telephone systems, possible work stoppages, or increases in labor costs, effects of competition, possible disruptions or delays in the opening of new stores or inability to obtain suitable sites for new stores, higher than anticipated store closings or relocation costs, higher interest rates, unanticipated increases in merchandise or occupancy costs and other factors which may be outside the Company's control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Subsequent written and oral forward-looking statements attributable to the Company or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph and elsewhere described in this Quarterly Report and other reports filed with the Securities and Exchange Commission.

Critical Accounting Policies and Estimate

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the appropriate application of certain accounting policies, many of which require us to make estimates and assumptions about future events and their impact on amounts reported in the financial statements and related notes. Since future events and their impact cannot be determined with certainty, the actual results will inevitably differ from our estimates. Such differences could be material to the consolidated financial statements.

The Company believes application of accounting policies, and the estimates inherently required by the policies, are reasonable. These accounting policies and estimates are constantly reevaluated, and adjustments are made when facts and circumstances dictate a change. Historically, the Company has found the application of accounting policies to be appropriate, and actual results have not differed materially from those determined using necessary estimates.

The Company's accounting policies are more fully described in Note 1 to the Consolidated Financial Statements, located in the Annual Report on Form 10-K for the fiscal year ended March 3, 2007. The Company has identified certain critical accounting policies that are described below.

Merchandise Inventory – Inventory is stated at the lower of cost of market, FIFO retail method. Inventory cost and the resulting gross margins are calculated by applying a cost to retail ratio between the costs of goods available for sale and the retail value of inventories. The significant estimates used are for markdowns and shrinkage.

Factors considered in the determination of permanent markdowns include current and anticipated demand, customer preferences, age of the merchandise, fashion trends and weather conditions. In addition, inventory is also evaluated against corporate pre-determined historical markdown trends. When a decision is made to permanently markdown merchandise, the resulting gross margin reduction is recognized in the period the markdown is recorded. The timing of the decision, particularly surrounding the balance sheet date, can have a significant effect on the results of operations.

Shrinkage is estimated as a percentage of sales for the period from the date of the last physical inventory to the end of the fiscal year. Physical inventories are taken at least annually for all stores and inventory records are adjusted accordingly. The shrinkage rate from the