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 30, 2020

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: 000-49799

OVERSTOCK.COM, INC.
(Exact name of registrant as specified in its charter)

Delaware	**87-0634302**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
799 West Coliseum Way	
Midvale	
Utah	**84047**
(Address of principal executive offices)	(Zip Code)

(801) 947-3100
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value	OSTK	NASDAQ Global Market

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 has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☐
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. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

42,765,117 shares of the Registrant's common stock, par value $0.0001, outstanding on October 30, 2020.

OVERSTOCK.COM, INC.
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For the Quarterly Period Ended September 30, 2020

Special Cautionary Note Regarding Forward-Looking Statements

This Report on Form 10-Q and the documents incorporated herein by reference, as well as other public documents and statements our officers and representatives may make from time to time, contain forward-looking statements within the meaning of the federal securities laws. These statements are therefore entitled to the protection of the safe harbor provisions of these laws. You can find many of these statements by looking for words such as "may," "would," "could," "should," "will," "expect," "anticipate," "predict," "project," "potential," "continue," "contemplate," "seek," "assume," "believe," "intend," "plan," "forecast," "goal," "estimate," or other similar expressions which identify these forward-looking statements.

These forward-looking statements involve risks and uncertainties and relate to future events or our future financial or operating performance. These forward-looking statements are not historical facts, and are based on current expectations, estimates and projections about our industry and business, and on management's beliefs and certain assumptions made by management, many of which, by their nature, are inherently uncertain and beyond our control. Accordingly, you are cautioned that any such forward-looking statements are not guarantees of future performance and are subject to assumptions, risks and uncertainties that are difficult to predict, and that actual results may be materially different from the results expressed or implied by any of our forward-looking statements.

Actual events or results may differ materially from those contemplated by our forward-looking statements for a variety of reasons, including among others:

- *the impact that the novel coronavirus, or COVID-19, pandemic may have on our business and the industries in which we and our subsidiaries operate;*
- *the impact that any litigation, claims, or regulatory matters could have on our business, financial condition, results of operations, and cash flows;*
- *any increases in the price of importing into the U.S. the types of merchandise we sell in our retail business or other supply chain challenges that limit our access to merchandise we sell in our retail business;*
- *any difficulties we may encounter as a result of our reliance on third-parties that we do not control for the performance of critical functions material to our business;*
- *any inability to convert new customers into repeat customers or maintain increased sales volumes;*
- *any downturn in the U.S. housing industry or other changes in U.S. and global economic conditions or U.S. consumer spending, as a result of the COVID-19 pandemic or otherwise;*
- *our exposure to cyber security risks, risks of data loss and other security breaches;*
- *any strategic transactions, restructurings or other changes we may make to our business;*
- *any challenges that result in the unavailability of our Website or reduced performance of our transaction systems;*
- *the possibility that we are unable to protect our proprietary technology and to obtain trademark protection for our marks;*
- *current claims of intellectual property infringement to which we are subject and additional infringement claims to which we may become subject in the future;*
- *the commercial, competitive, technical, operational, financial, regulatory, legal, reputational, marketing and other obstacles we face in trying to create a profitable business from our blockchain initiatives, including tZERO;*
- *the extensive regulatory regimes applicable to tZERO and the possibility that various tZERO subsidiaries or ventures do not receive the regulatory approval required to operate their anticipated businesses;*
- *any losses or issues we may encounter as a consequence of accepting or holding bitcoin or other cryptocurrencies;*
- *our inability to attract and retain key personnel;*
- *the possibility that the cost of our current insurance policies may increase significantly or fail to adequately protect us as expected; and*
- *the other risks described in this report or in our other public filings.*

In evaluating all forward-looking statements, you should specifically consider the risks outlined above and in this Report, especially under the headings "Special Cautionary Note Regarding Forward-Looking Statements," "Risk Factors," "Legal Proceedings," and "Management's Discussion and Analysis of Financial Condition and Results of Operations." These factors may cause our actual results to differ materially from those contemplated by any forward-looking statement. Although we believe that our expectations reflected in the forward-looking statements are reasonable, we cannot guarantee or offer any assurance of future results, levels of activity, performance or achievements or other future events. Our forward-looking statements contained in this report speak only as of the date of this report and, except as required by law, we undertake no obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this report or *any changes in our expectations or any change in any events, conditions or circumstances on which any of our forward-looking statements are based.*

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (UNAUDITED)

Overstock.com, Inc.
Consolidated Balance Sheets (Unaudited)
(in thousands, except per share data)

	September 30, 2020	December 31, 2019
Assets		
Current assets:		
Cash and cash equivalents	$ 529,710	$ 112,266
Restricted cash	2,570	2,632
Marketable securities at fair value	1,355	10,308
Accounts receivable, net of allowance for credit losses of $2,053 and $2,474 at September 30, 2020 and December 31, 2019, respectively	35,403	24,728
Inventories	6,867	5,840
Prepaids and other current assets	19,704	21,589
Total current assets	595,609	177,363
Property and equipment, net	125,142	130,028
Intangible assets, net	9,009	11,756
Goodwill	27,120	27,120
Equity securities	48,983	42,043
Operating lease right-of-use assets	25,402	25,384
Other long-term assets, net	11,717	4,033
Total assets	$ 842,982	$ 417,727
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 119,663	$ 75,416
Accrued liabilities	145,668	88,197
Unearned revenue	78,757	41,821
Operating lease liabilities, current	5,959	6,603
Other current liabilities	3,803	3,962
Total current liabilities	353,850	215,999
Long-term debt, net	42,148	—
Operating lease liabilities, non-current	21,640	21,554
Other long-term liabilities	6,038	2,319
Total liabilities	423,676	239,872
Commitments and contingencies (Note 10)		

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Overstock.com, Inc.
Consolidated Balance Sheets (Unaudited)
(in thousands, except per share data)

	September 30, 2020	December 31, 2019
Stockholders' equity:		
Preferred stock, $0.0001 par value, authorized shares - 5,000		
Series A-1, issued and outstanding - 4,204 and 4,210	—	—
Series B, issued and outstanding - 357 and 357	—	—
Common stock, $0.0001 par value, authorized shares - 100,000		
Issued shares - 46,317 and 42,790		
Outstanding shares - 42,758 and 39,464	4	4
Additional paid-in capital	966,299	764,845
Accumulated deficit	(537,089)	(580,390)
Accumulated other comprehensive loss	(556)	(568)
Treasury stock at cost - 3,559 and 3,326	(71,124)	(68,807)
Equity attributable to stockholders of Overstock.com, Inc.	357,534	115,084
Equity attributable to noncontrolling interests	61,772	62,771
Total stockholders' equity	419,306	177,855
Total liabilities and stockholders' equity	$ 842,982	$ 417,727

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Operations (Unaudited)
(in thousands, except per share data)

	Three months ended September 30,		Nine months ended September 30,	
	2020	**2019**	**2020**	**2019**
Revenue, net				
Retail	$ 717,695	$ 340,798	$ 1,824,249	$ 1,070,898
Other	13,956	6,301	41,519	17,639
Total net revenue	731,651	347,099	1,865,768	1,088,537
Cost of goods sold				
Retail	548,982	272,545	1,403,418	858,169
Other	11,901	5,006	35,860	13,797
Total cost of goods sold	560,883	277,551	1,439,278	871,966
Gross profit	170,768	69,548	426,490	216,571
Operating expenses				
Sales and marketing	72,010	34,215	188,562	102,252
Technology	34,984	32,782	101,458	101,368
General and administrative	34,225	32,681	94,022	104,877
Total operating expenses	141,219	99,678	384,042	308,497
Operating income (loss)	29,549	(30,130)	42,448	(91,926)
Interest income	402	449	1,288	1,482
Interest expense	(579)	(57)	(1,367)	(289)
Other expense, net	(7,526)	(4,781)	(5,014)	(14,048)
Income (loss) before income taxes	21,846	(34,519)	37,355	(104,781)
Provision for income taxes	620	23	1,313	279
Net income (loss)	21,226	(34,542)	36,042	(105,060)
Less: Net loss attributable to noncontrolling interests	(2,165)	(3,604)	(7,372)	(10,197)
Net income (loss) attributable to stockholders of Overstock.com, Inc.	$ 23,391	$ (30,938)	$ 43,414	$ (94,863)
Net income (loss) per share of common stock:				
Net income (loss) attributable to common shares—basic	$ 0.50	$ (0.89)	$ 1.00	$ (2.74)
Net income (loss) attributable to common shares—diluted	$ 0.50	$ (0.89)	$ 0.99	$ (2.74)
Weighted average shares of common stock outstanding:				
Basic	41,595	35,241	40,697	34,289
Diluted	42,202	35,241	41,030	34,289

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Comprehensive Income (Loss) (Unaudited)
(in thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2020	**2019**	**2020**	**2019**
Net income (loss)	$ 21,226	$ (34,542)	$ 36,042	$ (105,060)
Other comprehensive income				
Unrealized gain on cash flow hedges, net of expense for taxes of $0, $0, $0, and $0	4	4	12	12
Other comprehensive income	4	4	12	12
Comprehensive income (loss)	21,230	(34,538)	36,054	(105,048)
Less: Comprehensive loss attributable to noncontrolling interests	(2,165)	(3,604)	(7,372)	(10,197)
Comprehensive income (loss) attributable to stockholders of Overstock.com, Inc.	$ 23,395	$ (30,934)	$ 43,426	$ (94,851)

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Changes in Stockholders' Equity (Unaudited)
(in thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2020	**2019**	**2020**	**2019**
Equity attributable to stockholders of Overstock.com, Inc.				
Shares of common stock issued				
Balance at beginning of period	43,885	38,561	42,790	35,346
Common stock issued upon vesting of restricted stock	17	4	696	259
Common stock sold through offerings	2,415	—	2,831	2,960
Balance at end of period	46,317	38,565	46,317	38,565
Shares of treasury stock				
Balance at beginning of period	3,553	3,322	3,326	3,200
Common stock repurchased through business combination	—	—	—	47
Tax withholding upon vesting of restricted stock	6	1	233	76
Balance at end of period	3,559	3,323	3,559	3,323
Total shares of common stock outstanding	42,758	35,242	42,758	35,242
Common stock	$ 4	$ 3	$ 4	$ 3
Shares of Series A preferred stock issued and outstanding				
Balance at beginning of period	—	3	—	127
Exchange of shares to Series A-1 preferred stock	—	(2)	—	(125)
Conversion of shares to Series B preferred stock	—	(1)	—	(2)
Balance at end of period	—	—	—	—
Shares of Series A-1 preferred stock issued and outstanding				
Balance at beginning of period	4,204	123	4,210	—
Exchange of shares from Series A preferred stock	—	2	—	125
Dividend declared, not yet distributed	—	3,577	—	3,577
Shares declared, not distributed (Note 12)	—	—	(6)	—
Balance at end of period	4,204	3,702	4,204	3,702
Shares of Series B preferred stock issued and outstanding				
Balance at beginning of period	357	356	357	355
Conversion of shares from Series A preferred stock	—	1	—	2
Balance at end of period	357	357	357	357
Preferred stock	$ —	$ —	$ —	$ —
Additional paid-in capital				
Balance at beginning of period	$ 770,984	$ 719,010	$ 764,845	$ 657,981
Stock-based compensation to employees and directors	2,623	4,467	8,356	13,623
Common stock sold through offerings, net	192,692	—	192,692	52,112
Other	—	2,655	406	2,416
Balance at end of period	$ 966,299	$ 726,132	$ 966,299	$ 726,132

Continued on the following page

Overstock.com, Inc.
Consolidated Statements of Changes in Stockholders' Equity (Unaudited)
(in thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2020	**2019**	**2020**	**2019**
Accumulated deficit				
Balance at beginning of period	$ (560,480)	$ (522,397)	$ (580,390)	$ (458,897)
Net income (loss) attributable to stockholders of Overstock.com, Inc.	23,391	(30,938)	43,414	(94,863)
Other	—	—	(113)	425
Balance at end of period	$ (537,089)	$ (553,335)	$ (537,089)	$ (553,335)
Accumulated other comprehensive loss				
Balance at beginning of period	$ (560)	$ (576)	$ (568)	$ (584)
Net other comprehensive income	4	4	12	12
Balance at end of period	$ (556)	$ (572)	$ (556)	$ (572)
Treasury stock				
Balance at beginning of period	$ (70,537)	$ (68,746)	$ (68,807)	$ (66,757)
Common stock repurchased through business combination	—	—	—	(643)
Tax withholding upon vesting of restricted stock	(587)	(27)	(2,317)	(1,373)
Balance at end of period	(71,124)	(68,773)	(71,124)	(68,773)
Total equity attributable to stockholders of Overstock.com, Inc.	$ 357,534	$ 103,455	$ 357,534	$ 103,455
Equity attributable to noncontrolling interests				
Balance at beginning of period	$ 63,937	$ 71,786	$ 62,771	$ 78,960
Paid in capital for noncontrolling interest	—	—	5,000	—
Net loss attributable to noncontrolling interests	(2,165)	(3,604)	(7,372)	(10,197)
Other	—	(2,685)	1,373	(3,266)
Total equity attributable to noncontrolling interests	$ 61,772	$ 65,497	$ 61,772	$ 65,497
Total stockholders' equity	$ 419,306	$ 168,952	$ 419,306	$ 168,952

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Nine months ended September 30,	
	2020	**2019**
Cash flows from operating activities:		
Consolidated net income (loss)	$ 36,042	$ (105,060)
Adjustments to reconcile consolidated net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	22,709	23,033
Non-cash operating lease cost	4,379	4,940
Stock-based compensation to employees and directors	8,356	13,623
Impairment of equity securities	813	6,964
Losses on equity method securities	11,909	4,922
Gain on disposal of business	(10,705)	—
Impairments on intangible assets	—	1,406
Other non-cash adjustments	2,587	1,978
Changes in operating assets and liabilities, net of acquisitions:		
Accounts receivable, net	(15,715)	12,858
Inventories	(1,027)	6,864
Prepaids and other current assets	(42)	5,473
Other long-term assets, net	26	(1,046)
Accounts payable	44,101	(42,110)
Accrued liabilities	59,657	(8,683)
Unearned revenue	37,161	(10,066)
Operating lease liabilities	(4,954)	(4,086)
Other long-term liabilities	3,413	(205)
Net cash provided by (used in) operating activities	198,710	(89,195)
Cash flows from investing activities:		
Purchase of equity securities	(1,553)	(5,106)
Proceeds from sale of equity securities and marketable securities	6,306	7,082
Acquisitions of businesses, net of cash acquired	—	4,886
Expenditures for property and equipment	(15,067)	(17,902)
Deconsolidation of cash of Medici Land Governance, Inc.	(4,056)	—
Other investing activities, net	(1,061)	(3,219)
Net cash used in investing activities	(15,431)	(14,259)

Continued on the following page

Overstock.com, Inc.
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Nine months ended September 30,	
	2020	**2019**
Cash flows from financing activities:		
Payments on long-term debt	(1,566)	(3,141)
Proceeds from long-term debt	47,500	—
Proceeds from sale of common stock, net of offering costs	195,540	52,112
Payments of taxes withheld upon vesting of restricted stock	(2,317)	(1,373)
Other financing activities, net	(5,054)	(1,161)
Net cash provided by financing activities	234,103	46,437
Net increase (decrease) in cash, cash equivalents and restricted cash	417,382	(57,017)
Cash, cash equivalents and restricted cash, beginning of period	114,898	142,814
Cash, cash equivalents and restricted cash, end of period	$ 532,280	$ 85,797

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Notes to Unaudited Consolidated Financial Statements

1. DESCRIPTION OF BUSINESS

Overstock.com, Inc. is an online retailer business and advocate of blockchain technology. As used herein, "Overstock," "the Company," "we," "our" and similar terms include Overstock.com, Inc. and its majority-owned subsidiaries, unless the context indicates otherwise.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND SUPPLEMENTAL DISCLOSURES

Basis of Presentation

We have prepared the accompanying unaudited consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC") regarding interim financial reporting. Accordingly, certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States ("GAAP") have been omitted in accordance with the rules and regulations of the SEC. These financial statements should be read in conjunction with our audited annual consolidated financial statements and related notes included in our Annual Report on Form 10-K for the year ended December 31, 2019. There have been no significant changes to our significant accounting policies disclosed in Note 2—Accounting Policies, included in Part II, Item 8, Financial Statements and Supplementary Data, of our Annual Report on Form 10-K for the year ended December 31, 2019, except as disclosed below.

The accompanying unaudited consolidated financial statements reflect all adjustments, consisting only of normal recurring adjustments, which are, in our opinion, necessary for a fair presentation of results for the interim periods presented. For purposes of comparability, we reclassified other certain immaterial amounts in the prior periods presented to conform with the current period presentation. The results of operations for the three and nine months ended September 30, 2020 are not necessarily indicative of the results to be expected for any future period or the full fiscal year, due to seasonality and other factors.

Principles of consolidation

The accompanying consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries and other subsidiaries over which we exercise control. All intercompany account balances and transactions have been eliminated in consolidation.

In February 2020, Medici Land Governance, Inc. ("MLG"), an indirect majority-owned subsidiary, consummated the sale of shares of its common stock to an unrelated third party. Upon completion of the transaction, our indirect ownership in MLG was reduced from 57% to 35% of MLG's issued and outstanding shares of common stock. As a result of our loss of a controlling financial interest in MLG under the voting interest model, we performed an assessment of control under the variable interest entity ("VIE") model and determined MLG does not meet the qualifications of a VIE for purposes of consolidation. Accordingly, we deconsolidated MLG's consolidated net assets and noncontrolling interest from our consolidated financial statements and results beginning on February 22, 2020, the date that control ceased. The amount of gain recognized on the deconsolidation was $10.7 million, which is included in our consolidated statements of operations in Other income (expense), net. The gain primarily relates to the remeasurement of our retained equity interest in MLG at fair value, which was determined based on the same price per share MLG provided for the sale of common stock to the third-party and price per share we received in settling a portion of our intercompany debt for additional shares in MLG. Post deconsolidation, MLG became one of our equity method investees for which we perform services. See Note 6—Equity Securities for additional information.

Use of estimates

The preparation of financial statements in conformity with GAAP requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent liabilities in our consolidated financial statements and accompanying notes. Estimates are used for, but not limited to, receivables valuation, revenue recognition, Club O and gift card breakage, sales returns, vendor incentive discount offers, inventory valuation, depreciable lives and valuation of property and equipment and internally-developed software, goodwill valuation, intangible asset valuation, equity securities valuation, income taxes, stock-based compensation, performance-based compensation, selffunded health insurance liabilities and contingencies. Our estimates involving, among other items, forecasted revenues, sales volume, pricing, cost and availability of inventory, consumer demand and spending habits, the continued operations of our supply chain and logistics network, and the overall impact of social distancing on our workforce are even more difficult to estimate as a result of uncertainties associated with the scope and duration of the pandemic and various actions taken by governmental authorities, private business and other third parties in response to the global novel coronavirus ("COVID-19") pandemic, the ultimate geographic spread of the virus, the ongoing economic effect of the pandemic and the post-pandemic economic recovery. Although these estimates are based on our best knowledge of current events and actions that we may undertake in the future, the variability of these factors depends on a number of conditions, including uncertainty associated with the COVID-19 pandemic, how long these conditions will persist, what additional measures may be introduced or reintroduced by governments or private parties or what effect any such additional measures may have on our business and thus our accounting estimates may change from period to period. To the extent there are differences between these estimates and actual results, our consolidated financial statements may be materially affected.

Supplemental cash flow information

The following table shows supplemental cash flow information (in thousands):

	Nine months ended September 30,	
	2020	**2019**
Non-cash investing and financing activities:		
Recognition of right-of-use assets upon adoption of ASC 842	$ —	$ 30,968
Deposit applied to business combination purchase price	—	7,347
Recognition of right-of-use assets obtained in exchange for new operating lease liabilities	5,132	17,238

Recently adopted accounting standards

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which revises how entities account for credit losses for most financial assets and certain other instruments that are not measured at fair value through net income. Topic 326 was subsequently amended by ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments* and ASU 2019-11, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*. Under the guidance, the measurement of credit losses will be based on a current expected credit losses methodology. We adopted the changes under the new standard on January 1, 2020. We utilized a prospective transition approach for our debt securities for which other-than-temporary impairment had been recognized prior to January 1, 2020. As a result, the amortized cost basis remains the same before and after the effective date of ASU 2016-13. The implementation of ASU 2016-13 did not have a material impact on our consolidated financial statements and disclosures. We will continue to actively monitor the impact of the COVID-19 pandemic on expected credit losses.

Recently issued accounting standards

In December 2019, the FASB issued ASU 2019-12, *Income Taxes ("Topic 740")—Simplifying the Accounting for Income Taxes*, which removes certain exceptions to the general principles in Topic 740 and amends existing guidance to improve consistent application. For public entities, ASU 2019-12 is required to be adopted for annual periods beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. Management is currently evaluating the impact of the adoption of this ASU on our consolidated financial statements and related disclosures.

In January 2020, the FASB issued ASU 2020-01, *Investments—Equity Securities (Topic 321), Investments—Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815): Clarifying the Interactions between Topic 321, Topic 323, and Topic 815*, which clarifies the interaction of the accounting for equity securities under Topic 321, the accounting for equity method investments in Topic 323, and the accounting for certain forward contracts and purchased options in Topic 815. For public entities, ASU 2020-01 is required to be adopted for annual periods beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. Management is currently evaluating the impact of the adoption of this ASU on our consolidated financial statements and related disclosures.

3. FAIR VALUE MEASUREMENT

Our financial assets and liabilities are initially measured at fair value, which is defined 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 (exit price). To increase the comparability of fair value measures, the following hierarchy prioritizes the inputs to valuation methodologies used to measure fair value:

- Level 1—Quoted prices for identical instruments in active markets;
- Level 2—Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and
- Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

Our assets and liabilities that are adjusted to fair value on a recurring basis are cash equivalents, certain equity and marketable securities, and deferred compensation liabilities, which fair values are determined using quoted market prices from daily exchange traded markets on the closing price as of the balance sheet date and are classified as Level 1. Our other financial instruments, including cash, restricted cash, accounts receivable, accounts payable, accrued liabilities, finance obligations, and debt are carried at cost, which approximates their fair value. Certain assets, including long-lived assets, certain equity securities, goodwill, cryptocurrencies, and other intangible assets, are measured at fair value on a nonrecurring basis; that is, the assets are not measured at fair value on an ongoing basis, but are subject to fair value adjustments using fair value measurements with unobservable inputs (level 3), apart from cryptocurrencies which use quoted prices from various digital currency exchanges with active markets, in certain circumstances (e.g., when there is evidence of impairment).

The following tables summarize our assets and liabilities measured at fair value on a recurring basis using the following levels of inputs as of September 30, 2020 and December 31, 2019, as indicated (in thousands):

	Fair Value Measurements at September 30, 2020:			
	Total	Level 1	Level 2	Level 3
Assets:				
Cash equivalents - Money market mutual funds	$ 566	$ 566	$ —	$ —
Equity securities, at fair value	455	455	—	—
Marketable securities, at fair value	1,355	1,355	—	—
Trading securities held in a "rabbi trust" (1)	121	121	—	—
Total assets	$ 2,497	$ 2,497	$ —	$ —
Liabilities:				
Deferred compensation accrual "rabbi trust" (2)	$ 138	$ 138	$ —	$ —
Total liabilities	$ 138	$ 138	$ —	$ —

	Fair Value Measurements at December 31, 2019:			
	Total	Level 1	Level 2	Level 3
Assets:				
Cash equivalents - Money market mutual funds	$ 2,799	$ 2,799	$ —	$ —
Equity securities, at fair value	823	823	—	—
Marketable securities, at fair value	10,308	10,308	—	—
Trading securities held in a "rabbi trust" (1)	116	116	—	—
Total assets	$ 14,046	$ 14,046	$ —	$ —
Liabilities:				
Deferred compensation accrual "rabbi trust" (2)	$ 116	$ 116	$ —	$ —
Total liabilities	$ 116	$ 116	$ —	$ —

(1) — Trading securities held in a rabbi trust are included in Prepaids and other current assets and Other long-term assets, net in the consolidated balance sheets.

(2) — Non-qualified deferred compensation in a rabbi trust is included in Accrued liabilities and Other long-term liabilities in the consolidated balance sheets.

4. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consist of the following (in thousands):

	September 30, 2020	December 31, 2019
Computer hardware and software	$ 234,782	$ 223,309
Building	69,245	69,266
Furniture and equipment	16,440	17,739
Land	12,781	12,781
Leasehold improvements	5,400	11,921
Building machinery and equipment	9,785	9,796
Land improvements	7,004	7,003
	355,437	351,815
Less: accumulated depreciation	(230,295)	(221,787)
Total property and equipment, net	$ 125,142	$ 130,028

Capitalized costs associated with internal-use software and website development, both developed internally and acquired externally, and depreciation of costs for the same periods associated with internal-use software and website development consist of the following (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Capitalized internal-use software and website development	$ 4,005	$ 3,248	$ 11,595	$ 10,798
Depreciation of internal-use software and website development	$ 3,721	$ 3,162	$ 10,644	$ 9,523

Property and equipment depreciation expense is classified within the corresponding operating expense categories on our consolidated statements of operations as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Cost of goods sold - retail	$ 159	$ 170	$ 526	$ 516
Technology	4,965	5,042	14,504	15,109
General and administrative	1,557	1,261	4,927	3,762
Total depreciation	$ 6,681	$ 6,473	$ 19,957	$ 19,387

5. INTANGIBLE ASSETS

Intangible assets, net consist of the following (in thousands):

	September 30, 2020	December 31, 2019
Intangible assets subject to amortization, gross	$ 30,267	$ 30,284
Less: accumulated amortization of intangible assets subject to amortization	(21,258)	(18,528)
Total intangible assets, net	$ 9,009	$ 11,756

Amortization of intangible assets is classified within the corresponding operating expense categories in our consolidated statements of operations as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Technology	$ 846	$ 896	$ 2,539	$ 2,687
Sales and marketing	10	16	31	48
General and administrative	55	133	182	(526)
Total amortization	$ 911	$ 1,045	$ 2,752	$ 2,209

In connection with our 2018 acquisition of Mac Warehouse, we received the final valuation information and completed our determination and allocation of the purchase price during the quarter ended March 31, 2019 and recognized adjustments to the provisional values as of March 31, 2019, which among other items decreased the recognized Intangible assets and resulted in a reversal of previously recognized amortization expense of $1.4 million during the quarter ended March 31, 2019.

During the three and nine months ended September 30, 2019, we realized a $1.4 million impairment loss included in General and administrative expense in our consolidated statements of operations related to certain patents held by our Medici Ventures segment. The estimated fair value of the patents were determined based on Level 3 inputs, which were unobservable (see Note 3—Fair Value Measurement), including market participant assumptions for similar assets in an inactive market.

6. EQUITY SECURITIES

Equity securities under ASC 321

Certain of our equity securities lack readily determinable fair values and therefore the securities are measured at cost minus impairment, if any, plus or minus changes resulting from observable price changes in orderly transactions for the identical or similar equity securities of the same issuer. The carrying amount of our equity securities without readily determinable fair values was approximately $3.9 million and $3.9 million at September 30, 2020 and December 31, 2019, respectively. Cumulative downward adjustments for price changes and impairments for our equity securities without readily determinable fair values were $6.2 million, and the cumulative upward adjustments for price changes to equity investments were $958,000 as of September 30, 2020. The impairments and downward adjustments for the period related to equity securities without readily determinable fair values at September 30, 2020 and 2019 is as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Impairments and downward adjustments of equity securities without readily determinable fair values	$ —	$ (2,750)	$ —	$ (5,708)

Certain of these equity securities and our marketable securities, which had a carrying value of $1.8 million at September 30, 2020 and $11.1 million at December 31, 2019, are carried at fair value based on Level 1 inputs. See Note 3—Fair Value Measurement. The portion of unrealized gains and losses for the period related to equity securities with readily determinable fair value still held at September 30, 2020 and 2019 is calculated as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Net losses recognized during the period on equity securities and marketable securities	$ (813)	$ (700)	$ (3,268)	$ (1,818)
Less: Net gains recognized during the period on equity securities and marketable securities sold	—	—	2,161	—
Unrealized losses during the reporting period on equity securities and marketable securities still held	$ (813)	$ (700)	$ (5,429)	$ (1,818)

Equity method securities under ASC 323

Our equity method securities include equity securities in which we can exercise significant influence, but not control, over these entities through either holding more than a 20% voting interest in the entity or through our representation on the entity's board of directors. The following table includes our equity method securities and ownership interest as of September 30, 2020:

	Ownership interest
Bitt Inc.	21%
Boston Security Token Exchange LLC	50%
Chainstone Labs, Inc.	29%
FinClusive Capital, Inc.	12%
GrainChain, Inc.	18%
Medici Land Governance, Inc.	35%
Minds, Inc.	23%
PeerNova, Inc.	11%
SettleMint NV	29%
Spera, Inc.	19%
VinX Network Ltd.	29%
Voatz, Inc.	20%

The carrying amount of our equity method securities was approximately $44.6 million and $37.3 million at September 30, 2020 and December 31, 2019, respectively.

The following table summarizes the net losses recognized on equity method securities included in Other expense, net in our consolidated statements of operations (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Net loss recognized on our proportionate share of the net losses of our equity method securities and amortization of the basis difference	$ 5,896	$ 1,864	$ 11,909	$ 4,922
Impairments on equity method securities	813	—	813	1,256
Net loss recognized during the period on equity method securities sold	—	—	—	524

For the three and nine months ended September 30, 2020, we recognized $2.6 million and $6.7 million, respectively, of revenue in Other Revenue on our consolidated statements of operations for developer and other secondment services provided to certain of these entities that are accounted for under the equity method. For the three and nine months ended September 30, 2019, we recognized $639,000 and $1.9 million, respectively, of revenue in Other Revenue on our consolidated statements of operations for developer and other secondment services provided to certain of these entities that are accounted for under the equity method.

We are party to notes receivable agreements with certain of these equity method entities. The carrying amount of these notes receivables, including accrued interest, was $5.7 million and $4.6 million at September 30, 2020 and December 31, 2019, respectively, which are included in Other long-term assets, net in the consolidated balance sheets.

7. ACCRUED LIABILITIES

Accrued liabilities consist of the following (in thousands):

	September 30, 2020	December 31, 2019
Accrued compensation and other related costs	$ 38,364	$ 13,012
Accounts payable accruals	27,198	15,692
Accrued marketing expenses	21,057	13,063
Allowance for returns	17,916	11,107
Sales and other taxes payable	15,623	10,105
Accrued freight	12,773	5,954
Other accrued expenses	10,157	9,714
Accrued loss contingencies	2,580	9,550
Total accrued liabilities	$ 145,668	$ 88,197

8. BORROWINGS

Loan Core Capital Funding Corporation LLC loan agreements

In March 2020, we entered into two loan agreements with Loan Core Capital Funding Corporation LLC. The loan agreements provide a $34.5 million Senior Note, carrying interest at an annual rate of 4.242%, and a $13.0 million Mezzanine Note, carrying interest at an annual rate of 5.002%. The loans carry a blended annual interest rate of 4.45%. The Senior Note is for a 10-year term (stated maturity date is March 6, 2030) and requires interest only payments, with the principal amount and any then unpaid interest due and payable at the end of the 10-year term. The Mezzanine Note has a stated 10-year term, though the agreement requires principal and interest payments monthly over approximately a 46-month payment period. Our debt issuance costs and debt discount are amortized using the straight-line basis which approximates the effective interest method.

As of September 30, 2020, the total outstanding debt on these loans was $45.3 million, net of $624,000 in capitalized debt issuance costs, and the total amount of the current portion of these loans included in Other current liabilities on our consolidated balance sheets was $3.2 million.

Further, the Company will serve as a guarantor under the Senior Note (the "Senior Note Guaranty") and the Mezzanine Note (the "Mezzanine Note Guaranty"). Both loans include certain financial and non-financial covenants and are secured by our corporate headquarters and the related land and rank senior to stockholders. Overstock has agreed under the Senior Note Guaranty to, among other things, maintain, until all of the obligations guaranteed by Overstock under the Senior Note Guaranty have been paid in full, (i) a net worth in excess of $30 million and minimum liquid assets of $3 million for so long as the Mezzanine Note is outstanding, and (ii) a net worth in excess of $15 million and minimum liquid assets of $1 million from and after the date the Mezzanine Note has been paid in full. Overstock has also agreed under the Mezzanine Note Guaranty to, among other things, maintain a net worth in excess of $30 million and minimum liquid assets of $3 million until all obligations guaranteed by Overstock under the Mezzanine Note Guaranty have been paid in full.

We are in compliance with our debt covenants and continue to monitor the most recent developments regarding the COVID-19 pandemic and potential impact to our ongoing compliance with our debt covenants.

9. LEASES

We have operating leases for warehouses, office space, and data centers. Our leases have remaining lease terms of 1 year to 11 years, some of which may include options to extend the leases perpetually, and some of which may include options to terminate the leases within 1 year.

The following table provides a summary of leases by balance sheet location (in thousands):

	September 30, 2020	December 31, 2019
Operating right-of-use assets	$ 25,402	$ 25,384
Operating lease liabilities, current	5,959	6,603
Operating lease liabilities, non-current	21,640	21,554

The components of lease expenses were as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Operating lease cost	$ 1,829	$ 2,685	$ 5,897	$ 7,556
Short-term lease cost	6	28	25	90
Variable lease cost	336	406	1,224	1,378

The following table provides a summary of other information related to leases (in thousands):

	Nine months ended September 30,	
	2020	2019
Cash payments included in operating cash flows from lease arrangements	$ 6,417	$ 6,629
Right-of-use assets obtained in exchange for new operating lease liabilities	$ 5,132	$ 17,238

The following table provides supplemental balance sheet information related to leases:

	September 30, 2020	December 31, 2019
Weighted-average remaining lease term - operating leases	5.63 years	5.86 years
Weighted-average discount rate - operating leases	7%	8%

Maturity of lease liabilities under our non-cancellable operating leases as of September 30, 2020, are as follows (in thousands):

Payments due by period	Amount
2020 (Remainder)	$ 2,375
2021	7,230
2022	7,102
2023	5,716
2024	3,894
Thereafter	7,628
Total lease payments	33,945
Less interest	6,346
Present value of lease liabilities	$ 27,599

10. COMMITMENTS AND CONTINGENCIES

Legal proceedings and contingencies

From time to time, we are involved in litigation concerning consumer protection, employment, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. In connection with such litigation, we have been in the past and we may be in the future subject to significant damages. In some instances, other parties may have contractual indemnification obligations to us. However, such contractual obligations may prove unenforceable or non-collectible, and if we cannot enforce or collect on indemnification obligations, we may bear the full responsibility for damages, fees, and costs resulting from such litigation. We may also be subject to penalties and equitable remedies that could force us to alter important business practices. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows. The nature of the loss contingencies relating to claims that have been asserted against us are described below.

In September 2009, SpeedTrack, Inc. sued us along with 27 other defendants in the United States District Court in the Northern District of California, alleging that we infringed a patent covering search and categorization software. We believe that certain third-party vendors of products and services sold to us are contractually obligated to indemnify us, and we have tendered defense of the case to an indemnitor who accepted the defense. In April 2016, the court entered an order partially dismissing the claims against us. In May 2016, the plaintiff filed an amended complaint and we filed an answer. In March 2020, the court entered a judgment of non-infringement in our favor and against the plaintiff. In June 2020, the plaintiff filed an appeal to the United States District Court of Appeals for the Federal Circuit. No estimate of the possible loss or range of loss can be made. We intend to vigorously defend this appeal.

In February 2018, the Division of Enforcement of the SEC informed tZERO and subsequently informed us that it is conducting an investigation and requested that we and tZERO voluntarily provide certain information and documents related to tZERO and the tZERO security token offering in connection with its investigation. In December 2018, we received a follow-up request from the SEC relating to its investigation. As previously disclosed, on October 7, 2019, we received a subpoena from the SEC requesting documents related to the digital dividend of our Series A-1 preferred stock we announced to stockholders in June 2019 (discussed below in Note 12—Stockholders' Equity) and requesting Rule 10b5-1 plans of our officers and directors that were in effect during the period of January 1, 2018 through October 7, 2019. On December 9, 2019, we received a subpoena from the SEC requesting documents related to the GSR transaction and the alternative trading system run by tZERO ATS, LLC. On December 19, 2019, we received a subpoena from the SEC requesting our insider trading policies as well as certain employment and consulting agreements. We also previously received requests from the SEC regarding our communications with our former chief executive officer and director, Patrick Byrne, and the matters referenced in the December 2019 subpoenas. On May 27, 2020, we received a subpoena from the SEC requesting further information regarding the alternative trading system run by tZERO's ATS, LLC. We have responded to all subpoenas and requests for information and will continue to cooperate fully with the SEC in connection with its investigations and information requests.

tZERO's broker-dealer subsidiaries are subject to extensive regulatory requirements under federal and state laws and regulations and self-regulatory organization ("SRO") rules. Each of SpeedRoute LLC ("SpeedRoute"), tZERO Markets, LLC ("tZERO Markets") and tZERO ATS, LLC is registered with the SEC as a broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act") and in the states in which it conducts securities business and is a member of FINRA and other SROs (as applicable). In addition, tZERO ATS, LLC owns and operates an alternative trading system. Each of SpeedRoute, tZERO Markets and tZERO ATS, LLC is subject to regulation, examination, investigation, and disciplinary action by the SEC, FINRA, and state securities regulators, as well as other governmental authorities and SROs with which it is registered or licensed or of which it is a member. Moreover, as a result of tZERO's projects seeking to apply distributed ledger technologies to the capital markets, tZERO's subsidiaries have been, and remain involved in, ongoing oral and written communications with regulatory authorities. As previously disclosed, tZERO's broker-dealer subsidiaries are currently undergoing various examinations, inquiries, and/or investigations undertaken by various regulatory authorities, which may result in financial and other settlements or penalties. Any significant failure by tZERO's broker-dealer subsidiaries to satisfy regulatory authorities that they are in compliance with all applicable rules and regulations could have a material adverse effect on tZERO and on us.

tZERO's subsidiary, tZERO Crypto, Inc., is registered as or is applying to become a money transmitter (or its equivalent) in many states and is subject to extensive regulatory requirements applicable to money services businesses, including the requirements of the Financial Crimes Enforcement Network of the U.S. Department of the Treasury ("FinCEN"), anti-money laundering requirements, know-your-customer requirements, record-keeping, reporting and capital and bonding requirements, and inspection by state and federal regulatory agencies. Compliance with these requirements requires the dedication of significant resources and any material failure by tZERO Crypto, Inc. to remain in compliance with the applicable regulatory requirements could subject it to liability or limit the services it may offer.

On September 27, 2019, a purported securities class action lawsuit was filed against us and our former chief executive officer and former chief financial officer in the United States District Court of Utah, alleging violations under Section 10(b), Rule 10b-5, Section 20(a), Section 20(A) of the Exchange Act. On October 8, 2019, October 17, 2019, October 31, 2019, and November 20, 2019, four similar lawsuits were filed in the same court also naming the Company and the above referenced former executives as defendants, bringing similar claims under the Exchange Act, and seeking similar relief. These cases were consolidated into a single lawsuit in December 2019. The Court appointed The Mangrove Partners Master Fund Ltd. as lead plaintiff in January 2020. In March 2020, an amended consolidated complaint was filed against us, our president of retail, our former chief executive officer, and our former chief financial officer. We filed a motion to dismiss and on September 28, 2020, the court granted our motion and entered judgment in our favor. The plaintiffs filed a motion to amend their complaint on October 23, 2020 and filed a notice of appeal on October 26, 2020. No estimates of the possible losses or range of losses can be made at this time. We intend to vigorously defend this action.

On November 22, 2019, a shareholder derivative suit was filed against us and certain past and present directors and officers of the Company in the United States District Court for the District of Delaware, with allegations that include: (i) breach of fiduciary duties, (ii) unjust enrichment, (iii) insider selling and misappropriation of the Company's information, and (iv) contribution under Sections 10(b) and 21D of the Exchange Act. On December 17, 2019, a similar lawsuit was filed in the same court, naming the same defendants, bringing similar claims, and seeking similar relief. These cases were consolidated into a single lawsuit in January 2020. In March 2020, the court entered a stay on litigation, pending the outcome of the securities class action motion to dismiss. No estimates of the possible losses or range of losses can be made at this time. We intend to vigorously defend these actions.

On April 23, 2020, a putative class action lawsuit was filed against us in the Circuit Court of the County of St. Louis, State of Missouri, alleging that we over-collected taxes on products sold into the state of Missouri. No estimate of the possible loss or range of loss can be made at this time. We intend to vigorously defend this action.

We establish liabilities when a particular contingency is probable and estimable. At September 30, 2020 and December 31, 2019, we have accrued $2.6 million and $9.6 million, respectively, which are included in Accrued liabilities in our consolidated balance sheets. The decrease in our estimated liability for these amounts included in Accrued liabilities was primarily attributable to the reversal of a legal settlement accrual due to a ruling in our favor during the second quarter of 2020. It is reasonably possible that the actual losses may exceed our accrued liabilities.

11. INDEMNIFICATIONS AND GUARANTEES

During our normal course of business, we have made certain indemnities, commitments, and guarantees under which we may be required to make payments in relation to certain transactions. These indemnities include, but are not limited to, indemnities we entered into in favor of Loan Core Capital Funding Corporation LLC under our loan agreements, various lessors in connection with facility leases for certain claims arising from such facility or lease, the environmental indemnity we entered into in favor of the lenders under our prior loan agreements, customary indemnification arrangements in underwriting agreements and similar agreements, and indemnities to our directors and officers to the maximum extent permitted under the laws of the State of Delaware. The duration of these indemnities, commitments, and guarantees varies, and in certain cases, is indefinite. In addition, the majority of these indemnities, commitments, and guarantees do not provide for any limitation of the maximum potential future payments we could be obligated to make. As such, we are unable to estimate with any reasonableness our potential exposure under these items. We have not recorded any liability for these indemnities, commitments, and guarantees in the accompanying consolidated balance sheets. We do, however, accrue for losses for any known contingent liability, including those that may arise from indemnification provisions, when future payment is both probable and reasonably estimable.

12. STOCKHOLDERS' EQUITY

Common stock

Each share of common stock has the right to one vote. The holders of common stock are also entitled to receive dividends declared by the Board of Directors out of funds legally available, subject to prior rights of holders of all classes of stock outstanding having priority rights as to dividends.

On May 19, 2020, we completed the distribution of our announced digital dividend (the "Dividend") payable in shares of our Series A-1 preferred stock. The Dividend was paid out at a ratio of 1:10, so that one share of Series A-1 preferred stock was issued for every ten shares of OSTK common stock, for every ten shares of Series A-1 preferred stock, and for every ten shares of Series B preferred stock held by all holders of such shares as of April 27, 2020, the record date for the Dividend. The number of shares of Series A-1 preferred stock declared as a stock dividend was 4,085 as of December 31, 2019 and the number of shares distributed was 4,079 on May 19, 2020.

Preferred stock

Each share of our Series A preferred stock, Series A-1 preferred stock, and our Series B preferred stock (collectively, the "preferred shares"), except as required by law, are intended to have voting and dividend rights similar to those of one share of common stock. Preferred shares rank senior to common stock with respect to dividends. Holders of the preferred shares are entitled to an annual cash dividend of $0.16 per share, in preference to any dividend payment to the holders of the common stock, out of funds of the Company legally available for payment of dividends and subject to declaration by our Board of Directors. Holders of the preferred shares are also entitled to participate in any cash dividends we pay to the holders of the common stock and are also entitled to participate in non-cash dividends we pay to holders of the common stock, subject to potentially different treatment if we effect a stock dividend, stock split, or combination of the common stock. There are no arrearages in cumulative preferred dividends. We declared and paid a cash dividend of $0.16 per share to the holders of our preferred stock during 2018 and 2019.

Neither the Series A-1 preferred stock nor Series B preferred stock is required to be converted into or exchanged for shares of our common stock or any other entity; however, at our sole discretion, we may convert the Series A-1 preferred stock into Series B preferred stock at any time on a one-to-one basis. In the event of any liquidation, any amount available for distribution to stockholders after payment of all liabilities will be distributed proportionately, with each share of Series A-1 preferred stock and each share of Series B preferred stock being treated as though it were a share of our common stock. If we are party to any merger or consolidation in which our common stock is changed into or exchanged for stock or other securities of any other person (or the Company) or cash or any other property (or a right to receive the foregoing), we will use all commercially reasonable efforts to cause each outstanding share of the preferred stock to be treated as if such share were an additional outstanding share of common stock in connection with any such transaction. Neither the Series A-1 preferred stock nor the Series B preferred stock is registered under the Exchange Act.

Common Stock Offering

We completed a public offering of our common stock on August 14, 2020 and issued 2,415,000 shares of our common stock pursuant to an underwriting agreement, dated August 11, 2020, for proceeds totaling $192.7 million, net of $11.4 million in offering costs.

JonesTrading Sales Agreement

We entered into an Amended and Restated Capital on Demand™ Sales agreement dated June 26, 2020 with JonesTrading Institutional Services LLC ("JonesTrading") and D.A. Davidson & Co. ("D.A. Davidson"), under which we may conduct "at the market" public offerings of our common stock. Under the sales agreement, JonesTrading and D.A. Davidson, acting as our agents, may offer our common stock in the market on a daily basis or otherwise as we request from time to time. We have no obligation to sell additional shares under the sales agreement, but we may do so from time to time. For the nine months ended September 30, 2020, we did not sell any shares of our common stock pursuant to the sales agreement but have received $2.8 million of proceeds that was included in Accounts receivable, net on our consolidated balance sheet at December 31, 2019 for the sale of an aggregate of 415,904 shares of our common stock under the prior iteration of the agreement that were executed in late December 2019. As of September 30, 2020, we had $150.0 million available under our "at the market" sales program.

GSR Agreement

On April 1, 2020, tZERO issued 508,710 shares of tZERO common stock, representing approximately 0.5% of the issued and outstanding common stock of tZERO, to GSR Capital Ltd., a Cayman Islands exempted company ("GSR") in exchange for $5.0 million in consideration in full satisfaction of the Investment Agreement dated May 8, 2019. GSR's installment payments towards the Investment Agreement were included in Accrued liabilities on our consolidated balance sheet prior to the closing of the transaction.

13. STOCK-BASED AWARDS

We have equity incentive plans that provide for the grant to employees and board members of stock-based awards, including stock options and restricted stock. Employee accounting applies to awards granted by the Company or subsidiary of the Company or subsidiary's shares only to its own employees, respectively. Stock-based compensation expense is classified within the corresponding operating expense categories on our consolidated statements of operations as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Cost of goods sold — retail	$ 50	$ 55	$ 153	$ 156
Sales and marketing	(76)	486	621	1,460
Technology	460	1,428	1,822	4,325
General and administrative	2,189	2,498	5,760	7,682
Total stock-based compensation	$ 2,623	$ 4,467	$ 8,356	$ 13,623

When an award is forfeited prior to the vesting date, we recognize an adjustment for the previously recognized expense in the period of the forfeiture.

Overstock restricted stock awards

The Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan (the "Plan") provides for the grant of incentive stock options to employees and directors of the Company and non-qualified stock options to consultants, as well as restricted stock units and other types of equity awards of the Company. These restricted stock awards generally vest over three years at 33.3% at the end of the first year, 33.3% at the end of the second year and 33.3% at the end of the third year, subject to the recipient's continuing service to us. In addition to our traditional equity awards, during the quarter ended March 31, 2019, we granted 502,765 restricted stock awards with a cumulative grant date fair value of $8.6 million which vested over a one-year period.

The cost of restricted stock units is determined using the fair value of our common stock on the date of the grant and compensation expense is either recognized on a straight-line basis over the vesting schedule or on an accelerated schedule when vesting of restricted stock awards exceeds a straight-line basis. The cumulative amount of compensation expense recognized at any point in time is at least equal to the portion of the grant date fair value of the award that is vested at that date.

The following table summarizes restricted stock award activity during the nine months ended September 30, 2020 (in thousands, except per share data):

	Nine months ended September 30, 2020	
	Units	Weighted Average Grant Date Fair Value
Outstanding—beginning of year	1,051	$ 26.22
Granted at fair value	478	9.82
Vested	(696)	23.50
Forfeited	(156)	24.72
Outstanding—end of period	677	$ 17.78

Medici Ventures stock options

The Medici Ventures, Inc. ("Medici Ventures") 2017 Stock Option Plan, as amended, provides for the grant of options to employees and directors of and consultants to Medici Ventures to acquire up to approximately 9% of the authorized shares of Medici Ventures' common stock. Medici Ventures authorized 1.5 million shares, 900,000 of which are issued and outstanding to Overstock, and 130,000 of which are subject to the 2017 Stock Option Plan. The remaining 470,000 are authorized but unissued. Options vested under this plan expire at the end of ten years. During the nine months ended September 30, 2020, Medici Ventures granted 13,650 stock options with a cumulative grant date fair value of $282,000 which vest over a three-year period.

tZERO equity awards

The tZERO Group, Inc. 2017 Equity Incentive Plan, as amended, provides for grants of equity awards to employees and directors of and consultants to tZERO to acquire up to 5% of the authorized shares of tZERO's common stock. During the nine months ended September 30, 2020, tZERO granted 60,000 stock option awards with a cumulative grant date fair value of $46,000. In June 2020, tZERO completed the restructuring of its outstanding equity awards through the amendment and cancellation of each of its outstanding stock option awards in favor of the issuance of restricted stock unit awards, with each participant under its plan receiving one restricted stock unit for each stock option canceled. In addition to the original service-based vesting condition (generally three years), the restricted stock unit awards include an added performance-based vesting condition that a liquidity event must occur in order for the restricted stock unit awards to vest. The exchange was accounted for as a Type II modification with an incremental fair value of $6.9 million for the modified awards which will be expensed for the fully vested portion of the grant once the performance-based vesting condition becomes probable and the remaining fair value of the grant will be expensed on a straight-line basis over the remaining vesting period. As such, no incremental compensation cost was recognized on the modification date. The original grant date fair value of the stock option awards exchanged for restricted stock unit awards will continue to be expensed on a straight-line basis over their remaining vesting period. During the nine months ended September 30, 2020, tZERO granted 11,528,016 restricted stock awards, including 7,851,016 restricted stock unit awards related to the exchange of stock option unit awards for restricted stock awards. The incremental restricted stock unit awards granted that were not part of the exchange totaled 3,677,000 and had a cumulative grant date fair value of $3.5 million which will be expensed for the fully service-based vested portion of the grant once the performance-based vesting condition becomes probable and the remaining fair value of the grant will be expensed on a straight-line basis over the remaining service-based vesting period.

14. REVENUE AND CONTRACT LIABILITY

Revenue Disaggregation

Disaggregation of revenue by major product line is included in Segment Information in Note 17—Business Segments.

Unearned Revenue

The following table provides information about unearned revenue from contracts with customers, including significant changes in unearned revenue balances during the periods presented (in thousands):

	Amount
Unearned revenue at December 31, 2018	$ 50,578
Increase due to deferral of revenue at period end	36,622
Decrease due to beginning contract liabilities recognized as revenue	(45,379)
Unearned revenue at December 31, 2019	41,821
Increase due to deferral of revenue at period end	71,200
Decrease due to beginning contract liabilities recognized as revenue	(34,264)
Unearned revenue at September 30, 2020	$ 78,757

Our total unearned revenue related to outstanding Club O Reward dollars was $8.6 million and $6.7 million at September 30, 2020 and December 31, 2019, respectively. Breakage income related to Club O Reward dollars and gift cards is recognized as a component of Retail revenue in our consolidated statements of operations. The timing of revenue recognition of these reward dollars is driven by actual customer activities, such as redemptions and expirations.

Breakage included in revenue was $1.6 million and $1.5 million for the three months ended September 30, 2020 and 2019 and $3.8 million and $3.5 million for the nine months ended September 30, 2020 and 2019.

Sales returns allowance

The following table provides additions to and deductions from the sales returns allowance (in thousands):

	Amount
Allowance for returns at December 31, 2018	$ 15,261
Additions to the allowance	117,040
Deductions from the allowance	(121,194)
Allowance for returns at December 31, 2019	11,107
Additions to the allowance	143,746
Deductions from the allowance	(136,937)
Allowance for returns at September 30, 2020	$ 17,916

15. OTHER EXPENSE, NET

Other expense, net consisted of the following (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Gain on deconsolidation of net assets of Medici Land Governance, Inc.	$ —	$ —	$ 10,741	$ —
Impairment of equity securities	(813)	(2,750)	(813)	(6,964)
Loss on equity securities and marketable securities	(813)	(700)	(3,268)	(2,076)
Equity method losses	(5,896)	(1,864)	(11,909)	(4,922)
Other	(4)	533	235	(86)
Total other expense, net	$ (7,526)	$ (4,781)	$ (5,014)	$ (14,048)

16. NET INCOME (LOSS) PER SHARE

Our Series A preferred stock, Series A-1 preferred stock, and Series B preferred stock (collectively, the "preferred shares") are considered participating securities, and as a result, net income (loss) per share is calculated using the two-class method. Under this method, we give effect to preferred dividends and then allocate remaining net income (loss) attributable to our stockholders to both common shares and participating securities (based on the percentages outstanding) in determining net income (loss) per common share.

Basic net income (loss) per common share is computed by dividing net income (loss) attributable to common shares (after allocating between common shares and participating securities) by the weighted average number of common shares outstanding during the period.

Diluted net income (loss) per share is computed by dividing net income (loss) attributable to common shares (after allocating between common shares and participating securities) by the weighted average number of common and potential common shares outstanding during the period (after allocating total dilutive shares between our common shares outstanding and our preferred shares outstanding). Potential common shares, comprising incremental common shares issuable upon the exercise of stock options, warrants, and restricted stock awards are included in the calculation of diluted net income (loss) per common share to the extent such shares are dilutive. Net income (loss) attributable to common shares is adjusted for options and restricted stock awards issued by our subsidiaries when the effect of our subsidiary's diluted earnings per share is dilutive.

The following table sets forth the computation of basic and diluted net income (loss) per common share for the periods indicated (in thousands, except per share data):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Numerator:				
Net income (loss) attributable to stockholders of Overstock.com, Inc.	$ 23,391	$ (30,938)	$ 43,414	$ (94,863)
Less: Preferred stock TZROP repurchase loss	—	—	—	(425)
Less: Preferred stock dividends - declared and accumulated	179	837	376	875
Undistributed income (loss)	23,212	(31,775)	43,038	(95,313)
Less: Undistributed income (loss) allocated to participating securities	2,293	(428)	2,482	(1,319)
Net income (loss) attributable to common stockholders	$ 20,919	$ (31,347)	$ 40,556	$ (93,994)
Denominator:				
Weighted average shares of common stock outstanding—basic	41,595	35,241	40,697	34,289
Effect of dilutive securities:				
Stock options and restricted stock awards	607	—	333	—
Weighted average shares of common stock outstanding—diluted	42,202	35,241	41,030	34,289
Net income (loss) per share of common stock:				
Basic	$ 0.50	$ (0.89)	$ 1.00	$ (2.74)
Diluted	$ 0.50	$ (0.89)	$ 0.99	$ (2.74)

The following shares were excluded from the calculation of diluted shares outstanding as their effect would have been anti-dilutive (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Stock options and restricted stock units	4	1,088	302	1,088

17. BUSINESS SEGMENTS

Segment information has been prepared in accordance with ASC Topic 280 *Segment Reporting*. We determined our segments based on how we manage our business. We allocate corporate support costs (administrative functions such as finance, human resources, and legal) to our operating segments based on their estimated usage and based on how we manage our business. We use income (loss) before income taxes as the measure to determine our reportable segments.

Our Retail segment primarily consists of amounts earned through e-commerce product sales through our Website, excluding intercompany transactions eliminated in consolidation.

Our tZERO segment primarily consists of amounts earned through securities transactions through our broker-dealers and costs incurred to execute our tZERO business initiatives, excluding intercompany transactions eliminated in consolidation.

Our MVI segment primarily consists of costs incurred to create or foster a set of products and solutions that leverage blockchain technology to generate efficiencies and increase security and control through our Medici Ventures business initiatives, excluding intercompany transactions eliminated in consolidation.

Other consists of our unallocated corporate support costs and Medici Land Governance. We deconsolidated Medici Land Governance consolidated net assets and noncontrolling interest from our consolidated financial statements beginning on February 22, 2020, the date that control ceased.

We do not allocate assets between our segments for our internal management purposes, and as such, they are not presented here. There were no significant inter-segment sales or transfers during the three and nine months ended September 30, 2020 and 2019.

The following table summarizes information about reportable segments and a reconciliation to consolidated net income (loss) (in thousands):

	Three months ended September 30,				
	Retail	tZERO	MVI	Other	Total
2020					
Net revenue	$ 717,695	$ 11,151	$ 2,805	$ —	$ 731,651
Cost of goods sold	548,982	9,098	2,803	—	560,883
Gross profit	168,713	2,053	2	—	170,768
Operating expenses	125,458	10,613	2,923	2,225	141,219
Interest and other expense, net (1)	(205)	(3,848)	(3,650)	—	(7,703)
Income (loss) before income taxes	$ 43,050	$ (12,408)	$ (6,571)	$ (2,225)	21,846
Provision for income taxes					620
Net income (2)					$ 21,226
2019					
Net revenue	$ 340,798	$ 5,662	$ 639	$ —	$ 347,099
Cost of goods sold	272,545	4,367	639	—	277,551
Gross profit	68,253	1,295	—	—	69,548
Operating expenses	77,641	14,114	4,427	3,496	99,678
Interest and other income (expense), net (1)	137	(475)	(4,057)	6	(4,389)
Loss before income taxes	$ (9,251)	$ (13,294)	$ (8,484)	$ (3,490)	(34,519)
Provision for income taxes					23
Net loss (2)					$ (34,542)

	Nine months ended September 30,				
	Retail	tZERO	MVI	Other	Total
2020					
Net revenue	$ 1,824,249	$ 34,127	$ 7,230	$ 162	$ 1,865,768
Cost of goods sold	1,403,418	28,634	7,226	—	1,439,278
Gross profit	420,831	5,493	4	162	426,490
Operating expenses	333,284	34,087	8,374	8,297	384,042
Interest and other income (expense), net (1)	(621)	(6,898)	2,423	3	(5,093)
Income (loss) before income taxes	$ 86,926	$ (35,492)	$ (5,947)	$ (8,132)	37,355
Provision for income taxes					1,313
Net income (2)					$ 36,042
2019					
Net revenue	$ 1,070,898	$ 15,709	$ 1,930	$ —	$ 1,088,537
Cost of goods sold	858,169	11,867	1,930	—	871,966
Gross profit	212,729	3,842	—	—	216,571
Operating expenses	244,571	41,410	11,583	10,933	308,497
Interest and other income (expense), net (1)	312	(1,098)	(12,068)	(1)	(12,855)
Loss before income taxes	$ (31,530)	$ (38,666)	$ (23,651)	$ (10,934)	(104,781)
Provision for income taxes					279
Net loss (2)					$ (105,060)

(1) — Excludes intercompany transactions eliminated in consolidation, which consist primarily of service fees and interest. The net amounts of these intercompany transactions were $1.3 million and $739,000 for the three months ended September 30, 2020 and 2019, and $3.6 million and $1.7 million for the nine months ended September 30, 2020 and 2019.

(2) — Net income (loss) presented for segment reporting purposes is before any adjustments attributable to noncontrolling interests.

Upon deconsolidation of MLG, we recognized our retained equity interest in MLG as an equity method security held by our MVI segment which resulted in a $10.7 million gain included in Interest and other income (expense), net in the table above for our MVI segment for the nine months ended September 30, 2020. See Note 2—Summary of Significant Accounting Policies and Supplemental Disclosures, *Principles of consolidation*, for additional details on the gain recognized.

For the three and nine months ended September 30, 2020 and 2019, substantially all of our revenues were attributable to customers in the United States. At September 30, 2020 and December 31, 2019, substantially all our property and equipment were located in the United States.

18. BROKER DEALERS

tZERO wholly owns three broker-dealers, SpeedRoute and tZERO ATS, LLC, which were acquired in January 2016, and tZERO Markets, LLC, whose broker-dealer registration with the SEC became effective in August 2020.

SpeedRoute is an electronic, agency-only, FINRA-member broker-dealer that provides connectivity for its customers to U.S. equity exchanges as well as off-exchange sources of liquidity such as alternate trading systems. All of SpeedRoute's customers are registered broker-dealers. SpeedRoute does not hold, own, or sell securities.

tZERO ATS, LLC is a FINRA-member broker-dealer that owns and operates an alternative trading system (the "tZERO ATS") and is a wholly-owned subsidiary of tZERO. The tZERO ATS is a closed trading system available only to broker-dealer subscribers. The tZERO ATS does not accept orders from non-broker-dealers, nor does it hold, own or sell securities. The tZERO ATS currently supports the trading of three digital securities, the Series A-1 preferred stock, TZROP, and Aspen Digital, Inc.'s depository receipts for its common stock ("ASPD") and, in the future, is expected to support digital securities from other issuers.

tZERO Markets, LLC is a FINRA-member broker-dealer that provides online brokerage services, supporting the trading of digital securities on the tZERO ATS. It launched its web application and began to open individual retail accounts in October 2020. tZERO Markets is also approved to act as a placement agent or underwriter in certain securities offerings but has not yet launched these business lines.

Each of tZERO's broker-dealers are subject to the SEC's Uniform Net Capital Rule (SEC Rule 15c3-1), which requires the maintenance of minimum net capital and requires that the ratio of aggregate indebtedness to net capital, both as defined, shall not exceed 15 to 1 and that equity capital may not be withdrawn or cash dividends paid if the resulting net capital ratio would exceed 10 to 1. The following table summarizes the net capital ratio (in thousands, apart from the net capital ratio):

	September 30, 2020	December 31, 2019
SpeedRoute		
Net capital	$ 1,725	$ 850
Required net capital	229	145
Net capital, in excess of required	$ 1,496	$ 705
Net capital ratio	1.99	2.56
tZERO ATS, LLC		
Net capital	$ 863	$ 110
Required net capital	5	5
Net capital, in excess of required	$ 858	$ 105
Net capital ratio	0.03	0.27
tZERO Markets, LLC		
Net capital	$ 2,418	$ —
Required net capital	50	—
Net capital, in excess of required	$ 2,368	$ —
Net capital ratio	0.04	—

Each of tZERO's broker-dealers did not have any securities owned or securities sold, not yet purchased at September 30, 2020 and December 31, 2019, respectively.

19. SUBSEQUENT EVENTS

In October 2020, Medici Ventures entered into a Subscription Agreement (the "Agreement") with the owners of Bitt Inc. ("Bitt") to acquire a majority equity interest in Bitt for $8.0 million and to convert all outstanding convertible notes, bridge loans, and receivables held by Medici Ventures into equity shares of Bitt. The transaction outlined in the Agreement transfers effective control of Bitt to Medici Ventures, bringing our total equity ownership in Bitt to over 80%. Our purchase accounting has not yet been finalized for the transaction, as we are still finalizing our valuation of assets acquired and liabilities assumed.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion provides information that we believe to be relevant to an understanding of our consolidated financial condition and results of operations. The statements in this section regarding industry outlook, our expectations regarding the performance of our business and any other non-historical statements are forward-looking statements. Our actual results may differ materially from those contained in or implied by any forward-looking statements contained herein. These forward-looking statements are subject to numerous risks and uncertainties, including, but not limited to, the risks and uncertainties described in "Special Cautionary Note Regarding Forward Looking Statements" and in Part II, Item 1A, "Risk Factors" included in this Quarterly Report on Form 10-Q. You should read the following discussion together with our consolidated financial statements and related notes included in this Quarterly Report on Form 10-Q and with the sections entitled "Special Cautionary Note Regarding Forward-Looking Statements," Part II, Item 1A, "Risk Factors," and our consolidated financial statements and related notes included in our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020, and with the sections entitled "Special Cautionary Note Regarding Forward-Looking Statements," Part I, Item 1A, "Risk Factors," and our consolidated financial statements and related notes included in our Annual Report on Form 10-K for the year ended December 31, 2019.

We are an online retailer business and advocate of blockchain technology. As used herein, "Overstock", "Overstock.com", "O.co", "the Company", "we," "our" and similar terms include Overstock.com, Inc. and our majority-owned subsidiaries, unless the context indicates otherwise.

Our Retail Business

Our online retail business seeks to provide goods to furnish and accessorize "dream homes for all" of our target customers—consumers who seek quality, stylish merchandise at bargain prices. We believe that the furniture and home furnishings market, which is highly fragmented and has traditionally been served by brick and mortar stores, will continue transitioning to online sales, particularly as Millennial consumers (which we define as those between birth years 1981 - 1996), who are generally comfortable shopping online, start families and move into new homes. As a result of the COVID-19 pandemic and resulting state and local government mandates of home confinement and closure of many brick-and-mortar stores, we have seen strong trends to online sales as consumers migrate to online shopping. We regularly change our home furnishings product assortment to meet the evolving preferences of our customers and current trends. Our products include, among others, furniture, home décor including rugs, bedding and bath, home improvement, and kitchen and dining items. We sell our products and services primarily through our Internet websites located at www.overstock.com and www.o.co (referred to collectively as the "Website"). Nearly all our retail sales through our Website were from transactions in which we fulfilled orders through our network of manufacturers, distributors and other suppliers ("partners") selling on our Website. Our use of the term "partner" does not mean that we have formed any legal partnerships with any of our retail partners. We provide our partners with access to a large customer base and a proprietary technology platform and services for order fulfillment, customer service, returns handling, and other services. Our supply chain allows us to ship directly to our customers from our suppliers or from our warehouses.

Strategies for our Retail Business

Our Retail business initiatives enable our long-term focus on our three brand pillars, "Product Findability," "Smart Value," and "Easy Delivery and Support." Initiatives for the Retail business include:

- *Improve Mobile Experience* - As more website visitors move to mobile, we are focusing on ensuring our mobile experience is fast, frictionless, and meets the unique needs of the mobile shopping journey. We believe an improved mobile experience improves product findability, conversion, search engine rankings, and organic traffic.

- *Overhaul Discounting and Pricing Experience* - "Smart Value" is the central brand pillar of our value proposition. We believe clarifying our pricing and discounting experience allows customers to more confidently purchase at Overstock. Savvy shoppers expect a "smart deal," including saving through coupons, site sales, Club O rewards and financing. We have historically offered free shipping on orders over $45. We initially introduced free shipping on everything to the continental U.S in late March 2020 in response to the COVID-19 pandemic stay-at-home orders, with the goal of easing consumers' financial burdens. As this shopping benefit continued to resonate with new and existing customers, we made the limited-time offer permanent for shoppers all across the continental U.S. We believe our net promoter score (NPS), repeat purchase rates and conversion will improve as we better optimize the mix of offers and clarify the pricing and discounting experience.

- *Real Time Performance and SKU Profitability* - We are improving our ability to address site, assortment and pricing issues more quickly by enhancing our real-time visibility into site, category, and marketing channel performance. We believe this initiative allows us to improve margin by more quickly resolving site issues for an improved customer experience.

- *Expand Partner Sponsored Marketing* - We are expanding the "Overstock Sponsored Product" program, a platform for our drop ship partners to promote their products to shoppers through a cost-per-click auction platform. In addition, we have implemented a marketing allowance program across our partner network. This marketing allowance program allows us to optimize the marketing promotion type, mix of acquisition spend and on-sale assortment to better meet the needs of our target customer segments and adapt to seasonal relevance.

Our Medici Ventures Business

Our Medici business initiatives include our wholly-owned subsidiary, Medici Ventures, Inc. ("Medici Ventures"), which conducts the majority of its business through its majority-owned subsidiary tZERO Group, Inc. ("tZERO"). Medici Ventures' strategy is to create or foster a set of products and solutions that leverage blockchain technology to generate efficiencies and increase security and control in six areas: identity management, property rights and management, central banking and currencies, capital markets, supply chains and commerce, and voting systems. A blockchain is a cryptographically secured, distributed infrastructure, or network, which may be accessed and, in some cases, maintained by each member of the network. Medici Ventures' team of software engineers, developers and other technologists work in blockchain development and deployment and enterprise level software development and deployment. Medici Ventures provides the services of some of its software engineers, developers, or other technologists to other blockchain companies. Medici Ventures also owns strategic minority equity interests in several blockchain-related companies, each of which focuses on at least one of the areas mentioned above. Medici Ventures takes an active interest in and holds seats on the boards of some of these companies. All the companies in which Medici Ventures holds strategic equity interests are startup businesses, businesses in the development stage, or businesses with a short operating history.

Strategies for our Medici Ventures Business

Medici Ventures' primary business focus continues to be accelerating adoption of blockchain technology to democratize capital, eliminate middlemen, and re-humanize commerce. Medici Ventures accomplishes this by doing the following:

- *Enable existing keiretsu companies to extend runway to profitability* - The companies in Medici Ventures' keiretsu continue to release products into production. Medici Ventures supports its *keiretsu* companies by offering a variety of services including development, design, public relations services, and assistance in raising capital from third parties to extend the companies' runway to profitability.

- *Educate the public and policy makers on blockchain technologies* - Medici Ventures works to increase general knowledge of blockchain technology, use cases, and corresponding value through speaking opportunities, article publication, policy maker outreach, and other public relations work.

- *Opportunistically approach future partnerships* - Medici Ventures continues to review and seek out strategic opportunities to take ownership interests in seed-stage and startup companies that effectively use blockchain technology. This includes looking for companies that can effectively use Medici Ventures' enterprise-level technology development and design talent.

Our tZERO Business

tZERO is a financial technology company with the goal of democratizing access to private capital markets whose primary focus is on the development and adoption of digital securities. tZERO offers institutional-grade solutions for issuers looking to digitize their capital table through blockchain technology and the use of digital securities, and trade on a regulated alternative trading system. tZERO democratizes access to private assets by providing a simple, automated, and efficient trading venue to broker-dealers, institutions, and investors. tZERO has developed a suite of technologies (the "tZERO Technology Stack") that enables issuers to issue, and relevant regulated market participants to support the issuance, trading, clearance and settlement of, digital securities. Throughout this report we refer to "digital securities" which are conventional uncertificated securities where the issuer arranges for a digital "courtesy carbon copy" of the transfer agent's share registry to be viewable on the blockchain to enhance the investor experience through added transparency, but which have no controlling legal effect. tZERO and its affiliates are working with regulators and other stakeholders to expand the role of blockchain in the lifecycle of digital securities and to facilitate the infrastructure, issuance, recording, trading, clearing, settlement, and regulatory compliance of "digital asset securities" described in the July 8, 2019 Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities in a manner consistent with existing market and legal infrastructure.

tZERO also supports the adoption of digital securities by developing the tZERO Technology Stack for use by regulated venues on which those digital securities can trade, as well as investing in subsidiaries and joint venture entities that own and operate such trading venues. These investments include the alternative trading system (the "tZERO ATS") run by its wholly-owned subsidiary, tZERO ATS, LLC, which provides a regulated venue for matching buy and sell orders to its broker-dealer subscribers, including for the trading of digital securities, and its joint venture with BOX Digital Markets LLC ("BOX Digital"), intended to develop a U.S. national securities exchange facility with regulatory approvals enabling it to support trading in a type of digital security called a security token. Another wholly-owned subsidiary of tZERO, tZERO Markets, LLC ("tZERO Markets"), is an SEC-registered broker-dealer which offers a website, and, in the future intends to provide a mobile application, that allows retail customers to conduct self-directed trading of digital securities.

In addition, tZERO also maintains certain non-blockchain businesses, including the broker-dealer activities of its subsidiaries, tZERO ATS, LLC and SpeedRoute, LLC ("SpeedRoute"). tZERO's remaining businesses include tZERO Crypto, Inc., a cryptocurrency wallet and exchange services business, and Verify Investor, LLC, an accredited investor verification company.

Strategies for our tZERO Business

tZERO's primary initiatives currently consist of the following:

- *Promote trading* - tZERO ATS, LLC is focused on quoting for trading high-quality digital securities. tZERO ATS, LLC is working with prospective issuers spanning various industries, including real estate, technology, health care and sports, as they seek to structure and issue new digital securities using the tZERO Technology Stack, as well as to provide liquidity to existing investors. Additionally, tZERO is enhancing the tZERO Technology Stack to support third party issuance protocols in order to support securities which have been digitally enabled by other technology companies and is cultivating relationships with established investment banks to help prospective issuers raise capital, prior to tokenizing and trading on the tZERO ATS.

- *Enhance liquidity* - tZERO ATS, LLC is focused on enhancing liquidity. To achieve this, tZERO ATS, LLC is in continual discussions with additional broker-dealers interested in subscribing to the tZERO ATS, which would enable their customers to trade digital securities traded on the tZERO ATS. tZERO also continues to develop new avenues for traders to access digital securities including tZERO Markets, an SEC-registered broker-dealer able to accept retail customers and BSTX as it seeks regulatory approval for a U.S. national exchange facility and thereby provide a new trading venue for digital securities.

- *Create a world class trading experience* - tZERO continues to seek opportunities to enhance the tZERO Technology Stack and improve investors' trading experience for all types of financial products. tZERO is working to allow digital securities to be traded via a mobile application to complement their accessibility via web platform. It is also developing further enhancements of tZERO Crypto's separate wallet and exchange services, such as providing additional features for its mobile application and ensuring it is accessible on a web platform. tZERO believes a world-class combined trading experience will be key to investors' adoption of digital securities and tZERO's other products and services, including cryptocurrencies.

- *Advocacy* - tZERO operates businesses which are subject to complex and often uncertain legal environments and believes active engagement with regulatory authorities is necessary to realize the full potential of its business. tZERO continues, in partnership with other industry participants, to advocate regulatory reform with legislators and regulators in order to spur market innovation through the adoption of distributed ledger technology and digital asset securities.

Executive Commentary

This executive commentary is intended to provide investors with a view of our business through the eyes of our management. As an executive commentary, it necessarily focuses on selected aspects of our business. This executive commentary is intended as a supplement to, but not a substitute for, the more detailed discussion of our business included elsewhere herein. Investors are cautioned to read our entire "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as our interim and audited financial statements, and the discussion of our business and risk factors and other information included elsewhere or incorporated in this report. This executive commentary includes forward-looking statements, and investors are cautioned to read "Special Cautionary Note Regarding Forward-Looking Statements."

Revenue increased 111% in Q3 2020 compared to the same period in 2019. This increase was primarily due to increased retail product sales resulting from a 102% increase in customer orders. This increased order activity was largely driven by new customer growth and strong repeat customer behavior, both influenced by a consumer migration toward online shopping. While we have observed this recent acceleration of new customer acquisition and demand for our products and resulting sales, we cannot estimate the impact that COVID-19 will have on our business in the future due to the unpredictable nature of the ultimate scope and duration of the pandemic.

Gross profit increased 146% in Q3 2020 compared to the same period in 2019 primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 23.3% for the three months ended September 30, 2020, compared to 20.0% for the same period in 2019, primarily due to our new partner marketing allowance program that was fully rolled out in the second quarter of 2020, which requires all of our partners to participate and allows us to advertise more strategically to our customers. Gross margin also benefited from reduced promotional discounting as we balanced spend to support new customer acquisition efforts, unique items in the third quarter of 2019 that negatively impacted freight costs including cancellation of a freight carrier contract and an increase in large package shipments. Furthermore, we gained leverage in our fixed warehouse infrastructure and realized an increase in fees charged to partners due to unmet contractual service levels.

Sales and marketing expenses as a percentage of revenue decrease from 9.9% in Q3 2019 to 9.8% in Q3 2020, was primarily due to gained leverage on television advertising spend and staff-related expenses, partially offset by increased spending on market partner commissions and paid listing advertisements to support our customer acquisition strategy, resulting in a 141% increase in new customers compared to the third quarter of 2019.

Technology expenses totaled $35.0 million for the three months ended September 30, 2020, a $2.2 million increase compared to the three months ended September 30, 2019, primarily due to staff-related costs, including accrued bonuses.

General and administrative expenses increased $1.5 million for the three months ended September 30, 2020 compared to the three months ended September 30, 2019, primarily due to staff-related costs including accrued bonuses, which were partially offset by a reduction in discretionary spending due to adjustments related to the COVID-19 pandemic.

Liquidity

Our consolidated cash and cash equivalents balance increased from $112.3 million as of December 31, 2019, to $529.7 million as of September 30, 2020, an increase of $417.4 million, primarily as the result of cash flows from operating activities of $198.7 million, $195.5 million in net proceeds primarily from our common stock offering executed during August 2020, and $47.5 million in proceeds from long-term debt, partially offset by a cash outflow of $15.1 million in expenditures for property and equipment.

Additional commentary related to Medici Ventures

For the three months ended September 30, 2020, our loss before income taxes in our Medici Ventures business, excluding the tZERO business, was $6.6 million, and we expect to continue to incur significant losses in our Medici Ventures business during 2020 as Medici Ventures' business model of providing technical assistance to companies in which Medici Ventures owns an interest has not yet generated material revenues.

Additional commentary related to tZERO

For the three months ended September 30, 2020, our loss before income taxes in our tZERO business, excluding our loss in the non-tZERO portion of our Medici business, was $12.4 million, and we expect to continue to incur significant losses in our tZERO business during 2020 as tZERO continues to make progress towards establishing a stable customer base and generating meaningful revenue from its commercially available blockchain applications.

Additional commentary related to COVID-19

Overstock has continued to respond to the challenges and opportunities created by the COVID-19 pandemic. In our Retail business, customer demand continued to increase significantly in the third quarter, particularly in our key home furnishings categories. We have seen a substantial year-over-year increase in our website traffic and number of new customers. Our Retail gross sales again grew more than 100% year over year in Q3. Our online-only platform and partner network with thousands of fulfillment centers has enabled us to meet this increase in demand. Our three warehouses have remained operational based on our sustained implementation of sound safety measures, including staggered shifts and social distancing. We are also hiring in key areas throughout the company to support our current and expected growth. We continue to face challenges created by the sharp increase in volume, in customer service channels and in fulfillment and delivery, stemming from capacity issues from shipping carriers and some suppliers, including out-of-stock positions on some of our top performing products. Most of our Medici Ventures blockchain companies have seen relatively little disruption, and several are working on solutions to problems exacerbated by the global pandemic. We have evaluated and implemented a phased re-entry plan for our offices; most of our corporate employees continue to work from home without incident. We cannot predict how the COVID-19 pandemic will unfold in the coming months. Nevertheless, the challenges arising from the pandemic have not adversely affected our liquidity, revenues, or capacity to service our debt, nor have these conditions required us to reduce our capital expenditures.

Results of Operations

Comparisons of Three Months Ended September 30, 2020 to Three Months Ended September 30, 2019, and Nine Months Ended September 30, 2020 to Nine Months Ended September 30, 2019.

Revenue

The following table reflects our net revenues for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Revenue, net				
Retail	$ 717,695	$ 340,798	$ 1,824,249	$ 1,070,898
Other	13,956	6,301	41,519	17,639
Total revenue, net	$ 731,651	$ 347,099	$ 1,865,768	$ 1,088,537
Year-over-year percentage growth				
Retail	110.6%	(21.8)%	70.3%	(20.9)%
Other	121.5%	31.1 %	135.4%	13.1 %
Total revenue, net	110.8%	(21.2)%	71.4%	(20.5)%

The 111% increase in total net revenue for the three months ended September 30, 2020, as compared to the same period in 2019, was primarily due to increased retail product sales resulting from a 102% increase in customer orders. This increased order activity was largely driven by new customer growth and strong repeat customer behavior, both influenced by a consumer migration toward online shopping. While we have observed this recent acceleration of new customer acquisition and demand for our products and resulting sales, we cannot estimate the impact that COVID-19 will have on our business in the future due to the unpredictable nature of the ultimate scope and duration of the pandemic.

The 71% increase in total net revenue for the nine months ended September 30, 2020, as compared to the same period in 2019, was primarily due to increased retail product sales resulting from a 71% increase in customer orders, 117% new customer growth, and strong repeat customer behavior, largely due to a consumer migration toward online shopping in response to COVID-19.

The increase in our Other net revenue for the three and nine months ended September 30, 2020 as compared to the same period in 2019 was primarily due to an increase in SpeedRoute trading volume.

International net revenues were less than 2% of total net revenues for each of the three and nine months ended September 30, 2020 and 2019.

Change in estimate of average transit times (days)

Our retail revenue related to merchandise sales is recognized upon delivery to our customers. As we ship high volumes of packages through multiple carriers, it is not practical for us to track the actual delivery date of each shipment. Therefore, we use estimates to determine which shipments are delivered and, therefore, recognized as revenue at the end of the period. Our delivery date estimates are based on average shipping transit times. We review and update our estimates on a quarterly basis based on our actual transit time experience. However, actual shipping times may differ from our estimates, which can be further impacted by uncertainty, volatility, and any disruption to our carriers caused by the COVID-19 pandemic.

The following table shows the effect that hypothetical changes in the estimate of average shipping transit times would have had on the reported amount of revenue and income before income taxes for the three months ended September 30, 2020 (in thousands):

	Three months ended September 30, 2020	
Change in the Estimate of Average Transit Times (Days)	**Increase (Decrease) Revenue**	**Increase (Decrease) Income Before Income Taxes**
2	$ (15,098)	$ (2,857)
1	$ (7,635)	$ (1,434)
As reported	As reported	As reported
-1	$ 13,601	$ 2,735
-2	$ 25,239	$ 5,074

Gross profit and gross margin

Our overall gross margins fluctuate based on changes in supplier cost and / or sales price, including competitive pricing; inventory management decisions; sales coupons and promotions; product mix of sales; and operational and fulfillment costs.

The following table reflects our gross profit for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	**2019**	**2020**	**2019**
Gross profit				
Retail	$ 168,713	$ 68,253	$ 420,831	$ 212,729
Other	2,055	1,295	5,659	3,842
Total gross profit	$ 170,768	$ 69,548	$ 426,490	$ 216,571
Year-over-year percentage growth				
Retail	147.2%	(19.8)%	97.8%	(20.6)%
Other	58.7%	(18.7)%	47.3%	(11.8)%
Total gross profit	145.5%	(19.8)%	96.9%	(20.5)%

Gross margins for the past seven quarterly periods and fiscal year ending 2019 were:

	Q1 2019	Q2 2019	Q3 2019	Q4 2019	FY 2019	Q1 2020	Q2 2020	Q3 2020
Retail	19.9%	19.7%	20.0%	20.7%	20.1%	21.9%	23.2%	23.5%
Other	22.3%	22.6%	20.6%	19.1%	21.0%	13.6%	12.6%	14.7%
Combined	19.9%	19.8%	20.0%	20.6%	20.1%	21.6%	23.0%	23.3%

Gross profit for the three months ended September 30, 2020 increased 146% compared to the same period in 2019, primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 23.3% for the three months ended September 30, 2020, compared to 20.0% for the same period in 2019, primarily due to our new partner marketing allowance program that was fully rolled out in the second quarter of 2020, which requires all of our partners to participate and allows us to advertise more strategically to our customers. Gross margin also benefited from reduced promotional discounting as we balanced spend to support new customer acquisition efforts, unique items in the third quarter of 2019 that negatively impacted freight costs including cancellation of a freight carrier contract and an increase in large package shipments. Furthermore, we gained leverage in our fixed warehouse infrastructure and realized an increase in fees charged to partners due to unmet contractual service levels.

Gross profit for the nine months ended September 30, 2020 increased 97% compared to the same period in 2019, primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 22.9% for the nine months ended September 30, 2020, compared to 19.9% for the same period in 2019, primarily due to our new partner marketing allowance program that was fully rolled out in the second quarter of 2020, which requires all of our partners to participate and allows us to advertise more strategically to our customers. Gross margin also benefited from reduced promotional discounting as we balanced spend to support new customer acquisition efforts, gained leverage in our fixed warehouse infrastructure, an increase in fees charged to partners due to unmet contractual service levels, and lower customer service costs due to slower growth in our staffing relative to sales.

Fulfillment costs

Fulfillment costs include all warehousing costs, including fixed overhead and variable handling costs (excluding packaging costs), as well as merchant processing fees associated with customer payments made by credit cards and other payment methods and other variable fees, and customer service costs, all of which we include as costs in calculating gross margin. We believe that some companies in our industry, including some of our competitors, account for fulfillment costs within operating expenses, and therefore exclude fulfillment costs from gross margin. As a result, our gross margin may not be directly comparable to others in our industry.

The following table has been included to provide investors additional information regarding our classification of fulfillment costs, gross profit and margin, thus enabling investors to better compare our gross margin with others in our industry (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Total revenue, net	$ 731,651	$ 347,099	$ 1,865,768	$ 1,088,537
Cost of goods sold				
Product costs and other cost of goods sold	531,743	261,670	1,367,472	822,390
Fulfillment and related costs	29,140	15,881	71,806	49,576
Total cost of goods sold	560,883	277,551	1,439,278	871,966
Gross profit	$ 170,768	$ 69,548	$ 426,490	$ 216,571
Percent of total revenue, net				
Cost of goods sold				
Product costs and other cost of goods sold	72.7%	75.4%	73.3%	75.6%
Fulfillment and related costs	4.0%	4.6%	3.8%	4.6%
Total cost of goods sold	76.7%	80.0%	77.1%	80.1%
Gross profit	23.3%	20.0%	22.9%	19.9%

Fulfillment costs as a percentage of sales may vary due to several factors, such as our ability to manage costs at our warehouses, significant changes in the number of units received and fulfilled, the extent to which we use third-party fulfillment services and warehouses, and our ability to effectively manage customer service costs and merchant fees. Fulfillment and related costs decreased slightly as a percentage of revenue during the three and nine months ended September 30, 2020 as compared to the same period in 2019.

See "Gross profit and gross margin" above for additional discussion.

Operating expenses

Sales and marketing expenses

We use a variety of methods to target our consumer audience, including online campaigns, such as advertising through text ads, product listing ads, display ads, native ads, affiliate marketing programs, e-mail, direct mail, video ads, and social media campaigns. We also do brand advertising through television, radio, print ads, and event sponsorships.

Costs associated with our discounted shipping and other promotions, such as coupons, are not included in sales and marketing expense. Rather, they are accounted for as a reduction in revenue as they reduce the amount of consideration we expect to receive in exchange for goods or services and therefore affect net revenues and gross margin. We consider discounted shipping and other promotions, such as our policy for free shipping on orders, as an effective marketing tool.

The following table reflects our sales and marketing expenses for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Sales and marketing expenses	$ 72,010	$ 34,215	$ 188,562	$ 102,252
Advertising expense included in sales and marketing expenses	$ 67,387	$ 29,660	$ 175,104	$ 88,103
Year-over-year percentage growth				
Sales and marketing expenses	110.5%	(38.1)%	84.4%	(54.9)%
Advertising expense included in sales and marketing expenses	127.2%	(40.3)%	98.7%	(57.5)%
Percentage of net revenues				
Sales and marketing expenses	9.8%	9.9 %	10.1%	9.4 %
Advertising expense included in sales and marketing expenses	9.2%	8.5 %	9.4%	8.1 %

The 10 basis point decrease in sales and marketing expenses as a percent of net revenues for the three months ended September 30, 2020, as compared to the same period in 2019, was primarily due to gained leverage on television advertising spend and staff-related expenses, partially offset by increased spending on market partner commissions and paid listing advertisements to support our customer acquisition strategy, resulting in a 141% increase in new customers compared to the third quarter of 2019.

The 70 basis point increase in sales and marketing expenses as a percent of net revenues for the nine months ended September 30, 2020, as compared to the same period in 2019, was primarily due to increased spending to support our customer acquisition strategy, resulting in a 117% increase in new customers compared to the nine months ended September 30, 2019.

Technology expenses

We seek to deploy our capital resources efficiently in technology, including web services, customer support solutions, website search, expansion of new and existing product categories, and in technology to enhance the customer experience, improve our process efficiency and support and expand our logistics infrastructure. We expect to continue to incur technology expenses to support these initiatives and these expenditures may continue to be material.

The frequency and variety of cyberattacks on our Website, our corporate systems, and on third parties we use to support our technology continues to increase. The impact of such attacks, their costs, and the costs we incur to protect ourselves against future attacks have not been material to date. However, we consider the risk introduced by cyberattacks to be serious and will continue to incur costs related to efforts to protect ourselves against them.

The following table reflects our technology expenses for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
Technology expenses	$ 34,984	$ 32,782	$ 101,458	$ 101,368
Year-over-year percentage growth				
Technology expenses	6.7%	(3.2)%	0.1%	3.9%
Technology expenses as a percent of net revenues	4.8%	9.4 %	5.4%	9.3%

The $2.2 million increase in technology expenses for the three months ended September 30, 2020, as compared to the same period in 2019, was primarily due to staff-related costs, including accrued bonuses.

Technology expenses increased $90,000 for the nine months ended September 30, 2020, as compared to the same period in 2019.

General and administrative expenses

The following table reflects our general and administrative expenses for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2020	2019	2020	2019
General and administrative expenses	$ 34,225	$ 32,681	$ 94,022	$ 104,877
Year-over-year percentage growth				
General and administrative expenses	4.7%	(27.9)%	(10.4)%	(10.0)%
General and administrative expenses as a percent of net revenues	4.7%	9.4 %	5.0 %	9.6 %

The $1.5 million increase in general and administrative expenses for the three months ended September 30, 2020, as compared to the same period in 2019 was primarily due to staff-related costs including accrued bonuses, which were partially offset by a reduction in discretionary spending due to adjustments related to the COVID-19 pandemic.

The $10.9 million decrease in general and administrative expenses for the nine months ended September 30, 2020, as compared to the same period in 2019 was primarily due to an $8.6 million reversal of a legal settlement accrual, a $2.5 million Visa settlement, a $2.8 million decrease in consulting expenses, and a reduction in discretionary spending due to adjustments related to the COVID-19 pandemic, partially offset by a $5.8 million increase in staff-related costs including accrued bonus.

Other expense, net

The $2.7 million increase in other expense, net for the three months ended September 30, 2020, as compared to the same period in 2019, was primarily due to an increase in losses associated with our equity securities.

The $9.0 million decrease in other expense, net for the nine months ended September 30, 2020, as compared to the same period in 2019, was primarily due to a $10.7 million gain recognized on the deconsolidation of the Medici Land Governance business, partially offset by an increase in losses associated with our equity securities.

Income taxes

Our income tax provision for interim periods is determined using an estimate of our annual effective tax rate adjusted for discrete items, if any, for relevant interim periods. We update our estimate of the annual effective tax rate each quarter and make cumulative adjustments if our estimated annual effective tax rate changes.

Our quarterly tax provision and our quarterly estimate of our annual effective tax rate are subject to significant variations due to several factors including variability in predicting our pre-tax and taxable income and the mix of jurisdictions to which those items relate, relative changes in expenses or losses for which tax benefits are not recognized, how we do business, fluctuations in our stock price, and changes in laws, regulations, and administrative practices. Our effective tax rate can be volatile based on the amount of pre-tax income. For example, the impact of discrete items on our effective tax rate is greater when pre-tax income is lower.

Our provision for income taxes for the three months ended September 30, 2020 and 2019 was $620,000 and $23,000, respectively. Our provision for income taxes for the nine months ended September 30, 2020 and 2019 was $1.3 million and $279,000, respectively. The effective tax rate for the nine months ended September 30, 2020 and 2019 was 3.5% and (0.3)%, respectively. Our low effective tax rate is primarily attributable to the valuation allowance we maintain on our net deferred tax assets related to our U.S. operations.

We are subject to taxation in the United States and several state and foreign jurisdictions. Tax years beginning in 2015 are subject to examination by taxing authorities, although net operating loss and credit carryforwards from all years are subject to examinations and adjustments for at least three years following the year in which the attributes are used.

Liquidity and Capital Resources

Overview

We believe that our cash and cash equivalents currently on hand and expected cash flows from future operations will be sufficient to continue operations for at least the next twelve months. During the period of uncertainty and volatility related to the COVID-19 pandemic, we have presumed for forecasting purposes that our recent revenue growth rates experienced during the second half of March 2020 and through September 2020 might not continue at these levels for the foreseeable future as we believe these growth rates are driven in part by the COVID-19 pandemic and resulting state and local government mandates of home confinement and closure of many brick-and-mortar stores. We continue to monitor, evaluate, and manage our operating plans, forecasts, and liquidity in light of the most recent developments driven by the COVID-19 pandemic. We proactively seek opportunities to improve the efficiency of our operations and have in the past and may in the future take steps to realize internal cost savings, including aligning our staffing needs based on our current and expected future levels of operations and process streamlining.

Current sources of liquidity

Our principal sources of liquidity are existing cash and cash equivalents and accounts receivables, net. At September 30, 2020, we had cash and cash equivalents of $529.7 million and accounts receivables, net of $35.4 million. Our ability to access the liquidity of our subsidiaries may be limited by tax and legal considerations and other factors.

Cash flow information is as follows (in thousands):

	Nine months ended September 30,	
	2020	**2019**
Cash provided by (used in):		
Operating activities	$ 198,710	$ (89,195)
Investing activities	(15,431)	(14,259)
Financing activities	234,103	46,437

At September 30, 2020, we had $150.0 million available under our "at the market" sales program which permits us to conduct "at the market" public offerings of our common stock under a sales agreement, dated June 26, 2020, with JonesTrading Institutional Services LLC ("JonesTrading") and D.A. Davidson & Co. ("D.A. Davidson").

We completed a public offering of our common stock on August 14, 2020 and issued 2,415,000 shares of our common stock pursuant to an underwriting agreement, dated August 11, 2020, for proceeds totaling $192.7 million, net of $11.4 million in offering costs.

Operating activities

Cash received from customers generally corresponds to our net revenues as our customers primarily use credit cards to buy from us, causing our receivables from these sales transactions to settle quickly. We have payment terms with our partners that generally extend beyond the amount of time necessary to collect proceeds from our customers. As a result of increased online shopping migration from the COVID-19 pandemic, we saw our retail product sales accelerate at the end of March through September 30, 2020, as customers turned to online shopping, which caused our cash, cash equivalents and accounts receivable balances to increase compared to year-end and also resulted in an increase in our accounts payable and unearned revenue balance as of September 30, 2020.

The $198.7 million of net cash provided by operating activities during the nine months ended September 30, 2020 was primarily due to consolidated net income, adjusted for non-cash items, of $76.1 million and cash provided by changes in operating assets and liabilities of $122.6 million.

The $89.2 million of net cash used in operating activities during the nine months ended September 30, 2019 was primarily due to consolidated net loss, adjusted for non-cash items, of $48.2 million and cash used by changes in operating assets and liabilities of $41.0 million.

Investing activities

For the nine months ended September 30, 2020, investing activities resulted in a net cash outflow of $15.4 million, primarily due to $4.1 million in cash outflow from the deconsolidation of MLG's net assets and $15.1 million of expenditures for property and equipment, partially offset by $6.3 million in proceeds from the sale of marketable securities.

For the nine months ended September 30, 2019, investing activities resulted in net cash outflows of $14.3 million, primarily due to $17.9 million of expenditures for property and equipment, $5.1 million purchase of equity securities, and $3.3 million disbursement of notes receivable, partially offset by $7.1 million in proceeds from the sale of equity securities and $4.9 million of cash acquired through a business combination that was funded at the end of the fourth quarter of 2018 but closed in the first quarter of 2019.

Financing activities

For the nine months ended September 30, 2020, financing activities resulted in a net cash inflow of $234.1 million primarily due to $47.5 million in proceeds from long-term debt and $195.5 million in net proceeds primarily from our common stock offering executed during August 2020, partially offset by $2.3 million for payment of taxes withheld upon vesting of restricted stock.

For the nine months ended September 30, 2019, financing activities resulted in net cash inflows of $46.4 million primarily due to $52.1 million of net proceeds from the sale of common stock under the at the market offering, partially offset by $1.4 million of taxes withheld upon vesting of restricted stock, and $3.1 million payment on long-term debt.

Contractual Obligations and Commitments

The following table summarizes our contractual obligations as of September 30, 2020 and the effect such obligations and commitments are expected to have on our liquidity and cash flow in future periods (in thousands):

Contractual Obligations	**Total**	**Less than 1 year**	**1-3 years**	**3-5 years**	**More than 5 years**
Operating leases (1)	$ 33,945	$ 7,838	$ 13,629	$ 6,293	$ 6,185
Loan agreements (2)	61,174	5,264	10,528	4,207	41,175
Technology services (3)	3,638	2,756	882	—	—
Total contractual cash obligations	$ 98,757	$ 15,858	$ 25,039	$ 10,500	$ 47,360

(1) — Represents the future minimum lease payments under non-cancellable operating leases. For information regarding our operating lease obligations, see Note 9—Leases, in the Notes to Unaudited Consolidated Financial Statements included in Item 1, Part I, Financial Statements (Unaudited) of this Quarterly Report on Form 10-Q.
(2) — Represents future interest and principal payments on the financing agreements with Loan Core Capital Funding Corporation LLC. For information regarding our financing agreements, see Note 8—Borrowings, in the Notes to Unaudited Consolidated Financial Statements included in Item 1, Part I, Financial Statements (Unaudited) of this Quarterly Report on Form 10-Q.
(3) — Represents the future payments for enforceable and legally binding long-term contractual agreements for technology services and finance leases for equipment included in such service agreements.

Tax contingencies

We are involved in various tax matters, the outcomes of which are uncertain. As of September 30, 2020, accrued tax contingencies were $1.4 million. Changes in state, federal, and foreign tax laws may increase our tax contingencies. The timing of the resolution of income tax contingencies is highly uncertain, and the amounts ultimately paid, if any, upon resolution of issues raised by the taxing authorities may differ from the amounts accrued. It is reasonably possible that within the next 12 months we will receive additional assessments by various tax authorities. These assessments may or may not result in changes to our contingencies related to positions on prior years' tax filings.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources that would be material to investors.

Critical Accounting Policies and Estimates

The preparation of our financial statements requires that we make estimates and judgments. We base these on historical experience and on other assumptions that we believe to be reasonable. There have been no material changes to our critical accounting policies and estimates as compared to the critical accounting policies and estimates described in Note 2—Accounting Policies, included in Part II, Item 8, Financial Statements and Supplementary Data, of our Annual Report on Form 10-K for the year ended December 31, 2019, except as disclosed in Note 2—Summary of Significant Accounting Policies and Supplemental Disclosures, including information about recently adopted accounting standards, see *Recently adopted accounting standards*, included in Item 1, Part I, Financial Statements (Unaudited), contained in the Notes to Unaudited Consolidated Financial Statements of this Quarterly Report on Form 10-Q.

Government Regulation

We are subject to a wide variety of laws, rules and regulations, some of which apply or may apply to us as a result of our retail business, some of which apply or may apply to us as a result of our Medici Ventures or tZERO businesses, and others of which apply to us for other reasons, such as our status as a publicly held company or the places in which we sell certain types or amounts of products. Our retail business is subject to general business regulations and laws, as well as regulations and laws specifically governing the Internet, e-commerce, and other services we offer. Existing and future laws and regulations may result in increasing expense and may impede our growth. Applicable and potentially applicable regulations and laws include regulations and laws regarding taxation, privacy, data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, consumer protection, employment, import and export matters, information reporting requirements, access to our services and facilities, the design and operation of websites, health and sanitation standards, the characteristics and quality of products and services, product labeling and unfair and deceptive trade practices.

Our efforts to expand our retail business outside of the U.S. expose us to foreign and additional U.S. laws and regulations, including but not limited to, laws and regulations relating to taxation, business licensing or certification requirements, advertising practices, online services, the use of cryptocurrency, the importation of specified or proscribed items, importation quotas, consumer protection, intellectual property rights, consumer and data protection, privacy, encryption, restrictions on pricing or discounts, and the U.S. Foreign Corrupt Practices Act and other applicable U.S. and foreign laws prohibiting corrupt payments to government officials and other third parties.

Our Medici Ventures and tZERO businesses are subject to general business regulations and laws, including some of those described above, but are also affected by a number of other laws and regulations, including but not limited to, laws and regulations relating to money transmitters and money services businesses, including the requirements of the Financial Crimes Enforcement Network of the U.S. Department of Treasury ("FinCEN") and state requirements applicable to money transmission, cryptocurrencies, provisions of various securities laws and other laws and regulations governing broker-dealers, alternative trading systems and national securities exchanges, anti-money laundering requirements, know-your-customer requirements, record-keeping, reporting and capital and bonding requirements, and a variety of other matters. Blockchain and distributed ledger platforms are recent technological innovations, and the regulation of peer-to-peer digital assets and conventional securities, insofar as blockchain technologies are applied to conventional securities, is developing. In the U.S., the businesses that we are working to develop are or may be subject to a wide variety of complex statutes and rules, most of which were implemented prior to the development of these technologies, and it is sometimes unclear whether or how various statutes or regulations apply.

In addition, tZERO Markets is a registered broker-dealer under the Exchange Act and a member of FINRA and the Securities Investor Protection Corporation and is subject to regulation, examination, investigation and disciplinary action by the SEC, FINRA and state securities regulators, as well as other governmental authorities and self-regulatory organizations with which it is registered or licensed or of which it becomes a member. As a result of the services which tZERO Markets provides, including servicing retail investors, a number of these legal and regulatory requirements are new to tZERO's broker-dealer subsidiaries and we expect federal and state securities regulators will require enhanced supervision, compliance and control procedures for tZERO Markets.

Furthermore, tZERO ATS, LLC operates the tZERO ATS and is, therefore, subject to Regulation ATS as well as other regulations, and partners with broker-dealers that are also subject to regulation by the SEC and FINRA and whose regulatory compliance may impact tZERO ATS, LLC. Regulation ATS establishes the regulatory framework for alternative trading systems that match buy and sell orders but are exempt from registering as a national exchange under the Securities Exchange Act of 1934. Regulation ATS subjects tZERO ATS, LLC to various rules and regulations, including, but not limited to, quarterly reporting obligations on Form ATS. The tZERO ATS facilitates the current trading of our outstanding Series A-1 preferred stock as well as TZROP. Secondary resales of our Series A-1 preferred stock and TZROP must be conducted in compliance with federal and state securities laws which may additionally impact tZERO ATS, LLC.

The joint venture that tZERO and BOX Digital announced in June 2018 is seeking regulatory approvals that would enable the parties to operate BSTX, a national securities exchange facility to support trading in a type of digital security called a security token. BSTX will require approval from the SEC prior to beginning operations. The SEC published proposed rule changes relating to BSTX on October 11, 2019, soliciting public comments thereon. The SEC extended the review period on November 29, 2019 to January 16, 2020. BOX Exchange LLC filed an amendment to the proposal on December 26, 2019, and the SEC again extended the review period on January 16, 2020 to April 15, 2020. A subsequent amendment was filed by BOX Exchange LLC on February 19, 2020, after which the SEC extended the review period on April 14, 2020 until June 14, 2020. To allow for further review by the SEC, BOX Exchange LLC withdrew and resubmitted the proposed rule changes on May 12, 2020. The SEC extended the review period for the proposed rule changes on July 16, 2020 to August 30, 2020. BOX Exchange LLC filed an amendment to the proposal on July 31, 2020, and the SEC again extended the review period on August 12, 2020 to November 27, 2020. As a national securities exchange facility, BSTX will be subject to provisions of the Securities Exchange Act of 1934 and other rules and regulations applicable to national securities exchanges that are different than those applicable to tZERO's current operations, including, but not limited to, periodic and special examinations by the SEC.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risk for the effect of interest rate changes, foreign currency fluctuations, and changes in the market values of our investments. Information relating to quantitative and qualitative disclosures about these market risks is set forth below.

Interest Rate Sensitivity

The fair value of our cash and cash equivalents (highly-liquid instruments with a remaining maturity of 90 days or less at the date of purchase) would not be significantly affected by either an increase or decrease in interest rates due mainly to the short-term nature of these instruments.

Our Loan Core Capital Funding Corporation LLC loan agreements carry a fixed blended annual interest rate of 4.45%. Since the Notes bear interest at a fixed rate, we have no direct financial statement risk associated with changes in interest rates.

Foreign Currency Risk

Most of our sales and operating expenses are denominated in U.S. dollars, and therefore, our total revenue and operating expenses are not currently subject to significant foreign currency risk.

Investment Risk

The fair values of our marketable and equity securities may be subject to fluctuations due to volatility of the stock market in general, investment-specific circumstances, and changes in general economic conditions. Volatile market conditions arising from the COVID-19 pandemic may result in significant changes in the value of our marketable and equity securities. At September 30, 2020, our recorded value in marketable and equity securities in public and private companies was $50.3 million, of which $1.8 million relates to publicly traded companies, recorded at fair value, which are subject to market price volatility. We perform a qualitative assessment for our equity securities in private companies to identify impairment. If this assessment indicates that an impairment exists, we estimate the fair value of the equity security and, if the fair value is less than carrying value, we write down the equity security to fair value. Our assessment includes a review of recent operating results and trends, recent sales/acquisitions of the equity securities, and other publicly available data. Valuations of private companies are inherently more complex due to the lack of readily available market data. As such, we believe that market sensitivities are not practicable.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

We maintain disclosure controls and procedures, as such term is defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The term disclosure controls and procedures means controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms.

Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation required by the Exchange Act, under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rule 13a-15(e) of the Exchange Act, as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Limitations on Disclosure Controls and Procedures

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives as specified above. Management does not expect, however, that our disclosure controls and procedures will prevent or detect all error and fraud. Any control system, no matter how well designed and operated, is based upon certain assumptions and can provide only reasonable, not absolute, assurance that its objectives will be met. Further, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected.

Changes in Disclosure Controls and Procedures and Internal Control Over Financial Reporting

There were no changes in either our disclosure controls and procedures or our internal control over financial reporting that occurred during the quarter ended September 30, 2020, that have materially affected, or are reasonably likely to materially affect, our disclosure controls and procedures or our internal control over financial reporting. We have not experienced any material impact to our disclosure controls and procedures or our internal controls over financial reporting despite the fact that most of our corporate employees are working remotely due to the COVID-19 pandemic. We are continually monitoring and assessing the COVID-19 situation on our internal controls to minimize the impact on their design and operating effectiveness.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we are involved in, or become subject to litigation or other legal proceedings concerning consumer protection, employment, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. We also prosecute lawsuits to enforce our legal rights. In connection with such litigation or other legal proceedings, we have been in the past and we may be in the future subject to significant damages, associated costs, or equitable remedies relating to the operation of our business. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows. For additional details, see the information set forth under Item 1 of Part I, Financial Statements—Note 10—Commitments and Contingencies, subheading Legal Proceedings and Contingencies, contained in the Notes to Unaudited Consolidated Financial Statements of this Quarterly Report on Form 10-Q is incorporated by reference in answer to this Item.

ITEM 1A. RISK FACTORS

Any investment in our securities involves a high degree of risk. Please consider the following risk factors carefully. If any one or more of the following risks were to occur, it could have a material adverse effect on our business, prospects, financial condition and results of operations, and the market price of our securities could decrease significantly. Statements below to the effect that an event could or would harm our business (or have an adverse effect on our business or similar statements) mean that the event could or would have a material adverse effect on our business, prospects, financial condition and results of operations, which in turn could or would have a material adverse effect on the market price of our securities. Many of the risks we face involve more than one type of risk. Consequently, you should read all of the risk factors below carefully, as well as the risk factors described in our Form 10-K for the year ended December 31, 2019, and in any reports we file with the SEC after we file this Form 10-Q, before deciding whether to purchase or hold our securities. We have included risk factors contained in our Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020, with appropriate revisions, and have added new risk factors. We have not repeated risk factors contained in our Form 10-K for the year ended December 31, 2019, which are incorporated herein by reference. The occurrence of any of these risks could harm our business, the trading price of our securities could decline, and investors could lose part or all of their investment.

Other than the risk factors set forth below, there are no material changes from the risk factors previously disclosed in Part I - Item 1A - "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2019.

The resumption of normal business operations after the disruptions caused by the COVID-19 pandemic may be delayed or constrained by its ongoing effects on our partners, consumers, suppliers or third-party service providers.

Any of the negative impacts of the COVID-19 pandemic, including those described below, alone or in combination with others, may have a material adverse effect on our results of operations, financial condition and cash flows. Any of these negative impacts, alone or in combination with others, could exacerbate many of the risk factors discussed in Part I - Item 1A - "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2019. The full extent to which the COVID-19 pandemic will negatively affect our results of operations, financial condition and cash flows will depend on future developments that are highly uncertain and cannot be predicted, including the scope and duration of the pandemic and actions taken by governmental authorities, private businesses and other third parties in response to the pandemic, the ultimate geographic spread of the virus and the ongoing economic effect of the pandemic.

The duration and extent to which the COVID-19 pandemic might impact our results of operations and overall financial performance remains uncertain.

On March 11, 2020, the World Health Organization ("WHO") declared COVID-19 as a pandemic. This widespread health crisis has profoundly and adversely affected the world economy, employment levels, and financial markets. The duration and extent of the impact from the COVID-19 pandemic is currently unknown and difficult to predict, but could result in a loss of workforce, including key personnel, due to adverse health effects of the disease, a lack of consumer demand for the services and products we and our subsidiaries offer, and an inability to operate our warehouses or other key locations at full capacity, and could adversely affect our business and financial results.

Our ability to maintain the substantial increase in sales we have experienced since the onset of the COVID-19 pandemic is uncertain.

We have seen a substantial increase in sales from newly acquired customers and existing customers on our online retail website due in large part to the COVID-19 pandemic, with resulting home confinement mandates from state and local governments and closures of many brick-and-mortar stores. The rapid increase in sales volume resulted in a reduction of certain inventory, shipment delays, and delays in responding to customer service issues with a corresponding reduction in customer satisfaction. The extent to which our increased sales volume will continue or newly acquired customers will convert into repeat customers as home confinement mandates are lifted and brick-and-mortar stores re-open is uncertain. Further, this uncertainty could result in a volatility of our stock price.

New regulations and policies relating to, or arising as a result of, COVID-19 could have a material adverse effect on our business.

Foreign, state and local governments have enacted certain regulations and policies relating to COVID-19, which include but are not limited to new immigration policies and regulations on pricing and shipment of goods. Various jurisdictions have imposed restrictions on immigration to contain the spread of COVID-19. Immigration policies vary from jurisdiction to jurisdiction but could negatively impact our ability to retain our existing foreign employees or our ability to recruit new talent from foreign jurisdictions. In addition, so called "price gouging" regulations vary from state to state and seek to limit the amount by which a price can be increased for certain items. Similarly, certain regulations have been enacted to restrict or limit the shipment of non-essential items in the wake of COVID-19. It is difficult to predict the impact these and other regulations, including both current and future regulations, relating to, or arising as a result of, COVID-19 might have on us and our subsidiaries. If we are unable to both meet consumer demand and comply with such regulations, our reputation could be damaged and we could be exposed to liabilities, penalties, and fines, which could have a material adverse effect on our business and financial results.

Tariffs, the spread of illness, including COVID-19, or other governmental measures or events that increase the effective price of products or limit our ability to access or deliver products we or our suppliers or fulfillment partners import into the United States or otherwise source could have a material adverse effect on our business.

We and many of our suppliers and fulfillment partners source a large percentage of the products we offer on our Website from China and other countries. The United States imposed tariffs on goods from China in 2019 which adversely impacted our revenues. If the United States imposes additional tariffs, or if a disease or illness such as COVID-19 spreads and such measures or events directly or indirectly increase the price of imported products sold on our Website, limit the ability for us or our suppliers and fulfillment partners to source products, limit our ability to access products sold on our Website, or limit or interfere with the timely transportation or delivery of products on our Website, the increased prices and/or supply chain challenges could have a material adverse effect on our financial results, business and prospects. Further, the broader global effects of potentially reduced consumer confidence and spending related to COVID-19 could also have a negative effect on our overall business. At this point, the extent to which COVID-19 may impact our business is uncertain.

The spread of COVID-19 could have technology and security consequences and could negatively impact our operations.

We have facilities located in Washington, New York, Pennsylvania, Kansas, Utah, and Ireland. We also have contractors located in California, India and the Philippines. Our employees and contractors working in these facilities may be at risk for exposure to and for contracting COVID-19. Known cases of COVID-19 have been reported in these regions. The spread of COVID-19 in these locations may result in our employees and contractors being forced to work remotely or missing work if they or a member of their family contract COVID-19. Additional risks are inherent when employees and contractors work remotely, including risks that third-party internet and phone service providers may not provide adequate services for employees and contractors to perform their responsibilities, risks that hardware, software, or other technological problems or failures could prevent employees or contractors from performing their responsibilities and could take an excessive amount of time to resolve and risks that employees and contractors may not be trained as effectively or monitored as closely from remote locations, creating greater risks for the security of confidential information. Any such occurrences could have a material negative impact on the business. The extent to which COVID-19 may impact our business remains uncertain.

We may be required to recognize impairment losses or allowances for bad debt relating to our equity interests in or creditor relationships with startup businesses.

We hold minority interests and promissory notes in several companies that are in the startup or development stages and we may acquire additional minority interests in other entities in the future. Minority interests are inherently risky because we may not have the ability to influence business decisions. Further, these interests are inherently risky because the markets for the technologies or products these companies are developing are typically in the early stages, unproven, and may never materialize. These companies may abandon, modify, or alter their product and service mix and overall strategy whether due to COVID-19 or otherwise. Additionally, since these interests are in companies that are in the early startup or development stages, even if their technology or products are viable, they may not be able to obtain the capital or resources necessary to successfully bring their technology or products to market. Furthermore, the economic impact of the COVID-19 pandemic may limit the ability for these entities to raise capital in the future. Furthermore, we have no assurance that the technology or products of companies we have funded would be successful, even if they were brought to market. We have previously recognized impairment losses or made allowances for bad debt related to these equity interests and may in the future recognize additional impairment losses or make allowances for bad debt related to these interests. Any such impairment losses or allowances for bad debt could be material and could have a material adverse effect on our financial results and business.

We depend on third-party companies to perform functions critical to our business, and any failure or increased cost on their part could have a material adverse effect on our business.

We depend on third-party companies, including third-party carriers and a large number of independent fulfillment partners whose products we offer for sale on our Website, to perform functions critical to our ability to deliver products and services to our customers on time and at a reasonable cost. We depend on our carriers and fulfillment partners to perform traditional retail operations such as maintaining inventory, preparing merchandise for shipment to our customers and delivering purchased merchandise on a timely and cost-effective basis. We also depend on the delivery and product assembly services that we and they utilize, on the payment processors that facilitate our customers' payments for their purchases, and on other third parties over which we have no control, for the operation of our business. Difficulties with any of our significant fulfillment partners or third-party carriers, delivery or product assembly services, payment processors or other third parties involved in our business, regardless of the reason, could have a material adverse effect on our financial results, business and prospects.

tZERO may be adversely affected as a result of the COVID-19 pandemic.

The potential negative impacts of COVID-19 and its related political and economic responses on tZERO may include increased stress on tZERO's broker-dealer subsidiaries' and tZERO Crypto's technology due to increased trading volatility and volume which they have and are expected to continue to experience and increases in attempted cyber-attacks or a decrease in worker productivity as a result of remote work. Further, the global economic impacts of COVID-19 could also negatively affect tZERO's business. Such impacts may include a reduced willingness by potential securities issuers to pursue capital raising transactions or seek secondary liquidity for existing capital (thereby reducing tZERO's ability to commercialize the tZERO Technology Stack), shift in attention by regulators and other market participants from regulatory innovation initiatives, decreased interest by third-party broker-dealers in subscribing to the tZERO ATS or a decline in investor appetite or available capital for trading in securities, including securities that use the tZERO Technology Stack, that trade on the tZERO ATS and are accessible via tZERO Markets, or that are bearer digital assets such as cryptocurrencies.

Additionally, certain tZERO management and employees have, and in the future others may, contract COVID-19. This may contribute to a disruption in tZERO's ordinary business activities and slow development of tZERO's products and technology and may be particularly pronounced in the event of the death or extended incapacity of any officer or employee performing a key function.

At this point, while the COVID-19 pandemic may have an adverse impact on tZERO's operations, the extent, duration and nature of such impacts remain uncertain.

There can be no assurance that BSTX will receive the regulatory approval it requires to operate.

tZERO and BOX Digital have entered into a joint venture intended to develop a national securities exchange facility of BOX Exchange LLC (Boston Security Token Exchange or "BSTX") that would facilitate the trading of a type of digital security called a security token that would utilize the tZERO Technology Stack. The SEC published proposed rule changes related to BSTX on October 11, 2019, soliciting public comments thereon. The SEC extended the review period on November 29, 2019 to January 16, 2020, BOX Exchange LLC filed an amendment to the proposal on December 26, 2019, and the SEC again extended the review period on January 16, 2020 to April 15, 2020. A subsequent amendment was filed by BOX Exchange LLC on February 19, 2020, after which the SEC extended the review period on April 14, 2020 until June 14, 2020. To allow for further review by the SEC, BOX Exchange LLC withdrew and resubmitted the proposed rule changes on May 12, 2020. The SEC extended the review period for the proposed rule changes on July 16, 2020 to August 30, 2020. BOX Exchange LLC filed an amendment to the proposal on July 31, 2020, and the SEC again extended the review period on August 12, 2020 to November 27, 2020.

The application of federal securities law and other bodies of law to assets enhanced by blockchain technology is subject to significant uncertainty and likely to rapidly evolve as government agencies take greater interest in them. As a result, there may be a delay in the receipt of the regulatory approvals BSTX requires to operate, if they are received at all. In the event BSTX is not able to receive the regulatory approvals it requires to begin operations or there is significant delay in BSTX's receipt of such approvals it may be forced to revise its anticipated operations. Any such revision could have a material adverse effect on tZERO's operations and financial condition and a material adverse effect on us.

tZERO Markets is registered as a broker-dealer and is subject to extensive regulation, which is more rigorous and expensive to comply with than the regulation applicable to tZERO's other broker-dealer subsidiaries.

tZERO Markets is a registered broker-dealer under the Exchange Act and a member of FINRA and the Securities Investor Protection Corporation and is subject to regulation, examination, investigation and disciplinary action by the SEC, FINRA and state securities regulators, as well as other governmental authorities and SROs with which it is registered or licensed or of which it becomes a member. In addition, because tZERO Markets provides broker-dealer services that tZERO's other broker-dealer subsidiaries have not historically provided, in particular by providing broker-dealer services to retail investors, certain of these legal and regulatory requirements are new to tZERO. Federal and state securities regulators require different supervision, compliance and control procedures for tZERO Markets as a result of its business servicing retail investors, and such requirements are more rigorous and expensive to establish, implement and maintain than those for tZERO ATS, LLC and SpeedRoute.

Any failure of tZERO Markets to comply with all applicable rules and regulations or satisfy FINRA, the SEC, or any other regulatory authority with which it must comply could have a material adverse effect on tZERO's operations and financial condition and a material adverse effect on us.

Risks related to software developed by our Medici Ventures businesses could contain flaws or vulnerabilities and expose us or Medici Ventures' customers to cyber security risks and risks of data loss, other security breaches, or damages that could negatively impact our business.

Our Medici Ventures businesses offer certain products and services, which include the development and sale of certain software products which could contain flaws or vulnerabilities that could present cyber security-related risks, data loss, other security breaches, or damages to our own business or our customers. Any flaws or vulnerabilities in the software developed by our Medici Ventures businesses and any data breaches, cyber security breaches, malfunctions, or errors could result in a loss of opportunity, damages, or an improper or illegal use of ours or our customer's data and could expose our business to a risk of loss and could result in claims, fines, penalties, and litigation. Any flaw, vulnerability, or compromise of our Medici Ventures business software or security could result in a violation of applicable privacy and other laws, significant legal and financial exposure, damage to reputation, and a loss of confidence in our business, any of which could have a material adverse effect on our financial results and business.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Unregistered issuance of equity securities

None.

Issuer purchases of equity securities

None.

Limitations upon the payment of dividends

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

(a)	Exhibit Number	Exhibit Description
	31.1*	Exhibit 31.1 Certification of Chief Executive Officer
	31.2*	Exhibit 31.2 Certification of Chief Financial Officer
	32.1**	Exhibit 32.1 Section 1350 Certification of Chief Executive Officer
	32.2**	Exhibit 32.2 Section 1350 Certification of Chief Financial Officer
	101	The following financial statements from the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020 formatted in Inline XBRL: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Comprehensive Income (Loss), (iv) Consolidated Statements of Cash Flows, (v) Consolidated Statements of Stockholders' Equity, and (vi) Notes to Consolidated Financial Statements tagged as blocks of text and including detailed tags
	104	The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, formatted in Inline XBRL (included as Exhibit 101)

* Filed herewith.
** Furnished herewith.

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 thereunto duly authorized.

Date:	November 5, 2020	**OVERSTOCK.COM, INC.**
		/s/ ADRIANNE B. LEE
		Adrianne B. Lee
		Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Jonathan E. Johnson III, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Overstock.com, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2020	/s/ JONATHAN E. JOHNSON III
	Jonathan E. Johnson III
	Chief Executive Officer
	(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Adrianne B. Lee, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Overstock.com, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2020	/s/ ADRIANNE B. LEE
	Adrianne B. Lee
	Chief Financial Officer
	(Principal Financial Officer and Principal Accounting Officer)

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Jonathan E. Johnson III, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Overstock.com, Inc. on Form 10-Q for the quarter ended September 30, 2020 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as applicable, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Overstock.com, Inc.

Date: November 5, 2020	/s/ JONATHAN E. JOHNSON III
	Jonathan E. Johnson III
	Chief Executive Officer
	(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Adrianne B. Lee, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Overstock.com, Inc. on Form 10-Q for the quarter ended September 30, 2020 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as applicable, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Overstock.com, Inc.

Date: November 5, 2020	/s/ ADRIANNE B. LEE
	Adrianne B. Lee
	Chief Financial Officer
	(Principal Financial Officer and Principal Accounting Officer)