

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

DATE OF REPORT (DATE OF EARLIEST EVENT REPORTED): March 22, 2024

GILEAD SCIENCES, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

0-19731
(Commission File No.)

94-3047598
(IRS Employer
Identification No.)

333 Lakeside Drive, Foster City, California
(Address of principal executive offices)

94404
(Zip Code)

(650) 574-3000
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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, par value, \$0.001 per share	GILD	The Nasdaq Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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. ☐

Item 7.01. Regulation FD Disclosure.

On March 22, 2024, Gilead Sciences, Inc., a Delaware corporation (“Parent” or “Gilead”), issued a press release announcing the completion of the acquisition of the CymaBay Therapeutics, Inc., a Delaware corporation (the “Company”), a copy of which is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated by reference herein.

The information in Item 7.01 and Item 9.01 of this Form 8-K and Exhibit 99.1 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities under that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, regardless of any general incorporation language in such filing.

Item 8.01. Other Events.

As previously disclosed, on February 11, 2024, Gilead entered into an Agreement and Plan of Merger (the “Merger Agreement”), among Parent, the Company and Pacific Merger Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent (“Purchaser”). In accordance with the terms of the Merger Agreement, on March 22, 2024, Gilead completed the acquisition of the Company.

Pursuant to the Merger Agreement, and upon the terms and subject to the conditions thereof, on February 23, 2024, Purchaser commenced a tender offer (the “Offer”), to purchase all of the issued and outstanding shares (the “Shares”) of common stock, par value \$0.0001 per share, of the Company (other than (i) Shares owned immediately prior to the effective time of the Merger by the Company (including those held in the treasury of the Company) and (ii) Shares owned both as of the commencement date of the Offer and immediately prior to the effective time of the Merger by Parent, Purchaser or any other direct or indirect wholly owned subsidiary of Parent) at a price of \$32.50 per Share (the “Offer Price”), net to the seller in cash, without interest, and subject to any required withholding of taxes.

The Offer expired at one minute after 11:59 p.m., Eastern Time, on March 21, 2024. According to Equiniti Trust Company, LLC, the depository for the Offer, 93,682,371 Shares were validly tendered and not withdrawn in the Offer, representing approximately 77.3% of the outstanding Shares (not including 5,095,996 Shares delivered through Notices of Guaranteed Delivery, representing approximately 4.2% of the Shares outstanding). The number of Shares tendered satisfied the condition to the Offer that there be validly tendered and not validly withdrawn Shares that, considered together with all other Shares (if any) owned by Purchaser and its affiliates (as such term is defined in Section 251(h)(6) of the General Corporation Law of the State of Delaware (the “DGCL”), represent one more Share than 50% of the total number of Shares outstanding at the expiration of the Offer (including, for the avoidance of doubt, all Shares that become outstanding as a result of the “cashless exercise” of the warrants to purchase Shares); *provided, however*, that Shares tendered in the Offer that have not been “received” by the “depository” (as such terms are defined in Section 251(h)(6) of the DGCL shall be excluded). All conditions to the Offer having been satisfied or waived, Gilead and Purchaser accepted for payment all Shares validly tendered and not validly withdrawn.

Following the consummation of the Offer, the remaining conditions to the Merger set forth in the Merger Agreement were satisfied or waived, and on March 22, 2024, Purchaser merged with and into the Company pursuant to Section 251(h) of the DGCL, with the Company being the surviving corporation (the “Merger”). Each Share outstanding immediately prior to the effective time of the Merger (other than (i) Shares owned immediately prior to the effective time of the Merger by the Company (including those held in the treasury of the Company), (ii) Shares owned both as of the commencement date of the Offer and immediately prior to the effective time of the Merger by Parent, Purchaser, or any other direct or indirect wholly owned subsidiary of Parent, (iii) Shares irrevocably accepted by Purchaser for purchase pursuant to the Offer and (iv) Shares held by stockholders who have properly exercised and perfected their demands for appraisal of such Shares in accordance with the DGCL and have neither withdrawn nor lost such rights prior to the effective time of the Merger) was converted into the right to receive an amount in cash equal to the Offer Price, net to the seller in cash, without interest, and subject to any required withholding of taxes.

The aggregate consideration paid by Gilead to acquire the Shares in the Offer and Merger was approximately \$4.3 billion.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

The following Exhibit 99.1 is furnished pursuant to this Item 9.01.

Exhibit Number	Description
99.1	Press Release, dated March 22, 2024.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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 hereunto duly authorized.

GILEAD SCIENCES, INC.

By: /s/ Andrew Dickinson

Name: Andrew Dickinson

Title: Chief Financial Officer

Dated: March 22, 2024
