

CELGENE CORP /DE/
Form 425
April 12, 2019

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): April 12, 2019

BRISTOL-MYERS SQUIBB COMPANY
(Exact Name of Registrant as Specified in its Charter)

| | | |
|--|--------------------------|--------------------------------------|
| Delaware | 1-1136 | 22-0790350 |
| (State or Other Jurisdiction of Incorporation) | (Commission File Number) | (IRS Employer Identification Number) |

430 East 29th Street, 14th Floor
New York, NY, 10016
(Address of Principal Executive Office)

Registrant's telephone number, including area code: (212) 546-4000

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 (see General Instruction A.2. below):

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))

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

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 5.07 Submission of Matters to a Vote of Security Holders.

A special meeting of stockholders (the “Special Meeting”) of Bristol-Myers Squibb Company (“Bristol-Myers Squibb”) was held on April 12, 2019. A total of 1,230,609,196 shares of Bristol-Myers Squibb common stock, out of a total of 1,633,957,568 shares of Bristol-Myers Squibb common stock outstanding and entitled to vote as of the close of business on March 1, 2019 (the record date for the Special Meeting), and a total of 1,064 shares of Bristol-Myers Squibb convertible preferred stock, out of a total of 3,584 shares of Bristol-Myers Squibb convertible preferred stock outstanding and entitled to vote as of the close of business on March 1, 2019, were present in person or represented by proxy. A summary of the voting results for the following proposals, each of which is described in detail in the joint proxy statement/prospectus of Bristol-Myers Squibb and Celgene Corporation (“Celgene”) dated February 22, 2019, which was first mailed to Bristol-Myers Squibb’s stockholders on or about February 22, 2019, is set forth below:

Proposal 1. Approval of the Stock Issuance

Bristol-Myers Squibb’s stockholders approved the issuance of shares of Bristol-Myers Squibb common stock (the “Stock Issuance”) to stockholders of Celgene in the merger between Celgene and Burgundy Merger Sub, Inc. (“Merger Sub”), a wholly-owned subsidiary of Bristol-Myers Squibb, contemplated by the Agreement and Plan of Merger, dated as of January 2, 2019, as it may be amended from time to time, among Bristol-Myers Squibb, Merger Sub and Celgene. The proposal was approved by the stockholders by the votes set forth in the table below:

| Votes For | Votes Against | Abstentions | Broker Non-Votes |
|-------------|---------------|-------------|------------------|
| 932,407,066 | 293,574,837 | 4,628,357 | 0 |

Proposal 2. Adjournment of the Bristol-Myers Squibb Special Meeting

Bristol-Myers Squibb's stockholders voted on a proposal to approve the adjournment of the Special Meeting if necessary to solicit additional proxies if there were not sufficient votes at the time of the Special Meeting, or any adjournment or postponement thereof, to approve the Stock Issuance. The votes on this proposal are set forth in the table below:

| Votes For | Votes Against | Abstentions | Broker Non-Votes |
|-------------|---------------|-------------|------------------|
| 899,968,525 | 324,389,969 | 6,250,627 | 0 |

Because there were sufficient votes at the time of the Special Meeting to approve the Stock Issuance, a vote on the proposal to adjourn the Special Meeting to solicit additional proxies if there were not sufficient votes at the time of the Special Meeting to approve the Stock Issuance, while approved, was not necessary.

Item 8.01 Other Events.

On April 12, 2019, Bristol-Myers Squibb issued a press release announcing the results of the stockholder vote on the Stock Issuance proposal at the Special Meeting. The full text of the press release, a copy of which is attached hereto as Exhibit 99.1, is incorporated herein by reference.

Important Information For Investors And Stockholders

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. It does not constitute a prospectus or prospectus equivalent document. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the U.S. Securities Act of 1933, as amended.

In connection with the proposed transaction between Bristol-Myers Squibb Company (“Bristol-Myers Squibb”) and Celgene Corporation (“Celgene”), on February 1, 2019, Bristol-Myers Squibb filed with the Securities and Exchange Commission (the “SEC”) a registration statement on Form S-4, as amended on February 1, 2019 and February 20, 2019, containing a joint proxy statement of Bristol-Myers Squibb and Celgene that also constitutes a prospectus of Bristol-Myers Squibb. The registration statement was declared effective by the SEC on February 22, 2019, Bristol-Myers Squibb and Celgene commenced mailing the definitive joint proxy statement/prospectus to stockholders of Bristol-Myers Squibb and Celgene on or about February 22, 2019, and the special meetings of the stockholders of Bristol-Myers Squibb and Celgene were held on April 12, 2019. INVESTORS AND SECURITY HOLDERS OF Bristol-Myers Squibb and Celgene ARE URGED TO READ THE DEFINITIVE JOINT PROXY STATEMENT/PROSPECTUS AND OTHER DOCUMENTS FILED OR THAT WILL BE FILED WITH THE SEC CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION. Investors and security holders will be able to obtain free copies of the registration statement and the definitive joint proxy statement/prospectus and other documents filed with the SEC by Bristol-Myers Squibb or Celgene through the website maintained by the SEC at <http://www.sec.gov>. Copies of the documents filed with the SEC by Bristol-Myers Squibb are available free of charge on Bristol-Myers Squibb’s internet website at <http://www.bms.com> under the tab, “Investors” and under the heading “Financial Reporting” and subheading “SEC Filings” or by contacting Bristol-Myers Squibb’s Investor Relations Department through <https://www.bms.com/investors/investor-contacts.html>. Copies of the documents filed with the SEC by Celgene are available free of charge on Celgene’s internet website at <http://www.celgene.com> under the tab “Investors” and under the heading “Financial Information” and subheading “SEC Filings” or by contacting Celgene’s Investor Relations Department at ir@celgene.com.

required pro forma adjustments have not been applied and are not reflected therein. None of this information should be considered in isolation from, or as a substitute for, the historical financial statements of Bristol-Myers Squibb or Celgene. Important risk factors could cause actual future results and other future events to differ materially from those currently estimated by management, including, but not limited to, the risks that: a condition to the closing of the proposed acquisition may not be satisfied; a regulatory approval that may be required for the proposed acquisition is delayed, is not obtained or is obtained subject to conditions that are not anticipated; Bristol-Myers Squibb is unable to achieve the synergies and value creation contemplated by the proposed acquisition; Bristol-Myers Squibb is unable to promptly and effectively integrate Celgene's businesses; management's time and attention is diverted on transaction related issues; disruption from the transaction makes it more difficult to maintain business, contractual and operational relationships; the credit ratings of the combined company decline following the proposed acquisition; legal proceedings are instituted against Bristol-Myers Squibb, Celgene or the combined company; Bristol-Myers Squibb, Celgene or the combined company is unable to retain key personnel; and the announcement or the consummation of the proposed acquisition has a negative effect on the market price of the capital stock of Bristol-Myers Squibb and Celgene or on Bristol-Myers Squibb's and Celgene's operating results.

No assurances can be given that any of the events anticipated by the forward-looking statements will transpire or occur, or if any of them do occur, what impact they will have on the results of operations, financial condition or cash flows of Bristol-Myers Squibb or Celgene. Should any risks and uncertainties develop into actual events, these developments could have a material adverse effect on the proposed transaction and/or Bristol-Myers Squibb or Celgene, Bristol-Myers Squibb's ability to successfully complete the proposed transaction and/or realize the expected benefits from the proposed transaction.

You are cautioned not to rely on Bristol-Myers Squibb's and Celgene's forward-looking statements. These forward-looking statements are and will be based upon management's then-current views and assumptions regarding future events and operating performance, and are applicable only as of the dates of such statements. You also should understand that it is not possible to predict or identify all such factors and that this list should not be considered a complete statement of all potential risks and uncertainties. Investors also should realize that if underlying assumptions prove inaccurate or if unknown risks or uncertainties materialize, actual results could vary materially from Bristol-Myers Squibb's or Celgene's projections. Except as otherwise required by law, neither Bristol-Myers Squibb nor Celgene is under any obligation, and each expressly disclaim any obligation, to update, alter, or otherwise revise any forward-looking statements included in this communication or elsewhere, whether written or oral, that may be made from time to time relating to any of the matters discussed in this communication, whether as a result of new information, future events or otherwise, as of any future date.

Item 9.01. Financial Statements and Exhibits

(d) The following exhibits are included with this report:

| Exhibit No. | Description |
|----------------|-------------|
|----------------|-------------|

| | |
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| 99.1 | Press Release, dated April 12, 2019, of Bristol-Myers Squibb Company. |
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INDEX TO EXHIBITS

| Exhibit No. | Description |
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| <u>99.1</u> | <u>Press Release, dated April 12, 2019, of Bristol-Myers Squibb Company.</u> |
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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BRISTOL-MYERS SQUIBB
COMPANY

Dated: April 12, 2019 By: /s/ Katherine R. Kelly
Name: Katherine R. Kelly
Title: Corporate Secretary
