GILEAD SCIENCES INC
Form 10-K/A
April 18, 2019

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

FORM 10-K/A
Amendment No. 1
(Mark One)
ý ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2018
or
o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from to
Commission File No. 000-19731

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

Delaware	94-3047598
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
333 Lakeside Drive, Foster City, California	94404
(Address of principal executive offices)	(Zip Code)

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

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of each class	Name of each exchange on which registered
Common Stock, $0.001 par value per share	The Nasdaq Global Select Market

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT: NONE

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No ¨
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x
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 ý 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 and post such files). Yes ý No ¨
Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

Indicate by check mark whether registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting 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 ý 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 ý

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant based upon the closing price of its Common Stock on the Nasdaq Global Select Market on June 29, 2018 was $79,506,595,778.

The number of shares outstanding of the registrant’s Common Stock on March 15, 2019 was 1,274,896,000.

DOCUMENTS INCORPORATED BY REFERENCE

None.

EXPLANATORY NOTE

Gilead Sciences, Inc. (the "Company") is filing this Amendment No. 1 on Form 10-K/A ("Amendment") to amend its Annual Report on Form 10-K for the year ended December 31, 2018 (the "Form 10-K"), which was originally filed with the Securities and Exchange Commission on February 26, 2019. The purpose of this Amendment is to refile Exhibits 10.42 and 10.43, which were originally filed with the Form 10-K, to transition to the requirements set forth in Item 601(b) of Regulation S-K permitting registrants to omit confidential information from material contracts filed pursuant to Item 601(b)(10) without the need to submit a confidential treatment request to the Securities and Exchange Commission. The confidential information omitted from Exhibits 10.42 and 10.43 (i) is not material and (ii) would be competitively harmful if publicly disclosed.

This Amendment speaks as of the original filing date and does not reflect events occurring after the filing of the Form 10-K or modify or update disclosures that may be affected by subsequent events. No revisions are being made to the Company's financial statements or any other disclosure contained in the Form 10-K.

This Amendment is an exhibit-only filing. Except for the changes to Exhibits 10.42 and 10.43, this Amendment does not otherwise update any exhibits as originally filed or previously amended.

In addition, as required by Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), new certifications by the Company's principal executive officer and principal financial officer are filed herewith as exhibits to this Amendment pursuant to Rule 13a-14(a) or 15d-14(a) of the Exchange Act. The Company is not including certifications pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) as no financial statements are being filed with this Amendment.

PART IV
ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are included as part of the Company's Annual Report on Form 10-K filed with the SEC on February 26, 2019 ("Form 10-K"):
(1) Financial Statements—See Index to Consolidated Financial Statements in Item 8 of the Form 10-K.
(2) Financial Statement Schedules—See Index to Consolidated Financial Statements in Item 8 of the Form 10-K.
(3) Exhibits.
The following exhibits are filed herewith or incorporated by reference:

Exhibit Footnote	Exhibit Number	Description of Document
(1)	3.1	Restated Certificate of Incorporation of Registrant
(2)	3.2	Amended and Restated Bylaws of Registrant
	4.1	Reference is made to Exhibit 3.1 and Exhibit 3.2
(3)	4.2	Indenture related to Senior Notes, dated as of March 30, 2011, between Registrant and Wells Fargo, National Association, as Trustee
(3)	4.3	First Supplemental Indenture related to Senior Notes, dated as of March 30, 2011, between Registrant and Wells Fargo, National Association, as Trustee (including form of Senior Notes)
(4)	4.4	Second Supplemental Indenture related to Senior Notes, dated as of December 13, 2011, between Registrant and Wells Fargo, National Association, as Trustee (including Form of 2014 Note, Form of 2016 Note, Form of 2021 Note, Form of 2041 Note)
(5)	4.5	Third Supplemental Indenture related to Senior Notes, dated as of March 7, 2014, between Registrant and Wells Fargo, National Association, as Trustee (including Form of 2019 Note, Form of 2024 Note, Form of 2044 Note)
(6)	4.6	Fourth Supplemental Indenture related to Senior Notes, dated as of November 17, 2014, between Registrant and Wells Fargo, National Association, as Trustee (including Form of 2020 Note, Form of 2025 Note, Form of 2045 Note)
(7)	4.7	Fifth Supplemental Indenture, dated as of September 14, 2015, between Registrant and Wells Fargo Bank, National Association, as Trustee (including Form of 2018 Note, Form of 2020 Note, Form of 2022 Note, Form of 2026 Note, Form of 2035 Note and Form of 2046 Note)
(8)	4.8	Sixth Supplemental Indenture, dated as of September 20, 2016, between Registrant and Wells Fargo Bank, National Association, as Trustee (including Form of 2022 Note, Form of 2023 Note, Form of 2027 Note, Form of 2036 Note and Form of 2047 Note)
(9)	4.9	Seventh Supplemental Indenture, dated as of September 21, 2017, between Registrant and Wells Fargo Bank, National Association, as Trustee (including Form of Fixed Rate Note, Form of Form of September 2018 Note, Form of March 2019 Note and Form of September 2019 Note)
*(10)	10.1	Gilead Sciences, Inc. 2004 Equity Incentive Plan, as amended and restated May 10, 2017

*(11)	10.2	Form of employee stock option agreement used under 2004 Equity Incentive Plan (for grants made February 2008 through April 2009)
*(12)	10.3	Form of employee stock option agreement used under 2004 Equity Incentive Plan (for grants commencing in May 2009)
*(13)	10.4	Form of employee stock option agreement used under 2004 Equity Incentive Plan (for grants commencing in February 2010)
*(14)	10.5	Form of employee stock option agreement used under 2004 Equity Incentive Plan (for 2011 and subsequent year grants)
*(12)	10.6	Form of non-employee director option agreement used under 2004 Equity Incentive Plan (for annual grants commencing in May 2009 and through May 2012)
*(15)	10.7	Form of non-employee director option agreement used under 2004 Equity Incentive Plan (for annual grants made in May 2013)
*(15)	10.8	Form of non-employee director option agreement (non-U.S.) used under 2004 Equity Incentive Plan (for annual grants made in May 2013)
*(16)	10.9	Form of non-employee director option agreement used under 2004 Equity Incentive Plan (for annual grants made in and after May 2014)
*(15)	10.10	Form of restricted stock unit issuance agreement (non-U.S.) used under 2004 Equity Incentive Plan (for annual grants to non-employee directors commencing in May 2013)
*(17)	10.11	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for TSR Goals (US) in 2016)
*(17)	10.12	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for TSR Goals (US) with Director Retirement Provisions in 2016)
*(17)	10.13	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for Revenue Goals (US) in 2016)
*(17)	10.14	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for Revenue Goals (US) with Director Retirement Provisions in 2016)
*(18)	10.15	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for TSR Goals - Non-US in 2015)

*(17)	10.16	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for TSR Goals -Non-US in 2016)
*(18)	10.17	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for Revenue Goals - Non-US in 2015)
*(17)	10.18	Form of performance share award agreement used under the 2004 Equity Incentive Plan (for Revenue Goals - Non-US in 2016)
*(14)	10.19	Form of restricted stock unit issuance agreement used under the 2004 Equity Incentive Plan (service-based vesting for certain executive officers commencing in 2011)
*(19)	10.20	Gilead Sciences, Inc. Employee Stock Purchase Plan, restated on January 22, 2015
*(20)	10.21	Gilead Sciences, Inc. Deferred Compensation Plan-Basic Plan Document
*(20)	10.22	Gilead Sciences, Inc. Deferred Compensation Plan-Adoption Agreement
*(20)	10.23	Addendum to the Gilead Sciences, Inc. Deferred Compensation Plan
*(21)	10.24	Gilead Sciences, Inc. 2005 Deferred Compensation Plan, as amended and restated on October 23, 2008
*(22)	10.25	Gilead Sciences, Inc. Severance Plan, as amended on March 8, 2016
*(23)	10.26	Gilead Sciences, Inc. Corporate Bonus Plan, as amended and restated on January 1, 2019
*(24)	10.27	Amended and Restated Gilead Sciences, Inc. Code Section 162(m) Bonus Plan
*(25)	10.28	Gilead Sciences, Inc. Retention Program for Executive Officers
*(26)	10.29	Offer Letter dated April 16, 2008 between Registrant and Robin Washington
*(27)	10.30	Separation Agreement and Release dated August 6, 2018 between Registrant and John F. Milligan, Ph.D.
*(28)	10.31	Offer Letter dated November 30, 2018 between Registrant and Daniel O'Day
*(29)	10.32	Form of Indemnity Agreement entered into between Registrant and its directors and executive officers
*(29)	10.33	Form of Employee Proprietary Information and Invention Agreement entered into between Registrant and certain of its officers and key employees
*(30)	10.34	Form of Employee Proprietary Information and Invention Agreement entered into between Registrant and certain of its officers and key employees (revised in September 2006)
+(31)	10.35	Amendment Agreement, dated October 25, 1993, between Registrant, the Institute of Organic Chemistry and Biochemistry (IOCB) and Rega Stichting v.z.w. (REGA), together with the following exhibits: the License Agreement, dated December 15, 1991, between Registrant, IOCB and REGA (the 1991 License

		Agreement), the License Agreement, dated October 15, 1992, between Registrant, IOCB and REGA (the October 1992 License Agreement) and the License Agreement, dated December 1, 1992, between Registrant, IOCB and REGA (the December 1992 License Agreement)
+(32)	10.36	Amendment Agreement between Registrant and IOCB/REGA, dated December 27, 2000 amending the 1991 License Agreement and the December 1992 License Agreement
+(33)	10.37	Sixth Amendment Agreement to the License Agreement, between IOCB/REGA and Registrant, dated August 18, 2006 amending the October 1992 License Agreement and the December 1992 License Agreement
+(34)	10.38	Seventh Amendment Agreement to the License Agreement, between IOCB/REGA and Registrant dated July 1, 2013 amending the October 1992 License Agreement and the December 1992 License Agreement
+(35)	10.39	Exclusive License Agreement between Registrant (as successor to Triangle Pharmaceuticals, Inc.), Glaxo Group Limited, The Wellcome Foundation Limited, Glaxo Wellcome Inc. and Emory University, dated May 6, 1999
+(36)	10.40	Royalty Sale Agreement by and among Registrant, Emory University and Investors Trust & Custodial Services (Ireland) Limited, solely in its capacity as Trustee of Royalty Pharma, dated July 18, 2005
+(36)	10.41	Amended and Restated License Agreement between Registrant, Emory University and Investors Trust & Custodial Services (Ireland) Limited, solely in its capacity as Trustee of Royalty Pharma, dated July 21, 2005
++***	10.42	Amended and Restated EVG License Agreement between Japan Tobacco Inc., and Registrant, dated November 29, 2018
++***	10.43	Master Agreement by and between Registrant, Gilead Sciences K.K. and Japan Tobacco Inc., dated November 29, 2018
+(38)	10.44	Amended and Restated Collaboration Agreement by and among Registrant, Gilead Sciences Ireland UC (formerly Gilead Sciences Limited) and Janssen R&D Ireland, dated December 23, 2014
+(39)	10.45	License Agreement by and among Kite Pharma, Inc., Cabaret Biotech Ltd. and Dr. Zelig Eshhar, dated December 12, 2013
(37)	21.1	Subsidiaries of Registrant
(37)	23.1	Consent of Independent Registered Public Accounting Firm
***	31.1	Certification of Chief Executive Officer, as required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
***	31.2	Certification of Chief Financial Officer, as required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended
**	32.1	Certifications of Chief Executive Officer and Chief Financial Officer, as required by Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350)

(37) 101.INS XBRL Instance Document

(37) 101.SCH XBRL Taxonomy Extension Schema Document

(37) 101.CAL XBRL Taxonomy Extension Calculation Linkbase Document

(37) 101.DEF XBRL Taxonomy Extension Definition Linkbase Document

(37) 101.LAB XBRL Taxonomy Extension Label Linkbase Document

(37) 101.PRE XBRL Taxonomy Extension Presentation Linkbase Document

(1) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on May 8, 2014, and incorporated herein by reference.
(2) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on December 23, 2015, and incorporated herein by reference.
(3) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on April 1, 2011, and incorporated herein by reference.
(4) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on December 13, 2011, and incorporated herein by reference.
(5) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on March 7, 2014, and incorporated herein by reference.
(6) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on November 17, 2014, and incorporated herein by reference.
(7) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on September 14, 2015, and incorporated herein by reference.
(8) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on September 20, 2016, and incorporated herein by reference.
(9) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on September 21, 2017, and incorporated herein by reference.
(10) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on May 12, 2017, and incorporated herein by reference.
(11) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, and incorporated herein by reference.
(12) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2009, and incorporated herein by reference.
(13) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2009, and incorporated herein by reference.
(14) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2011, and incorporated herein by reference.
(15) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013, and incorporated herein by reference
(16) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2014, and incorporated herein by reference.
(17) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2016, and incorporated herein by reference.
(18) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015, and incorporated herein by reference.
(19)

Filed as an exhibit to Registrant's Current Report on Form 8-K filed on May 8, 2015, and incorporated herein by reference.

(20) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2001, and incorporated herein by reference.

(21) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2008, and incorporated herein by reference.

(22) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on March 11, 2016, and incorporated herein by reference.

(23) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2018, and incorporated herein by reference.

(24) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on May 17, 2016, and incorporated herein by reference.

(25) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2018, and incorporated herein by reference.

(26) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008, and incorporated herein by reference.

(27) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on August 7, 2018, and incorporated herein by reference.

(28) Filed as an exhibit to Registrant's Current Report on Form 8-K filed on December 10, 2018, and incorporated herein by reference.

(29) Filed as an exhibit to Registrant's Registration Statement on Form S-1 (No. 33-55680), as amended, and incorporated herein by reference.

(30) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2006, and incorporated herein by reference.

(31) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended March 31, 1994, and incorporated herein by reference.

(32) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2000, and incorporated herein by reference.

(33) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2006, and incorporated herein by reference.

(34) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2013, and incorporated herein by reference.

(35) Filed as an exhibit to Triangle Pharmaceuticals, Inc.'s Quarterly Report on Form 10-Q/A filed on November 3, 1999, and incorporated herein by reference.

(36) Filed as an exhibit to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2005, and incorporated herein by reference.

(37) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2018, and incorporated herein by reference.

(38) Filed as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2014, and incorporated herein by reference.

(39) Filed as an exhibit to Kite Pharma, Inc.'s Registration Statement on Form S-1/A (No. 333-196081) filed on June 17, 2014, and incorporated herein by reference.

* Management contract or compensatory plan or arrangement.

** Furnished as an exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2018.

*** Filed herewith.

+ Certain confidential portions of this Exhibit were omitted by means of marking such portions with an asterisk (the Mark). This Exhibit has been filed separately with the Secretary of the Securities and Exchange Commission without the Mark pursuant to Registrant's Application Requesting Confidential Treatment under Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

++ Certain confidential portions of this Exhibit were omitted by means of marking such portions with the Mark because the identified confidential portions (i) are not material and (ii) would be competitively harmful if publicly

disclosed.

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) 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.

GILEAD SCIENCES, INC.
(Registrant)

Date: April 17, 2019 /S/ DANIEL P. O'DAY
Daniel P. O'Day
Chairman and Chief Executive Officer
(Principal Executive Officer)

Date: April 17, 2019 /S/ ROBIN L. WASHINGTON
Robin L. Washington
Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)