

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

SCHEDULE TO

**TENDER OFFER STATEMENT UNDER SECTION 14(D)(1) OR 13(E)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No. 3)**

IMMUNOMEDICS, INC.

(Name of Subject Company (Issuer))

MAUI MERGER SUB, INC.

a wholly owned subsidiary of

GILEAD SCIENCES, INC.

(Names of Filing Persons (Offeror))

Common Stock, Par Value \$0.01 Per Share

(Title of Class of Securities)

452907108

(Cusip Number of Class of Securities)

Brett A. Pletcher, Esq.

Executive Vice President, Corporate Affairs and General Counsel

Gilead Sciences, Inc.

333 Lakeside Drive

Foster City, CA 94404

650-574-3000

(Name, Address and Telephone Number of Person Authorized to
Receive Notices and Communications on Behalf of Filing Persons)

Copies to:

Marc O. Williams

Cheryl Chan

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450 Lexington Avenue

New York, NY 10017

(212) 450-6145

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CALCULATION OF FILING FEE

Transaction Valuation*

\$20,882,123,744.48

Amount of Filing Fee**

\$2,710,499.66

* Estimated for purposes of calculating the filing fee only. The transaction valuation was calculated as the sum of (i) 231,320,559 outstanding shares of common stock, par value \$0.01 per share (the "Shares"), of Immunomedics, Inc. ("Immunomedics") multiplied by \$88.00, (ii) 7,308,692 Shares issuable pursuant to outstanding "in-the-money" stock options multiplied by \$70.44 (which is \$88.00 minus the weighted average exercise price for such options of \$17.56 per Share) and (iii) 126,026 Shares issuable pursuant to restricted stock units multiplied by \$88.00. The calculation of the filing fee is based on information provided by Immunomedics as of September 18, 2020.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2020, issued August 23, 2019, by multiplying the transaction value by 0.0001298.

x Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$2,710,499.66

Filing Party:

Maui Merger Sub, Inc. and Gilead Sciences, Inc.

Form or Registration No.:

Schedule TO

Date Filed:

September 24, 2020

o Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

x third-party tender offer subject to Rule 14d-1.

o issuer tender offer subject to Rule 13e-4.

o going-private transaction subject to Rule 13e-3.

o amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. o

This Amendment No. 3 (this “Amendment”) amends and supplements the Tender Offer Statement on Schedule TO filed by Maui Merger Sub, Inc., a Delaware corporation (“Purchaser”), and Gilead Sciences, Inc., a Delaware corporation (“Parent”), with the U.S. Securities and Exchange Commission on September 24, 2020 (together with any subsequent amendments and supplements thereto, the “Schedule TO”). The Schedule TO relates to the offer by Purchaser to purchase all outstanding shares of common stock, \$0.01 par value per share (“Shares”), of Immunomedics, Inc., a Delaware corporation (“Immunomedics”), at a price of \$88.00 per Share, net to the holder in cash, without interest and subject to any withholding of taxes, upon the terms and subject to the conditions described in the Offer to Purchase dated September 24, 2020 (together with any amendments or supplements thereto, the “Offer to Purchase”) and in the accompanying Letter of Transmittal (together with any amendments or supplements thereto and with the Offer to Purchase, the “Offer”), which are annexed to and filed with the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively. Purchaser is a wholly owned subsidiary of Parent. This Amendment is being filed on behalf of Parent and Purchaser. Unless otherwise indicated, references to sections in the Schedule TO are references to sections of the Offer to Purchase.

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference to the extent relevant to the items in this Amendment. Capitalized terms used but not defined herein have the meanings ascribed to them in the Schedule TO.

Items 1 through 9 and Item 11.

The information set forth in the Offer to Purchase under “The Tender Offer—Section 15—Certain Legal Matters; Regulatory Approvals” and Items 1 through 9 and Item 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented by replacing the last two paragraphs at the end of the subsection titled “Legal Proceedings Relating to the Tender Offer,” as such subsection was amended by Amendment No. 2 to the Schedule TO filed with the SEC on October 2, 2020, with the following paragraphs:

“On October 2, 2020, a complaint was filed by a purported stockholder of Immunomedics regarding the Merger. The complaint, filed on an individual basis by the plaintiff, is captioned *Munya Bengesa v. Immunomedics, Inc., et al.*, Case No. 1:20-cv-08227 (S.D.N.Y.) (the “*Bengesa Complaint*”). The Bengesa Complaint names as defendants Immunomedics and each member of the Immunomedics Board. The Bengesa Complaint alleges violations of Section 14(e) and 14(d) of the Exchange Act against all defendants and asserts violations of Section 20(a) of the Exchange Act against the individual defendants. The plaintiff contends that the Schedule 14D-9 omitted and/or misrepresented material information regarding the Offer. The Bengesa Complaint seeks: (i) injunctive relief preventing the consummation of the Transactions; (ii) filing of an amendment to the Solicitation/Recommendation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading; (iii) damages to account for damages sustained by the plaintiff in connection with the allegations asserted in the Bengesa Complaint; and (iv) an award of plaintiff’s expenses and attorneys’ fees.

On October 7, 2020, a complaint was filed by a purported stockholder of Immunomedics regarding the Merger. The complaint, filed on an individual basis by the plaintiff, is captioned *Eleanor F. Palmisano v. Immunomedics, Inc., et al.*, Case No. 1:20-cv-08392 (S.D.N.Y.) (the “*Palmisano Complaint*”). The Palmisano Complaint names as defendants Immunomedics and each member of the Immunomedics Board. The Palmisano Complaint alleges violations of Section 14(e) and 14(d) of the Exchange Act against all defendants and asserts violations of Section 20(a) of the Exchange Act against the individual defendants. The plaintiff contends that the Schedule 14D-9 omitted and/or misrepresented material information regarding the Offer. The Palmisano Complaint seeks: (i) injunctive relief preventing the consummation of the Transactions; (ii) rescissory damages or rescission in the event the Transactions are consummated; (iii) filing of an amendment to the Solicitation/Recommendation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading; (iv) declaration that defendants violated Section 14(e), 14(d) and 20(a) of the Exchange Act; and (v) an award of plaintiff’s expenses and attorneys’ fees.

On October 9, 2020, a complaint was filed by a purported stockholder of Immunomedics regarding the Merger. The complaint, filed on an individual basis by the plaintiff, is captioned *Sirvesta Thomas v. Immunomedics, Inc., et al.*, Case No. 2:20-cv-14249 (D.N.J.) (the “*Thomas Complaint*”). The Thomas Complaint names as defendants Immunomedics and each member of the Immunomedics Board, as well as Immunomedics’ former CEO Harout Semerjian. The Thomas Complaint alleges violations of Section 14(e) and 14(d) of the Exchange Act against all defendants and asserts violations of Section 20(a) of the Exchange Act against the individual defendants. The plaintiff contends that the Schedule 14D-9 omitted and/or misrepresented material information regarding the Offer. The Thomas Complaint seeks: (i) injunctive relief preventing the consummation of the Transactions; (ii) rescissory damages or rescission in the event the Transactions are consummated; and (iii) an award of plaintiff’s expenses and attorneys’ fees.

As a result of certain supplemental disclosures made to the Schedule 14D-9, the plaintiff who filed the Drulias Complaint has agreed to dismiss his action with prejudice.

Parent, Purchaser and Immunomedics believe the claims asserted in each of the complaints are without merit.

Additional lawsuits may be filed against Immunomedics, the Immunomedics Board, Parent and/or Purchaser in connection with the Transactions, the Schedule TO and the Schedule 14D-9.”

ITEM 12. EXHIBITS.

<u>Index No.</u>	
(a)(1)(A)*	Offer to Purchase, dated September 24, 2020.
(a)(1)(B)*	Form of Letter of Transmittal.
(a)(1)(C)*	Form of Notice of Guaranteed Delivery.
(a)(1)(D)*	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(E)*	Form of Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(F)*	Form of Summary Advertisement, published September 24, 2020 in <i>The Wall Street Journal</i> .
(a)(5)(A)	Joint Press Release of Parent and Immunomedics, dated September 13, 2020 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by Parent with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(B)	Investor Presentation, dated September 13, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(C)	Transcript of Investor Presentation Call on September 13, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(D)	Frequently Asked Questions, sent to Parent Operating Group on September 14, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(E)	Frequently Asked Questions provided by Parent to Immunomedics' employees on September 14, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(F)	Tweet posted by Parent on September 13, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(G)	Email sent by Parent to Immunomedics' employees on September 13, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 14, 2020).
(a)(5)(H)	Transcript of CNBC News "Squawk Box" Interview of Daniel O'Day, posted on Parent's website on September 15, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 15, 2020).
(a)(5)(I)	Email sent to the Gilead Development Team on September 15, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 16, 2020).
(a)(5)(J)	Excerpt from email sent to Gilead's commercial employees on September 17, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 17, 2020).
(a)(5)(K)	Press Release, dated September 23, 2020 (incorporated by reference to the Tender Offer Statement on Schedule TO-C of Parent and Purchaser filed with the Securities and Exchange Commission on September 23, 2020).

<u>Index No.</u>	
(b)(1)*	Commitment Letter, dated as of September 18, 2020, among Gilead Sciences, Inc. Barclays Bank PLC, Wells Fargo Bank, National Association and certain other parties.
(d)(1)	Agreement and Plan of Merger, dated September 13, 2020, among Immunomedics, Parent and Purchaser (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by Parent with the Securities and Exchange Commission on September 14, 2020).
(d)(2)	Mutual Confidential Disclosure Agreement, effective as of January 1, 2019, between Immunomedics and Parent (incorporated by reference to Exhibit (e)(2) to the Schedule 14D-9 filed by Immunomedics with the Securities and Exchange Commission on September 24, 2020).
(d)(3)	Amendment No. 1 to Mutual Confidential Disclosure Agreement, effective as of January 1, 2019, between Immunomedics and Parent (incorporated by reference to Exhibit (e)(3) to the Schedule 14D-9 filed by Immunomedics with the Securities and Exchange Commission on September 24, 2020).
(d)(4)	Exclusivity Agreement, dated as of September 10, 2020, by and between Immunomedics and Parent (incorporated by reference to Exhibit (e)(6) to the Schedule 14D-9 filed by Immunomedics with the Securities and Exchange Commission on September 24, 2020).
(g)	Not applicable.
(h)	Not applicable.

* Previously filed on September 24, 2020 as an exhibit to the Schedule TO.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: October 13, 2020

MAUI MERGER SUB, INC.

By: /s/ Brett A. Pletcher

Name: Brett A. Pletcher

Title: *Secretary*

GILEAD SCIENCES, INC.

By: /s/ Brett A. Pletcher

Name: Brett A. Pletcher

Title: *Executive Vice President, Corporate Affairs and General Counsel*
