AMGEN INC
Form SC TO-I
February 05, 2018

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

AMGEN INC.

(Name Of Subject Company (Issuer) And Filing Person (Offeror))

Common Shares, par value $0.0001 per share

(Title of Class of Securities)

031162100

(CUSIP Number of Common Stock)

Jonathan P. Graham, Esq.

Senior Vice President, General Counsel and Secretary

One Amgen Center Drive

Thousand Oaks, California 91320-1799

(805) 447-1000

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing persons)

With a copy to:

Catherine M. Clarkin, Esq.

Sullivan & Cromwell LLP

125 Broad Street

New York, New York 10004

(212) 558-4000

CALCULATION OF FILING FEE

Transaction Valuation*	**Amount Of Filing Fee****
$10,000,000,000	$1,245,000

* The transaction value is estimated only for purposes of calculating the filing fee. This amount is based on the offer to purchase up to $10 billion in value of shares of the common stock, $0.0001 par value per share.

** The amount of the filing fee, calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, equals $124.50 per million dollars of the value of the transaction.

Check the 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:	N/A	Filing Party:	N/A
Form or Registration No.:	N/A	Date Filed:	N/A

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:

third-party tender offer subject to Rule 14d-1.
issuer tender offer subject to Rule 13e-4.
going-private transaction subject to Rule 13e-3.

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:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
Rule 14d-1(d) (Cross-Border Third Party Tender Offer)

SCHEDULE TO

This Tender Offer Statement on Schedule TO relates to the offer by Amgen Inc., a Delaware corporation (Amgen or the Company), to purchase, up to $10 billion in value of shares of its common stock, $0.0001 par value per share (the Shares), at a price not greater than $200 nor less than $175 per Share, to the seller in cash, less any applicable withholding taxes and without interest. The Company s offer is being made upon the terms and subject to the conditions set forth in the Offer to Purchase dated February 5, 2018 (the Offer to Purchase) and in the related Letter of Transmittal, copies of which are attached to this Schedule TO as Exhibits (a)(1)(i) and (a)(1)(ii), respectively (which together, as they may be amended or supplemented from time to time, constitute the Offer). This Tender Offer Statement on Schedule TO is intended to satisfy the reporting requirements of Rule 13e-4(c)(2) under the Securities Exchange Act of 1934, as amended.

The information in the Offer to Purchase and the related Letter of Transmittal, copies of which are filed with this Schedule TO as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, are incorporated by reference in answer to Items 1 through 11 in this Tender Offer Statement on Schedule TO.

ITEM 1. SUMMARY TERM SHEET

The information set forth in the section captioned Summary Term Sheet of the Offer to Purchase, a copy of which is filed with this Schedule TO as Exhibit (a)(1)(i), is incorporated herein by reference.

ITEM 2. SUBJECT COMPANY INFORMATION

(a) **Name and Address:** The name of the subject company is Amgen Inc., a Delaware corporation. The address of its principal executive office is One Amgen Center Drive, Thousand Oaks, CA 91320-1799 and its telephone number is (805) 447-1000. The information set forth in Section 10 (Certain Information Concerning Us) of the Offer to Purchase is incorporated herein by reference.

(b) **Securities:** The information set forth in the section of the Offer to Purchase captioned Introduction is incorporated herein by reference.

(c) **Trading Market and Price:** The information set forth in the section captioned Introduction of the Offer to Purchase is incorporated herein by reference. The information set forth in Section 8 (Price Range of Shares; Dividends) of the Offer to Purchase is incorporated herein by reference.

ITEM 3. IDENTITY AND BACKGROUND OF FILING PERSON

(a) **Name and Address:** The name of the filing person is Amgen Inc., a Delaware corporation. The address of its principal executive office is One Amgen Center Drive, Thousand Oaks, CA 91320-1799 and its telephone number is (805) 447-1000. The information set forth in Section 10 (Certain Information Concerning Us) and Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) of the Offer to Purchase is incorporated herein by reference.

ITEM 4. TERMS OF THE TRANSACTION

(a) **Material Terms:** The information set forth in the sections of the Offer to Purchase captioned Introduction and Summary Term Sheet is incorporated herein by reference. The information set forth in Section 1 (Number of Shares; Proration), Section 2 (Purpose of the Offer; Certain Effects of the Offer), Section 3 (Procedures for Tendering Shares), Section 4 (Withdrawal Rights), Section 5 (Purchase of Shares and Payment of Purchase Price), Section 6 (Conditional Tender of Shares), Section 7 (Conditions of the Offer), Section 9 (Source and Amount of Funds), Section 12 (Interests

of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares), Section 14 (Certain United States Federal Income Tax Consequences), Section 15 (Extension of the Offer; Termination; Amendment) and Section 17 (Miscellaneous) of the Offer to Purchase is incorporated herein by reference.

(b) **Purchases:** The information set forth in the sections of the Offer to Purchase captioned Introduction and Summary Term Sheet is incorporated herein by reference. The information set forth in Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) of the Offer to Purchase is incorporated herein by reference.

ITEM 5. PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS

Agreements Involving the Subject Company s Securities: The information set forth in Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) of the Offer to Purchase is incorporated herein by reference.

ITEM 6. PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS

(a) **Purposes:** The information set forth in the section of the Offer to Purchase captioned Summary Term Sheet is incorporated herein by reference. The information set forth in Section 2 (Purpose of the Offer; Certain Effects of the Offer) of the Offer to Purchase is incorporated herein by reference.

(b) **Use of the Securities Acquired:** The information set forth in Section 2 (Purpose of the Offer; Certain Effects of the Offer) of the Offer to Purchase is incorporated herein by reference.

(c) **Plans:** The information set forth in Section 2 (Purpose of the Offer; Certain Effects of the Offer) of the Offer to Purchase is incorporated herein by reference.

ITEM 7. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

(a) **Source of Funds:** The information set forth in the section of the Offer to Purchase captioned Summary Term Sheet is incorporated herein by reference. The information set forth in Section 9 (Source and Amount of Funds) of the Offer to Purchase is incorporated herein by reference.

(b) **Conditions:** The information set forth in the section of the Offer to Purchase captioned Summary Term Sheet is incorporated herein by reference. The information set forth in Section 9 (Source and Amount of Funds) of the Offer to Purchase is incorporated herein by reference.

(d) **Borrowed Funds:** The information set forth in the section of the Offer to Purchase captioned Summary Term Sheet is incorporated herein by reference. The information set forth in Section 9 (Source and Amount of Funds) of the Offer to Purchase is incorporated herein by reference.

ITEM 8. INTEREST IN SECURITIES OF THE SUBJECT COMPANY

(a) **Securities Ownership:** The information set forth in Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) of the Offer to Purchase is incorporated herein by reference.

(b) **Securities Transactions:** The information set forth in Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) of the Offer to Purchase is incorporated herein by reference.

ITEM 9. PERSONS/ASSETS, RETAINED, EMPLOYED, COMPENSATED OR USED

Solicitations or Recommendations: The information set forth in Section 16 (Fees and Expenses) of the Offer to Purchase is incorporated herein by reference.

ITEM 10. FINANCIAL STATEMENTS

(a) **Financial Information:** The information set forth in Section 11 (Certain Financial Information) of the Offer to Purchase is incorporated herein by reference.

(b) **Pro Forma Information:** The information set forth in Section 11 (Certain Financial Information) of the Offer to Purchase is incorporated herein by reference.

ITEM 11. ADDITIONAL INFORMATION

(a) **Agreements, Regulatory Requirements and Legal Proceedings:** The information set forth in Section 12 (Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares) and Section 13 (Certain Legal Matters; Regulatory Approvals) of the Offer to Purchase is incorporated herein by reference.

(c) **Other Material Information:** The information in the Offer to Purchase and the related Letter of Transmittal, copies of which are filed with this Schedule TO as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, are incorporated herein by reference.

ITEM 12. EXHIBITS

(a)(1)(i)	Offer to Purchase, dated February 5, 2018.
(a)(1)(ii)	Letter of Transmittal (including IRS Form W-9).
(a)(1)(iii)	Notice of Guaranteed Delivery.
(a)(1)(iv)	Letter to Brokers, Dealers, Banks, Trust Companies and Other Nominees.
(a)(1)(v)	Letter to Clients for Use by Brokers, Dealers, Banks, Trust Companies and Other Nominees.
(a)(1)(vi)	Internal Communications Materials, dated February 5, 2018.
(a)(2)	Not applicable.
(a)(3)	Not applicable.
(a)(4)	Not applicable.
(a)(5)(i)	Excerpted Transcript of Amgen Inc. s Earnings Conference Call on February 1, 2018.*
(a)(5)(ii)	Summary Advertisement, dated February 5, 2018.
(b)	Not applicable.
(d)(1)	Amgen Inc. Amended and Restated 2009 Equity Incentive Plan. (Filed as Appendix C to the Definitive Proxy Statement on Schedule 14A on April 8, 2013 and incorporated herein by reference.)
(d)(2)	First Amendment to Amgen Inc. Amended and Restated 2009 Equity Incentive Plan, effective March 4, 2015. (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2015 on April 27, 2015 and incorporated herein by reference.)

(d)(3) Second Amendment to Amgen Inc. Amended and Restated 2009 Equity Incentive Plan, effective March 2, 2016. (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2016 on May 2, 2016 and incorporated herein by reference.)

(d)(4) Form of Stock Option Agreement for the Amgen Inc. Amended and Restated 2009 Equity Incentive Plan. (As Amended on December 20, 2016.) (Filed as an exhibit to Form 10-K for the year ended December 31, 2016 on February 14, 2017 and incorporated herein by reference.)

(d)(5) Form of Restricted Stock Unit Agreement for the Amgen Inc. Amended and Restated 2009 Equity Incentive Plan. (As Amended on December 20, 2016.) (Filed as an exhibit to Form 10-K for the year ended December 31, 2016 on February 14, 2017 and incorporated herein by reference.)

(d)(6) Amgen Inc. 2009 Performance Award Program. (As Amended on March 2, 2016.) (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2016 on May 2, 2016 and incorporated herein by reference.)

(d)(7) Form of Performance Unit Agreement for the Amgen Inc. 2009 Performance Award Program. (As Amended on December 20, 2016.) (Filed as an exhibit to Form 10-K for the year ended December 31, 2016 on February 14, 2017 and incorporated herein by reference.)

(d)(8) Amgen Inc. 2009 Director Equity Incentive Program. (As Amended on March 6, 2013.) (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2013 on May 3, 2013 and incorporated herein by reference.)

(d)(9) Form of Grant of Non-Qualified Stock Option Agreement for the Amgen Inc. 2009 Director Equity Incentive Program. (Filed as an exhibit to Form 8-K on May 8, 2009 and incorporated herein by reference.)

(d)(10) Form of Restricted Stock Unit Agreement for the Amgen Inc. 2009 Director Equity Incentive Program. (As Amended on March 6, 2013.) (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2013 on May 3, 2013 and incorporated herein by reference.)

(d)(11) Agreement between Amgen Inc. and David W. Meline, effective July 21, 2014. (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2014 on October 29, 2014 and incorporated herein by reference.)

(d)(12) Agreement between Amgen Inc. and Jonathan Graham, dated May 11, 2015. (Filed as an exhibit to Form 10-Q/A for the quarter ended June 30, 2015 on August 6, 2015 and incorporated herein by reference.)

(d)(13) Agreement between Amgen Inc. and Lori Johnston, dated October 25, 2016. (Filed as an exhibit to Form 10-K for the year ended December 31, 2016 on February 14, 2017 and incorporated herein by reference.)

(g) Not applicable.

(h) Not applicable.

* Previously filed.

ITEM 13. INFORMATION REQUIRED BY SCHEDULE 13E-3

Not applicable.

SIGNATURES

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

AMGEN INC.

Dated: February 5, 2018

By: /s/ Mary A. Lehmann
Name: Mary A. Lehmann
Title: Vice President, Finance and Treasurer

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