

Foundation Medicine, Inc.
Form SC TO-T/A
March 24, 2015

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

Amendment No. 4
to
SCHEDULE TO
Tender Offer Statement Under Section 14(d)(1) or 13(e)(1) of
the Securities Exchange Act of 1934

FOUNDATION MEDICINE, INC.
(Name of Subject Company)

ROCHE HOLDINGS, INC.
(Names of Filing Persons – Offeror)

Common Stock, Par Value \$0.0001 Per Share
(Title of Class of Securities)

350465100
(Cusip Number of Class of Securities)

Frederick C. Kentz III
Roche Holdings, Inc.
1 DNA Way, MS #24,
South San Francisco, CA 94080
Telephone: (650) 225-1000

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

Copies to:

Marc O. Williams, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000

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

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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.

This Amendment No. 4 (“Amendment No. 4”) to the Tender Offer Statement on Schedule TO (as previously amended, together with any subsequent amendments thereto and together with the exhibits thereto, the “Schedule TO”) amends and supplements the statement originally filed on February 2, 2015 by Roche Holdings, Inc., a Delaware corporation (“Purchaser”). This Amendment No. 4 and the Schedule TO relate to the offer by Purchaser to purchase up to 15,604,288 outstanding shares of common stock, par value \$0.0001 per share (the “Shares”), of Foundation Medicine, Inc., a Delaware corporation, at a purchase price of \$50.00 per Share, net to seller in cash, without interest and less any required withholding of taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated February 2, 2015 (as amended or supplemented from time to time, the “Offer to Purchase”), and in the related Letter of Transmittal (the “Letter of Transmittal”, which, together with any amendments or supplements thereto from time to time, constitutes the “Offer”).

Capitalized terms used, but not otherwise defined, in this Amendment No. 4 shall have the meanings ascribed to them in the Offer to Purchase. Except as set forth below, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference as relevant to the items in this Amendment No. 4.

The items of the Schedule TO set forth below, to the extent such items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as described below.

Items 1 through 9, and Item 11.

Items 1 through 9 and Item 11 of the Schedule TO are hereby amended and supplemented as follows:

“Section 13—The Transaction Documents—Investor Rights Agreement—Board Representation” is hereby amended and supplemented by adding the following after the first paragraph:

In advance of the anticipated Closing, Purchaser identified its three director designees: Daniel O’Day, Roche Pharmaceuticals Division, Chief Operating Officer and member of the Roche corporate executive committee; Sandra J. Horning, M.D., FACP, FASCO, Senior Vice President, Global Head, Product Development and Chief Medical Officer for Roche/Genentech; and Michael D. Varney, Ph.D., Head Genentech Research and Early Development. Certain biographical information of the Purchaser Designees is set forth in a press release issued by the Company, which is attached as Exhibit 99.1 to its Current Report on Form 8-K dated March 23, 2015 and is incorporated herein by reference.

It is also anticipated that Alexis Borisy and Krishna Yeshwant, M.D. will remain on the FMI Board as the two Independent Directors affiliated with the Existing VC Investors, with Brook Byers stepping off of the FMI Board in connection with the Closing. Alexis Borisy will remain as Chairman of the FMI Board following the Closing. The parties also agreed that the final seat on the FMI Board will be filled following (and not prior to) the Closing with an Independent Director to be agreed upon by the Company and Purchaser.

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibit:

Exhibit No.	Description
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(a)(5)(vi) Media Release issued by Foundation Medicine, Inc. on March 23, 2015 (incorporated by reference to Exhibit 99.1 of the Form 8-K filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on March 23, 2015).

SIGNATURES

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

Date: March 24, 2015

ROCHE HOLDINGS,
INC.

By: /s/ Bruce Resnick
Name: Bruce
Resnick
Title: Vice
President and
Tax Counsel

EXHIBIT INDEX

Exhibit No.	Description
(a)(1)(i)	Offer to Purchase, dated as of February 2, 2015.
(a)(1)(ii)	Letter of Transmittal (including IRS Form W-9 and associated instructions).
(a)(1)(iii)	Notice of Guaranteed Delivery.
(a)(1)(iv)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(v)	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(vi)	Summary Advertisement as published in the Wall Street Journal on February 2, 2015.
(a)(5)(i)	Media Release issued by Roche on January 12, 2015 (incorporated by reference to Exhibit 99.1 of the Pre-Commencement Communication on Schedule TO filed by Roche Holdings, Inc. with the Securities and Exchange Commission on January 12, 2015).
(a)(5)(ii)	Key Messages and Q&A dated January 12, 2015 (incorporated by reference to Exhibit 99.2 of the Pre-Commencement Communication on Schedule TO filed by Roche Holdings, Inc. with the Securities and Exchange Commission on January 12, 2015).
(a)(5)(iii)	Presentation used for investor relations conference call dated January 12, 2015 (incorporated by reference to Exhibit 99.3 of the Pre-Commencement Communication on Schedule TO filed by Roche Holdings, Inc. with the Securities and Exchange Commission on January 12, 2015).
(a)(5)(iv)	Media Release issued by Roche Holdings, Inc. on February 2, 2015.
(a)(5)(v)	Media Release issued by Roche Holdings, Inc. on March 2, 2015.
(a)(5)(vi)	Media Release issued by Foundation Medicine, Inc. on March 23, 2015 (incorporated by reference to Exhibit 99.1 of the Form 8-K filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on March 23, 2015).
(b)	Not applicable.
(c)	Not applicable.
(d)(1)	Transaction Agreement, dated as of January 11, 2015, by and between Foundation Medicine, Inc. and Roche Holdings, Inc. (incorporated by reference to Exhibit 2.1 of the Form 8-K filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on January 12, 2015).
(d)(2)	Investor Rights Agreement, dated as of January 11, 2015, by and among Foundation Medicine, Inc., Roche Holdings, Inc. and the other stockholders named as a party thereto (incorporated by reference to Exhibit 4.2 of the Form 8-K filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on January 12, 2015).

- (d)(3) Tender and Support Agreement, dated as of January 11, 2015, by and between Roche Holdings, Inc. and Third Rock Ventures, L.P. (incorporated by reference to Exhibit 99.2 of the Schedule 13D filed by Roche Holding Ltd with the Securities and Exchange Commission on January 21, 2015).
- (d)(4) Tender and Support Agreement, dated as of January 11, 2015, by and among Roche Holdings, Inc., Kleiner Perkins Caufield & Byers XIV, LLC and KPCB XIV Founders Fund, LLC (incorporated by reference to Exhibit 99.3 of the Schedule 13D filed by Roche Holding Ltd with the Securities and Exchange Commission on January 21, 2015).
- (d)(5) Tender and Support Agreement, dated as of January 11, 2015, by and between Roche Holdings, Inc. and Google Ventures 2011, L.P. (incorporated by reference to Exhibit 99.4 of the Schedule 13D filed by Roche Holding Ltd with the Securities and Exchange Commission on January 21, 2015).
- (d)(6) Tax Sharing Agreement, dated as of January 11, 2015, by and between Roche Holdings, Inc. and Foundation Medicine, Inc. (incorporated by reference to Exhibit 10.1 of the Form 8-K filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on January 12, 2015).
- (d)(7) Confidentiality Agreement, dated as of September 4, 2014, between Roche Holdings, Inc. and Foundation Medicine, Inc.
- d(8)† Collaboration Agreement, by and among Foundation Medicine, Inc., F. Hoffman-La Roche Ltd and Hoffman-La Roche Inc., dated January 11, 2015 (incorporated by reference to Exhibit 10.2 of the Form 8-K/A filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on February 2, 2015).
- d(9)† Ex-US Commercialization Agreement, by and between Foundation Medicine, Inc. and F. Hoffmann-La Roche Ltd, dated January 11, 2015 (incorporated by reference to Exhibit 10.3 of the Form 8-K/A filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on February 2, 2015).
- d(10)† US Education Collaboration Agreement, by and between Foundation Medicine, Inc. and Genentech, Inc., dated January 11, 2015 (incorporated by reference to Exhibit 10.4 of the Form 8-K/A filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on February 2, 2015).
- d(11)† Binding Term Sheet for an In Vitro Diagnostics Collaboration by and between Foundation Medicine, Inc. and F. Hoffman-La Roche Ltd, dated January 11, 2015 (incorporated by reference to Exhibit 10.5 of the Form 8-K/A filed by Foundation Medicine, Inc. with the Securities and Exchange Commission on February 2, 2015).
- (e) Not applicable.
- (f) Not applicable.
- (g) Not applicable.
- (h) Not applicable.

* Filed herewith

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Confidential treatment has been requested or granted for certain information contained in this exhibit. Such information has been omitted and filed separately with the Securities and Exchange Commission