

ARMO BioSciences, Inc.  
Form SC TO-T  
May 23, 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**

**ARMO BIOSCIENCES, INC.**  
**(Name of Subject Company (Issuer))**

**BLUEGILL ACQUISITION CORPORATION**  
**(Offeror)**

**a wholly-owned subsidiary of**  
**ELI LILLY AND COMPANY**

**(Parent of Offeror)**  
**(Names of Filing Persons)**

**Common Stock par value \$0.0001 per share**

**(Title of Class of Securities)**

**04225U104**

**(CUSIP Number of Class of Securities)**

**Michael J. Harrington, Esq.**

**General Counsel**

**Eli Lilly and Company**

**Lilly Corporate Center**

**Indianapolis, Indiana 46285**

**Telephone: (317) 276-2000**

*Copies to:*

**Daniel A. Neff**

**Mark Gordon**

**Wachtell, Lipton, Rosen & Katz**

**51 West 52<sup>nd</sup> Street**

**New York, New York 10019**

**(212) 403-1000**

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

**CALCULATION OF FILING FEE**

**Transaction Valuation\***

**\$1,653,750,000.00**

**Amount of Filing Fee\*\***

**\$205,891.88**

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\* Estimated solely for purposes of calculating the filing fee. This calculation is based on the offer to purchase all of the issued and outstanding shares of common stock, par value \$0.0001 per share, of ARMO BioSciences, Inc. ( ARMO ), at a purchase price of \$50.00 per share, net to the seller in cash, without interest and less any applicable tax withholding. As of 5:00 p.m., Eastern time, on May 18, 2018 (the most recent practicable date): (i) 30,405,109 shares of ARMO common stock were issued and outstanding, (ii) no shares of ARMO common stock were held by ARMO in its treasury, (iii) 2,657,030 shares of ARMO common stock were subject to outstanding ARMO stock options, (iv) 7,267 shares of ARMO common stock were subject to outstanding rights under ARMO s employee stock purchase plan, and (v) 5,594 additional shares of ARMO common stock, which is an estimate of the maximum number of shares that were reserved for issuance pursuant to ARMO s stock plans or employee stock purchase plan and may become outstanding prior to consummation of the Offer.

\*\* 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 2018, issued August 24, 2017, by multiplying the transaction value by 0.0001245.

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  
Form or Registration No.: N/A

Filing Party: 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)

This Tender Offer Statement on Schedule TO (together with any amendments and supplements hereto, this Schedule TO ) is filed by Bluegill Acquisition Corporation, a Delaware corporation ( Purchaser ) and a wholly-owned subsidiary of Eli Lilly and Company, an Indiana corporation ( Lilly ). This Schedule TO relates to the offer by Purchaser to purchase all of the outstanding shares of common stock, par value, \$0.0001 per share (the Shares ), of ARMO BioSciences, Inc., a Delaware corporation ( ARMO ), at a purchase price of \$50.00 per Share (the Offer Price ), net to the seller in cash, without interest and less any applicable tax withholding, on the terms and subject to the conditions set forth in the Offer to Purchase and in the related Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(1)(A) and (a)(1)(B), respectively.

All information contained in the Offer to Purchase (including Schedule I to the Offer to Purchase) and the accompanying Letter of Transmittal is hereby expressly incorporated herein by reference in response to Items 1 through 9 and Item 11 of this Schedule TO.

The Agreement and Plan of Merger, dated May 9, 2018 (as it may be amended from time to time, the Merger Agreement ), by and among ARMO, Lilly and Purchaser, a copy of which is attached as Exhibit (d)(1) hereto, and the Tender and Support Agreement, dated May 9, 2018 (as it may be amended from time to time, the Tender and Support Agreement ), by and among Lilly, Purchaser and certain stockholders of ARMO, a copy of which is attached as Exhibit (d)(2) hereto, are incorporated herein by reference with respect to Items 4, 5, 6 and 11 of this Schedule TO.

***Item 1. Summary Term Sheet.***

The information set forth in the Summary Term Sheet of the Offer to Purchase is incorporated herein by reference.

***Item 2. Subject Company Information.***

(a) The name of the subject company and the issuer of the securities to which this Schedule TO relates is ARMO BioSciences, Inc., a Delaware corporation. ARMO's principal executive offices are located at 575 Chesapeake Drive, Redwood City, CA 94062. ARMO's telephone number is 650-779-5075.

(b) This Schedule TO relates to the outstanding Shares. ARMO has advised Purchaser and Lilly that, as of May 18, 2018 (the most recent practicable date), 30,405,109 Shares were issued and outstanding.

(c) The information set forth in Section 6 (entitled Price Range of Shares; Dividends on the Shares ) of the Offer to Purchase is incorporated herein by reference.

***Item 3. Identity and Background of the Filing Person.***

(a) (c) This Schedule TO is filed by Purchaser and Lilly. The information set forth in Section 8 (entitled Certain Information Concerning Lilly and Purchaser ) of the Offer to Purchase and Schedule I to the Offer to Purchase is incorporated herein by reference.

***Item 4. Terms of the Transaction.***

(a)(1)(i) (viii), (xii), (a)(2)(i) (iv), (vii) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction

the Summary Term Sheet

Section 1 Terms of the Offer

Section 2 Acceptance for Payment and Payment for Shares

Section 3 Procedures for Accepting the Offer and Tendering Shares

Section 4      Withdrawal Rights

Section 5      Material U.S. Federal Income Tax Consequences

Section 11     The Merger Agreement; Other Agreements

Section 12     Purpose of the Offer; Plans for ARMO

Section 13     Certain Effects of the Offer

Section 15     Conditions of the Offer

Section 16     Certain Legal Matters; Regulatory Approvals

Section 17     Appraisal Rights

Section 19     Miscellaneous

(a)(1)(ix)    (xi), (a)(2)(v)    (vi) Not applicable.

***Item 5. Past Contacts, Transactions, Negotiations and Agreements.***

(a), (b) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction

the Summary Term Sheet

Section 8      Certain Information Concerning Lilly and Purchaser

Section 10     Background of the Offer; Past Contacts or Negotiations with ARMO

Section 11     The Merger Agreement; Other Agreements

Section 12     Purpose of the Offer; Plans for ARMO

Schedule I

**Item 6. Purposes of the Transaction and Plans or Proposals.**

(a), (c)(1) (7) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction

the Summary Term Sheet

Section 10 Background of the Offer; Past Contacts or Negotiations with ARMO

Section 11 The Merger Agreement; Other Agreements

Section 12 Purpose of the Offer; Plans for ARMO

Section 13 Certain Effects of the Offer

Schedule I

**Item 7. Source and Amount of Funds or Other Consideration.**

(a) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 9 Source and Amount of Funds

(b), (d) Not applicable.

**Item 8. Interest in Securities of the Subject Company.**

(a) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 8 Certain Information Concerning Lilly and Purchaser

Section 11 The Merger Agreement; Other Agreements

Section 12 Purpose of the Offer; Plans for ARMO

Schedule I

(b) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 8 Certain Information Concerning Lilly and Purchaser

Schedule I

**Item 9. Persons/Assets, Retained, Employed, Compensated or Used.**

(a) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 3 Procedures for Accepting the Offer and Tendering Shares

Section 10 Background of the Offer; Past Contacts or Negotiations with ARMO

Section 18 Fees and Expenses

**Item 10. Financial Statements.**

Not applicable.



***Item 11. Additional Information.***

(a)(1) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 8      Certain Information Concerning Lilly and Purchaser

Section 10     Background of the Offer; Past Contacts or Negotiations with ARMO

Section 11     The Merger Agreement; Other Agreements

Section 12     Purpose of the Offer; Plans for ARMO

(a)(2) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 12     Purpose of the Offer; Plans for ARMO

Section 15     Conditions of the Offer

Section 16     Certain Legal Matters; Regulatory Approvals

(a)(3) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 15      Conditions of the Offer

Section 16      Certain Legal Matters; Regulatory Approvals

(a)(4) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 13      Certain Effects of the Offer

(a)(5) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 16      Certain Legal Matters; Regulatory Approvals

**Item 12. Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
(a)(1)(A)	Offer to Purchase, dated May 23, 2018.*
(a)(1)(B)	Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on IRS Form W-9).*
(a)(1)(C)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(D)	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(E)	Summary Advertisement, dated May 23, 2018.*
(a)(5)(A)	Joint Press Release issued by Lilly and ARMO on May 10, 2018 (incorporated by reference to Exhibit 99.1 to the Schedule TO filed by Lilly on May 10, 2018).
(b)	Not applicable.
(d)(1)	Agreement and Plan of Merger, dated May 9, 2018, among Eli Lilly and Company, Bluegill Acquisition Corporation and ARMO BioSciences, Inc. (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by ARMO on May 10, 2018).
(d)(2)	Tender and Support Agreement by and among Eli Lilly and Company, Bluegill Acquisition Corporation and certain stockholders of ARMO BioSciences, Inc. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by ARMO on May 10, 2018).
(d)(3)	Non-Disclosure Agreement between ARMO and Lilly dated March 19, 2018.*
(g)	Not applicable.
(h)	Not applicable.

\* Filed herewith.

**SIGNATURES**

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

Date: May 23, 2018

**Bluegill Acquisition Corporation**

By: /s/ Darren J. Carroll  
Name: Darren J. Carroll  
Title: President

**Eli Lilly and Company**

By: /s/ Joshua L. Smiley  
Name: Joshua L. Smiley  
Title: Senior Vice President and  
Chief Financial Officer

## EXHIBIT INDEX

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