

AMICUS THERAPEUTICS INC  
Form 8-K  
March 04, 2014

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of Earliest Event Reported): **March 4, 2014**

**Amicus Therapeutics, Inc.**

(Exact Name of Issuer as Specified in Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**001-33497**  
(Commission File Number)

**71-0869350**  
(I.R.S. Employer Identification  
Number)

**1 Cedar Brook Drive**  
**Cranbury, New Jersey**  
(Address of Principal Executive Offices)

**08512**  
(Zip Code)

**(609) 662-2000**

(Registrant's Telephone Number, Including Area Code)

## Edgar Filing: AMICUS THERAPEUTICS INC - Form 8-K

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act
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**Item 1.01. Entry Into a Material Definitive Agreement.**

On March 4, 2014, Amicus Therapeutics, Inc. (the *Company*) entered into a Sales Agreement (the *Agreement*) with Cowen and Company, LLC ( *Cowen* or the *Agent*) to create an at-the-market equity program under which the Company from time to time may offer and sell shares of its common stock, par value \$0.01 per share, having an aggregate offering price of up to \$40,000,000 (the *Shares*) through Cowen.

Subject to the terms and conditions of the Agreement, Cowen will use its commercially reasonable efforts to sell the Shares from time to time, based upon the Company's instructions. The Company has provided the Agent with customary indemnification rights, and the Agent will be entitled to a commission at a fixed commission rate of up to 3.0% of the gross proceeds per Share sold.

Sales of the Shares, if any, under the Agreement may be made in transactions that are deemed to be at the market offerings as defined in Rule 415 under the Securities Act of 1933, as amended (the *Securities Act*), including sales made by means of ordinary brokers' transactions, including on The NASDAQ Global Market, at market prices or as otherwise agreed with the Agent. The Company has no obligation to sell any of the Shares, and may at any time suspend offers under the Agreement or terminate the Agreement.

This report also incorporates by reference the Agreement into the shelf registration statement on Form S-3 (File No. 333-185307) previously filed with the Securities and Exchange Commission on December 6, 2012, in the form in which it became effective on January 22, 2013 (the *Registration Statement*). This report shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Shares in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

The Agreement is filed as Exhibit 10.1 to this report. The description of the Agreement does not purport to be complete and is qualified in its entirety by reference to the Agreement filed herewith as an exhibit to this report.

The opinion of the Company's counsel regarding the validity of the Shares that will be issued pursuant to the Agreement is also filed herewith as Exhibit 5.1. This opinion is also filed with reference to, and is hereby incorporated by reference into, the Registration Statement.

**Item 7.01. Regulation FD Disclosure.**

The information set forth in Item 1.01 is incorporated in this Item 7.01 by reference.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits: The Exhibit Index annexed hereto is incorporated herein by reference.



**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**Amicus Therapeutics, Inc.**

Date: March 4, 2014

By:

/s/ William D. Baird III  
William D. Baird III  
Chief Financial Officer

**EXHIBIT INDEX**

| <b>Exhibit<br/>Number</b> | <b>Exhibit</b>                                                                                           |
|---------------------------|----------------------------------------------------------------------------------------------------------|
| 5.1                       | Opinion of Pepper Hamilton LLP                                                                           |
| 10.1                      | Sales Agreement dated March 4, 2014 by and between Amicus Therapeutics, Inc., and Cowen and Company, LLC |
| 23.1                      | Consent of Pepper Hamilton LLP (reference is made to Exhibit 5.1 hereto)                                 |