

ARENA PHARMACEUTICALS INC

Form 8-K

January 04, 2017

**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): January 4, 2017**

**Arena Pharmaceuticals, Inc.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction**

**000-31161**  
**(Commission**

**23-2908305**  
**(I.R.S. Employer**

**of incorporation)**

**File Number)**

**Identification No.)**

**6154 Nancy Ridge Drive, San Diego, California 92121**

**(Address of principal executive offices) (Zip Code)**

**858.453.7200**

**(Registrant's telephone number, including area code)**

**N/A**

**(Former name or former address, if changed since last report)**

Check the appropriate box below if the Form 8-K filing 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 (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

## Item 1.01 Entry into a Material Definitive Agreement.

On January 4, 2017, Arena Pharmaceuticals, Inc. (the Company) entered into an Equity Distribution Agreement (the Agreement) with Citigroup Global Markets Inc. (the Manager or Citigroup), pursuant to which the Company may sell and issue shares of its common stock having an aggregate offering price of up to \$50,000,000 (the Shares) from time to time through Citigroup, as the Company's sales agent (the ATM Offering). 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.

Sales of the Shares, if any, under the Agreement may be made in transactions that are deemed to be at-the-market equity offerings as defined in Rule 415 under the Securities Act of 1933, as amended, including sales made by means of ordinary brokers' transactions, including on the NASDAQ Stock Market. Subject to the terms and conditions of the Agreement, the Manager will use its reasonable efforts to sell the Shares from time to time based upon the Company's instructions (including any price, time or size limits or other parameters or conditions the Company may impose). The Company will pay the Manager a commission of up to 3.0% of the gross sales price of any Shares sold under the Agreement. The Company has also provided the Manager with customary indemnification rights and has agreed to reimburse the Manager for certain specified expenses up to \$50,000.

The Shares will be offered and sold pursuant to the Company's shelf registration statement on Form S-3, as amended (File No. 333-212011). On January 4, 2017, the Company filed a prospectus supplement relating to the ATM Offering with the Securities and Exchange Commission.

Under the terms of the Agreement, the Company may also sell Shares to Citigroup as principal for its own account at a price agreed upon at the time of the sale, subject to the Company entering into a separate terms agreement with Citigroup for any such sale.

The description of the Agreement does not purport to be complete and is qualified in its entirety by reference to the Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K.

The legal opinion of Cooley LLP relating to the shares of common stock being offered pursuant to the Agreement is filed as Exhibit 5.1 to this Current Report on Form 8-K.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy the securities discussed herein, nor shall there be any offer, solicitation, or sale of the securities 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.

## Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description
5.1	Opinion of Cooley LLP
10.1	Equity Distribution Agreement, dated January 4, 2017, by and between Arena Pharmaceuticals, Inc. and Citigroup Global Markets Inc.
23.1	Consent of Cooley LLP (included in Exhibit 5.1)

**SIGNATURE**

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.

Date: January 4, 2017

Arena Pharmaceuticals, Inc.

By: /s/ Amit Munshi  
Amit Munshi  
President and Chief Executive Officer

**EXHIBIT INDEX**

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