



May 19, 2022

**NOTICE TO HOLDERS OF**

**BRISTOL-MYERS SQUIBB COMPANY CONTINGENT VALUE RIGHTS  
(NYSE: BMY-RT; CUSIP No. 110122157)**

**THIS NOTICE CONTAINS IMPORTANT INFORMATION THAT IS OF INTEREST TO THE REGISTERED AND BENEFICIAL OWNERS OF THE SUBJECT SECURITIES. IF APPLICABLE, ALL DEPOSITORIES, CUSTODIANS, AND OTHER INTERMEDIARIES RECEIVING THIS NOTICE ARE REQUESTED TO EXPEDITE RE-TRANSMITTAL TO SUCH BENEFICIAL OWNERS IN A TIMELY MANNER.**

UMB Bank, National Association (the “Trustee”) serves as the successor Trustee under the Contingent Value Rights Agreement, dated as of November 20, 2019 (the “CVR Agreement”), by and between Bristol-Myers Squibb Company (the “Company”) and Equiniti Trust Company relating to the Company’s Contingent Value Rights (the “CVRs”). Capitalized terms not defined herein have the meaning given to them in the CVR Agreement.

As the Trustee has reported in prior Notices to Holders of the CVRs, the Trustee was appointed in December 2020 by Holders of a majority of the CVRs. The Trustee has retained (a) Katten Muchin Rosenman LLP to represent the Trustee in connection with its role as the Trustee and with respect to matters relating to the CVR Agreement, (b) Selendy Gay Elsberg PLLC as litigation counsel, and (c) Cahill Gordon & Reindel LLP as special counsel.

The Trustee has incurred and will continue to incur fees, expenses and disbursements, including attorneys’ and other professional fees, expenses and disbursements from time to time. The Trustee reserves all of its rights under the CVR Agreement and applicable law for payment in compensation of its services and reimbursement for expenses, disbursements and advances incurred or made by the Trustee (including compensation, expenses and disbursements of its agents and counsel).

**TRUSTEE FILING OF COMPLAINT AGAINST BRISTOL-MYERS SQUIBB COMPANY ON BEHALF OF ALL HOLDERS OF CVRS**

As the Trustee reported in a prior Notice, on June 3, 2021, the Trustee, on behalf of all Holders of the CVRs, filed a complaint against the Company (the “Complaint”). The Complaint was filed in the United States District Court for the Southern District of New York (the “Court”) in the litigation captioned *UMB Bank, N.A., solely in its capacity as Trustee under the Contingent Value Rights Agreement by and between Bristol-Myers Squibb Company and Equiniti Trust Company, dated November 20, 2019 v. Bristol-Myers Squibb Company*, Case No. 1:21-cv-04897. A copy of the Complaint is available on the Trustee’s website at [www.umb.com/BristolMyersCVR](http://www.umb.com/BristolMyersCVR).

The Complaint asserts two claims for breach of the CVR Agreement against the Company: (1) breach of the Company's obligation under the CVR Agreement to use "Diligent Efforts" to achieve the Liso-cel and Ide-cel milestones and (2) breach of the Company's obligation to provide the Trustee with access to the Company's books and records.

### **COMPANY MOTION TO DISMISS THE COMPLAINT**

On July 23, 2021, the Company filed with the Court a motion to dismiss the Complaint (the "Dismissal Motion") on the following alleged bases: (1) an event of default did not occur because a noticed breach must continue for ninety (90) days before it can become an event of default under the CVR Agreement and (2) the Trustee's books and records claims should be dismissed because any damages are speculative and the request for books and records occurred with insufficient time for the Company to comply before the CVR Agreement terminated.

On September 14, 2021, the Trustee filed its opposition to the Dismissal Motion. The Trustee asserted as follows in connection with the Company's contention that an event of default did not occur: (1) an event of default occurred notwithstanding the CVR Agreement's termination because a breach continues until it is remedied or waived (neither of which has occurred), (2) applicable New York law called the "prevention doctrine" prevents the Company from causing the CVR Agreement to terminate by breaching the CVR Agreement and then asserting that the CVR Agreement's termination precludes the Trustee's lawsuit, and (3) the occurrence and/or continuance of an event of default is not required in order for the Trustee to pursue the lawsuit because the CVR Agreement expressly provides that "[n]othing in this CVR Agreement shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee...." In addition, the Trustee contested the Company's contention regarding the books and record claim, specifically on the grounds that the damages are not speculative and, at the very least, factual questions exist concerning the Company's compliance with the books and records requirement.

On October 14, 2021, the Company filed its reply brief, in which it (1) reiterated its contention that the Trustee cannot bring the lawsuit unless it provides notice more than ninety (90) days before the CVR Agreement terminates, (2) contended that the prevention doctrine does not apply because the Company's breach did not cause the inability to bring the lawsuit, (3) the CVR Agreement does not authorize the Trustee to exercise its discretion to bring the lawsuit if there has not been an event of default, and (4) the books and records claim should be dismissed because there purportedly are no factual issues and the Trustee has not alleged any cognizable damages.

The Trustee requested oral argument on the Dismissal Motion; however, the Court has not decided whether it will hold oral argument. As far as the Trustee is aware, there is no deadline by which the Court is required to issue a ruling and, as of the date of this Notice, no decision has been rendered on the Dismissal Motion. Pending the Court's ruling on the Dismissal Motion, the Court has ordered that discovery is stayed.

## **CLASS ACTION FILINGS**

Separate to the Trustee's Complaint, at least three putative class action lawsuits (collectively, the "Class Actions") were filed against the Company.<sup>1</sup> The Court consolidated the first class action and the second class action (together, the "Consolidated Class Action"), but has declined to consolidate or coordinate any Class Action with the lawsuit filed by the Trustee. The Class Actions are at a very early state and the allegations and claims asserted in the Class Actions may change as these lawsuits progress. A motion to dismiss was filed by the Company in the Consolidated Class Action on April 8, 2022 and the third class action is subject to a motion for remand to the state court.

Currently, the Class Actions extend to the following groups: (1) the Consolidated Class Action extends to all persons and entities who acquired CVRs from November 20, 2019 through December 31, 2020 and (2) the third class action extends to all persons and entities that received or purchased CVRs through December 18, 2020.

The Trustee is not a party to the Class Actions. If you have any questions about the Class Actions, you should consult your own attorneys and other advisors regarding your rights in connection with the Class Actions.

You may direct all other questions to the Trustee as follows:

UMB Bank, National Association  
120 South Sixth Street, Suite 1400  
Minneapolis, MN 55402  
Email: [BristolMyersCVR@umb.com](mailto:BristolMyersCVR@umb.com)

Future updates will be made available at [www.umb.com/BristolMyersCVR](http://www.umb.com/BristolMyersCVR).

Please note that the Trustee may conclude that a specific response to particular inquiries from individual Holders is not consistent with equal and full dissemination of information to all Holders. CVR Holders should not rely on the Trustee as their sole source of information concerning the CVRs. The Trustee makes no recommendations and gives no investment, financial, legal or other advice with respect to the matters herein or as to the CVRs generally.

**UMB Bank, National Association, as Trustee**

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<sup>1</sup> As of the date of this Notice, no Class Action has been certified by the Court.