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

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

EIGER BIOPHARMACEUTICALS, INC.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

33-0971591
(I.R.S. Employer
Identification No.)

2155 Park Blvd., Palo Alto, California 94306
(Address, including zip code, of principal executive offices)

(650) 272-6138
(Registrant's telephone number, including area code)

**Eiger BioPharmaceuticals, Inc. Amended and Restated 2013 Equity Incentive Plan
Eiger BioPharmaceuticals, Inc. 2013 Employee Stock Purchase Plan**

David A. Cory
President and Chief Executive Officer
Eiger BioPharmaceuticals, Inc.
2155 Park Blvd.
Palo Alto, California 94306
(650) 272-6138

(Name, address, including zip code and telephone number, including area code, of agent for service)

Copies to:

Carlton Fleming
Sidley Austin LLP
555 California Street, Suite 2000
San Francisco, California 94104
(415) 772-1207

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

Eiger BioPharmaceuticals, Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 for the purpose of registering (a) 1,728,441 shares of the Registrant’s common stock (the “Common Stock”) issuable to eligible persons under the Eiger BioPharmaceuticals, Inc. Amended and Restated 2013 Equity Incentive Plan (the “2013 Plan”), which Common Stock is in addition to the shares of Common Stock registered on the Registrant’s Form S-8 filed on [January 30, 2014](#) (File No. 333-193662), [March 31, 2015](#) (File No. 333-203154), [April 29, 2016](#) (File No. 333-211009), [August 11, 2017](#) (File No. 333-219936), [May 11, 2018](#) (File No. 333-224872), [March 14, 2019](#) (File No. 333-230287), [March 13, 2020](#) (File No. 333-237156), and [March 9, 2021](#) (File No. 333-254039) and (b) 165,000 shares of Common Stock issuable to eligible persons under the Eiger BioPharmaceuticals, Inc. 2013 Employee Stock Purchase Plan (the “2013 ESPP”), which Common Stock is in addition to the shares of Common Stock registered on the Registrant’s Form S-8 filed on [January 30, 2014](#) (File No. 333-193662), [March 31, 2015](#) (File No. 333-203154), [April 29, 2016](#) (File No. 333-211009), [August 11, 2017](#) (File No. 333-219936), [May 11, 2018](#) (File No. 333-224872), [March 14, 2019](#) (File No. 333-230287), [March 13, 2020](#) (File No. 333-237156), and [March 9, 2021](#) (File No. 333-254039) (collectively, the “Prior Registration Statements”).

This Registration Statement relates to securities of the same class as that to which the Prior Registration Statements relate, and is submitted in accordance with General Instruction E to Form S-8 regarding Registration of Additional Securities. Pursuant to General Instruction E of Form S-8, the contents of the Prior Registration Statements, to the extent relating to the registration of Common Stock issuable under the 2013 EIP and 2013 ESPP, are incorporated herein by reference and made part of this Registration Statement, except as amended hereby.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents have been filed by the Registrant with the Securities and Exchange Commission (the “Commission”) and are incorporated herein by reference:

- The Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2021, filed with the Commission on March 10, 2022;
- The Registrant’s Current Report on Form 8-K filed with the Commission on [January 6, 2022](#); and
- The description of the Registrant’s Common Stock contained in the Registrant’s registration statement on [Form 8-A](#) filed with the Commission on November 7, 2013, including any amendments or reports filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items, prior to the filing of a post-effective amendment to this Registration Statement which indicates that all of the shares of Common Stock offered have been sold or which deregisters all of such shares then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of the filing of such documents.

For purposes of this Registration Statement, any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 8. EXHIBITS

<u>Exhibit Number</u>	<u>Description</u>
4.1	<u>Amended and Restated Certificate of Incorporation of Celladon Corporation (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K (File No. 001-36183), filed with the Commission on February 10, 2014).</u>
4.2	<u>Amended and Restated Bylaws of Celladon Corporation (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K (File No. 001-36183), filed with the Commission on February 10, 2014).</u>
4.3	<u>Certificate of Amendment of Amended and Restated Certificate of Incorporation of Celladon Corporation (incorporated by reference to Exhibit 3.1 to Current Report on Form 8-K (File No. 001-36183), filed with the Commission on March 23, 2016).</u>
4.4	<u>Certificate of Amendment of Amended and Restated Certificate of Incorporation of Celladon Corporation (incorporated by reference to Exhibit 3.2 to Current Report on Form 8-K (File No. 001-36183), filed with the Commission on March 23, 2016).</u>
4.5	<u>Form of Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registration Statement on Form S-1, as amended (File No. 333-191688), originally filed with the Commission on October 29, 2013).</u>
5.1*	<u>Opinion of Sidley Austin LLP.</u>
23.1*	<u>Consent of Sidley Austin LLP (included in Exhibit 5.1).</u>
23.2*	<u>Consent of KPMG LLP, independent registered public accounting firm.</u>
24.1*	<u>Power of Attorney (included on the signature page of this Form S-8).</u>
99.1	<u>Eiger BioPharmaceuticals, Inc. 2013 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registration Statement on Form 10-Q (File No. 001-36183), filed with the Commission on November 8, 2016).</u>
99.2	<u>Form of Stock Option Grant Notice, Option Agreement and Notice of Exercise under the Eiger BioPharmaceuticals, Inc. Amended and Restated 2013 Equity Incentive Plan (incorporated by reference to Exhibit 99.3 to the Registration Statement on Form S-8 (File No. 333-193662), filed with the Commission on January 30, 2014).</u>
99.3	<u>Eiger BioPharmaceuticals, Inc 2013 Employee Stock Purchase Plan, as amended (incorporated by reference to Appendix A to the Schedule 14A Information (File No. 001-36183), filed with the Commission on July 22, 2016).</u>
107*	<u>Calculation of Filing Fee Table</u>

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palo Alto, State of California, on the day of March 10, 2022.

EIGER BIOPHARMACEUTICALS, INC.

By: /s/ David A. Cory

David A. Cory
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints David Cory, as his or her true and lawful attorney-in-fact and agent, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the SEC, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ David A. Cory</u> David A. Cory	President, Chief Executive Officer and Director (Principal Executive Officer)	March 10, 2022
<u>/s/ Sriram Ryali</u> Sriram Ryali	Chief Financial Officer (Principal Financial and Accounting Officer)	March 10, 2022
<u>/s/ Thomas J. Dietz</u> Thomas J. Dietz	Chairman of the Board of Directors	March 10, 2022
<u>/s/ Evan Loh</u> Evan Loh	Member of the Board of Directors	March 10, 2022
<u>/s/ Jeffrey S. Glenn</u> Jeffrey S. Glenn	Member of the Board of Directors	March 10, 2022
<u>/s/ David Apelian</u> David Apelian	Member of the Board of Directors	March 10, 2022
<u>/s/ Christine Murray</u> Christine Murray	Member of the Board of Directors	March 10, 2022
<u>/s/ Amit Sachdev</u> Amit Sachdev	Member of the Board of Directors	March 10, 2022
<u>/s/ Kim Sablich</u> Kim Sablich	Member of the Board of Directors	March 10, 2022

SIDLEY

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AMERICA • ASIA PACIFIC • EUROPE

March 10, 2022

Eiger BioPharmaceuticals, Inc.
2155 Park Boulevard
Palo Alto, California 94306

Re: 1,893,441 Shares of Common Stock, \$0.001 par value per share (“Common Stock”)

Ladies and Gentlemen:

We refer to the Registration Statement on Form S-8 (the “Registration Statement”) being filed by Eiger BioPharmaceuticals, Inc., a Delaware corporation (the “Company”), with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”), relating to the registration of (i) 1,728,441 shares of Common Stock, which may be issued under the Eiger BioPharmaceuticals, Inc. Amended and Restated 2013 Equity Incentive Plan (the “2013 Plan”) and (ii) 165,000 shares of Common Stock which may be issued under the Eiger BioPharmaceuticals, Inc. 2013 Employee Stock Purchase Plan (collectively with the 2013 Plan, the “Plans” and the aggregate shares of Common Stock to be registered under the Registration Statement, the “Registered Shares”).

This opinion letter is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

We have examined the Registration Statement, the Company’s Amended and Restated Certificate of Incorporation, as amended, the Company’s Amended and Restated Bylaws, the Plans, the resolutions adopted by the board of directors of the Company relating to the Registration Statement and the Plans and the resolutions adopted by the stockholders of the Company relating to the Plans. We have also examined originals, or copies of originals certified to our satisfaction, of such agreements, documents, certificates and statements of the Company and other corporate documents and instruments, and have examined such questions of law, as we have considered relevant and necessary as a basis for this opinion letter. We have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures, the legal capacity of all persons and the conformity with the original documents of any copies thereof submitted to us for examination. As to facts relevant to the opinions expressed herein, we have relied without independent investigation or verification upon, and assumed the accuracy and completeness of, certificates, letters and oral and written statements and representations of public officials and officers and other representatives of the Company.

Based on the foregoing, we are of the opinion that each Registered Share that is newly issued pursuant to each Plan will be validly issued, fully paid and non-assessable when: (i)

Sidley Austin LLP is a limited liability partnership practicing in affiliation with other Sidley Austin partnerships.

the Registration Statement, as finally amended, shall have become effective under the Securities Act; (ii) such Registered Shares shall have been duly issued and delivered in accordance with the applicable Plan; and (iii) certificates representing such Registered Shares shall have been duly executed, countersigned and registered and duly delivered to the person entitled thereto against payment of the agreed consideration therefor in an amount not less than the par value thereof or, if any Registered Share is to be issued in uncertificated form, the Company's books shall reflect the issuance of such Registered Share to the person entitled thereto against payment of the agreed consideration therefor in an amount not less than the par value thereof, all in accordance with the applicable Plan.

This opinion letter is limited to the General Corporation Law of the State of Delaware. We express no opinion as to the laws, rules or regulations of any other jurisdiction, including, without limitation, the federal laws of the United States of America or any state securities or blue sky laws.

We hereby consent to the filing of this opinion letter as an Exhibit to the Registration Statement and to all references to our Firm included in or made a part of the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Sidley Austin LLP

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 10, 2022, with respect to the consolidated financial statements of Eiger BioPharmaceuticals, Inc., incorporated herein by reference.

/s/ KPMG LLP

San Francisco, California
March 10, 2022

Calculation of Filing Fee Table

FORM S-8
(Form Type)Eiger BioPharmaceuticals, Inc.
(Exact Name of Registrant as Specified in its Charter)

Newly Registered Securities

	Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(1)	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee(2)
Fees to Be Paid	Equity(3)	Common Stock, \$0.001 par value per share	Rules 457(c) and 457(h)	1,728,441	\$4.16	\$7,190,314.56	.0000927	\$666.54
Fees to Be Paid	Equity(4)	Common Stock, \$0.001 par value per share	Rules 457(c) and 457(h)	165,000	\$4.16	\$686,400.00	.0000927	\$63.63
	Total Offering Amounts							\$730.17
	Total Fee Offsets							\$—
	Net Fee Due							\$730.17

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended, or the Securities Act, this Registration Statement shall also cover any additional shares of Registrant's Common Stock that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of Registrant's Common Stock, as applicable.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) promulgated under the Securities Act. The offering price per share and the aggregate offering price are based upon the average of the high and low prices of the Common Stock as reported on The Nasdaq Global Market on March 7, 2022 in accordance with Rule 457(c) of the Securities Act.
- (3) Represents shares of Common Stock that were automatically added to the shares authorized for issuance under the 2013 EIP on January 1, 2022 pursuant to an "evergreen" provision contained in the 2013 EIP. Pursuant to such provision, on the first day of each fiscal year, ending on (and including) January 1, 2026, the number of shares authorized for issuance under the 2013 EIP is automatically increased by a number equal to: (a) 5% of the total number of shares of Common Stock outstanding on the last day of the preceding fiscal year; or (b) such lesser number of shares of Common Stock as is determined by the Registrant's board of directors (the "Board") for the applicable year.
- (4) Represents shares of Common Stock that were automatically added to the shares authorized for issuance under the 2013 ESPP on January 1, 2021 pursuant to an "evergreen" provision contained in the 2013 ESPP. Pursuant to such provision, on January 1st of each year, ending on (and including) January 1, 2026, the number of shares authorized for issuance under the 2013 ESPP is automatically increased by a number equal to the lesser of: (a) 1% of the total number of shares of Common Stock outstanding on December 31st of the preceding calendar year; (b) 165,000 shares; or (c) such lesser number of shares of Common Stock as is determined by the Board for the applicable year.