
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 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): August 17, 2020

Baudax Bio, Inc.
(Exact name of registrant as specified in its charter)

Pennsylvania
(State or other jurisdiction of
incorporation or organization)

001-39101
(Commission
File Number)

47-4639500
(I.R.S. Employer
Identification No.)

490 Lapp Road, Malvern, Pennsylvania
(Address of principal executive offices)

19355
(Zip Code)

Registrant's telephone number, including area code: (484) 395-2470

Not Applicable
(Former name or former address, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol	Name of Exchange on Which Registered
Common Stock, par value \$0.01	BXXR	Nasdaq Capital Market

Securities registered pursuant to Section 12(g) of the Act:

None

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 (see General Instruction A.2. below):

- 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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

On August 17, 2020, Baudax Bio, Inc. (the “Company”) entered into a Third Amendment to the Purchase and Sale Agreement dated March 7, 2015, among Alkermes Pharma Ireland Limited (“APIL”), Daravita Limited (“Daravita”), Alkermes US Holdings, Inc. (as successor in interest to Eagle Holdings USA, Inc.), and the Company (as successor in interest to Recro Pharma, Inc. (“Recro Pharma”) and Recro Gainesville LLC (“Recro Gainesville”) (successor to Recro Pharma LLC)), as amended (the “Purchase and Sale Agreement Amendment”) and a Third Amendment to the Asset Transfer and License Agreement dated April 10, 2015, among APIL, Recro Gainesville (as successor to Recro Technology LLC f/k/a DV Technology LLC) and the Company, as amended (the “License Agreement Amendment”). The Purchase and Sale Agreement Amendment and the License Agreement Amendment are referred to herein as the “Amendments”.

Under the terms of the Amendments, the timing of payment of the \$5 million development milestone earn-out consideration due to APIL as a result of achievement of approval of the New Drug Application for injectable meloxicam was amended such that it is to be paid in three installments of (i) \$2.5 million on or prior to August 18, 2020; (ii) \$1.06 million on or prior to December 20, 2020; and (iii) \$1.44 million on or prior to June 20, 2021. In consideration of amending the timing of this development milestone earn-out payment, the Company paid APIL a one-time, non-refundable and non-creditable fee of \$285,000 at the time of entering into the Purchase and Sale Agreement.

The foregoing descriptions of the Purchase and Sale Agreement Amendment and the License Agreement Amendment do not purport to be complete and are qualified in their entirety by the terms and conditions of the Purchase and Sale Agreement Amendment and the License Agreement Amendment, which are attached hereto as Exhibits 10.1 and 10.2 respectively, and incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On August 20, 2020, the Company’s board of directors (the “Board”) appointed Arnold Baskies and Andrew Drechsler to serve as members of the Company’s Board. Dr. Baskies was appointed as a Class III director and will stand for re-election at the Company’s 2022 annual meeting of shareholders. Mr. Drechsler was appointed as a Class II director and will stand for re-election at the Company’s 2021 annual meeting of shareholders. Dr. Baskies will serve on the Company’s Nominating and Corporate Governance and Compensation Committees and Mr. Drechsler will serve on the Company’s Audit Committee.

The Board has determined that Dr. Baskies and Mr. Drechsler are independent directors under the applicable Nasdaq listing rules. There are no arrangements or understandings between either Dr. Baskies and Mr. Drechsler and any other person pursuant to which they were selected as directors. There are no related party transactions between the Company and Dr. Baskies and Mr. Drechsler (or any of their immediate family members) requiring disclosure under Item 404(a) of Regulation S-K. Neither of Dr. Baskies and Mr. Drechsler have any family relationships with any of the Company’s directors or executive officers.

On August 20, 2020, the Board granted each of Dr. Baskies and Mr. Drechsler 20,000 restricted stock units (“RSUs”), pursuant to the Company’s non-employee director compensation program. The RSUs will vest 50% on the first anniversary of the date of grant and 50% on the second anniversary of the date of grant, subject to their continued service with the Company.

In accordance with the Company’s non-employee director compensation program, Dr. Baskies and Mr. Drechsler will also receive an annual base retainer of \$40,000 for their service on the Board. Dr. Baskies will receive an additional annual base retainer of \$5,000 for his service on the Company’s Nominating and Corporate Governance Committee and \$7,500 for his service on the Company’s Compensation Committee. Mr. Drechsler will receive an additional annual base retainer of \$10,000 for his service on the Company’s Audit Committee.

Beginning at the Company’s 2021 annual meeting of shareholders, Dr. Baskies and Mr. Drechsler will also receive an annual award of (i) an option to purchase shares of common stock of the Company, par value \$0.01 per share (“Common Stock”) having an aggregate fair value of \$65,000 and (ii) RSUs having an aggregate fair value of \$70,000 which will vest and become exercisable on the date of the Company’s subsequent annual meeting of shareholders following the date of grant, subject continued service with the Company.

Item 9.01 Financial Statements and Exhibits.**(d) Exhibits**

The following exhibits are being filed herewith:

Exhibit No.	Document
10.1	<u>Third Amendment to the Purchase and Sale Agreement, dated August 17, 2020 by and among Alkermes Pharma Ireland Limited, Daravita Limited, Alkermes US Holdings, Inc. and Baudax Bio, Inc.</u>
10.2	<u>Third Amendment to License Agreement, dated August 17, 2020, by and among Alkermes Pharma Ireland Limited, Recro Gainesville LLC and Baudax Bio, Inc.</u>
104	Cover Page Interactive Data File (formatted as inline XBRL).

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, thereunto duly authorized.

Baudax Bio, Inc.

By: /s/ Gerri A. Henwood

Name: *Gerri A. Henwood*

Title: *Chief Executive Officer*

Date: August 21, 2020

THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Third Amendment to Purchase and Sale Agreement (this "Amendment"), dated August 17, 2020, by and among Alkermes Pharma Ireland Limited, a private company limited by shares and incorporated in Ireland ("APIL"), Daravita Limited, a private company limited by shares and incorporated in Ireland ("Daravita"), Alkermes US Holdings, Inc. (as successor in interest to Eagle Holdings USA, Inc.), a Delaware corporation (together with APIL, "Sellers"), and Baudax Bio, Inc. (as successor in interest to Recro Pharma, Inc. ("Recro Pharma") and Recro Gainesville LLC (successor to Recro Pharma LLC)), a Pennsylvania corporation ("Baudax"), amends that certain Purchase and Sale Agreement, dated as of March 7, 2015 and amended on each of December 8, 2016 and December 20, 2018, by and among Sellers, Daravita, Recro Gainesville and Recro Pharma (as amended, the "Agreement").

RECITALS

WHEREAS, Recro Pharma and Baudax are parties to that certain Separation Agreement, dated as of November 20, 2019, pursuant to which Recro Pharma assigned, or caused its subsidiaries to assign, certain of its assets, rights and obligations to Baudax, including the Agreement; and

WHEREAS, pursuant to Section 11.9 of the Agreement, Daravita, Sellers and Baudax now desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I**DEFINITIONS**

1.1 Defined Terms. Capitalized terms used but not defined in this Amendment shall have the meanings ascribed to them in the Agreement.

ARTICLE II**AMENDMENT**

2.1 Exhibit E. Section 2.1(a) of Exhibit E to the Agreement is hereby deleted in its entirety and replaced with the following:

“(a) Development Milestone Earn-Out Consideration.

(i) The following amounts ("Development Milestone Earn-Out Consideration") shall be payable in accordance with Section 2.8 of the Agreement and this Exhibit E upon achievement of the following events ("Development Milestones") by Purchaser and its Affiliates, licensees and sublicensees, and shall be non-refundable and non-creditable and not subject to deduction or set-off:

(A) Within thirty (30) calendar days following December 20, 2018, Purchaser shall pay to APIL Five Million U.S. Dollars (US\$5,000,000.00) and within thirty (30) calendar days following March 24, 2019, Purchaser shall pay to APIL Five Million U.S. Dollars (US\$5,000,000.00); and (B) the following amounts:

<u>Development Milestone</u>	<u>Amount of Development Milestone Earn-Out Consideration (U.S. Dollars)</u>
Approval of an NDA for the first Earn-Out Product (the "First Approval")	\$ 5,000,000.00
First anniversary of the First Approval	\$ 6,429,000.00
Second anniversary of the First Approval	\$ 6,429,000.00
Third anniversary of the First Approval	\$ 6,429,000.00
Fourth anniversary of the First Approval	\$ 6,429,000.00
Fifth anniversary of the First Approval	\$ 6,429,000.00
Sixth anniversary of the First Approval	\$ 6,429,000.00
Seventh anniversary of the First Approval	\$ 6,429,000.00

(ii) Purchaser shall notify and pay to APIL (A) with respect to the Development Milestone Earn-Out Consideration payable upon the First Approval, (x) Two Million Five Hundred Thousand U.S. Dollars (US\$2,500,000.00) of such payment amount on or prior to August 18, 2020, (y) One Million Sixty Thousand U.S. Dollars (US\$1,060,000.00) of such payment amount on or prior to December 20, 2020 and (z) One Million Four Hundred Forty Thousand U.S. Dollars (US\$1,440,000.00) of such payment amount on or prior to June 20, 2021 and (B) each Development Milestone Earn-Out Consideration payment other than the First Approval payment within thirty (30) calendar days after the occurrence of the corresponding Development Milestone. Each payment made pursuant to Section 2.1(a) of this Exhibit E shall be made by wire transfer of immediately available funds to such account or accounts as are designated in writing by APIL."

ARTICLE III

3.1 Fee. In consideration of the amendment of the timing of the Development Milestone Earn-Out Consideration payable upon the First Approval, as set forth in Article II of this Amendment, contemporaneous with the signing of this Amendment Baudax has paid to APIL a one-time, non-refundable and non-creditable (and not subject to deduction or set-off) fee in the amount of Two Hundred Eighty Five Thousand U.S. Dollars (US\$285,000).

ARTICLE IV

GENERAL

4.1 Effect of Amendment. The Agreement is hereby amended as set forth in this Amendment. Except as specifically provided for in this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. Each reference in the Agreement to “hereof,” “hereunder” and “this Agreement” shall, from and after the date of this Amendment, refer to the Agreement, as amended by this Amendment. Each reference in the Agreement to the “date of the Agreement” or similar references (such as “to the date hereof”) shall refer to March 7, 2015.

4.2 Related Agreement. The parties hereto acknowledge and agree that (i) Baudax and APIL are also parties to that certain Asset Transfer and License Agreement, dated as of April 10, 2015, as amended on December 23, 2015 and December 20, 2018 and as partially assigned to Baudax pursuant to the Partial Assignment, Assumption and Bifurcation Agreement, dated as of November 20, 2019 (the “Related Agreement”), pursuant to which Baudax is obligated to pay APIL the Earn-Out Consideration set forth in Exhibit D to the Related Agreement, which payment obligation is replicated in Exhibit E to the Agreement, (ii) the Related Agreement is being further amended concurrently with this Amendment such that the amendments to the Earn-Out Consideration set forth in this Amendment are mirrored in Exhibit D to the Related Agreement and (iii) the Earn-Out Consideration (set forth in Exhibit E to the Agreement, as amended by this Amendment, and Exhibit D to the Related Agreement, as amended) is to be paid by Baudax to APIL only once.

4.3 Miscellaneous Provisions. The provisions of Article XI of the Agreement shall apply *mutatis mutandis* to this Amendment and to the Agreement as modified by this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, this Amendment has been signed by or on behalf of each of the parties set forth below as of the date first above written.

ALKERMES PHARMA IRELAND LIMITED

By: /s/ Richie Paul
Name: Richie Paul
Title: Director

DARAVITA LIMITED

By: /s/ Richie Paul
Name: Richie Paul
Title: Director

ALKERMES US HOLDINGS, INC.

By: /s/ James Frates
Name: James Frates
Title: Director

BAUDAX BIO, INC.

By: /s/ Ryan D. Lake
Name: Ryan D. Lake
Title: Chief Financial Officer

[Signature Page to Third Amendment to Purchase and Sale Agreement]

THIRD AMENDMENT TO ASSET TRANSFER AND LICENSE AGREEMENT

This Third Amendment to Asset Transfer and License Agreement (this "Third Amendment"), dated August 17, 2020, entered into by and between Alkermes Pharma Ireland Limited, a private company limited by shares and incorporated in Ireland ("APIL"), Baudax Bio, Inc., a Pennsylvania corporation ("Baudax") and Recro Gainesville LLC, a Massachusetts limited liability company (as successor to Recro Technology LLC f/k/a DV Technology LLC) ("Recro Gainesville") and together with Baudax and APIL, the "Parties"), amends that certain Asset Transfer and License Agreement, dated as of April 10, 2015 and amended on each of December 23, 2015 and December 20, 2018, by and among APIL and Recro Gainesville (and partially assigned to Baudax as set forth below) (as so amended and partially assigned, the "Agreement").

RECITALS:

WHEREAS, the Agreement was originally entered into between APIL and DV Technology LLC;

WHEREAS, DV Technology LLC was subsequently merged with and into Recro Gainesville, and Recro Gainesville assumed the rights and obligations of DV Technology LLC as "Purchaser" under the Agreement;

WHEREAS, pursuant to that certain Partial Assignment, Assumption and Bifurcation Agreement by and among Recro Gainesville, Baudax and APIL (the "Bifurcation Agreement"), certain of Recro Gainesville's rights and obligations under the Agreement were assigned to, and assumed by, Baudax, including without limitation Recro Gainesville's obligations as "Purchaser" in respect of the Earn-Out Products, as set forth in Exhibit D to the Agreement;

WHEREAS, pursuant to the Agreement and the Bifurcation Agreement, Baudax is obligated to pay to APIL the Earn-Out Consideration set forth in Exhibit D to the Agreement, which Earn-Out Consideration was initially set forth in Exhibit E to that certain Purchase and Sale Agreement, dated as of March 7, 2015, and amended on each of December 8, 2016 and December 20, 2018, by and among Recro Gainesville (as successor to Recro Pharma LLC), Recro Pharma, Inc., APIL, Alkermes US Holdings, Inc. (as successor to Eagle Holdings USA, Inc.) and Daravita Limited (the "P&S Agreement");

WHEREAS, pursuant to Section 11 of the Agreement, APIL, Baudax and Recro Gainesville now desire to amend Exhibit D to the Agreement as set forth herein; and

WHEREAS, concurrently with this Third Amendment, the P&S Agreement is being amended to modify Exhibit E thereto in a manner that mirrors the amendments to Exhibit D of the Agreement reflected herein.

NOW, THEREFORE, in consideration of the respective premises, mutual covenants and agreements of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Defined Terms. Capitalized terms used but not defined in this Third Amendment shall have the meanings ascribed to them in the Agreement.

ARTICLE II
AMENDMENT

2.1 Exhibit D. Section 2.1(a) of Exhibit D to the Agreement is hereby deleted in its entirety and replaced with the following:

“(a) Development Milestone Earn-Out Consideration.

(i) The following amounts (“Development Milestone Earn-Out Consideration”) shall be payable in accordance with Section 5 of the Agreement and this Exhibit D upon achievement of the following events (“Development Milestones”) by Purchaser and its Affiliates, licensees and sublicensees, and shall be non-refundable and non-creditable and not subject to deduction or set-off:

(A) Within thirty (30) calendar days following December 20, 2018, Purchaser shall pay to APIL Five Million U.S. Dollars (US\$5,000,000.00) and within thirty (30) calendar days following March 24, 2019, Purchaser shall pay to APIL Five Million U.S. Dollars (US\$5,000,000.00); and (B) the following amounts:

<u>Development Milestone</u>	<i>Amount of Development Milestone Earn-Out Consideration (U.S. Dollars)</i>
Approval of an NDA for the first Earn-Out Product (the “First Approval”)	\$ 5,000,000.00
First anniversary of the First Approval	\$ 6,429,000.00
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Third anniversary of the First Approval	\$ 6,429,000.00
Fourth anniversary of the First Approval	\$ 6,429,000.00
Fifth anniversary of the First Approval	\$ 6,429,000.00
Sixth anniversary of the First Approval	\$ 6,429,000.00
Seventh anniversary of the First Approval	\$ 6,429,000.00

(ii) Purchaser shall notify and pay to APIL (A) with respect to the Development Milestone Earn-Out Consideration payable upon the First Approval, (x) Two Million Five Hundred Thousand U.S. Dollars (US\$2,500,000.00) of such payment amount on or prior to August 18, 2020, (y) One Million Sixty Thousand U.S. Dollars (US\$1,060,000.00) of such payment amount on or prior to December 20,

2020 and (z) One Million Four Hundred Forty Thousand U.S. Dollars (US\$1,440,000.00) of such payment amount on or prior to June 20, 2021 and (B) each Development Milestone Earn-Out Consideration payment other than the First Approval payment within thirty (30) calendar days after the occurrence of the corresponding Development Milestone. Each payment made pursuant to Section 2.1(a) of this Exhibit D shall be made by wire transfer of immediately available funds to such account or accounts as are designated in writing by APIL.”

ARTICLE III

GENERAL

3.1 Bifurcation Agreement. The Parties acknowledge that, pursuant to the Bifurcation Agreement, the Assigned Rights and Obligations (as defined in the Bifurcation Agreement) were irrevocably assigned, conveyed and transferred by Recro Gainesville to Baudax. The Parties further acknowledge and agree that any future amendments, waivers and modifications to the Agreement with respect to the Assigned Rights and Obligations may be made by written agreement of Baudax and APIL only and do not require the agreement, consent, waiver or signature of Recro Gainesville.

3.2 Integration; Modification. Except as amended by this Third Amendment, the Agreement shall remain in full force and effect in accordance with its terms. In the event of a conflict between the provisions of the Agreement and those of this Third Amendment, this Third Amendment shall control. This Third Amendment, together with the Agreement, represent the entire agreement between the Parties regarding the subject matter hereof. No amendment or modification of the terms and conditions of this Third Amendment shall be binding on any party hereto unless reduced to a writing referencing this Third Amendment and signed by an authorized representative of the party(ies) to be bound.

3.3 Governing Law. This Third Amendment shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to any principles, statutory provisions or other rules of choice of law that would require the application of the laws of a different state or country.

3.4 Counterparts. This Third Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one agreement binding on the Parties. Signatures provided by facsimile transmission or in PDF or similar digital image format sent by electronic mail shall be deemed to be original signatures.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the Parties has caused its duly authorized representative to execute this Third Amendment as of the date first set forth above.

ALKERMES PHARMA IRELAND LIMITED

By /s/ Richie Paul
Name: Richie Paul
Title: Director

BAUDAX BIO, INC.

By /s/ Ryan D. Lake
Name: Ryan D. Lake
Title: Chief Financial Officer

RECRO GAINESVILLE LLC

By /s/ Gerri Henwood
Name: Gerri Henwood
Title: Chief Executive Officer and Director

[Signature Page to Third Amendment to Asset Transfer and License Agreement]