

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) June 30, 2022



BRICKELL BIOTECH, INC.

(Exact name of Registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

000-21088
(Commission File
Number)

93-0948554
(IRS Employer
Identification No.)

5777 Central Avenue
Suite 102
Boulder, CO 80301
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (720) 505-4755

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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.01 per share	BBI	The Nasdaq Stock Market LLC

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 3.03. Material Modifications to Rights of Security Holders.

The disclosure required by this Item is included in Item 5.03 of this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Reverse Stock Split

At a special meeting of stockholders held on June 30, 2022 (the “Special Meeting”), the stockholders of Brickell Biotech, Inc. (the “Company”) approved an amendment to the Company’s Restated Certificate of Incorporation (the “Certificate of Incorporation”) to effect a reverse stock split of the Company’s outstanding common stock, par value \$0.01 per share (the “Common Stock”), at a reverse stock split ratio ranging from any whole number between 1-for-10 and 1-for-45, subject to and as determined by the Board of Directors (the “Reverse Stock Split Proposal”). The Reverse Stock Split Proposal was Proposal 1 in the Company’s definitive proxy statement for the Special Meeting filed with the Securities and Exchange Commission on June 9, 2022 (the “Proxy Statement”). Following the Special Meeting, the Company’s Board of Directors determined to effect the reverse stock split at a final split ratio of 1-for-45. On July 1, 2022, the Company filed a certificate of amendment to the Certificate of Incorporation (the “Amendment”) with the Secretary of State of the State of Delaware (the “Delaware SOS”) to effect the reverse stock split, with an effective time of 12:01 a.m. Eastern Time on July 5, 2022 (the “Effective Time”).

At the Effective Time, each forty-five (45) shares of Common Stock issued and outstanding immediately prior to the Effective Time were automatically reclassified, combined and converted into one (1) validly issued, fully paid and non-assessable share of Common Stock, subject to the treatment of fractional share interests as described below. Proportional adjustments were made to the number of shares of Common Stock subject to outstanding equity awards and warrants, as well as the applicable exercise price.

Following the Effective Time, the Common Stock will continue to be traded under the symbol BBI and began trading on a split-adjusted basis when The Nasdaq Stock Market opened on Tuesday, July 5, 2022, under a new CUSIP number, 10802T 204.

No fractional shares will be issued in connection with the reverse stock split. In lieu of fractional shares, American Stock Transfer & Trust Company, LLC, as exchange agent, will aggregate all fractional shares and arrange for them to be sold as soon as practicable after the Effective Time at the then-prevailing prices on The Nasdaq Capital Market, on behalf of those stockholders who would otherwise be entitled to receive a fractional share as a result of the reverse stock split. After completion of such sale, stockholders who would have been entitled to a fractional share will instead receive a cash payment in an amount equal to their respective pro rata shares of the total proceeds of that sale net of any brokerage costs incurred to sell such stock.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the Amendment as filed with the Delaware SOS, which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Certificate of Elimination

Following the automatic redemption of the sole outstanding share of the Company’s Series A Preferred Stock, par value \$0.01 per share, upon the effectiveness of the Amendment, the Company filed a Certificate of Elimination to the Certificate of Incorporation with the Delaware SOS on July 5, 2022 which, effective upon filing, eliminated all matters set forth in the Certificate of Designation of Series A Preferred Stock filed with the Delaware SOS on May 25, 2022 (the “Certificate of Elimination”). The foregoing description of the Certificate of Elimination does not purport to be complete and is qualified in its entirety by reference to the Certificate of Elimination, which is filed as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.07. Submission of Matters to a Vote of Security Holders

As reported in Item 5.03 above, the Company held the Special Meeting on June 30, 2022, at which the proposals, as described in more detail in the Proxy Statement, were presented. A total of 66,307,663 shares of Common Stock, out of a total of 119,415,857 shares of Common Stock issued and outstanding and entitled to vote, and the one share of the Company’s Series A Preferred Stock (the “Preferred Stock”) that was issued and outstanding and entitled to vote at the Special Meeting, each as of the record date for the Special Meeting, were present in person or represented by proxy at the Special Meeting, constituting a quorum. As previously described in the Proxy Statement, the holder of record of the one outstanding share of the Company’s Preferred Stock was entitled to 80,000,000 votes, had the right to vote only on Proposal 1, and such votes were counted in the

same proportion as the shares of Common Stock voted on Proposal 1. Holders of the Company's Common Stock were entitled to one vote per share on each proposal.

The following matters were voted upon by the stockholders at the Special Meeting, with the final voting results as shown:

Proposal 1 - To approve an amendment to the Certificate of Incorporation to effect a reverse stock split of the Common Stock, at a reverse stock split ratio ranging from any whole number between 1-for-10 and 1-for-45, subject to and as determined by the Board of Directors.

Votes For	Votes Against	Abstentions	Broker Non-Votes
121,161,194	24,720,921	425,548	0

Proposal 2 - To approve an amendment to the Certificate of Incorporation to decrease the total number of authorized shares of Common Stock as determined by a formula based on the ratio utilized in any reverse stock split, if and only if a reverse stock split is both approved and implemented.

Votes For	Votes Against	Abstentions	Broker Non-Votes
28,006,410	10,378,959	1,732,232	26,185,290

Proposal 3 - To approve one or more adjournments of the Special Meeting to a later date or dates if necessary or appropriate to solicit additional proxies if there are insufficient votes to approve Proposal 1 at the time of the Special Meeting or in the absence of a quorum.

Votes For	Votes Against	Abstentions	Broker Non-Votes
55,711,820	9,980,303	615,550	0

Proposals 1 and 3 were approved, each receiving the affirmative requisite vote of the stockholders of the Company. Proposal 2 was not approved, as it did not receive the affirmative vote of a majority of the outstanding shares of Common Stock entitled to vote. Although Proposal 3 was approved, the adjournment of the Special Meeting to solicit additional proxies was not necessary or appropriate because there were sufficient votes at the time of the Special Meeting to approve Proposal 1.

Item 7.01. Regulation FD Disclosure

On July 1, 2022, the Company issued a press release related to the reverse stock split. A copy of the press release is attached hereto as Exhibit 99.1.

The information in this Item 7.01 is being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, regardless of any general incorporation language in such filing.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits.

- 3.1 [Certificate of Amendment to the Restated Certificate of Incorporation, dated July 1, 2022](#)
 - 3.2 [Certificate of Elimination, dated July 5, 2022](#)
 - 99.1 [Press release issued by Brickell Biotech, Inc. on July 1, 2022](#)
 - 104 Cover Page Interactive Data File (embedded within the Inline XBRL document)
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SIGNATURES

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

Date: July 5, 2022

Brickell Biotech, Inc.

By: /s/ Robert B. Brown
Name: Robert B. Brown
Title: Chief Executive Officer

**CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
BRICKELL BIOTECH, INC.**

Brickell Biotech, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), hereby certifies as follows:

FIRST: By unanimous written consent, the Board of Directors approved a proposed amendment to the Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), of the Corporation and directed that such amendment be submitted to the Corporation's stockholders for their consideration at the Corporation's special meeting of stockholders held on June 30, 2022, with a recommendation from the Board of Directors that the stockholders vote for approval of such amendment.

SECOND: The proposed amendment provides that Article IV, Section A of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

ARTICLE IV

A. Classes of Stock. The total number of shares of all classes of capital stock which the corporation shall have authority to issue is Three Hundred Five Million (305,000,000) shares, of which Three Hundred Million (300,000,000) shares of the par value of One Cent (\$0.01) each shall be Common Stock (the "Common Stock") and Five Million (5,000,000) shares of the par value of One Cent (\$0.01) each shall be Preferred Stock (the "Preferred Stock").

The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is authorized to fix the number of shares of any series of Preferred Stock and to determine the designation of any such shares. The Board of Directors also is authorized to determine or alter the rights (including but not limited to voting rights), preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock, and within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares constituting any series, to increase or decrease (but not below the number of shares of such series outstanding) the number of shares of such series subsequent to the issue of shares of that series by filing a certificate pursuant to the applicable laws of the State of Delaware.

Upon the filing and effectiveness (the "Reverse Stock Split Effective Time") pursuant to the General Corporation Law of the State of Delaware of the Certificate of Amendment to this Restated Certificate of Incorporation of the Corporation, each 45 shares of Common Stock issued and outstanding immediately prior to the Reverse Stock Split Effective Time shall, automatically and without any further action on the part of the corporation or any of the respective holders thereof, be reclassified, combined and converted into one (1) fully paid and nonassessable share of Common Stock (the "Reverse Stock Split"), subject to the treatment of fractional share interests as described below. The reclassification of the Common Stock will be deemed to occur at the Reverse Stock Split Effective Time. From and after the Reverse Stock Split Effective Time, certificates representing Common Stock prior to such reclassification shall represent the number of shares of Common Stock into which such Common Stock prior to such reclassification shall have been reclassified pursuant to the Certificate of Amendment. No fractional shares shall be issued in connection with the Reverse Stock Split and, in lieu thereof, the corporation's transfer agent shall aggregate all fractional shares and sell them as soon as practicable after the Reverse Stock Split Effective Time on the basis of prevailing market prices on the open market, on behalf of those stockholders who would otherwise be entitled to receive a fractional share, and after the transfer agent's completion of such sale, stockholders shall receive a cash payment from the transfer

agent in an amount equal to their respective pro rata shares of the total net proceeds of that sale.

THIRD: Pursuant to Section 242 of the General Corporation Law of the State of Delaware, at the Corporation's special meeting of stockholders held on June 30, 2022, duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware, the necessary number of shares as required by statute were voted in favor of the amendment.

FOURTH: The foregoing amendment was duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

FIFTH: The foregoing amendment shall be effective as of 12:01 a.m. on July 5, 2022.

[Signature on Following Page]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by the authorized officer named below, this 1st day of July, 2022.

By: /s/ Robert B. Brown
Name: Robert B. Brown
Title: Chief Executive Officer

[Signature Page to Certificate of Amendment]

BRICKELL BIOTECH, INC.

**CERTIFICATE OF ELIMINATION
OF
SERIES A PREFERRED STOCK**

Pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware, it is hereby certified that:

FIRST: The name of the corporation (hereinafter referred to as the “**Corporation**”) is Brickell Biotech, Inc. On May 25, 2022, the Corporation filed a Certificate of Designation with respect to its Series A Preferred Stock (defined below), in the office of the Secretary of State of the State of Delaware (the “**Series A Certificate of Designation**”).

SECOND: The issuance of a series of one share of the Corporation’s Series A Preferred Stock, par value \$0.01 per share (the “**Series A Preferred Stock**”), and the rights, preferences, privileges and restrictions of the Series A Preferred Stock were provided for and authorized by resolutions duly adopted by the Board of Directors of the Corporation (the “**Board**”). A separate certificate setting forth said resolutions has been heretofore filed with the Secretary of State of the State of Delaware pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware.

THIRD: No shares of said Series A Preferred Stock are outstanding and no shares thereof will be issued subject to said Series A Certificate of Designation.

FOURTH: The Board has adopted the following resolutions:

WHEREAS, the Corporation has no authorized share of Series A Preferred Stock outstanding, and no authorized share of Series A Preferred Stock will be issued.

RESOLVED, that the officers of the Corporation are each hereby authorized, jointly and severally, for and on behalf of the Corporation, to execute and file a certificate setting forth this resolution (a “**Certificate of Elimination**”) with the Secretary of State of the State of Delaware pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware for the purpose of eliminating from the Certificate of Incorporation of the Corporation all reference to the Series A Preferred Stock of the Corporation.

FIFTH: The effective time of this Certificate of Elimination shall be upon filing with the Secretary of State of the State of Delaware.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be duly executed by the undersigned duly authorized officer as of this 5th day of July, 2022.

BRICKELL BIOTECH, INC.

By: /s/ Robert B. Brown
Name: Robert B. Brown
Title: Chief Executive Officer



Brickell Biotech Announces 1-For-45 Reverse Stock Split

– Common stock will begin trading on a split-adjusted basis on July 5, 2022 –

BOULDER, CO — **July 1, 2022** — Brickell Biotech, Inc. (“Brickell” or the “Company”) (Nasdaq: BBI), a clinical-stage pharmaceutical company striving to transform patient lives by developing innovative and differentiated prescription therapeutics for the treatment of autoimmune, inflammatory, and other debilitating diseases, today announced that at the special meeting of stockholders held on June 30, 2022, the Company’s stockholders approved a reverse stock split of the Company’s common stock at a ratio between 1-to-10 and 1-to-45, as determined by the Board of Directors of the Company. Following the special meeting, the Board of Directors determined to effect a 1-for-45 reverse stock split that will become effective on July 5, 2022. The Company’s common stock will begin trading on a split-adjusted basis at the opening of the market on July 5, 2022, under a new CUSIP number, 10802T 204.

The 1-for-45 reverse stock split will reduce the number of outstanding shares of Company common stock from approximately 121.1 million shares to approximately 2.7 million shares. Proportional adjustments will be made to the number of shares of Brickell’s common stock subject to outstanding equity awards and warrants, as well as the applicable exercise price.

The purpose of the 1-for-45 reverse stock split is to raise the per-share trading price of the Company’s common stock, which is intended to result in its regaining compliance with the \$1.00 per share minimum bid price requirement for continuous listing on The Nasdaq Capital Market.

Information for Brickell Stockholders

At the effective time of the reverse stock split, Brickell stockholders will receive one new share of Company common stock for every 45 shares held. Record holders of Company common stock will receive a transaction statement with respect to the exchange of such shares for post-reverse split shares. American Stock Transfer & Trust Company, LLC (“AST”), the transfer agent for the Company’s common stock, will act as the exchange agent, and may be contacted at (877) 248-6417.

Brickell will not issue fractional shares that result from the reverse stock split. Rather, AST will aggregate all fractional shares and arrange for them to be sold as soon as practicable after the effective time of the reverse stock split at the then-prevailing prices on The Nasdaq Capital Market on behalf of those stockholders who would otherwise be entitled to receive a fractional share as a result of the reverse stock split. After completion of such sale, stockholders who would have been entitled to a fractional share will instead receive a cash payment in an amount equal to their respective pro rata shares of the total proceeds of that sale net of any brokerage costs incurred to sell such stock.

In connection with the reverse stock split, there will be no change to the total number of authorized shares of Company common stock as set forth in the Restated Certificate of Incorporation of the Company, as amended.

For more information on the reverse stock split, please refer to Brickell’s proxy materials for the June 30, 2022 special meeting of stockholders, which can be accessed through the investor portion of Brickell’s website at <https://www.brickellbio.com> and on the United States Securities and Exchange Commission’s (“SEC”) EDGAR website, <https://www.sec.gov/>.

About Brickell

Brickell Biotech, Inc. is a clinical-stage pharmaceutical company striving to transform patient lives by developing innovative and differentiated prescription therapeutics for the treatment of autoimmune, inflammatory, and other debilitating diseases. Brickell’s pipeline consists of several development-stage candidates and a cutting-edge platform with broad potential in autoimmune and inflammatory disorders. Brickell’s executive management team and board of directors bring extensive experience in product development and global commercialization, having served in leadership roles at large global pharmaceutical companies and biotechs that have developed and/or launched successful products, including several that were first-in-class and/or achieved iconic status, such as Cialis[®], Taltz[®], Gemzar[®], Prozac[®], Cymbalta[®], and Juvederm[®]. Brickell’s strategy is to leverage this experience to in-license, acquire, develop, and commercialize innovative pharmaceutical products

that Brickell believes can meaningfully benefit patients who are suffering from chronic, debilitating diseases that are underserved by available therapies. For more information, visit <https://www.brickellbio.com>.

Cautionary Note Regarding Forward-Looking Statements

Any statements made in this press release relating to future financial, business, and/or research and clinical performance, conditions, compliance with laws or listing requirements, plans, prospects, trends, or strategies and other such matters, including without limitation, Brickell's strategy; future operations; future financial position; future liquidity; future revenue; the reverse stock split; territorial focus; projected expenses; results of operations; the anticipated timing, scope, design, progress, results, and/or reporting of data of ongoing and future non-clinical and clinical trials; intellectual property rights, including the acquisition, validity, term, and enforceability of such; the expected timing and/or results of regulatory submissions and approvals; prospects for commercializing any product candidates of Brickell or third parties, or research and/or licensing collaborations with, or actions of, its partners, including in the United States, Japan, South Korea, or any other country; and prospects for regaining compliance with the Nasdaq minimum closing bid price requirement are forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995. In addition, when or if used in this press release, the words "may," "could," "should," "might," "anticipate," "reflects," "believe," "estimate," "expect," "intend," "plan," "predict," "potential," "will," "evaluate," "advance," "excited," "aim," "strive," "help," "progress," "select," "initiate," "look forward," "promise," "provide," "commit" "best-in-class," "first-in-class," and similar expressions and their variants, as they relate to Brickell or any of Brickell's partners or third parties, may identify forward-looking statements. Brickell cautions that these forward-looking statements are subject to numerous assumptions, risks, and uncertainties, which change over time, often quickly, and in unanticipated ways. Important factors that may cause actual results to differ materially from the results discussed in the forward-looking statements or historical experience include risks and uncertainties, including without limitation, that the reverse stock split will not have the intended effect of regaining compliance with the Nasdaq minimum bid price rules and therefore the Company's common stock will be delisted from Nasdaq; research results and data that do not meet targets, expectations or regulatory approval requirements; ability to obtain adequate financing for product development, regulatory submissions, and any commercialization; ability to acquire, maintain and enforce intellectual property rights; potential delays or alterations in product development, trials of any type, and regulatory submission and reviews; changes in law or policy; litigation, regulatory agency feedback or requests; supply chain disruptions; unanticipated demands on cash resources; disruptions and negative effects related to the COVID-19 pandemic and/or the conflict in Ukraine; interruptions, disruption, or inability by Brickell, its partners or third parties to obtain or supply research material, raw materials, and/or product anywhere, or secure essential services, in the world; efforts to obtain and retain adequate pricing and adequate reimbursement and other insurance coverage for Brickell's products; the outcome of Brickell's current and planned preclinical and clinical trials across its portfolio of assets; the inability of third parties to achieve regulatory and sales-based events, resulting in Brickell not receiving any additional payments under its agreement with them; and other risks associated with developing and obtaining regulatory approval for, and commercializing, product candidates.

Further information on the factors and risks that could cause actual results to differ from any forward-looking statements are contained in Brickell's filings with the SEC, which are available at <https://www.sec.gov> (or at <https://www.brickellbio.com>). The forward-looking statements represent the estimates of Brickell as of the date hereof only. Brickell specifically disclaims any duty or obligation to update forward-looking statements.

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