
**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): December 23, 2025

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

Delaware
(State or other jurisdiction
of incorporation)

001-37507
(Commission
File Number)

43-1979754
(IRS Employer
Identification No.)

**3530 John Hopkins Court
San Diego, California 92121**
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (844) 696-5235

Not Applicable
(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 (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 \$0.0001 per share	IBRX	The Nasdaq Global Select Market

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 December 23, 2025, ImmunityBio, Inc. (the “Company”) entered into Amendment No. 1 (the “Amendment to Sale Agreement”) to the Open Market Sale AgreementSM dated April 30, 2021, (the “Sale Agreement”) with Jefferies LLC (the “Agent”) relating to the sale and issuance of shares of its common stock, par value \$0.0001 per share (the “Shares”), from time to time through an “at the market” offering program under which the Agent acts as the Company’s sales agent.

The Amendment to Sale Agreement, among other things, authorizes the issuance of an additional \$459,972,480 of Shares, which were registered under the Company’s prospectus supplement dated December 23, 2025, as filed with the SEC on December 23, 2025 (the “Prospectus Supplement”), as well as additional amounts that the Company may register with the U.S. Securities and Exchange Commission (the “SEC”) from time to time, and makes certain administrative changes regarding the settlement of Shares sold under the Sale Agreement and the auditor comfort process under the Sale Agreement.

The sales and issuances of the Shares authorized by the Amendment to Sale Agreement will be made pursuant to the Company’s effective shelf registration statement on Form S-3ASR (File No.333-278770) (the “Registration Statement”), that was automatically effective upon filing with the SEC on April 17, 2024, as supplemented by the Prospectus Supplement.

The foregoing description of the Amendment to Sale Agreement is not complete and is qualified in its entirety by reference to the full text of the Amendment to Sale Agreement, a copy of which is filed herewith as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

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 or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

Wilson Sonsini Goodrich & Rosati, Professional Corporation, counsel to the Company, has issued a legal opinion relating to the validity of the Shares being offered pursuant to the Amendment to Sale Agreement. A copy of such legal opinion, including the consent included therein, is filed as Exhibit 5.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 8.01. Other Information.

As previously disclosed in the Company’s Definitive Information Statement filed on October 20, 2025 (the “Information Statement”), in October 2025, the Company’s Board of Directors (the “Board”) and the holders of a majority of the issued and outstanding shares of the Company’s common stock approved amending the Company’s Amended and Restated Certificate of Incorporation (the “Restated Certificate”) with a Certificate of Amendment to the Restated Certificate (the “Certificate of Amendment”) to increase the Company’s authorized shares of common stock from 1,350,000,000 shares to 1,650,000,000 shares. As described in the Information Statement, the Certificate of Amendment became effective twenty (20) calendar days after the mailing date of the Information Statement, on November 10, 2025, on which date the Company filed the Certificate of Amendment with the Secretary of State of the State of Delaware.

The Certificate of Amendment is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference. The foregoing description of the Certificate of Amendment is qualified in its entirety by reference to the text of the Certificate of Amendment.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description of Exhibit
3.1*	Certificate of Amendment of Amended and Restated Certificate of Incorporation of ImmunityBio, Inc. dated November 10, 2025.
5.1*	Legal Opinion of Wilson Sonsini Goodrich & Rosati, P.C.
10.1*	Amendment No. 1 to Open Market Sale Agreement dated December 23, 2025, by and between ImmunityBio, Inc. and Jefferies LLC.
23.1*	Consent of Wilson Sonsini Goodrich & Rosati, P.C. (included in Exhibit 5.1).
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

* Filed herewith.

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 hereunto duly authorized.

IMMUNITYBIO, INC.

Registrant

Date: December 23, 2025

By: /s/ David C. Sachs

David C. Sachs

Chief Financial Officer

**CERTIFICATE OF AMENDMENT
OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
IMMUNITYBIO, INC.**

**(Pursuant to Section 242 of the
General Corporation Law of the State of Delaware)**

ImmunityBio, Inc., a corporation organized and existing under the laws of the State of Delaware (the “Corporation”), hereby certifies as follows:

1. The name of this corporation is ImmunityBio, Inc. The Corporation’s original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on March 12, 2014 under the name Conkwest, Inc., and the Corporation’s Amended and Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on July 31, 2015, as amended on March 9, 2021, February 1, 2022, and October 18, 2023 (as amended, the “Amended and Restated Certificate of Incorporation”).

2. The Board of Directors of the Corporation duly adopted resolutions proposing to amend the Amended and Restated Certificate of Incorporation, declaring such amendment to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefor.

3. The amendment to the Amended and Restated Certificate of Incorporation set forth in paragraph 5 of this Certificate of Amendment was duly adopted by the Board of Directors of the Corporation in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

4. The amendment to the Amended and Restated Certificate of Incorporation set forth in paragraph 5 of this Certificate of Amendment was duly approved by the stockholders of the Corporation in accordance with the provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

5. Article IV, Section 1 of the Amended and Restated Certificate of Incorporation is hereby amended and restated in its entirety as follows:

“This Corporation is authorized to issue two classes of stock, to be designated, respectively, as Common Stock and Preferred Stock. The total number of shares of stock that the Corporation shall have authority to issue is 1,670,000,000 shares, of which 1,650,000,000 shares are Common Stock, \$0.0001 par value per share, and 20,000,000 shares are Preferred Stock, \$0.0001 par value per share.”

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by a duly authorized officer of the Corporation on this 10th day of November, 2025.

IMMUNITYBIO, INC.

/s/ Richard Adcock

Richard Adcock

President and CEO



Wilson Sonsini Goodrich & Rosati
Professional Corporation
12235 El Camino Real
San Diego, California 92130-3002
o: 650.350-2300
f: 650.493.6811

December 23, 2025

ImmunityBio, Inc.
3530 John Hopkins Court
San Diego, California 92121

Re: Registration Statement on Form S-3ASR

Ladies and Gentlemen:

We have acted as counsel to ImmunityBio, Inc., a Delaware corporation (the “*Company*”), in connection with the registration of the offer and sale of up to \$459,972,480 of shares (the “*Shares*”) of the Company’s common stock, \$0.0001 par value per share (“*Common Stock*”), pursuant to the Company’s Registration Statement on Form S-3ASR (File No. 333-278770), which was automatically declared effective by the Securities and Exchange Commission (the “*Commission*”) on April 17, 2024 (the “*Registration Statement*”).

The offering and sale of the Shares are being made pursuant to the Open Market Sale Agreement dated April 30, 2021, as amended by that certain Amendment No. 1 to Open Market Sale Agreement dated December 23, 2025 (the “*Sale Agreement*”), by and between the Company and Jefferies LLC.

We have examined copies of the Sale Agreement, the Registration Statement, the base prospectus that forms a part thereof (the “*Base Prospectus*”) as supplemented by the prospectus supplement dated on or about the date hereof, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations, together with the documents or portions thereof incorporated by reference therein, as modified or superseded as described therein (the “*Prospectus Supplement*” and, together with the Base Prospectus, the “*Prospectus*”). We have also examined instruments, documents and records that we deemed relevant and necessary for the basis of our opinion hereinafter expressed.

In such examination, we have assumed (i) the authenticity of original documents and the genuineness of all signatures, (ii) the conformity to the originals of all documents submitted to us as copies, and (iii) the truth, accuracy, and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed.

Based upon and subject to the foregoing qualifications, assumptions and limitations, we are of the opinion that:

1. The Shares have been duly authorized by the Company and, when issued and delivered by the Company against payment therefor in accordance with the terms of and in the manner contemplated by the Sale Agreement, will be validly issued, fully paid and nonassessable.

We express no opinion as to the laws of any other jurisdiction other than the federal laws of the United States of America and the General Corporation Law of the State of Delaware.

We hereby consent to the use of this opinion as an exhibit to the Company's Current Report on Form 8-K filed on or about the date hereof, for incorporation by reference into the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Wilson Sonsini Goodrich & Rosati, P.C.

WILSON SONSINI GOODRICH & ROSATI

Professional Corporation

AMENDMENT NO. 1 TO
OPEN MARKET SALE AGREEMENTSM

December 23, 2025

JEFFERIES LLC
520 Madison Avenue
New York, New York 10022

Ladies and Gentlemen:

This Amendment No. 1 to Open Market Sale AgreementSM (this “**Amendment**”) is entered into as of the date first written above by ImmunityBio, Inc., a Delaware corporation (the “**Company**”), and Jefferies LLC, as sales agent and/or principal (the “**Agent**”), which are parties to that certain Open Market Sale AgreementSM, dated as of April 30, 2021 (the “**Agreement**”). All capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

WITNESSETH THAT:

WHEREAS, Section 8(h) of the Agreement permits the Company and the Agent to amend the Agreement; and

WHEREAS, the Company and the Agent now desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Agent agree as follows:

1. The first paragraph of the Agreement is hereby deleted and replaced with the following:

“ImmunityBio, Inc., a Delaware corporation (the “**Company**”), proposes, subject to the terms and conditions stated herein, to issue and sell from time to time through Jefferies LLC, as sales agent and/or principal (the “**Agent**”), shares of the Company’s common stock, par value \$0.0001 per share (the “**Common Shares**”), having an aggregate offering price not exceeding the Maximum Program Amount on the terms set forth in this agreement (this “**Agreement**”).”

2. The definition of “Settlement Date” in Section 1(a) of the Agreement is amended and restated as set forth below:

““**Settlement Date**” means the first business day following each Trading Day during the Selling Period on which Shares are sold pursuant to this Agreement, when the Company shall deliver to the Agent the amount of Shares sold on such Trading Day and the Agent shall deliver to the Company the Issuance Price received on such sales.”

3. Section 4(q) of the Original Agreement is hereby deleted and replaced with the following:

“Comfort Letter. On or prior to the date of the first Issuance Notice and on or prior to each Triggering Event Date with respect to which the Company is obligated to deliver a certificate pursuant to Section 4(o) for which no waiver is applicable and excluding the date of this Agreement, the Company shall cause Ernst & Young LLP and/or Deloitte & Touche LLP, as applicable, the independent registered public accounting firms who have audited the financial statements included or incorporated by reference in the Registration Statement, as applicable, to furnish the Agent a comfort letter, dated the date of delivery, in form and substance reasonably satisfactory to the Agent and their counsel, substantially similar to the form previously provided to the Agent and their counsel; provided, however, that any such comfort letter will only be required on the Triggering Event Date specified to the extent that it contains financial statements filed with the Commission under the Exchange Act and incorporated or deemed to be incorporated by reference into a Prospectus. If requested by the Agent, the Company shall also cause a comfort letter to be furnished to the Agent within ten (10) Trading Days of the date of occurrence of any material transaction or event requiring the filing of a current report on Form 8-K containing material amended financial information of the Company, including the restatement of the Company’s financial statements. The Company shall be required to furnish no more than one comfort letter hereunder per calendar quarter. If requested by the Agent, the Company shall also provide a certificate signed by the principal financial officer of the Company, in form and substance reasonably satisfactory to the Agent.”

4. All references in the Agreement to the “Agreement” shall mean the Agreement as amended by this Amendment; *provided, however*, that all references to “date of this Agreement” in the Agreement shall continue to refer to the date of the Agreement, unless amended otherwise herein. Except as set forth herein, the provisions of the Agreement are not amended or waived, and remain in full force and effect.
5. Sections 8(g) and 8(h) of the Agreement are hereby incorporated by reference herein, *mutatis mutandis*, and apply equally to this Amendment and the Agreement as amended by this Amendment.

If the foregoing correctly sets forth the understanding between the Company and the Agent, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding amendment to the Agreement between the Company and the Agent.

[Signature Pages Follow]

Very truly yours,

JEFFERIES LLC

By: /s/ Donald Lynaugh

Name: Donald Lynaugh

Title: Managing Director

[Signature Page to Amendment No. 1 to the Open Market Sale Agreement]

ACCEPTED as of the date first-above written:

IMMUNITYBIO, INC.

By: /s/ Richard Adcock

Name: Richard Adcock

Title: Chief Executive Officer

[Signature Page to Amendment No. 1 to the Open Market Sale Agreement]