

**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): November 4, 2022

PIERIS PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
Incorporation)

001-37471
(Commission
File Number)

30-0784346
(IRS Employer
Identification No.)

255 State Street, 9th Floor
Boston, MA
(Address of principal executive offices)

02109
(Zip Code)

Registrant's telephone number, including area code: 857-246-8998

N/A

(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:

- 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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$0.001 par value per share	PIRS	The Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

As previously disclosed, Pieris Pharmaceuticals, Inc. (the “Company”) entered into an Open Market Sale Agreement (the “Sales Agreement”), dated August 9, 2019, with Jefferies LLC (“Jefferies”), pursuant to which the Company may offer and sell shares of its common stock, from time to time, up to an aggregate amount of gross sales proceeds of \$50.0 million through an “at the market offering” program (the “2019 ATM Program”), under a shelf registration statement on Form S-3 (File No. 333-226725).

In August 2021, the 2019 ATM Program expired, and the Company established a second ATM offering program (the “2021 ATM Program”) under the Sales Agreement, pursuant to which the Company may offer and sell shares of its common stock, from time to time, up to an aggregate amount of gross sales proceeds of \$50.0 million. As of November 4, 2022, the Company had offered and sold shares of its common stock with an aggregate offering price of approximately \$33.6 million pursuant to the 2021 ATM Program.

On November 4, 2022, the Company and Jefferies entered into an amendment to the Sales Agreement (the “Amendment No. 1” and together with the Sales Agreement, the “Amended Sales Agreement”) to provide for an increase in the aggregate offering amount under the Sales Agreement, such that as of November 4, 2022, the Company may offer and sell shares of its common stock having an aggregate offering price of up to \$75.0 million pursuant to the prospectus supplement filed on November 4, 2022, exclusive of shares previously sold under the 2021 ATM Program. The material terms and conditions of the Sales Agreement otherwise remain unchanged.

Sales, if any, of the Company’s shares of common stock through Jefferies will be made by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended, including without limitation sales made directly on the Nasdaq Capital Market or any other existing trading market for its common stock. Jefferies will use commercially reasonable efforts to sell the shares from time to time, based upon instructions from the Company (including any price, time or size limits or other customary parameters or conditions it may impose). The Company is not obligated to make any sales of shares under the Amended Sales Agreement.

The foregoing description of the material terms of the Amendment No. 1 is qualified in its entirety by reference to the full texts of each of the Sales Agreement, a copy of which was filed as Exhibit 10.1 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 2019, filed with the SEC on August 9, 2019 and is incorporated herein by reference, and the Amendment No. 1, which is attached as Exhibit 1.1 hereto and is incorporated herein by reference.

The shares to be offered under the Amended Sales Agreement have been registered pursuant to the Company’s shelf registration statement on Form S-3 (File No. 333-258497) (the “Registration Statement”), and offerings for such shares will be made only by means of a prospectus supplement. This Current Report on Form 8-K shall not constitute an offer to sell or solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities law of such state or jurisdiction.

Brownstein Hyatt Farber Schreck, LLP, counsel to the Company, has issued a legal opinion relating to the legality of the shares to be offered under the Amended Sales Agreement. A copy of such legal opinion, including the consent included therein, is attached as Exhibit 5.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.*

- 1.1 [Amendment No. 1 to Sales Agreement, dated November 4, 2022, by and between Pieris Pharmaceuticals, Inc. and Jefferies LLC](#)
 - 5.1 [Opinion of Brownstein Hyatt Farber Schreck, LLP](#)
 - 23.1 [Consent of Brownstein Hyatt Farber Schreck, LLP \(included in Exhibit 5.1\)](#)
 - 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).
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SIGNATURE

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.

Dated: November 4, 2022

PIERIS PHARMACEUTICALS, INC.

/s/ Tom Bures

Tom Bures

Chief Financial Officer

AMENDMENT NO. 1 TO THE OPEN MARKET SALE AGREEMENTSM

November 4, 2022

JEFFERIES LLC
520 Madison Avenue
New York, New York 10022

Ladies and Gentlemen:

This Amendment No. 1 to the Open Market Sale AgreementSM (this "**Amendment**") is entered into as of the date first written above by Pieris Pharmaceuticals, Inc., a Nevada corporation (the "**Company**"), and Jefferies LLC ("**Agent**"), that are parties to that certain Open Market Sale AgreementSM, dated August 9, 2019 (the "**Original Agreement**"). All capitalized terms not defined herein shall have the meanings ascribed to them in the Original Agreement. The parties, intending to be legally bound, hereby amend the Original Agreement as follows:

1. The preamble to the Original Agreement is hereby deleted in its entirety and replaced with the following:

"Pieris Pharmaceuticals, Inc., a Nevada 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 \$0.001 per share (the "**Common Shares**"), on the terms set forth in this agreement (this "**Agreement**").

2. The first sentence of Section 2(a) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

"The Company has prepared and filed with the Commission a shelf registration statement on Form S-3 (File No. 333-258497) that contains a base prospectus (the "**Base Prospectus**")."

3. Section 2(cc) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

"FINRA Matters. All of the information provided to the Agent or to counsel for the Agent by the Company, its counsel, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with the offering of the Shares is true, complete, correct and compliant with Financial Industry Regulatory Authority, Inc.'s ("**FINRA**") rules and any letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rules or NASD Conduct Rules is true, complete and correct. As of the date of this Amendment, the Company meets the definition of the term "experienced issuer" specified in FINRA Rule 5110(j)(6)."

4. Section 2(nn) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“**Sanctions.** Neither the Company nor any of its subsidiaries or any of their respective officers, directors, or affiliates, nor, to the knowledge of the Company, any agent, employee or other person acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”), the United Nations Security Council, the European Union, His Majesty’s Treasury of the United Kingdom, or other relevant sanctions authority (collectively, “**Sanctions**”), nor located, organized or resident in a country or territory that is the subject or the target of Sanctions (including, without limitation, Crimea, Cuba, Donetsk People’s Republic, Iran, Luhansk People’s Republic, North Korea, and Syria); and the Company will not directly or indirectly use any of the proceeds from the sale of the Shares by the Company in the offering contemplated by this Agreement, or lend, contribute or otherwise make available any such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person or country or territory that, at the time of such financing, is subject to, or the target of, any Sanctions or in any other manner that will result in a violation by any person (including any person participating in the offering contemplated by this Agreement, whether as underwriter, advisor, investor or otherwise) of Sanctions. For the past five years, the Company and its subsidiaries have not knowingly engaged in, are not now knowingly engaged in, and will not engage in any dealings or transactions with any person or country or territory that at the time of the dealing or transaction is or was the subject or the target of Sanctions.”

5. The Company represents and warrants to, and agrees with the Agent that: (a) this Amendment has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company, enforceable in accordance with its terms, except as rights to indemnification hereunder may be limited by applicable law and except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles; and (b) that on the date hereof, the Company will file a prospectus supplement and that delivery of a Issuance Notice thereafter constitutes a Triggering Event Date.

6. This Amendment together with the Original Agreement (including all schedules and exhibits attached hereto and thereto and Issuance Notices issued pursuant hereto and thereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Amendment nor any term hereof may be amended except pursuant to a written instrument executed by the Company and the Agent. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Amendment. All references in the Original Agreement to the “Agreement” shall mean the Original Agreement as amended by this Amendment; *provided, however*, that all references to “date of this Agreement” in the Original Agreement shall continue to refer to the date of the Original Agreement.

7. This Amendment shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state. Any legal suit, action or proceeding arising out of or based upon this Amendment or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the Borough of Manhattan in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court, as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party’s address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum. The provisions of this paragraph shall survive any termination of this Amendment.

8. This Amendment may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Any signature to this Amendment may be delivered by facsimile transmission, electronic mail delivery (including portable document format (PDF) file) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

[Remainder of Page Intentionally Blank]

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 Original Agreement between the Company and the Agent.

Very truly yours,

JEFFERIES LLC

By: /s/ Donald Lynaugh

Name: Donald Lynaugh

Title: Managing Director

**ACCEPTED as of the date
first-above written:**

PIERIS PHARMACEUTICALS, INC.

By: /s/ Stephen Yoder

Name: Stephen Yoder

Title: President and Chief Executive Officer

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



Brownstein Hyatt Farber Schreck, LLP
702.382.2101 main
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106

November 4, 2022

Pieris Pharmaceuticals, Inc.
255 State Street, 9th Floor
Boston, MA 02109

To the addressee set forth above:

We have acted as local Nevada counsel to Pieris Pharmaceuticals, Inc., a Nevada corporation (the "Company"), in connection with the filing by the Company of a Registration Statement (File No. 333-258497) on Form S-3 (the "Registration Statement") with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"), relating to the registration for offering and sale from time to time by the Company of shares of the Company's common stock, par value \$0.001 per share (the "Common Stock"), having an aggregate offering price of up to \$75,000,000 (the "ATM Shares"), issuable from time to time pursuant to that certain Open Market Sale Agreement, dated August 9, 2019, as amended by Amendment No. 1 to the Open Market Sale Agreement, dated November 4, 2022 (as so amended, the "Sale Agreement"), by and between the Company and Jefferies LLC, as sales agent and/or principal, which Registration Statement includes the base prospectus, dated August 13, 2021 (the "Base Prospectus"), and the sales agreement prospectus, dated August 13, 2021 (the "Sales Agreement Prospectus"), as supplemented by the prospectus supplement dated November 4, 2022 (the Base Prospectus and the Sales Agreement Prospectus as so supplemented, the "Prospectus"). This opinion letter is being furnished at your request in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Act.

In our capacity as such counsel, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the registration of the ATM Shares, as contemplated by the Sale Agreement and described in the Registration Statement and the Prospectus. For purposes of this opinion letter, and except to the extent set forth in the opinions below, we have assumed that all such proceedings have been timely completed or will be timely completed in the manner presently proposed in the Registration Statement and Prospectus.

For purposes of issuing this opinion letter, we have made such legal and factual examinations and inquiries, including an examination of originals or copies certified or otherwise identified to our satisfaction as being true copies of (i) the Registration Statement, including the Prospectus, (ii) the Company's articles of incorporation and bylaws, each as amended to date (collectively, the "Governing Documents") and (iii) such agreements (including the Sale Agreement), instruments, resolutions of the board of directors of the Company and other corporate records, and such other documents (or forms thereof) as we have deemed necessary or appropriate for the purpose of issuing this opinion letter, and we have obtained from officers and other representatives and agents of the Company and from public officials, and have relied upon, such certificates, representations, assurances and public filings as we have deemed necessary or appropriate.

Without limiting the generality of the foregoing, we have, with your permission, assumed without independent verification that (i) the obligations of each party to any document we have examined are or will be its valid and binding obligations, enforceable in accordance with their respective terms; (ii) each natural person executing a document has or will have sufficient legal capacity to do so; (iii) all documents submitted to us as originals are authentic, the signatures on all documents that we have examined are genuine, and all documents submitted to us as certified, conformed, photostatic, electronic or facsimile copies conform to the original documents; (iv) all corporate records made available to us by the Company, and all public records we have reviewed, are accurate and complete; and (v) after any issuance of ATM Shares, the total number of issued and outstanding shares of Common Stock, together with the total number of shares of Common Stock then reserved for issuance or obligated to be issued by the Company pursuant to any agreement (including the Sale Agreement), arrangement or otherwise, will not exceed the total number of shares of Common Stock then authorized under the Company's articles of incorporation.

We are qualified to practice law in the State of Nevada. The opinions set forth herein are expressly limited to and based exclusively on the general corporate laws of the State of Nevada, and we do not purport to be experts on, or to express any opinion with respect to the applicability or effect of, the laws of any other jurisdiction. We express no opinion concerning, and we assume no responsibility as to laws or judicial decisions related to, or any orders, consents or other authorizations or approvals as may be required by, any federal laws, rules or regulations, including, without limitation, any federal securities laws, rules or regulations, or any state securities or "blue sky" laws, rules or regulations.

Based upon the foregoing and in reliance thereon, and having regard to legal considerations and other information that we deem relevant, we are of the opinion that the ATM Shares have been duly authorized by the Company and if, when and to the extent any ATM Shares are issued and sold in accordance with all applicable terms and conditions set forth in, and in the manner contemplated by, the Sale Agreement (including payment in full of all consideration required therefor as prescribed under the Sale Agreement), and as described in the Registration Statement and the Prospectus, such ATM Shares will be validly issued, fully paid and non-assessable.

The opinions expressed herein are based upon the applicable laws of the State of Nevada and the facts in existence on the date hereof. In delivering this opinion letter to you, we disclaim any obligation to update or supplement the opinions set forth herein or to apprise you of any changes in any laws or facts after such time as the Registration Statement is declared effective. No opinion is offered or implied as to any matter, and no inference may be drawn, beyond the strict scope of the specific issues expressly addressed by the opinions set forth herein.

Pieris Pharmaceuticals, Inc.
November 4, 2022
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We hereby consent to the filing of this opinion letter as an exhibit to the Registration Statement and to the reference to our firm therein under the heading "Legal Matters". In giving such consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,
/s/ Brownstein Hyatt Farber Schreck, LLP