

**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): May 22, 2023

PROMETHEUS BIOSCIENCES, INC.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-40187
(Commission
File Number)

81-4282653
(IRS Employer
Identification No.)

3050 Science Park Road
San Diego, CA
(Address of Principal Executive Offices)

92121
(Zip Code)

(858) 422-4300
(Registrant's telephone number, including area code)

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:

- 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, \$0.0001 par value per share	RXDX	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 8.01 Other Events.

As previously disclosed, on April 15, 2023, Prometheus Biosciences, Inc., a Delaware corporation (“Prometheus” or the “Company”), entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Merck & Co., Inc., a New Jersey corporation (“Parent”), and Splash Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Parent (“Merger Sub”), pursuant to which, and on the terms and subject to the conditions thereof, Merger Sub will merge with and into the Company, with the Company surviving as a wholly owned subsidiary of Parent (the “Merger”).

The applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “HSR Act”) in connection with the Merger expired at 11:59 p.m. Eastern Time on May 22, 2023.

The consummation of the Merger remains subject to other customary closing conditions specified in the Merger Agreement, including, among others, the adoption of the Merger Agreement by the Company’s stockholders. As previously disclosed, the special stockholder meeting to obtain stockholder approval in connection with the proposed Merger has been scheduled to be held virtually via live webcast at 9:00 a.m. Eastern Time on June 15, 2023. The Company expects that the Merger will be consummated late in the second quarter or early in the third quarter of 2023.

Forward-Looking Statements

This report contains forward-looking statements within the meaning of federal securities laws. Forward-looking statements in this report include, but are not limited to, statements regarding the consummation of the transaction described above. These forward-looking statements involve a number of risks and uncertainties that could cause actual results to differ materially from those indicated in such forward-looking statements, including but not limited to the ability of the parties to consummate the proposed Merger and the possibility that various closing conditions for the proposed Merger may not be satisfied or waived, and the ability to realize the benefits expected from the proposed Merger. The forward-looking statements in this report are based on information available to Prometheus as of the date hereof, and Prometheus disclaims any obligation to update any forward-looking statements to reflect any change in its expectations or any change in events, conditions, or circumstances on which any such statement is based, except as required by law. For additional information regarding forward-looking statements, please refer to discussions under the captions “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operation” and elsewhere in our most recent Annual Report on Form 10-K, as amended, and in our other reports filed with the Securities and Exchange Commission (“SEC”). Prometheus’ SEC filings are available on the Investor Relations section of our website at <https://ir.prometheusbiosciences.com/investor-relations> and on the SEC’s website at www.sec.gov.

The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements: (i) the proposed Merger may not be completed in a timely manner or at all, including the risk that any required regulatory approvals are not obtained, are delayed or are subject to unanticipated conditions that could adversely affect Prometheus or the expected benefits of the proposed Merger or that the approval of Prometheus’ stockholders is not obtained; (ii) the failure to realize the anticipated benefits of the proposed Merger; (iii) the possibility that competing offers or acquisition proposals for Prometheus will be made; (iv) the possibility that any or all of the various conditions to the consummation of the proposed Merger may not be satisfied or waived, including the failure to receive any required regulatory approvals from any applicable governmental entities (or any conditions, limitations or restrictions placed on such approvals); (v) the occurrence of any event, change or other circumstance that could give rise to the termination of the proposed Merger, including in circumstances which would require Prometheus to pay a termination fee or other expenses; and (vi) the effect of the announcement or pendency of the proposed Merger on Prometheus’ ability to retain and hire key personnel, or its operating results and business generally.

Additional Information

This report may be deemed solicitation material in respect of the proposed acquisition of the Company. On May 16, 2023, Prometheus filed with the SEC a definitive proxy statement and has filed or may file with the SEC other relevant documents in connection with the proposed Merger. Investors of the Company are urged to read the definitive proxy statement and other relevant materials carefully and in their entirety because they contain important information about the Company and the proposed Merger. Investors may obtain a free copy of these materials and other documents filed by the Company with the SEC at the SEC's website at www.sec.gov and at the Company's website at <https://www.prometheusbiosciences.com>.

Participants in the Solicitation

The Company and its directors, executive officers and certain other members of management and employees may be deemed to be participants in soliciting proxies from its stockholders in connection with the proposed Merger. Information regarding the persons who may, under the rules of the SEC, be considered to be participants in the solicitation of the Company's stockholders in connection with the proposed Merger is set forth in the Company's definitive proxy statement for its special stockholder meeting. Additional information regarding these individuals and any direct or indirect interests they may have in the proposed Merger is set forth in the definitive proxy statement and other relevant materials filed with the SEC.

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: May 23, 2023

PROMETHEUS BIOSCIENCES, INC.

By: /s/ Timothy K. Andrews

Name: Timothy K. Andrews

Title: General Counsel and Secretary