
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

NAVIDEA BIOPHARMACEUTICALS, INC.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

2835
(Primary Standard Industrial
Classification Code Number)

31-1080091
(I.R.S. Employer
Identification Number)

4995 Bradenton Avenue, Suite 240
Dublin, Ohio 43017
(614) 793-7500
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Navidea Biopharmaceuticals, Inc. 2023 Equity Incentive Plan
(Full title of plan)

Craig A. Dais
Chief Financial Officer
Navidea Biopharmaceuticals, Inc.
4995 Bradenton Avenue, Suite 240
Dublin, Ohio 43017
(614) 793-7500
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

Copies to:
William M. Mower, Esq.
Maslon LLP
90 South 7th Street, Suite 3300
Minneapolis, MN 55402

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer
Emerging growth company

Accelerated filer
Smaller reporting 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 7(a)(2)(B) of the Securities Act.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The document(s) containing the information specified in Part I of Form S-8 will be sent or given to participants as specified by Securities Act Rule 428(b)(1). Such documents are not being filed with the Securities and Exchange Commission (the "Commission") either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act. Such documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act of 1933.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Company incorporates by reference into this Registration Statement the following documents that the Company has previously filed with the SEC:

- Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on [March 27, 2023](#);
- Quarterly Reports on Form 10-Q for the quarters ended March 31, 2023, June 30, 2023, and September 30, 2023, filed with the SEC on [May 11, 2023](#), [August 11, 2023](#), and [November 14, 2023](#), respectively;
- Current Reports on Form 8-K and all amendments thereto on Form 8-K/A, filed with the SEC on [January 10, 2023](#), [March 16, 2023](#), [March 21, 2023](#), [March 31, 2023](#), [April 13, 2023](#), [April 28, 2023](#), [May 25, 2023](#), [June 5, 2023](#), [June 16, 2023](#), [July 6, 2023](#), [July 13, 2023](#), [July 28, 2023](#), [August 8, 2023](#), [November 16, 2023](#), and [December 1, 2023](#);
- Definitive Proxy Statement filed with the SEC on [October 5, 2023](#); and
- The description of the Company's common stock which is contained in Exhibit 4.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 2019, filed with the SEC on [March 18, 2020](#), including all amendments and reports filed for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the General Corporation Law of the State of Delaware (Section 145) provides that directors and officers of Delaware corporations may, under certain circumstances, be indemnified against expenses (including attorneys' fees) and other liabilities actually and reasonably incurred by them as a result of any suit brought against them in their capacity as a director or officer, if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, if they had no reasonable cause to believe their conduct was unlawful. Section 145 also provides that directors and officers may also be indemnified against expenses (including attorneys' fees) incurred by them in connection with a derivative suit if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made without court approval if such person was adjudged liable to the corporation.

Article Five of the Company's bylaws contains provisions which require that the Company indemnify its officers, directors, employees and agents, in substantially the same language as Section 145.

Article Nine, section (b), of the Company's certificate of incorporation further provides that no director will be personally liable to the Company or its stockholders for monetary damages or for any breach of fiduciary duty except for breach of the director's duty of loyalty to the Company or its stockholders, for acts or omissions not in good faith or involving intentional misconduct or a knowing violation of law, pursuant to Section 174 of the Delaware General Corporation Law (which imposes liability in connection with the payment of certain unlawful dividends, stock purchases or redemptions), or any amendment or successor provision thereto, or for any transaction from which a director derived an improper personal benefit.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits

Exhibit Number	Description
5.1	<u>Opinion of Maslon LLP regarding legality.</u>
10.1	<u>Navidea Biopharmaceuticals, Inc. 2023 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed November 16, 2023).</u>
23.1	<u>Consent of Maslon LLP (included in Exhibit 5.1).</u>
23.2	<u>Consent of Marcum LLP.</u>
24.1	<u>Powers of Attorney (included on signature page hereto).</u>
107	<u>Calculation of Filing Fee Table</u>

Signatures

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dublin, State of Ohio, on December 22, 2023.

NAVIDEA BIOPHARMACEUTICALS, INC.

/s/ Craig A. Davis

Craig A. Davis
Chief Financial Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Craig A. Davis as his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments, exhibits thereto and other documents in connection therewith) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the SEC, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
<u>/s/ Craig A. Davis</u> Craig A. Davis	Chief Financial Officer <i>(Principal Financial Officer and Principal Accounting Officer)</i>	December 22, 2023
<u>/s/ John K. Scott, Jr.</u> John K. Scott, Jr.	Vice Chair of the Board of Directors <i>(Principal Executive Officer)</i>	December 22, 2023
<u>/s/ Dana Moss</u> Dana Moss, JD	Director	December 22, 2023
<u>/s/ Joshua M. Wilson</u> Joshua M. Wilson	Director	December 22, 2023
<u>/s/ Jill Bieker Stefanelli</u> Jill Bieker Stefanelli, Ph.D.	Director	December 22, 2023

December 22, 2023

Navidea Biopharmaceuticals, Inc.
4995 Bradenton Avenue, Suite 240
Dublin, Ohio 43017

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Navidea Biopharmaceuticals, Inc., a Delaware corporation (the “**Company**”), in connection with the filing by the Company of a Registration Statement on Form S-8 (the “**Registration Statement**”) under the Securities Act of 1933 as amended (the “**Act**”), covering the offering of 10,000,000 shares (the “**Shares**”) of the Company’s common stock, par value \$0.001 per share, that may be issued under the Company’s 2023 Equity Incentive Plan (the “**Plan**”).

Upon examination of such corporate documents and records as we have deemed necessary or advisable for the purposes hereof, it is our opinion that the Shares, when issued and paid as contemplated by the Plan, and when delivered against payment thereof in the manner contemplated by the Plan, will be validly issued, fully paid and non-assessable.

We are members of the bar of the State of Minnesota and express no opinion as to the laws of any state or jurisdiction other than the General Corporation Law of the State of Delaware. We hereby consent to the filing of this opinion letter as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are an “expert” within the meaning of the Act.

Very truly yours,

/s/ MASLON LLP

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Navidea Biopharmaceuticals, Inc. on Form S-8 of our report dated March 27, 2023, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audits of the consolidated financial statements of Navidea Biopharmaceuticals, Inc. as of December 31, 2022 and 2021 and for the years ended December 31, 2022 and 2021 appearing in the Annual Report on Form 10-K of Navidea Biopharmaceuticals, Inc. for the year ended December 31, 2022.

/s/ Marcum LLP

Hartford, CT
December 22, 2023

Calculation of Filing Fee Table

...Form S-8.....
(Form Type)

.....Navidea Biopharmaceuticals, Inc......
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(1)	Proposed Maximum Offering Price Per Unit(2)	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, par value \$0.001 per share	Rule 457(a) and Rule 457(h)	10,000,000(3)	\$.0568	\$568,000	\$147.60 per \$1,000,000	\$83.84
Total Offering Amount					\$568,000		\$83.84
Total Fee Offsets							—
Net Fee Due							\$83.84

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement (this “Registration Statement”) shall also cover any additional shares of common stock, par value \$0.001 per share, of the Registrant (“Common Stock”) that become issuable under the Registrant’s 2023 Equity Incentive Plan (“2023 Plan”) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of shares of the Registrant’s outstanding shares of Common Stock.
- (2) The proposed maximum offering price per share has been estimated in accordance with Rules 457(a) and (h) under the Securities Act solely for the purpose of calculating the registration fee. The computation is based upon the average of the high and low prices of the Registrant’s Common Stock as reported on the over-the-counter market on December 19, 2023., which date is within five business days prior to filing this Registration Statement.
- (3) Represents 10,000,000 shares of the Registrant’s Common Stock that are available for issuance pursuant to the 2023 Plan.