

**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 25, 2023**

**PHATHOM PHARMACEUTICALS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**001-39094**  
(Commission  
File Number)

**82-4151574**  
(I.R.S. Employer  
Identification No.)

**100 Campus Drive, Suite 102  
Florham Park, New Jersey 07932**  
(Address of principal executive offices) (Zip Code)

**(877) 742-8466**  
(Registrant's telephone number, include area code)

**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:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	PHAT	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 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On May 25, 2023, Phathom Pharmaceuticals, Inc. (the “Company”) held its 2023 Annual Meeting of Stockholders (the “Annual Meeting”). At the Annual Meeting, as described below under Item 5.07, the stockholders of the Company approved an amendment to the Company’s Amended and Restated Certificate of Incorporation, to eliminate the personal liability of the Company’s officers for monetary damages for breach of fiduciary duty as an officer, except to the extent such an exemption from liability or limitation thereof is not permitted by Delaware General Corporation Law (the “Amendment”). The Amendment became effective upon the Company’s filing of a Certificate of Amendment to the Amended and Restated Certificate of Incorporation with the Secretary of State of Delaware on May 26, 2023 (“Certificate of Amendment”). The foregoing description of the Amendment is qualified in its entirety by reference to the full text of the Certificate of Amendment, a copy of which is attached as Exhibit 3.1 hereto and is incorporated by reference herein.

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

At the Annual Meeting, stockholders voted on the matters disclosed in the Company’s definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on April 13, 2023 (the “Proxy Statement”). The final voting results for the matters submitted to a vote of stockholders were as follows:

**Proposal No. 1 - Election of Class I Directors**

At the Annual Meeting, the Company’s stockholders elected the persons listed below as Class I directors for a three-year term expiring at the Company’s 2026 Annual Meeting of Stockholders or until their respective successors are duly elected and qualified:

<u>Directors</u>	<u>Votes For</u>	<u>Withheld</u>	<u>Broker Non-Votes</u>
Terrie Curran	32,159,915	95,494	6,632,203
Mark Stenhouse	28,966,136	3,289,273	6,632,203

**Proposal No. 2 - Ratification of Independent Registered Public Accounting Firm**

The Company’s stockholders ratified the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for fiscal 2023:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
38,861,215	20,414	5,983

**Proposal No. 3 – Approval of an Amendment to the Company’s Amended and Restated Certificate of Incorporation**

The Company’s stockholders approved an amendment to the Company’s Amended and Restated Certificate of Incorporation limiting the liability of certain officers of the Company:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
30,144,733	2,102,985	7,691

**Item 8.01 Other Events.**

On May 25, 2022, the Board of Directors (the “Board”) of the Company approved certain changes to the Company’s non-employee director compensation program (the “Program”), effective immediately. The Program provides for annual retainer fees and/or long-term equity awards for our non-employee directors. Under the amended Program, a new non-employee director will receive, upon election to the Board, an initial grant of 18,000 restricted stock units and options to purchase 30,000 shares of our common stock, one-third of which will vest on the first anniversary of the grant date and the remainder of which will vest in quarterly installments over the

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following 24 months, and each non-employee director will receive an annual grant of 9,000 restricted stock units and options to purchase 15,000 shares, vesting on the first to occur of (1) the first anniversary of the grant date or (2) the next occurring annual meeting of our stockholders, in each case, subject to the non-employee director continuing in service on our Board through such vesting date. No changes were made to the annual cash retainers payable pursuant to the Program to non-employee directors for their service on the Board and Board committees.

The foregoing summary of the Program is qualified in its entirety by the amended Program, which the Company intends to file as an exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ending June 30, 2023.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
3.1	<a href="#">Certificate of Amendment to Amended and Restated Certificate of Incorporation, dated May 26, 2023</a>
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, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PHATHOM PHARMACEUTICALS, INC.

Date: May 30, 2023

By: /s/ Larry Miller  
Larry Miller  
General Counsel and Secretary

**CERTIFICATE OF AMENDMENT  
OF THE  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
PHATHOM PHARMACEUTICALS, INC.  
(a Delaware corporation)**

Phathom Pharmaceuticals, Inc. (the “**Corporation**”), a corporation organized and existing under the General Corporation Law of the State of Delaware (the “**DGCL**”), hereby certifies as follows:

**FIRST:** The name of the corporation is Phathom Pharmaceuticals, Inc. The Corporation was originally incorporated pursuant to the DGCL on January 9, 2018 under the name North Bridge IV, Inc.

**SECOND:** The Board of Directors of the Corporation (the “**Board of Directors**”), acting in accordance with the provisions of Section 141 and 242 of the DGCL, duly adopted resolutions proposing and declaring advisable the following amendment to the Amended and Restated Certificate of Incorporation (as amended, the “**Certificate**”) of the Corporation:

Article SEVENTH of the Certificate shall be amended and restated to read in its entirety as follows:

“SEVENTH: Except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors or officers for breaches of fiduciary duty, no director or officer of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director or officer, notwithstanding any provision of law imposing such liability. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director or officer of the Corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal. If the General Corporation Law of the State of Delaware is amended to permit further elimination or limitation of the personal liability of directors or officers, then the liability of a director or officer, respectively, of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware as so amended.”

**THIRD:** Thereafter, pursuant to a resolution of the Board of Directors, the stockholders gave their approval of said amendment at a meeting of stockholders in accordance with the provisions of Section 211 of the DGCL.

**FOURTH:** That said amendment was duly adopted in accordance with the provisions of Sections 242 and 228 of the DGCL.

*[Remainder of Page Intentionally Left Blank]*

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**IN WITNESS WHEREOF**, this Certificate of Amendment has been executed by a duly authorized officer of the Corporation on this 26th day of May, 2023.

By: /s/ Larry Miller  
Name: Larry Miller  
Title: General Counsel and Secretary