

**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): **June 20, 2022**

CELLDEX THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

000-15006
(Commission File Number)

13-3191702
(IRS Employer
Identification No.)

**Perryville III Building, 53 Frontage Road, Suite 220,
Hampton, New Jersey 08827**
(Address of principal executive offices) (Zip Code)

(908) 200-7500
(Registrant's telephone number, including area code)

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 \$.001 | CLDX | 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.

On June 20, 2022, Celldex Therapeutics Inc. (the "Company") entered into a binding settlement term sheet (the "Term Sheet") with Shareholder Representatives Services LLC ("SRS"), relating to the previously disclosed litigation brought by the Company (the "Litigation") arising under the Agreement and Plan of Merger, dated November 1, 2016 (the "Merger Agreement"), by and among Kolltan Pharmaceuticals, Inc., the Company, Connemara Merger Sub 1 Inc., Connemara Merger Sub 2 LLC and SRS, solely in its capacity as the Stockholders Representative, which, upon execution of a definitive settlement agreement and the payment of the Initial Payment (as defined below), will result in the joint dismissal, with prejudice, of all claims and counterclaims in the Litigation.

Pursuant to the terms of the Term Sheet, all milestone payments provided for by the Merger Agreement are replaced in their entirety with the following payments, each of which is payable only once:

- (i) The Company shall pay \$15,000,000 upon execution of the Settlement Agreement (the "Initial Payment").
- (ii) The Company shall pay \$15,000,000 upon the Successful Completion (as defined in the Term Sheet) of a Phase 2 Clinical Trial (as defined in the Merger Agreement) of CDX-0159, subject to the \$2,500,000 contractual credit as set forth in the Merger Agreement.
- (iii) The Company shall pay \$52,500,000 upon the first United States Food and Drug Administration or European Medicines Agency, or, in each case, any successor organization, regulatory approval of a Surviving Company Product (as defined the Term Sheet).

The above payment obligations replace, in their entirety, the contingent consideration in the form of development, regulatory approval and sales-based milestones of up to \$172.5 million contained in the Merger Agreement.

Each of the Company and SRS will provide broad mutual releases of all claims relating to or arising out of the Merger Agreement, including without limitation, all claims brought in the Litigation or that could have been brought in the Litigation. The Term Sheet is binding pending the execution of a formal settlement agreement on or before July 15, 2022.

The Company has elected to pay the Initial Payment in cash. When and if any of the remaining payments described above become due, they shall be payable, at the Company's sole election, in either cash or stock (as set forth in the Merger Agreement) or a combination thereof.

The foregoing is a summary of the material terms of the Term Sheet and does not purport to be complete. The Term Sheet is attached hereto as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 2.02 Results of Operations and Financial Condition.

The Company maintains its guidance and believes that its cash, cash equivalents and marketable securities at June 23, 2022, taking into account the payment of the Initial Payment, are sufficient to meet estimated working capital requirements and fund planned operations through 2025. The information in this Item 2.02 of this Current Report on Form 8-K shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that Section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of federal securities laws, such as statements about entry into a definitive settlement agreement. These statements are based on current expectations and assumptions, and actual outcomes and results could differ materially from these statements due to a number of factors. Additional risks and uncertainties that could cause actual results to differ materially from those indicated by the forward-looking statements made in this Current Report on Form 8-K include those discussed under the caption "Risk Factors" in the Company's Annual Report on Form 10-K for the year ended December 31, 2021 and in its other reports filed with the SEC. The forward-looking statements in this Current Report on Form 8-K are based on information available to the Company as of the date hereof, and the Company disclaims any obligation to update any forward-looking statements provided 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. These forward-looking statements should not be relied upon as representing the Company's views as of any date subsequent to the date of this Current Report on Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

| <u>Exhibit Number</u> | <u>Description</u> |
|-----------------------|---|
| 10.1 | Binding Settlement Term Sheet, dated June 20, 2022 by and between Shareholder Representatives Services LLC, solely in its capacity as Stockholders Representative, and Celldex Therapeutics, Inc. |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document) |

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.

CELLDEX THERAPEUTICS, INC.

Dated: June 23, 2022

By: */s/ Sam Martin*

Name: Sam Martin

Title: Senior Vice President and Chief Financial Officer

BINDING SETTLEMENT TERM SHEET

This BINDING TERM SHEET (the “**Term Sheet**”), is entered into as of June 20, 2022 (“**Effective Date**”) by and between Shareholder Representatives Services LLC (“**SRS**”), solely in its capacity as the Stockholders representative under the Merger Agreement (defined below), and Celldex Therapeutics, Inc. (“**Celldex**”).

WHEREAS, on November 1, 2016, the parties entered into that certain Agreement and Plan of Merger by and among Kolltan Pharmaceuticals, Inc., Celldex Therapeutics, Inc., Connemara Merger Sub 1 Inc., Connemara Merger Sub 2 LLC, and SRS, solely in its capacity as the stockholders representative (the “**Merger Agreement**”);

WHEREAS, pursuant to the terms of the Merger Agreement, Celldex agreed that upon certain enumerated milestones being met, payments would be made to an exchange agent for distribution to the stockholders of Kolltan Pharmaceuticals, Inc. at the time of the merger (the “**Stockholders**”);

WHEREAS, pursuant to the terms of the Merger Agreement, SRS was irrevocably authorized and appointed by each of the Stockholders to act on behalf of each of the Stockholders, with respect to, among other things, negotiating, litigating, settling and compromising, on behalf of each such Stockholder, any dispute under the Merger Agreement;

WHEREAS, in connection with a dispute under the Merger Agreement, Celldex filed a complaint in the Delaware Court of Chancery styled *Celldex Therapeutics, Inc. v. Shareholder Representative Services, LLC*, C.A. No. 2020-0682-MTZ, and SRS filed counterclaims (the “**Litigation**”);

WHEREAS, Celldex denies each and every claim and contention asserted against it in the Lawsuit and denies all allegations of breach, wrongdoing, fault, liability, or damage against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Lawsuit;

WHEREAS, SRS denies each and every claim and contention asserted against it in the Lawsuit and denies all allegations of breach, wrongdoing, fault, liability, or damage against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Lawsuit; and

WHEREAS, a 5-day trial in the Litigation is set to begin on June 21, 2022.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Term Sheet, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Binding.** This Term Sheet *is binding* upon the parties pending the execution of a formal settlement agreement on or before July 15, 2022. The parties, through their counsel, shall draft such other documents as are consistent with this Term Sheet. Celldex will provide a first draft of the final and binding settlement agreement (the “**Settlement Agreement**”), which shall be consistent with the terms of this Term Sheet, on or before July 1, 2022.

2. Governing Law and Dispute Resolution. This Term Sheet shall be interpreted and enforced in accordance with the laws of the State of Delaware. Any dispute arising out of or relating to this Term Sheet shall be brought in accordance with Section 12.15 of the Merger Agreement.

3. Payment. The Milestone provisions of the Merger Agreement are replaced in their entirety with the following Milestone payments, each of which is payable only once. Celldex shall make payments to the Exchange Agent (as defined in the Merger Agreement) for further distribution to the Stockholders as follows:

- (a) Celldex shall pay \$15,000,000 upon execution of the Settlement Agreement (the “**Initial Payment**”);
- (b) Celldex shall pay \$15,000,000 upon the Successful Completion (as defined below) of a Phase II Clinical Trial (as defined in the Merger Agreement) of CDX-0159, subject to the \$2,500,000 million contractual credit as set forth in the Merger Agreement; and
- (c) Celldex shall pay \$52,500,000 on the first United States Food and Drug Administration, or any successor organization, or European Medicines Agency, or any successor organization, regulatory approval of a Surviving Company Product (as defined below).

The Initial Payment shall be in cash and shall be paid within three (3) business days of execution of the Settlement Agreement. Any remaining payments shall be payable, at Celldex’s sole election, in either cash or Milestone Consideration Shares (as defined in the Merger Agreement) based on the Parent Stock Value (as defined in the Merger Agreement) and subject to the registration provisions (including, without limitation, the timeline in Section 5.06(b)) of the Merger Agreement, or a combination of the two.

4. Definitions. Notwithstanding anything to the contrary in the Merger Agreement, the following terms as used in this Agreement shall have the meanings set forth below:

- (a) “CDX-0159” means the antibody now under development by Celldex under IND 140159, also known as barzolvolimab, or any monoclonal antibody variant, derivative, predecessor, or modified version thereof that includes the same variable domains as CDX-0159.
- (b) “Successful Completion” shall mean achievement of the primary or secondary study endpoints of a Phase II Clinical Trial, or other relevant results, as determined on the date that is the earlier of (A) three (3) months following the database lock for such clinical trial or (B) public disclosure of any results of such clinical trial, such that continued development of CDX-0159 is warranted on the basis of the use of Commercially Reasonable Efforts (as defined in the Merger Agreement).
- (c) “Surviving Company Product” shall have the same meaning as in the Merger Agreement except it shall include CDX-0159.

5. Stay. Upon execution of this Term Sheet, the parties shall together inform the Court in the Litigation that the parties have reached a resolution that will result in a settlement of all claims before the Court and that the trial scheduled to begin June 21 may be vacated.

6. Dismissal of the Lawsuit. Within three (3) business days of the Exchange Agent (as defined in the Merger Agreement) receiving the fifteen million dollar (\$15,000,000) payment pursuant to paragraph 3(a), SRS and Celldex shall jointly dismiss all claims and counterclaims in the Litigation *with prejudice*.

7. Release. The parties shall provide broad mutual releases of all claims relating to or arising out of the Merger Agreement, including without limitation, all claims brought in the Litigation or that could have been brought in the Litigation. This Agreement relieves Celldex of all obligations, including but not limited to other Milestone obligations, under the Merger Agreement.

8. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings between the parties with respect to the subject matter of this Agreement.

9. No Other Representations and Non-Reliance. Neither party nor any of their agents, employees or representatives have made any representation or warranty, express or implied, regarding the terms of this Agreement that are not explicitly set forth herein. Any other representations or warranties not contained in this Agreement are hereby expressly disclaimed by both parties. Further, both parties expressly acknowledge and agree that neither party nor any of their agents, employees, or representatives is relying on any other representation or warranty of any party or their agents, employees or representatives, including the accuracy or completeness of any other representations and warranties, whether express or implied, except as expressly set forth in this Agreement.

10. Counterparts: The Parties may execute this Term Sheet in one or more counterparts, all of which taken together will constitute one and the same instrument.

11. Costs and Fees: Each Party shall bear its own costs and fees.

Celldex Therapeutics, Inc.

 /s/ Anthony Marucci
By: Anthony Marucci
Title: President and CEO
Date: June 20, 2022

Shareholder Representative Services LLC solely in its capacity as the
stockholders representative

 /s/ Casey McTigue
By: Casey McTigue
Title: Managing Director
Date: June 20, 2022