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

FORM S-1
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

BRICKELL BIOTECH, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

2836
(Primary Standard Industrial
Classification Code Number)

93-0948554
(I.R.S. Employer
Identification No.)

**5777 Central Avenue
Suite 102
Boulder, CO 80301
(720) 505-4755**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Robert B. Brown
Chief Executive Officer
5777 Central Avenue
Suite 102
Boulder, CO 80301
(720) 505-4755**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Please send copies of all communications to:

**Daniel L. Boeglin
Jonathan R. Zimmerman
Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center, 90 South Seventh Street
Minneapolis, MN 55402
Telephone: (612) 766-7000**

**Steven M. Skolnick, Esq.
Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 262-6700**

**Approximate date of commencement of proposed sale to the public:
As soon as practicable after the effective date of this registration statement.**

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: **333-238298**

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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

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

CALCULATION OF REGISTRATION FEE

Title of each class of Securities to be Registered	Proposed Maximum Aggregate Offering Price (1)(5)	Amount of Registration Fee
Common stock, par value \$0.01 per share (2)(3)(4)	\$ 2,625,000	\$ 341
Pre-funded warrants to purchase shares of common stock and common stock issuable upon exercise thereof (2)(3)(4)	2,625,000	
Warrants to purchase common stock and shares of common stock issuance upon exercise thereof (2)(3)	2,625,000	341
Total	\$ 5,250,000	\$ 682

- (1) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended (the “Securities Act”).
- (2) Includes the offering price of the shares of common stock (or, if applicable, pre-funded warrants).
- (3) Pursuant to Rule 416 under the Securities Act, the securities being registered hereunder include such indeterminate number of additional securities as may be issuable to prevent dilution resulting from stock splits, dividends or similar transactions.
- (4) The proposed maximum aggregate offering price of the common stock proposed to be sold in the offering will be reduced on a dollar-for-dollar basis based on the aggregate offering price of the pre-funded warrants offered and sold in the offering (plus the aggregate exercise price of the common stock issuable upon exercise of the pre-funded warrants), and as such the proposed aggregate maximum offering price of the common stock and pre-funded warrants (including the common stock issuable upon exercise of the pre-funded warrants), if any, is \$2,625,000.
- (5) The securities being registered pursuant to this Registration Statement are in addition to the \$17,500,001 of common stock, \$17,500,001 of pre-funded warrants to purchase shares of common stock and common stock issuance upon exercise thereof and \$17,500,001 of warrants to purchase common stock and shares of common stock issuable upon exercise thereof registered pursuant to the registrant’s Registration Statement on Form S-1, as amended (File No. 333-238298).

This Registration Statement shall become effective upon filing in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

**EXPLANATORY NOTE AND
INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**

This Registration Statement (the "Registration Statement") is being filed with the Securities and Exchange Commission (the "Commission") with respect to the registration of additional shares of common stock, par value \$0.01 per share ("Common Stock") of Brickell Biotech, Inc. (the "Company") (or pre-funded warrants (the "Pre-Funded Warrants") to purchase shares of the Company's Common Stock in lieu thereof) and common warrants to purchase shares of the Company's Common Stock (the "Common Warrants"), pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the "Securities Act"). This Registration Statement incorporates by reference the contents of, including all amendments and exhibits thereto, the Registration Statement on Form S-1, as amended (File No. 333-238298) (the "Prior Registration Statement"), which the Commission declared effective on June 17, 2020, and is being filed solely for the purpose of increasing the aggregate offering price of (i) the Common Stock to be offered in the public offering by \$2,625,000, (ii) the Pre-Funded Warrants to be offered in lieu of Common Stock in the public offering by \$2,625,000 and (iii) the Common Warrants to be offered in the public offering by \$2,625,000. The additional Common Stock or Pre-Funded Warrants and Common Warrants that are being registered for sale are in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement.

The required opinion and consents are listed on the Exhibit Index attached hereto and filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Boulder, State of Colorado, on June 17, 2020.

BRICKELL BIOTECH, INC.

By: _____
/s/ Robert B. Brown
Robert B. Brown
Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons on June 17, 2020, in the capacities indicated.

<u>Signature</u>	<u>Title</u>
_____ /s/ ROBERT B. BROWN Robert B. Brown	Chief Executive Officer and Director (Principal Executive Officer)
_____ /s/ R. MICHAEL CARRUTHERS R. Michael Carruthers	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
_____ /s/ JOSE BRETON Jose Breton	Controller and Chief Accounting Officer
_____ * Reginald L. Hardy	Co-Founder and Chairman of the Board of Directors
_____ * Dennison T. Veru	Director
_____ * Vijay B. Samant	Director
_____ * Gary A. Lyons	Director

*By: _____
/s/ Robert B. Brown, Attorney-in-Fact

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
5.1	Opinion of Faegre Drinker Biddle & Reath LLP.
23.1	Consent of Ernst & Young LLP.
23.2	Consent of Faegre Drinker Biddle & Reath LLP (included as part of Exhibit 5.1).
24.1	Power of Attorney (included in the signature page of the Registration Statement on Form S-1, as amended (File No. 333-238298), filed with the Securities and Exchange Commission on May 15, 2020).



faegredrinker.com

Faegre Drinker Biddle & Reath LLP
 2200 Wells Fargo Center
 90 South Seventh Street
 Minneapolis, Minnesota 55402
 +1 612 766 7000 main
 +1 612 766 1600 fax

June 17, 2020

Brickell Biotech, Inc.
 5777 Central Avenue, Suite 102
 Boulder, CO 80301

Ladies and Gentlemen:

We have acted as counsel to Brickell Biotech, Inc., a Delaware corporation (the “Company”), in connection with the public offering by the Company of (a) an aggregate of 17,500,000 shares (the “Shares”) of common stock, par value \$0.01 per share (the “Common Stock”) or pre-funded warrants to purchase shares of Common Stock (the “Pre-Funded Warrants”), (b) warrants to purchase up to an aggregate of 17,500,000 shares of Common Stock (the “Common Warrants”) and together with the Pre-Funded Warrants, the “Warrants”) and (c) up to an aggregate of 35,000,000 shares of Common Stock issuable from time to time upon exercise of the Warrants (the “Warrant Shares”, and together with the Warrants and the Shares, the “Securities”). The Securities are being offered pursuant to the Registration Statement on Form S-1, as amended (File No. 333-238298) (the “Form S-1 Registration Statement”), and the registration statement pursuant to Rule 462(b) (the “Rule 462(b) Registration Statement”, and together with the Form S-1 Registration Statement, the “Registration Statements”), each filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Act”), including a related prospectus filed with the Form S-1 Registration Statement (the “Prospectus”). The Securities are to be sold by the Company as described in the Registration Statements and the Prospectus. This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act.

In this capacity, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the Registration Statements and Prospectus, (ii) the Underwriting Agreement by and between Oppenheimer & Co. Inc. and the Company, a form of which was filed as Exhibit 1.1 to the Form S-1 Registration Statement (the “Underwriting Agreement”), (iii) the form of Common Warrant and the form of Pre-Funded Warrant filed as Exhibits 4.2 and 4.3 to the Form S-1 Registration Statement, (iv) the form of Warrant Agency Agreement filed as Exhibit 4.4 to the Form S-1 Registration Statement (the “Warrant Agency Agreement”), (v) the Company’s Restated Certificate of Incorporation, as amended to date, in the form filed as Exhibit 3.1 to the Form S-1 Registration Statement and (vi) the Company’s Amended and Restated Bylaws, as amended to date, in the form filed as Exhibit 3.2 to the Form S-1 Registration Statement. We have also examined such authorities of law as we have deemed relevant as a basis for our opinions.

In all cases, we have assumed the legal capacity of each natural person signing any of the documents and corporate records examined by us, the genuineness of signatures, the authenticity of documents submitted to us as originals, the conformity to authentic original documents of documents submitted to us as copies and the accuracy and completeness of all corporate records and other information made available to us by the Company. We have not independently established or verified any facts relevant to the opinions expressed herein, but have relied upon statements and representations of officers and other representatives of the Company, public officials and others as to factual matters.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth below, we are of the opinion that:

1. Upon payment therefor and issuance and delivery thereof in accordance with the Underwriting Agreement, the Shares will be validly issued, fully paid and non-assessable.
2. Provided that the Warrants have been duly executed and delivered by the Company to the purchasers thereof against payment therefor as provided in the Warrant Agency Agreement, the Underwriting Agreement, the Registration Statements and the Prospectus, the Warrants will be valid and binding obligations of the Company, except as the same may be limited by applicable bankruptcy, insolvency, voidable transaction, fraudulent conveyance, fraudulent transfer, reorganization, moratorium, assignment for the benefit of creditors and other laws relating to or affecting creditors’ rights generally and equitable principles of general applicability (regardless of whether considered in a proceeding in equity or at law).
3. Following (i) execution and delivery by the Company of the Warrants pursuant to the terms of the Underwriting Agreement, (ii) receipt by the Company of the consideration for the Warrants specified in the Underwriting Agreement, and (iii) exercise of the Warrants pursuant to their terms and the Warrant Agency Agreement, receipt by the Company of the exercise price for the Warrant Shares as specified in the Warrants and issuance of the Warrant Shares thereunder, the Warrant Shares will be validly issued, fully paid, and nonassessable.

Without limiting any other qualifications set forth herein, the opinion expressed herein regarding the enforceability of the Warrants is subject to the effect of generally applicable laws that (i) provide for the enforcement of oral waivers or modifications where a material change of position in reliance thereon has occurred or provide that a course of performance may operate as a waiver; (ii) limit the availability of a remedy under certain circumstances where another remedy has been elected; (iii) limit the enforceability of provisions releasing, exculpating or exempting a party from, or requiring indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves negligence, recklessness, willful misconduct or unlawful conduct; (iv) may, where less than all of a contract may be unenforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange; (v) govern and afford judicial discretion regarding the determination of damages and entitlement to attorneys’ fees and other costs; (vi) may permit a party who has materially failed to render or offer performance required by a contract to cure that failure unless either permitting a cure would unreasonably hinder the aggrieved party from making substitute arrangements for performance or it is important under the circumstances to the aggrieved party that performance occur by the date stated in the contract; (vii) may limit the enforceability of provisions for the payment of premiums upon mandatory prepayment to the extent any such payment constitutes, or is deemed to constitute, a penalty or forfeiture; (viii) may require mitigation of damages; (ix) provide a time limitation after which a remedy may not be enforced (i.e., statutes of limitation); and (x) limit the enforceability of provisions of instruments or agreements that purport to require waiver of the obligations of good faith, fair dealing, diligence and reasonableness.

We express no opinion as to the enforceability or effect in the Warrants of (i) any agreement to submit to the jurisdiction of any particular court or other governmental authority (either as to personal jurisdiction or subject matter jurisdiction), any waivers of the right to jury trial, any waivers of service of process requirements that would otherwise be applicable, any agreement that a judgment rendered by a court in one jurisdiction may be enforced in another jurisdiction, or any provision otherwise affecting the jurisdiction or venue of courts; (ii) any provision waiving legal, statutory or equitable defenses or other procedural, judicial or administrative rights; or (iii) any provision that authorizes one party to act as attorney-in-fact for another party.

With respect to our opinion regarding the Warrant Shares, we express no opinion to the extent that, notwithstanding the Company’s current reservation of the maximum number of Warrant Shares as of the date hereof, future issuances of securities of the Company, including the Warrant Shares, and/or antidilution adjustments to outstanding securities of the Company, including the Warrants, may cause the Warrants to be exercisable for more shares of Common Stock than the number that then remain authorized but unissued. Further, we have assumed the Exercise Price (as defined in the Warrants) will not be adjusted to an amount below the par value per share of the Warrant Shares.

This opinion is limited to the General Corporation Law of the State of Delaware and, solely with respect to opinion paragraph 2, the laws of the State of New York. We express no opinion as to any other matters, including without limitation any matters relating to the securities or blue sky laws of any jurisdiction or any rules or regulations thereunder. In addition, we express no opinion as to whether, or the extent to which, the laws of any particular jurisdiction apply to the subject matter hereof, including, without limitation, the enforceability of the governing law provision contained in the Warrants.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Rule 462(b) Registration Statement. In giving this consent, we do not admit that we come within the categories of persons whose consent is required under Section 7 of the Act or under the rules and regulations of the Commission issued thereunder.

This letter is given as of the date hereof, and we assume no responsibility for updating this letter or the opinions or statements set forth herein to take into account any event, action, interpretation or change in law occurring subsequent to the date hereof that may affect the validity of any of such opinions or statements.

Very truly yours,
Faegre Drinker Biddle & Reath LLP

/s/ Jonathan R. Zimmerman

By: Jonathan R. Zimmerman, *Partner*

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement on Form S-1 filed pursuant to Rule 462(b) of the Securities Act of 1933 of the reference to our firm under the caption “Experts” and to the incorporation by reference therein of our report dated March 18, 2020, with respect to the consolidated financial statements of Brickell Biotech, Inc., included in Brickell Biotech Inc.’s Annual Report (Form 10-K) for the year ended December 31, 2019, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Denver, Colorado
June 17, 2020