

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

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

Stealth BioTherapeutics Corp

(Exact Name of Registrant as Specified in Its Charter)

Cayman Islands
 (State or Other Jurisdiction of
 Incorporation or Organization)

Not Applicable
 (I.R.S. Employer
 Identification No.)

Stealth BioTherapeutics Corp
 c/o Intertrust Corporate Services
 (Cayman) Limited
 One Nexus Way
 Camana Bay
 Grand Cayman
 KY1-9005 Cayman Islands
 (Address of Principal Executive Offices)

Not Applicable
 (Zip Code)

2019 Share Incentive Plan
2020 ADS Incentive Plan
 (Full Title of the Plan)

Stealth BioTherapeutics Inc.
 140 Kendrick Street
 Building C-West
 Needham, MA 02494
 (Name and Address of Agent For Service)

(617) 600-6888
 (Telephone Number, Including Area Code, of Agent For Service)

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

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 Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee

Ordinary Shares, \$0.0003 par value per share(4)	14,697,061(2)	\$0.146(3)	\$2,149,445(3)	\$234.50
Ordinary Shares, \$0.0003 par value per share(4)	9,526,380(5)	\$0.146(3)	\$1,393,233(3)	\$152.00

- (1) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (2) Consists of 14,697,061 ordinary shares issuable under the 2019 Share Incentive Plan, as amended, as of January 1, 2021, pursuant to such plan's evergreen provision.
- (3) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(c) and Rule 457(h) of the Securities Act of 1933, as amended, and based on the average of the high and low sale prices of the registrant's ADSs on the Nasdaq Global Market on February 25, 2021.
- (4) American Depositary Shares ("ADSs") issuable upon deposit of the ordinary shares registered hereby have been registered under a separate registration statement on Form F-6 (File No. 333-229509), as amended. Each ADS represents 12 ordinary shares.
- (5) Consists of 793,865 ADSs, representing 9,526,380 ordinary shares, issuable under the 2020 ADS Incentive Plan, as amended, as of January 1, 2021, pursuant to such plan's evergreen provision.

Statement of Incorporation by Reference

This Registration Statement on Form S-8, relating to the 2019 Share Incentive Plan (the “2019 Plan”) and the 2020 ADS Incentive Plan (the “2020 Plan”) of Stealth BioTherapeutics Corp (the “Registrant”) is being filed for the purpose of registering additional securities of the same class as other securities for which a Registration Statement on Form S-8 has previously been filed and is effective. Accordingly, this Registration Statement incorporates by reference the contents of (i) the Registration Statement on Form S-8, File No. 333-230452, filed with the Securities and Exchange Commission on [March 22, 2019](#) by the Registrant, relating to the Registrant’s 2006 Share Incentive Plan and 2019 Plan and (ii) the Registration Statement on Form S-8, File No. 333-237541, filed with the Securities and Exchange Commission on [April 2, 2020](#), relating to the Registrant’s 2020 Plan, in each case except for Item 8, Exhibits.

Item 8. Exhibits.

<u>Number</u>	<u>Description</u>
4.1	<u>Amended and Restated Memorandum and Articles of Association of the Registrant (incorporated herein by reference to Exhibit 1.1 to the Registrant's Annual Report on Form 20-F, dated April 1, 2020)</u>
4.2	<u>Deposit Agreement among the Registrant, Citibank, N.A., as depository, and all Owners and Holders of ADSs issued thereunder (incorporated herein by reference to Exhibit 99.3 to the Registrant's Report of Foreign Private Issuer on Form 6-K, dated as of March 4, 2019)</u>
5.1	<u>Opinion of Walkers</u>
23.1	<u>Consent of Walkers (included in Exhibit 5.1)</u>
23.2	<u>Consent of Deloitte & Touche LLP</u>
24.1	<u>Power of Attorney (included on the signature pages of this registration statement)</u>
99.1	<u>2019 Share Incentive Plan (incorporated herein by reference to Exhibit 4.5 to the Registrant's Annual Report on Form 20-F, dated April 1, 2020)</u>
99.2	<u>2020 ADS Incentive Plan (incorporated herein by reference to Exhibit 4.20 to the registrant's Annual Report on Form 20-F, dated April 1, 2020)</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 for 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 Needham, Massachusetts, on this 26th day of February, 2021.

Stealth BioTherapeutics Corp

By: /s/ Irene P. McCarthy

Irene P. McCarthy
Chief Executive Officer

POWER OF ATTORNEY AND SIGNATURES

We, the undersigned officers and directors of Stealth BioTherapeutics Corp, hereby severally constitute and appoint Irene P. McCarthy and Henry Hess, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the registration statement on Form S-8 filed herewith and any and all subsequent amendments to said registration statement, and generally to do all such things in our names and on our behalf in our capacities as officers and directors to enable Stealth BioTherapeutics Corp to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to said registration statement and any and all amendments thereto.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Irene P. McCarthy</u> Irene P. McCarthy	Chief Executive Officer and Director (principal executive officer, principal financial officer and principal accounting officer)	February 26, 2021
<u>/s/ Francis W. Chen</u> Francis W. Chen, Ph.D.	Director	February 26, 2021
<u>/s/ Gerald L. Chan</u> Gerald L. Chan, Sc.D.	Director	February 26, 2021
<u>/s/ Kevin F. McLaughlin</u> Kevin F. McLaughlin	Director	February 26, 2021
<u>/s/ Eve Slater</u> Eve Slater	Director	February 26, 2021
<u>/s/ Louis Lange</u> Louis Lange	Director	February 26, 2021
<u>/s/ Edward P. Owens</u> Edward P. Owens	Director	February 26, 2021

STEALTH BIOTHERAPEUTICS INC.
Authorized Representative in the United States

By: /s/ Irene P. McCarthy
Name: Irene P. McCarthy
Title: Chief Executive Officer



26 February 2021

Our Ref: JSH/CB/S7050-168525

Stealth BioTherapeutics Corp
c/o Intertrust Corporate Services (Cayman) Limited, One Nexus Way,
Camana Bay,
Grand Cayman KY1-9005,
Cayman Islands

Dear Sirs

STEALTH BIOTHERAPEUTICS CORP

We have acted as Cayman Islands legal advisors to Stealth BioTherapeutics Corp (the “**Company**”) in connection with the registration for sale, from time to time, of ordinary shares of the Company with a nominal or par value of US\$0.0003 (the “**Ordinary Shares**”).

We have been asked to provide this legal opinion to you with regard to the laws of the Cayman Islands in connection with the registration by Stealth BioTherapeutics Corp (the “**Company**”), of (i) 14,697,061 Ordinary Shares (the “**2019 Incentive Plan Shares**”) for issuance under the Stealth BioTherapeutics Corp 2019 Share Incentive Plan (the “**2019 Share Incentive Plan**”) and (ii) 9,526,380 Ordinary Shares (together with 2019 Incentive Plan Shares, the “**Shares**”) for issuance under the Stealth BioTherapeutics Corp 2020 ADS Incentive Plan (together with the 2019 Share Incentive plan, the “**Plans**”, each a “**Plan**”), under the United States Securities Act of 1933, as amended (the “**Securities Act**”) and pursuant to the terms of the Registration Statements (as defined in Schedule 1), being part of the ordinary shares in the Company authorised for allotment and issue pursuant to the December 2020 Resolutions (as defined in Schedule 1).

For the purposes of giving this opinion, we have examined and relied upon the originals or copies of the documents listed in Schedule 1.

In giving this opinion we have relied upon the assumptions set out below, and upon the certifications and matters covered by the Director’s Certificate (as defined in Schedule 1), which we have not independently verified.

We are Cayman Islands Attorneys at Law and express no opinion as to any laws other than the laws of the Cayman Islands in force and as interpreted at the date of this opinion.

Based upon the foregoing examinations and the assumptions and qualifications set out below and having regard to legal considerations which we consider relevant, and under the laws of the Cayman Islands, we give the following opinion in relation to the matters set out below.

1. The Company is an exempted company duly incorporated with limited liability, validly existing under the laws of the Cayman Islands and in good standing with the Registrar of Companies in the Cayman Islands (the “**Registrar**”).
2. The Shares have been duly authorised for issue by all necessary corporate action of the Company and upon the issue of the Shares (by the entry of the name of the registered owner thereof in the Register of Members of the Company confirming that such Shares have been issued credited as fully paid) in accordance with the Memorandum and Articles of Association (as defined in Schedule 1) and the Plans (as applicable) and in the manner contemplated by the Registration Statements, the Shares will be validly created, legally issued, fully paid and non-assessable (meaning that no additional sums may be levied on the holder thereof by the Company).

The foregoing opinion is given based on the following assumptions.

1. The originals of all documents examined in connection with this opinion are authentic. The signatures, initials and seals on the Documents are genuine and are those of a person or persons given power to execute the Documents under the Resolutions (as defined in Schedule 1). All documents purporting to be sealed have been so sealed. All copies are complete and conform to their originals. The Documents conform in every material respect to the latest drafts of the same produced to us and, where provided in successive drafts, have been marked up to indicate all changes to such Documents.
2. We have relied upon the statements and representations of directors, officers and other representatives of the Company as to factual matters.
3. The Company will receive consideration in money or money’s worth for each Ordinary Share offered by the Company when issued at the agreed issue price, such issue price in any event not being less than the stated par or nominal value of each Ordinary Share.
4. The Resolutions were each duly adopted at duly convened meetings of the Board of Directors and such meetings were held in accordance with the Memorandum and Articles of Association.
5. The Resolutions have each been duly executed by or on behalf of each Director and the signatures and initials thereon are those of a person or persons in whose name the Resolutions have been expressed to be signed.
6. The Resolutions are and shall remain in full force and effect and have not been and will not be rescinded or amended.
7. Each of the Registration Statements and the Plans (including each grant notice issued pursuant thereto) have been or will be duly authorised, executed and delivered by or on behalf of all relevant parties prior to the issue of the Shares and will be legal, valid, binding and enforceable against all relevant parties in accordance with their terms under all relevant laws (other than the laws of the Cayman Islands).

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8. All preconditions to the issue of the Shares under the terms of the Plans (as applicable) will be satisfied or duly waived prior to the issue of the shares and the issue of the Shares will not breach the terms of the relevant Plan (as applicable).
 9. There are no agreements, documents or arrangements (including any underwriting agreement or other agreement as contemplated by the Registration Statements) which would or might affect any of the opinions given herein.
 10. The Director's Certificate is true and accurate in respect of all matters referred to therein.
 11. There is nothing under any law (other than the laws of the Cayman Islands) which would or might affect any opinion given herein.

Our opinion as to good standing is based solely upon receipt of the Certificate of Good Standing issued by the Registrar. The Company shall be deemed to be in good standing under section 200A of the Companies Act (as amended) on the date of issue of the certificate if all fees and penalties under the Companies Act have been paid and the Registrar has no knowledge that the Company is in default under the Companies Act.

This opinion is limited to the matters referred to herein and shall not be construed as extending to any other matter or document not referred to herein. This opinion is given solely for your benefit and the benefit of your legal advisers acting in that capacity in relation to this transaction and may not be relied upon by any other person, other than persons entitled to rely upon it pursuant to the provisions of the Securities Act, without our prior written consent.

This opinion shall be construed in accordance with the laws of the Cayman Islands.

We hereby consent to the filing of this opinion as an exhibit to the February 2021 Registration Statement (as defined in Schedule 1).

Yours faithfully

/s/ WALKERS
WALKERS

SCHEDULE 1

LIST OF DOCUMENTS EXAMINED

1. A director's certificate dated 26 February 2021 as set at Schedule 2 hereto (the "**Director's Certificate**").
2. The Certificate of Incorporation dated 3 April 2006 and the Fifth Amended and Restated Memorandum and Articles of Association adopted on 25 January 2019 and minutes of the annual general meeting of the members of the Company dated 25 March 2020 (the "**Memorandum and Articles of Association**").
3. A Certificate of Good Standing dated 9 February 2021 in respect of the Company issued by the Registrar (the "**Certificate of Good Standing**").
4. Copies of (i) the executed minutes of the meeting of the Board of Directors of the Company held on 11 January 2019 setting out the resolutions at such meeting and (ii) the executed written resolutions (as applicable) of the directors of the Company dated 13 March 2020, 31 March 2020, 30 December 2020 (the "**December 2020 Resolutions**") and 26 February 2021 (together, the "**Resolutions**") and the corporate records of the Company maintained at its registered office in the Cayman Islands.
5. Copies of the following documents (the "**Documents**"):
 - (a) the Registration Statement on Form S-8, File No. 333-230452 filed by the Company with the SEC on 22 March 2019 (the "**March 2019 Registration Statement**");
 - (b) the Registration Statement on Form S-8, File No. 333-237541 filed by the Company with the SEC on 1 April 2020 (the "**April 2020 Registration Statement**");
 - (c) the Registration Statement on Form S-8 filed on 26 February 2021 by the Company with the SEC registering the Shares under the Securities Act (as filed, the "**February 2021 Registration Statement**", together with the March 2019 Registration Statement and the April 2020 Registration Statement, the "**Registration Statements**");
 - (d) the Stealth BioTherapeutics Corp 2019 Share Incentive Plan;
 - (e) the Stealth BioTherapeutics Corp 2020 ADS Incentive Plan; and
 - (f) such other documents as we have deemed necessary to render the opinions set forth herein.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated April 1, 2020, relating to the consolidated financial statements of Stealth BioTherapeutics Corp appearing in the Annual Report on Form 20-F for the year ended December 31, 2019.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

February 26, 2021