

FACET BIOTECH CORP
Form 8-K
December 16, 2009

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):

December 15, 2009

Facet Biotech Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

001-34154
(Commission File No.)

26-3070657
(I.R.S. Employer Identification No.)

1500 Seaport Boulevard
Redwood City, California 94063

(Address of principal executive offices)

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Registrant's telephone number, including area code:

(650) 454-1000

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 (see General Instruction A.2 below):

- 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))
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Item 1.01 Entry into a Material Definitive Agreement

On December 16, 2009, Facet Biotech Corporation (the Company) entered into a Stockholders Agreement (the Baupost Stockholders Agreement) with The Baupost Group, L.L.C. and certain of its affiliates (collectively Baupost). The Baupost Stockholders Agreement was entered into in response to a request from Baupost that the Company amend the Rights Agreement, dated as of September 7, 2009, as amended (the Rights Agreement), between the Company and Mellon Investor Services LLC, as rights agent (the Rights Agent) to enable Baupost to purchase certain additional shares of Company common stock (Common Stock) without causing the rights under the Rights Agreement to become exercisable. Baupost currently holds 3,506,875 shares of Common Stock, which represents approximately 14.0% of the total number of shares of Common Stock outstanding.

The Baupost Stockholders Agreement provides for an amendment of the Rights Agreement to be entered into by the Company and the rights agent to permit Baupost to increase its aggregate ownership of shares of Common Stock to an amount exceeding 15% but less than 20% of the outstanding shares of Common Stock without becoming an acquiring person pursuant to the Rights Agreement, subject to compliance with the terms of the Baupost Stockholders Agreement. In the event the aggregate ownership of Baupost is greater than 15% and less than 20% of the outstanding shares of Common Stock, if Baupost transfers any shares of Common Stock, the ownership limitation under the Rights Agreement applicable to Baupost will be adjusted downwards so as to always equal one share greater than Baupost's then-current ownership, until such time as the limitation reaches 15%.

The Baupost Stockholders Agreement also contains a voting agreement that provides that as long as Baupost owns more than 15% of the outstanding Common Stock during the term of the Baupost Stockholders Agreement, Baupost will vote any shares in excess of 15% either in the same proportion as other stockholders of the Company or in accordance with the recommendation of the Company's board of directors, at Baupost's election.

The description contained in this Item 1.01 of certain terms of the Baupost Stockholders Agreement is qualified in its entirety by reference to the full text of the Baupost Stockholders Agreement, a copy of which is attached hereto as Exhibit 10.1 and incorporated by reference. The Baupost Stockholders Agreement was announced and further described in a press release issued by the Company on December 16, 2009, which is being filed as Exhibit 99.1 to this report.

Item 3.03 Material Modification to Rights of Security Holders.

On December 15, 2009, the Company and the Rights Agent entered into an Amendment (Amendment No. 1) to the Rights Agreement. The Amendment provides that Biotechnology Value Fund, L.P. and certain of its affiliates (collectively BVF) may increase its aggregate ownership of shares of Common Stock to an amount exceeding 15% but less than 20% of the outstanding shares of Common Stock without becoming an acquiring person pursuant to the Rights Agreement, subject to compliance with the Stockholders Agreement entered into on December 15, 2009 between the Company and BVF. In the event the aggregate ownership of BVF is greater than 15% and less than 20% of the outstanding shares of Common Stock, if BVF transfers any shares of Common Stock, the ownership limitation under the Rights Agreement applicable to BVF will be adjusted downwards so as to always equal one share greater than BVF's then-current ownership, until such time as the limitation reaches 15%.

On December 16, 2009, the Company and the Rights Agent entered into Amendment No.2 to the Rights Agreement (Amendment No.2). Amendment No. 2 provides for the same terms to apply with respect to Baupost as apply to BVF pursuant to Amendment No. 1.

The description contained in this Item 3.03 of certain terms of Amendment No. 1 and Amendment No. 2 is qualified in its entirety by reference to the full text of: Amendment No. 1 and Amendment No. 2, copies of which are attached hereto as Exhibit 4.2 and Exhibit 4.3, respectively, and each of which is incorporated by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit No. | Description |
|--------------------|--|
| 4.1 | Amendment to Rights Agreement, dated as of December 15, 2009, between the Company and Mellon Investor Services LLC as Rights Agent (incorporated by reference to Exhibit 4.2 of the Company's Form 8-A/A filed December 16, 2009). |
| 4.2 | Amendment No. 2 to Rights Agreement, dated as of December 16, 2009, between the Company and Mellon Investor Services LLC as Rights Agent (incorporated by reference to Exhibit 4.3 of the Company's Form 8-A/A filed December 16, 2009). |
| 10.1 | Stockholders Agreement, dated as of December 16, 2009, by and between Facet Biotech Corporation and The Baupost Group, L.L.C., SAK Corporation and Seth A. Klarman. |
| 99.1 | Press release of Facet Biotech Corporation, dated December 16, 2009. |

SIGNATURE

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.

Date: December 16, 2009

Facet Biotech Corporation

By:

/s/ Francis Sarena

Francis Sarena

Vice President, General Counsel and Secretary