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

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

ZYMEWORKS INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

88-3099146
(I.R.S. Employer
Identification No.)

108 Patriot Drive, Suite A
Middletown, Delaware 19709
(Address of principal executive offices, including zip code)

Amended and Restated Stock Option and Equity Compensation Plan
Amended and Restated Employee Stock Purchase Plan
(Full title of the plan)

Kenneth Galbraith
Chair and Chief Executive Officer
108 Patriot Drive, Suite A
Middletown, Delaware 19709
(302) 274-8744
(Name, address and telephone number, including area code, of agent for service)

Copies to:

Tony Jeffries
Bryan D. King
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, California 94304
(650) 493-9300

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.

EXPLANATORY NOTE

Zymeworks Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 with the Securities and Exchange Commission (the “Commission”) to register (i) 2,522,380 additional shares of the Registrant’s common stock, par value \$0.00001 per share, under the Registrant’s Amended and Restated Stock Option and Equity Compensation Plan (the “Plan”), pursuant to the provision of the Plan providing for an automatic increase in the number of shares reserved for issuance, and (ii) 419,000 additional shares of common stock under the Registrant’s Amended and Restated Employee Stock Purchase Plan (the “ESPP”), pursuant to the provision of the ESPP providing for an automatic increase in the number of shares reserved for issuance.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this registration statement in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act") and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the equity benefit plans covered by this registration statement as specified by Rule 428(b)(1) under the Securities Act. These documents and the documents incorporated by reference in this registration statement pursuant to Item 3 of Part II of Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this registration statement the following documents previously filed with the Commission:

- (a) the Registrant's Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2022, filed with the Commission on March 7, 2023;
- (b) all other reports filed with the Commission pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), since the end of the fiscal year covered by the Registrant's Annual Report on Form 10-K referred to in (a) above; and
- (c) the description of the Registrant's common stock and the preferred stock purchase rights associated with the common stock contained in the Registrant's Registration Statement on [Form 8-A](#), filed with the Commission on December 15, 2022 pursuant to Section 12(b) of the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this registration statement and prior to the filing of a post-effective amendment to this registration statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this registration statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this registration statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained herein or in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a corporation's board of directors to grant, and authorizes a court to award, indemnity to officers, directors and other corporate agents.

The Registrant's certificate of incorporation contains provisions that limit the liability of the Registrant's directors and certain of the Registrant's officers for monetary damages to the fullest extent permitted by the Delaware General Corporation Law. Consequently, the Registrant's directors will not be personally liable to the Registrant's or the Registrant's stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for the following:

- any breach of their duty of loyalty to the Registrant or the Registrant's stockholders;

- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which they derived an improper personal benefit.

Similarly, the Registrant's officers who at the time of an act or omission as to which liability is asserted consented to or are deemed to have consented to certain service of process rules under Delaware law will not be personally liable to the Registrant or the Registrant's stockholders for monetary damages for any breach of fiduciary duties as officers, except for liability in connection with:

- any breach of their duty of loyalty to the Registrant or the Registrant's stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any transaction from which they derived an improper personal benefit; or
- any action by or in the right of the corporation.

Any amendment, repeal or elimination of these provisions will not eliminate or reduce the effect of these provisions in respect of any act, omission or claim that occurred or arose prior to that amendment, repeal or elimination. If the Delaware General Corporation Law is amended to provide for further limitations on the personal liability of directors or officers of corporations, then the personal liability of the Registrant's directors and officers will be further limited to the greatest extent permitted by the Delaware General Corporation Law.

In addition, the Registrant's bylaws provide that the Registrant will indemnify its directors and officers, and may indemnify its employees, agents and any other persons, to the fullest extent permitted by the Delaware General Corporation Law. The Registrant's bylaws also provide that the Registrant must advance expenses incurred by or on behalf of a director or officer in advance of the final disposition of any action or proceeding, subject to limited exceptions.

Further, the Registrant has entered into indemnification agreements with each of its directors and executive officers that may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements require the Registrant to, among other things, indemnify the Registrant's directors and executive officers against liabilities that may arise by reason of their status or service. These indemnification agreements also generally require the Registrant to advance all expenses reasonably and actually incurred by the Registrant's directors and executive officers in investigating or defending any such action, suit or proceeding. The Registrant believe that these agreements are necessary to attract and retain qualified individuals to serve as directors and executive officers.

The limitation of liability and indemnification provisions in the Registrant's certificate of incorporation, bylaws and indemnification agreements may discourage stockholders from bringing a lawsuit against the Registrant's directors and officers for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against the Registrant's directors and officers, even though an action, if successful, might benefit the Registrant and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that the Registrant pays the costs of settlement and damage awards against the Registrant's directors and officers as required by these indemnification provisions.

The Registrant has obtained insurance policies under which, subject to the limitations of the policies, coverage is provided to the Registrant's directors and officers against loss arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or officer, including claims relating to public securities matters, and to the Registrant with respect to payments that may be made by the Registrant to its directors and officers pursuant to the Registrant's indemnification obligations or otherwise as a matter of law.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit No.	Description	Incorporated by Reference				Filed Herewith
		Form	File Number	Exhibit Number	Filing Date	
4.1	Specimen common stock certificate of Zymeworks Inc.	S-4/A	333-266160	4.1	August 19, 2022	
4.2	Amended and Restated Stock Option and Equity Compensation Plan of the Company (and forms of agreements thereunder).	8-K12B	001-38068	10.3	October 13, 2022	
4.3	Amended and Restated Employee Stock Purchase Plan	8-K12B	001-38068	10.5	October 13, 2022	
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, P.C.					X
23.1	Consent of Wilson Sonsini Goodrich & Rosati, P.C. (included in Exhibit 5.1 hereto)					X
23.2	Consent of KPMG LLP					X
24.1	Power of Attorney (included on signature page hereto)					X
107	Filing Fee Table					X

Item 9. Undertakings.

A. The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
 - (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- B. The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- C. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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 Middletown, State of Delaware on March 7, 2023.

ZYMEWORKS INC.

By: /s/ Kenneth Galbraith

Name: Kenneth Galbraith

Title: Chair of the Board of Directors and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Kenneth Galbraith, Christopher Astle and Neil Klompas, and each of them, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this registration statement, including post-effective amendments, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith and about the premises, as fully for all intents and purposes as they, he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or any of them, or their, his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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/ Kenneth Galbraith</u> Kenneth Galbraith	Chair of the Board of Directors and Chief Executive Officer (Principal Executive Officer)	March 7, 2023
<u>/s/ Christopher Astle</u> Christopher Astle	Senior Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 7, 2023
<u>/s/ Troy M. Cox</u> Troy M. Cox	Director	March 7, 2023
<u>/s/ Kenneth Hillan</u> Kenneth Hillan	Director	March 7, 2023
<u>/s/ Susan Mahony</u> Susan Mahony	Director	March 7, 2023
<u>/s/ Kelvin Neu</u> Kelvin Neu	Director	March 7, 2023
<u>/s/ Hollings C. Renton</u> Hollings C. Renton	Director	March 7, 2023
<u>/s/ Natalie Sacks</u> Natalie Sacks	Director	March 7, 2023
<u>/s/ Lota Zoth</u> Lota Zoth	Director	March 7, 2023



Wilson Sonsini Goodrich & Rosati
Professional Corporation

650 Page Mill Road
Palo Alto, CA 94304

O: (650) 493-9300
F: (650) 493-6811

March 7, 2023

Zymeworks Inc.
108 Patriot Drive, Suite A
Middletown, Delaware 19709

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

At your request, we have examined the Registration Statement on Form S-8 (the "Registration Statement") to be filed by Zymeworks Inc., a Delaware corporation (the "Company"), with the Securities and Exchange Commission (the "Commission"), on or about the date hereof, relating to the registration under the Securities Act of 1933, as amended (the "Act"), of shares of your common stock, par value \$0.00001 per share (the "Shares"), consisting of: (i) 2,522,380 shares of common stock to be issued under the Amended and Restated Stock Option and Equity Compensation Plan (the "Equity Compensation Plan"); and (ii) 419,000 shares of common stock to be issued under the Amended and Restated Employee Stock Purchase Plan (together with the Equity Compensation Plan, the "Plans"), and preferred stock purchase rights (the "Rights") associated with the Shares pursuant to that certain Preferred Stock Rights Agreement, dated as of October 12, 2022 (the "Rights Agreement"), by and between the Company and Computershare Trust Company, N.A., as rights agent (the "Rights Agent"). As your legal counsel, we have reviewed the actions proposed to be taken by you in connection with the issuance and sale of the Shares to be issued under the Plans.

In rendering this opinion, we have assumed that the Rights Agreement has been duly authorized, executed and delivered by the Rights Agent and that the members of the Board of Directors of the Company or a duly authorized and acting committee thereof (such Board of Directors or Committee being hereinafter referred to as the "Board") have acted in a manner consistent with their fiduciary duties as required under applicable law in adopting the Rights Agreement. This opinion does not address the determination a court of competent jurisdiction may make regarding whether the Board may be required to redeem or terminate, or take other action with respect to, the Rights in the future based on the facts and circumstances existing at that time. It should be understood that our opinion addresses the Rights and Rights Agreement in their entirety and not any particular provision of the Rights or the Rights Agreement and that it is not settled whether the invalidity of any particular provision of a rights agreement or purchase rights issued thereunder would result in invalidating in their entirety such rights.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares and the Rights, when issued and sold in the manner described in the Plans and pursuant to the agreements that accompany the Plans and the Rights Agreement, will be validly issued, and the Shares fully paid and nonassessable.

* * *

AUSTIN BEIJING BOSTON BOULDER BRUSSEL HONG KONG LONDON LOS ANGELES NEW YORK PALO ALTO
SALT LAKE CITY SAN DIEGO SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, DC WILMINGTON, DE

Zymeworks Inc.

March 7, 2023

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We hereby consent to the filing of this opinion as an exhibit to the above-referenced Registration Statement and to the use of our name wherever it appears in the Registration Statement and in any amendments thereto. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

/s/ Wilson Sonsini Goodrich & Rosati, P.C.

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 7, 2023, on the consolidated financial statements of Zymeworks Inc., which comprise the consolidated balance sheets as of December 31, 2022 and December 31, 2021, the consolidated statements of income (loss) and comprehensive income (loss), changes in shareholders' equity and cash flows for each of the years in the three-year period ended December 31, 2022, and the related notes, which is incorporated by reference.

/s/ KPMG LLP

Chartered Professional Accountants

Vancouver, Canada

March 7, 2023

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Zymeworks Inc.

(Exact name of registrant as specified in its charter)

Table 1 – Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common stock, par value \$0.00001 per share, reserved for issuance under the Amended and Restated Stock Option and Equity Compensation Plan	Other	2,522,380 ⁽²⁾	\$7.75 ⁽⁴⁾	\$19,548,445	\$110.20 per \$1,000,000	\$2,154.24
Equity	Common stock, par value \$0.00001 per share, reserved for issuance under the Amended and Restated Employee Stock Purchase Plan	Other	419,000 ⁽³⁾	\$6.5875 ⁽⁵⁾	\$2,760,162.50	\$110.20 per \$1,000,000	\$304.17
Other	Preferred Stock Purchase Rights ⁽⁶⁾	Other	—	—	—	—	—
Total Offering Amounts							\$2,458.41
Total Fee Offsets							—
Net Fee Due							\$2,458.41

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the “Securities Act”), this registration statement on Form S-8 shall also cover any additional shares of the registrant’s common stock, par value \$0.00001 per share, that become issuable with respect to the securities identified in the above table under the registrant’s Amended and Restated Stock Option and Equity Compensation Plan (the “Plan”) and the Restated Employee Stock Purchase Plan (the “ESPP”) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the registrant’s receipt of consideration which results in an increase in the number of outstanding shares of common stock.
- (2) Represents shares of common stock automatically reserved on January 1, 2023 for issuance upon the exercise or settlement of awards that may be granted under the Plan, which increase is provided for in the Plan.
- (3) Represents shares of common stock automatically reserved on January 1, 2023 for issuance under the ESPP, which increase is provided for in the ESPP.
- (4) Estimated in accordance with Rules 457(c) and 457(h) of the Securities Act solely for the purpose of calculating the registration fee on the basis of \$7.75 per share, which is the average of the high and low prices of the registrant’s common stock on March 2, 2023 as reported on the Nasdaq Global Select Market.
- (5) Estimated in accordance with Rules 457(c) and 457(h) of the Securities Act solely for the purpose of calculating the registration fee on the basis of \$7.75 per share, which is the average of the high and low prices of the registrant’s common stock on March 2, 2023 as reported on the Nasdaq Global Select Market, multiplied by 85%, which is the percentage of the price per share applicable to purchases under the ESPP.
- (6) Each share of common stock registered for issuance under this registration statement includes an associated right to purchase one one-thousandth of a share of the registrant’s Series B Participating Preferred Stock, par value \$0.00001 per share. Until the occurrence of certain prescribed events, the preferred stock purchase rights are not exercisable and may be transferred only with the common stock. No separate consideration is payable for the preferred stock purchase rights.