

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

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



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

Delaware
(State or other jurisdiction of incorporation or organization)

04-3257395
(I.R.S. Employer Identification Number)

1851 Harbor Bay Parkway
Alameda, CA 94502
(Address of Principal Executive Offices, including Zip Code)

EXELIXIS, INC. 2000 EMPLOYEE STOCK PURCHASE PLAN
(Full Title of the Plan)

Michael M. Morrissey
President and Chief Executive Officer
Exelixis, Inc.
1851 Harbor Bay Parkway
Alameda, CA 94502
(650) 837-7000
(Name, Address, and Telephone Number, including Area Code, of Agent for Service)
Copies to:

Jeffrey J. Hessekiel
Executive Vice President, General Counsel and Secretary
Exelixis, Inc.
1851 Harbor Bay Parkway
Alameda, CA 94502

Raquel Fox
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Ave NW
Washington, DC 20005

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	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

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

This Registration Statement on Form S-8 is being filed by Exelixis, Inc. (the "Company") for the purpose of registering an additional 6,000,000 shares of common stock, par value of \$0.001 per share (the "Common Stock") to be issued pursuant to the Exelixis, Inc. 2000 Employee Stock Purchase Plan (as amended and restated, the "ESPP"). This Registration Statement relates solely to the registration of additional securities of the same class as other securities for which registration statements on Form S-8 relating to the ESPP set forth herein are effective.

Pursuant to General Instruction E to Form S-8, the contents of the prior Registration Statements on Form S-8 relating to the ESPP (File Nos. 333-35862, 333-57026, 333-82722, 333-102770, 333-113472, 333-124536, 333-133237, 333-147063, 333-159280 and 333-212866 previously filed with the Securities and Exchange Commission (the "Commission") on April 28, 2000, March 14, 2001, February 14, 2002, January 28, 2003, March 10, 2004, May 2, 2005, April 12, 2006, October 31, 2007, May 15, 2009 and August 3, 2016, respectively, and Post-Effective Amendment No. 1 to certain of such Registration Statements on Form S-8 filed with the Commission on September 2, 2011 (collectively, the "Prior Registration Statements")) are incorporated herein by reference in this Registration Statement, except as further supplemented by the information set forth below.

PART I INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS*

*Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). The documents containing the information specified in Part I have been or will be delivered to the participants in the ESPP as required by Rule 428(b) and are not being filed with the Commission as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents filed by the Company with the Commission are incorporated by reference into this Registration Statement:¹

- The Company's Annual Report on [Form 10-K](#) for the fiscal year ended December 29, 2023 (the "Form 10-K"), filed on February 6, 2024;
- The Company's Quarterly Report on [Form 10-Q](#) for the fiscal quarter ended March 29, 2024, filed on April 30, 2024;
- The Company's Quarterly Report on [Form 10-Q](#) for the fiscal quarter ended June 28, 2024, filed on August 6, 2024;
- The Company's Current Reports on Form 8-K filed on [January 8, 2024](#) (but not including any Item 2.02 and Exhibit 99.1 of such filing, which were furnished under applicable Commission rules rather than filed), [March 29, 2024](#), [May 10, 2024](#), [May 20, 2024](#), [June 3, 2024](#) and [August 6, 2024](#) (but not including any Item 2.02 and Exhibit 99.1 of such filing, which were furnished under applicable Commission rules rather than filed); and
- The description of the Company's common stock that is contained in the Company's Registration Statement on [Form 8-A](#) (File No. 000-30235), filed with the Commission on April 6, 2000, pursuant to Section 12 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including any amendment or report filed for the purpose of updating such description, including [Exhibit 4.2](#) to the Form 10-K.

All reports and other documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment 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 herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Notwithstanding the foregoing, unless specifically stated to the contrary, none of the information that the Company discloses under Items 2.02 or 7.01 of any Current Report on Form 8-K that it may from time to time furnish to the Commission will be incorporated by reference into, or otherwise included in, 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 other subsequently filed document that also is or 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 8. EXHIBITS

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/Appendix Reference	Filing Date	
4.1	Restated Certificate of Incorporation of Exelixis, Inc.	10-Q	000-30235	3.1	8/5/2021	
4.2	Certificate of Change of Registered Agent and/or Registered Office of Exelixis, Inc.	10-Q	000-30235	3.2	4/30/2024	
4.3	Amended and Restated Bylaws of Exelixis, Inc.	8-K	000-30235	3.1	12/20/2023	
5.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP					X
23.1	Consent of independent registered public accounting firm					X
23.2	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.1)					X
24.1	Power of Attorney (contained on signature page hereto)					X
99.1	Exelixis, Inc. 2000 Employee Stock Purchase Plan, as Amended and Restated	10-Q	000-30235	10.1	8/6/2024	
107	Filing Fee Table					X

Signature	Title	Date
<hr/> /s/ Tomas J. Heyman <hr/> Tomas J. Heyman	Director	August 6, 2024
<hr/> /s/ David E. Johnson <hr/> David E. Johnson	Director	August 6, 2024
<hr/> /s/ Robert L. Oliver, Jr. <hr/> Robert L. Oliver, Jr.	Director	August 6, 2024
<hr/> /s/ George Poste <hr/> George Poste, DVM, Ph.D., FRS	Director	August 6, 2024
<hr/> /s/ Julie Anne Smith <hr/> Julie Anne Smith	Director	August 6, 2024
<hr/> /s/ Jack L. Wyszomierski <hr/> Jack L. Wyszomierski	Director	August 6, 2024

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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August 6, 2024

Exelixis, Inc.
1851 Harbor Bay Parkway
Alameda, California 94502

Re: Exelixis, Inc.
Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as special United States counsel to Exelixis, Inc., a Delaware corporation (the "Company"), in connection with the registration statement on Form S-8 (together with the exhibits thereto, the "Registration Statement") to be filed on the date hereof by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933 (the "Securities Act"), relating to the registration of 6,000,000 shares (the "Shares") of the Company's common stock, par value \$0.001 per share, available for future issuance under the Exelixis, Inc. 2000 Employee Stock Purchase Plan (as amended and restated, the "Plan").

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K of the General Rules and Regulations of the Commission promulgated under the Securities Act (the "Rules and Regulations").

In rendering the opinion stated herein, we have examined the following:

(a) the Registration Statement in the form to be filed with the Commission on the date hereof;

(b) the Plan;

(c) an executed copy of a certificate of Jeffrey J. Hessekiel, Executive Vice President, General Counsel and Secretary of the Company, dated the date hereof (the "Officer's Certificate");

(d) a copy of the Company's Restated Certificate of Incorporation, as in effect as of the date hereof (the "Certificate of Incorporation"), certified by the Secretary of State of the State of Delaware, and certified pursuant to the Officer's Certificate;

(e) a copy of the Company's Amended and Restated Bylaws, as amended and in effect as of the date hereof (the "Bylaws"), and certified pursuant to the Officer's Certificate; and

(f) copies of certain resolutions of the Company's Board of Directors (or a committee thereof), relating to the approval of the Plan, the filing of the Registration Statement and certain related matters, and certified pursuant to the Officer's Certificate.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion stated below, including the facts and conclusions set forth in the Officer's Certificate.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Company, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts relevant to the opinion stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including the facts and conclusions set forth in the Officer's Certificate.

In rendering the opinion set forth below, we have also assumed that (i) the Shares will be issued in book-entry form and an appropriate account statement evidencing the Shares credited to a recipient's account maintained with the Company's transfer agent and registrar will be issued by the Company's transfer agent and registrar, (ii) each award agreement under which options, stock appreciation rights, restricted stock, restricted stock units, stock bonuses, other stock-based awards and certain other awards are granted pursuant to the Plan will be consistent with the Plan and will be duly authorized, executed and delivered by the parties thereto, and (iii) the issuance of the Shares does not violate or conflict with any agreement or instrument binding on the Company (except that we do not and will not make this assumption with respect to the Certificate of Incorporation and the Bylaws).

We do not express any opinion with respect to the laws of any jurisdiction other than the General Corporation Law of the State of Delaware (the "DGCL").

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that the Shares have been duly authorized by all requisite corporate action on the part of the Company under the DGCL and, when the Shares are issued to the Plan participants in accordance with the terms and conditions of the Plan and the applicable award agreement for consideration in an amount at least equal to the par value of such Shares, the Shares will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

RF

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the 2000 Employee Stock Purchase Plan of Exelixis, Inc. of our reports dated February 6, 2024, with respect to the consolidated financial statements of Exelixis, Inc. and the effectiveness of internal control over financial reporting of Exelixis, Inc. included in its Annual Report (Form 10-K) for the year ended December 29, 2023, filed with the Securities and Exchange Commission.

San Mateo, California
August 6, 2024

CALCULATION OF REGISTRATION FEE

Security Type	Title of Securities to be Registered	Fee Calculation Rule	Amount Being Registered ⁽¹⁾	Proposed Maximum Offering Price per Unit	Proposed Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.001 par value per share	Rule 457(c) and (h)	6,000,000	\$23.193 ⁽²⁾	\$139,158,000 ⁽²⁾	0.00014760	\$20,540
Total Offering Amounts					\$139,158,000		\$20,540
Total Fees Previously Paid							\$0
Total Fee Offsets							\$0
Net Fee Due							\$20,540

- (1) This Registration Statement covers the offer and sale of 6,000,000 shares of Common Stock of Exelixis, Inc. (the "Registrant" or the "Company") under the Exelixis, Inc. 2000 Employee Stock Purchase Plan (the "2000 Plan"). Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the 2000 Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of the Registrant's Common Stock.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) under the Securities Act. The offering price per share and aggregate offering price are based upon the average of the high and low prices of the Registrant's Common Stock on July 30, 2024, as reported on the Nasdaq Global Select Market.