
U.S. 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): **November 7, 2019**

AKERS BIOSCIENCES, INC.

(Exact name of Company as specified in its charter)

New Jersey

(State or other jurisdiction
of incorporation)

001-36268

(Commission
File Number)

22-2983783

(IRS Employer
Identification No.)

201 Grove Road

Thorofare, NJ 08086

(Address of principal executive offices)

(856) 848-2116

(Registrant's Telephone Number)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Company under any of the following provisions:

- 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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Common Stock, no par value

Trading Symbol(s)

AKER

Name of each exchange on which registered

The NASDAQ Capital Market

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On May 10, 2019, Akers Biosciences, Inc. (the “Company”) received notification from the Nasdaq Listing Qualifications department (the “Staff”) of The Nasdaq Stock Market LLC (“Nasdaq”) indicating that the Company’s common stock (the “Common Stock”) was subject to potential delisting from Nasdaq because, for a period of thirty (30) consecutive business days, the bid price of the Common Stock had closed below the minimum \$1.00 per share requirement for continued inclusion under Nasdaq Marketplace Rule 5550(a)(2) (the “Bid Price Rule”). The notification had no immediate effect on the listing or trading of the Common Stock on the Nasdaq Capital Market.

On November 7, 2019, the Company received a written notification (the “Letter”) from Nasdaq notifying the Company that it is not eligible for a second 180 day period to regain compliance due to the fact the Company fails to comply with Nasdaq’s Marketplace Rule 5550(b)(1) because the Company’s stockholders’ equity as of June 30, 2019 fell below the required minimum of \$5,000,000.

Nasdaq indicated in its letter that the Company may appeal the Staff’s determination to a Nasdaq hearing panel pursuant to the procedures set forth in the Nasdaq Listing Rule 5800 Series before 4:00 p.m. Eastern Time on or prior to November 14, 2019. The Company will file such appeal and request the Staff grant a hearing (the “Hearing”) and stay any delisting or suspension action by the Staff pending the issuance of the hearing panel’s decision.

At the Hearing, the Company will present its plan to regain compliance. The Company believes that it will be able to regain compliance with Nasdaq Listing Rule 5550(a)(2) and Nasdaq’s Marketplace Rule 5550(b)(1) which should allow the Company’s common stock to continue to trade on the Nasdaq Capital Market.

Forward-Looking Statements

This Report on Form 8-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements are characterized by future or conditional verbs such as “may,” “will,” “expect,” “intend,” “anticipate,” “believe,” “estimate,” “continue” and similar words. Such statements are only predictions and actual events or results may differ materially from those anticipated in these forward-looking statements. You should not place undue reliance on any forward-looking statements. The Company does not assume any obligation to update forward-looking statements as circumstances change, except as required by securities laws. There can be no assurance that the Company will be granted the hearing and following the hearing, the panel will determine to continue to allow the listing of the Company’s common stock on the Nasdaq or that the Company will be able to evidence compliance with the applicable listing criteria within the period of time, if any, that may be granted by the panel.

A copy of the Letter is attached as Exhibit 99.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
99.1	<u>Letter from Nasdaq Listings Qualification department dated November 7, 2019</u>

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.

AKERS BIOSCIENCES, INC.

Date: November 8, 2019

By: /s/ Christopher C. Schreiber

Christopher C. Schreiber

Executive Chairman of the Board of Directors and Director

By Electronic Delivery to: grauch@akersbiosciences.com

November 7, 2019

Mr. Gary Rauch
Vice President, Finance
And Treasurer
201 Grove Road
Thorofare, NJ 08086

Re: Akers Biosciences, Inc. (the “Company”) – Staff Determination
Nasdaq Symbol: AKER

Dear Mr. Rauch:

As you are aware, on May 10, 2019, Staff notified the Company that the bid price of its listed security had closed at less than \$1 per share over the previous 30 consecutive business days, and, as a result, did not comply with Listing Rule 5550(a)(2) (the “Rule”). In accordance with Listing Rule 5810(c)(3)(A), the Company was provided 180 calendar days, or until November 6, 2019, to regain compliance with the Rule.

The Company has not regained compliance with the Rule and is not eligible for a second 180 day period. Specifically, the Company does not comply with the stockholders’ equity requirement for initial listing on the Nasdaq Capital Market.¹ In that regard, the Company’s stockholders’ equity was \$4,314,134, as of June 30, 2019.²

Accordingly, unless the Company requests an appeal of this determination as described in further detail below, we have determined that the Company’s securities will be scheduled for delisting from The Nasdaq Capital Market and will be suspended at the opening of business on November 18, 2019, and a Form 25-NSE will be filed with the Securities and Exchange Commission (the “SEC”), which will remove the Company’s securities from listing and registration on The Nasdaq Stock Market.

The Company may appeal Staff’s determination to a Hearings Panel (the “Panel”), pursuant to the procedures set forth in the Nasdaq Listing Rule 5800 Series. Please use the link, “Hearing Requests & Process” on the attached chart for detailed information regarding the hearings process. If you would like additional information regarding the hearings process, please call the Hearings Department at +1 301 978 8203.

¹ Under the Equity Standard, set forth under Listing Rule 5505(b) of the Nasdaq Capital Market Initial Listing Requirements, a Company must have a minimum stockholders’ equity of \$5,000,000.

² Form 10-Q for the period ended June 30, 2019.

A hearing request will stay the suspension of the Company's securities and the filing of the Form 25-NSE pending the Panel's decision. Hearing requests should not contain arguments in support of the Company's position. The Company may request either an oral hearing or a hearing based solely on written submissions. The fee for a hearing is \$10,000. Please submit your non-refundable Hearing Request fee in accordance with the instructions provided on the attached "Check Payment Form".³ The request for a hearing and confirmation of payment should be submitted electronically through our [Listing Center](#)⁴ and must be received by the Hearings Department no later than 4:00 p.m. Eastern Time on November 14, 2019.

The Company will be asked to provide a plan to regain compliance to the Panel. Accordingly, the Company may wish to consider presenting a plan that includes a discussion of the events that it believes will enable it to regain compliance in this time frame and a commitment to effect a reverse stock split, if necessary.⁵

Listing Rule 5835 prohibits communications relevant to the merits of a proceeding under the Listing Rule 5800 Series between the Company and the Hearings Department unless Staff is provided notice and an opportunity to participate. In that regard, Staff waived its right to participate in any oral communications between the Company and the Hearings Department. Should Staff determine to revoke such waiver, the Company will be immediately notified, and the requirements of Listing Rule 5835 will be strictly enforced.

Our Rules require that the Company promptly disclose receipt of this letter by either filing a Form 8-K, where required by SEC rules, or by issuing a press release. The announcement needs to be made no later than four business days from the date of this letter and must include the continued listing criteria that the Company does not meet, and a description of each specific basis and concern identified by Nasdaq in reaching the determination.⁶ The Company must also submit the announcement to Nasdaq's MarketWatch Department.⁷ If the public announcement is made between the hours of 7:00 AM and 8:00 PM Eastern Time, the Company must submit the announcement to Nasdaq's MarketWatch Department at least ten minutes prior its public release. If the public announcement is made outside of these hours, the Company must submit the announcement prior to 6:50 A.M. Eastern Time. Please note that if you do not make the required announcement trading in your securities will be halted.⁸

If the Company does not appeal Staff's determination to the Panel, the Company's securities may be eligible to continue to be quoted on the OTC Bulletin Board or in the "Pink Sheets." If you

³ The Form also includes a "link" for payment by wire.

⁴ To utilize our electronic form process, please create a user account, if you have not already done so. Once you create a user account, you can begin completing the Hearing Request Form. At any time, you may save your work and complete it at a later time. Upon submission, you will receive a confirmation email. Please note that prior to starting you will need the following company information: current trading symbol, Central Index Key (CIK) code or CUSIP.

⁵ Panels do not typically consider a plan that relies on the market reaction to news as a definitive plan.

⁶ Listing Rule 5810(b). See FAQ #428 available on the [Nasdaq Listing Center](#).

⁷ The notice must be submitted to Nasdaq's MarketWatch Department through the Electronic Disclosure submission system available at nasdaq.net/ED/IssuerEntry.

⁸ Listing IM-5810-1.

Mr. Gary Rauch
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have any questions about such quotation please contact FINRA's Compliance Unit at +1 240 386 5100.

If you have any questions, please contact Kathryn Warcholak, Listing Analyst, at +1 301 978 8368.

Sincerely,



W. Wayne Bush, CFA
Director
Nasdaq Listing Qualifications



The Nasdaq Capital Market Initial Listing Requirements

This table identifies the minimum standards for initial listing on The Nasdaq Capital Market. Each incidence of non-compliance by the Company is denoted with an "X".

COMPANY SYMBOL: AKER

Requirements	Equity Standard		Market Value Standard		Net Income Standard	
Stockholders' equity	\$5 million	X	\$4 million		\$4 million	
Market value of listed securities	N/A		\$50 million	X	N/A	
Net income from continuing operations (in the latest fiscal year or in two of the last three fiscal years)	N/A		N/A		\$750,000	X
Publicly held shares	1 million		1 million		1 million	
Market value of publicly held shares	\$15 million	X	\$15 million	X	\$5 million	X
Bid price	\$4	X	\$4	X	\$4	X
Public holders	300		300		300	
Market makers	3		3		3	
Corporate governance	Yes		Yes		Yes	

NASDAQ ONLINE RESOURCES

All of our listing information and forms are available electronically on the [Listing Center](#). In addition to facilitating electronic submission of forms, you can also use the Listing Center to access Nasdaq's Reference Library containing hundreds of frequently asked questions and Governance Clearinghouse containing the latest updates on corporate governance and listing standards.

To help you navigate the deficiency process, we have provided links to some our most viewed resource materials.

- [Board Composition and Committee Requirements](#)
 - [Governance Clearinghouse](#)
 - [Hearings Process](#)
 - [How to Transfer to Nasdaq Capital Market](#)
 - [Information about Application of Shareholder Approval Rules](#)
 - [Initial Listing Process](#)
 - [Listing Fees](#)
 - [Listing of Additional Shares Process](#)
 - [MarketWatch Electronic Disclosure Submissions](#)
 - [Nasdaq Listing Rules: Initial and Continued Listing](#)
 - [Reference Library: Frequently Asked Questions, Staff Interpretations and Listing Council Decisions](#)
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Check Payment Form

If paying by check, please complete this form and include it along with your payment. If paying by wire, please click [here](#) for instructions.

All checks should be made payable to The Nasdaq Stock Market LLC at the following address:

For payments sent by regular mail:

The Nasdaq Stock Market LLC—LBX 780700
PO Box 780700
Philadelphia, PA 19178-0700

For payments sent by overnight mail:

The Nasdaq Stock Market LLC—LBX 780700
Wells Fargo Bank
MAC Y1372-045
401 Market Street
Philadelphia, PA 19106

COMPANY NAME _____ SYMBOL _____

ADDRESS _____

ADDRESS _____

REMITTER NAME (if different than Company Name) _____

AMOUNT _____ CHECK NO _____

PLEASE INDICATE REASON FOR PAYMENT BY CHECKING ONE OF THE FOLLOWING BOXES:

- New Company Application and Entry:** The application fee is \$25,000 for the Global or Global Select Market, \$5,000 for the Capital Market, and \$1,000 for companies applying to list Closed End Funds, Exchange Traded Funds, Index Fund Shares or other structured products. The remainder of the entry fee is due prior to the first day of trading. Nasdaq will credit all application fees paid by the Company in connection with an application that has not been closed towards the Entry Fee payable upon listing.
 - Application Renewal Fee:** If a Company does not list within 12 months of submitting its application, it will be assessed an additional non-refundable \$5,000 application fee each 12 months thereafter to keep its application open.
 - Hearing or Appeal Request:** The fee in connection with a hearing or an appeal of a Hearing Panel decision to the Nasdaq Listing and Hearing Review Council is \$10,000.
 - Transfer Application:** The fee for companies transferring from the Global or Global Select Market to the Capital Market is \$5,000.
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