
**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 4, 2020

SORRENTO THERAPEUTICS, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-36150
(Commission
File Number)

33-0344842
(IRS Employer
Identification No.)

**4955 Directors Place
San Diego, CA 92121**
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (858) 203-4100

N/A
(Former Name, or Former Address, if Changed Since Last Report)

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:

- 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))

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$0.0001 par value	SRNE	The Nasdaq Stock Market LLC

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.

Item 1.01. Entry into a Material Definitive Agreement.

On December 4, 2020, Sorrento Therapeutics, Inc. (the “Company”) entered into Amendment No. 1 (the “Amendment”) to that certain Sales Agreement, dated April 27, 2020 (the “Sales Agreement”), by and between the Company and A.G.P./Alliance Global Partners (the “Agent”).

The Sales Agreement provides that the Company could offer and sell, from time to time, through or to the Agent, as sales agent and/or principal, up to \$250,000,000 in shares of its common stock (the “Shares”), with the Shares to be issued pursuant to the Company’s Registration Statement on Form S-3 (File No. 333-237142) filed with the Securities and Exchange Commission (the “SEC”) on March 13, 2020 and declared effective on March 20, 2020 (the “Form S-3”), the base prospectus dated March 20, 2020 included in the Form S-3 and the prospectus supplement, dated April 27, 2020. As of December 4, 2020, the Company has sold an aggregate of 29,543,092 Shares for gross proceeds of approximately \$222.8 million, leaving an aggregate of approximately \$27.2 million in Shares available for issuance under the Sales Agreement.

The Amendment amends the Sales Agreement to provide that the Company may offer and sell, from time to time, through or to the Agent, as sales agent and/or principal, up to an additional \$450,000,000 in shares of the Company’s common stock (the “Additional Shares”), such that the Company may offer and sell up to an aggregate of \$700,000,000 in shares of its common stock (the “Offering”) pursuant to the Sales Agreement, as amended by the Amendment (the “Amended Sales Agreement”). Any Additional Shares offered and sold in the Offering will be issued pursuant to the Form S-3, the base prospectus dated March 20, 2020 included in the Form S-3 and the prospectus supplement, dated December 4, 2020, that will be filed with the SEC.

Subject to the terms and conditions of the Amended Sales Agreement, the Agent will use its commercially reasonable efforts to sell the shares of the Company’s common stock from time to time, based upon the Company’s instructions. Under the Amended Sales Agreement, the Agent may sell the shares of the Company’s common stock by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415 promulgated under the Securities Act of 1933, as amended.

The Company has no obligation to sell any shares of its common stock pursuant to the Amended Sales Agreement, and may at any time suspend offers under the Amended Sales Agreement. The Offering will terminate upon (i) the election of the Agent upon the occurrence of certain adverse events, (ii) three business days’ advance notice from one party to the other, or (iii) the sale of all \$700,000,000 of shares of the Company’s common stock pursuant thereto.

Under the terms of the Amended Sales Agreement, the Agent will be entitled to a commission at a fixed rate of 3.0% of the gross proceeds from each sale of shares of the Company’s common stock under the Amended Sales Agreement.

The Company currently intends to use any additional net proceeds from the Offering for working capital and general corporate purposes, which may include capital expenditures, research and development expenditures, regulatory affairs expenditures, clinical trial expenditures, acquisitions of new technologies and investments, business combinations and the repayment, refinancing, redemption or repurchase of indebtedness or capital stock. The Company may use a portion of the net proceeds to repurchase or redeem those certain senior secured notes due 2026 in an initial aggregate principal amount of \$224,000,000 issued by Scilex Pharmaceuticals Inc., an indirect majority-owned subsidiary of the Company, in September 2018.

The foregoing description of the Sales Agreement and the Amendment does not purport to be complete and is qualified in its entirety by reference to: (i) the full text of the Sales Agreement, a copy of which was filed as Exhibit 1.1 to the Company’s Current Report on Form 8-K filed on April 27, 2020, and (ii) the full text of the Amendment, which is filed as Exhibit 1.1 hereto, each of which is incorporated herein by reference.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any offer, solicitation or sale of any securities in any state or country in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or country.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

1.1 [Amendment No. 1 to Sales Agreement, dated as of December 4, 2020, by and between Sorrento Therapeutics, Inc. and A.G.P./Alliance Global Partners.](#)

- 5.1 [Opinion of Paul Hastings LLP.](#)
 - 23.1 [Consent of Paul Hastings LLP \(included in Exhibit 5.1\).](#)
 - 104 Cover Page Interactive Data File, formatted in Inline Extensible Business Reporting Language (iXBRL).
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SIGNATURES

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.

SORRENTO THERAPEUTICS, INC.

Date: December 4, 2020

By: /s/ Henry Ji, Ph.D.

Name: Henry Ji, Ph.D.

Title: Chairman of the Board, President and Chief Executive Officer

AMENDMENT NO. 1 TO SALES AGREEMENT

This **AMENDMENT NO. 1 TO SALES AGREEMENT** (this "Amendment") dated as of December 4, 2020, by and between Sorrento Therapeutics, Inc. (the "Company") and A.G.P./Alliance Global Partners (the "Agent"). Each of the Company and the Agent shall be referred to collectively as the "Parties" and individually as a "Party."

W I T N E S S E T H:

WHEREAS, the Company and the Agent entered into a Sales Agreement dated as of April 27, 2020 (the "Sales Agreement") pursuant to which the Company engaged the Agent to sell shares of the Company's Common Stock, from time to time; and

WHEREAS, the Parties desire to amend certain provisions of the Sales Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Parties agrees with the other as follows:

1. Capitalized Terms. Unless otherwise defined herein, all terms and conditions used in this Amendment shall have the meanings assigned to such terms in the Sales Agreement.

2. Amendment to Sales Agreement. The first paragraph of Section 1 ("Issuance and Sale of Shares") of the Sales Agreement is hereby deleted in its entirety and replaced with the following:

"1. Issuance and Sale of Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell to or through A.G.P./Alliance Global Partners, acting as agent and/or principal (the "Sales Agent"), shares of the Company's common stock, par value \$0.0001 per share (the "Common Stock"), having an aggregate offering price of up to \$700,000,000, subject to the limitations set forth in Section 3(b) hereof. The issuance and sale of shares of Common Stock to or through the Sales Agent will be effected pursuant to the Registration Statement (as defined below) filed by the Company and which was declared effective under the Securities Act (as defined below) by the U.S. Securities and Exchange Commission (the "Commission")."

3. Full Force and Effect. Except as herein amended, the Sales Agreement shall remain in full force and effect. Upon the effectiveness of this Amendment, each reference in the Sales Agreement to "this Agreement," "hereunder," "herein" or words of like import shall mean and be a reference to the Sales Agreement, as amended by this Amendment.

4. Further Assurances. Each Party hereto, without additional consideration, shall cooperate, shall take such further action and shall execute and deliver such further documents as

may be reasonably requested by the other Party hereto in order to carry out the provisions and purposes of this Amendment.

5. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Amendment by one party to the other may be made by facsimile transmission.

6. Headings. The section headings herein are for convenience only and shall not affect the construction hereof.

7. Waiver. Neither any failure nor any delay by any party in exercising any right, power or privilege under this Amendment or any of the documents referred to in this Amendment will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege.

8. Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Amendment.

9. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to the principles of conflicts of laws. Any disputes arising from this Amendment shall be resolved pursuant to Section 16 of the Sales Agreement.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to Sales Agreement to be duly executed as of the day and year first above written.

SORRENTO THERAPEUTICS, INC.

By: /s/ Henry Ji, Ph.D.
Name: Henry Ji, Ph.D.
Title: Chairman of the Board, President and Chief
Executive Officer

A.G.P./ALLIANCE GLOBAL PARTNERS

By: /s/ Tom Higgins
Name: Tom Higgins
Title: Managing Director

December 4, 2020

91966.00011

Sorrento Therapeutics, Inc.
4955 Directors Place
San Diego, CA 92121

Ladies and Gentlemen:

We have acted as counsel to Sorrento Therapeutics, Inc., a Delaware corporation (the "**Company**"), in connection with the preparation and filing with the Securities and Exchange Commission (the "**Commission**") pursuant to Rule 424(b) of the rules and regulations of the Securities Act of 1933, as amended (the "**Act**"), of a prospectus supplement, dated December 4, 2020 (the "**ATM Prospectus Supplement**"), to the Company's Registration Statement on Form S-3 (File No. 333-237142) filed with the Commission under the Act on March 13, 2020 (the "**Registration Statement**"), and the related prospectus, dated March 20, 2020, included in the Registration Statement at the time it originally became effective (the "**Base Prospectus**" and, together with the ATM Prospectus Supplement, the "**ATM Prospectus**"), relating to the proposed issuance and sale by the Company, from time to time through A.G.P./Alliance Global Partners (the "**Agent**") as the sales agent, of shares of common stock, par value \$0.0001 per share, of the Company in an aggregate offering amount of up to \$450,000,000 (the "**ATM Shares**"). The ATM Shares are to be issued and sold pursuant to that certain Sales Agreement, dated April 27, 2020, by and between the Company and the Agent, as amended by that certain Amendment No. 1 to Sales Agreement, dated as of December 4, 2020, by and between the Company and the Agent (as amended, the "**Sales Agreement**").

In connection with this opinion, we have examined and relied upon the Registration Statement, the ATM Prospectus, the Sales Agreement, the Company's Amended and Restated Certificate of Incorporation, as amended, and the Company's Amended and Restated Bylaws, each as currently in effect, and the originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters. We have assumed the genuineness and authenticity of all documents submitted to us as originals, and the conformity to originals of all documents submitted to us as copies thereof.

Our opinion is limited to the matters stated herein and no opinion is implied or may be inferred beyond the matters expressly stated. Our opinion herein is expressed solely with respect to the federal laws of the United States and the General Corporation Law of the State of Delaware. We are not rendering any opinion as to compliance with any federal or state antifraud law, rule or regulation relating to securities, or to the sale or issuance thereof. Our opinion is based on these laws as in effect on the date hereof, and we disclaim any obligation to advise you of facts, circumstances, events or developments which hereafter may be brought to our attention and which may alter, affect or modify the opinion expressed herein. We express no opinion as to whether the laws of any particular jurisdiction other than those identified above are applicable to the subject matter hereof.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the ATM Shares, when issued and sold against payment therefor in accordance with the Sales Agreement, will be validly issued, fully paid and nonassessable.

We consent to the reference to our firm under the caption "Legal Matters" in the ATM Prospectus and to the filing of this opinion as an exhibit to a Current Report of the Company on Form 8-K.

Very truly yours,

/s/ Paul Hastings LLP