

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

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

CODEXIS, INC.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

71-0872999
(I.R.S. Employer
Identification Number)

200 Penobscot Drive
Redwood City, CA
(Address of Principal Executive Offices)

94063
(Zip Code)

Codexis, Inc. 2023 Employee Stock Purchase Plan
(Full Title of the Plan)

Stephen Dilly
President and Chief Executive Officer
Codexis, Inc.
200 Penobscot Drive
Redwood City, CA 94063
(Name and address of agent for service)

(650) 421-8100
(Telephone number, including area code, of agent for service)

Copies to:

Phillip S. Stoup, Esq.
Latham & Watkins LLP
505 Montgomery Street, Suite 2000

San Francisco, CA 94025
Telephone: (415) 391-0600

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, anon-accelerated filer, or a smaller reporting 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

Codexis, Inc. (the “Registrant”) is filing with the Securities and Exchange Commission (the “SEC”) this registration statement on FormS-8 (this “Registration Statement”) for the purpose of registering 2,000,000 shares of the Registrant’s common stock, par value \$0.0001 per share, reserved for issuance under the Registrant’s 2023 Employee Stock Purchase Plan.

PART I INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.*

Item 2. Registrant Information and Employee Plan Annual Information.*

- * The documents containing the information specified in this Part I of FormS-8 (plan information and registration information and employee plan annual information) will be sent or given to employees as specified by the SEC pursuant to Rule 428(b)(1) of the Securities Act of 1933, as amended (the “Securities Act”). Such documents are not required to be and are not filed with the SEC either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act. The Registrant will provide a written statement to participants advising them of the availability without charge, upon written or oral request, of the documents incorporated by reference in Item 3 of Part II hereof and including the statement in the preceding sentence. The written statement to all participants will indicate the availability without charge, upon written or oral request, of other documents required to be delivered pursuant to Rule 428(b), and will include the address and telephone number to which the request is to be directed.

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The SEC allows the Registrant to “incorporate by reference” the information the Registrant files with the SEC, which means that the Registrant can disclose important information to you by referring to those documents. The information incorporated by reference is considered to be part of this registration statement, and later information filed with the SEC will update and supersede this information. The Registrant hereby incorporates by reference into this registration statement the following documents previously filed with the SEC:

- (a) The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed by the Registrant with the SEC on [February 27, 2023](#);
- (b) The Registrant’s Quarterly Reports on Form 10-Q for the quarter ended March 31, 2023, filed by the Registrant with the SEC on [May 4, 2023](#) and the quarter ended June 30, 2023, filed by the Registrant with the SEC on [August 3, 2023](#);
- (c) The Registrant’s Current Reports on Form 8-K, filed by the Registrant with the SEC on [January 23, 2023](#), [February 3, 2023](#), [April 4, 2023](#), [June 16, 2023](#) and [July 20, 2023](#); and
- (d) The description of the Registrant’s Common Stock contained in the Registrant’s registration statement on Form 8-A, filed by the Registrant with the SEC under Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) on [April 19, 2010](#), including any amendments or reports filed for the purpose of updating such description.

All documents that the Registrant subsequently files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment to the registration statement which indicates that all securities offered have been sold or which 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 the filing of such documents; except as to any portion of any future annual or quarterly report to stockholders, or document or current report furnished under any current or future items of Form 8-K (including current Items 2.02 and 7.01), in each case, that is not deemed filed under such provisions. For the purposes of 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 to the extent that a statement contained herein or in any other subsequently filed document which 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.

Under no circumstances will any information filed under current Items 2.02 or 7.01 of Form 8-K be deemed incorporated herein by reference unless such Form 8-K expressly provides to the contrary.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

As permitted by Section 102 of the Delaware General Corporation Law, the Registrant has adopted provisions in its amended and restated certificate of incorporation and bylaws that limit or eliminate the personal liability of the Registrant's directors for a breach of their fiduciary duty of care as a director. The duty of care generally requires that, when acting on behalf of the corporation, directors exercise an informed business judgment based on all material information reasonably available to them. Consequently, a director will not be personally liable to the Registrant or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for:

- any breach of the director's duty of loyalty to the Registrant or its stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any act related to unlawful stock repurchases, redemptions or other distributions or payment of dividends; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not affect the availability of equitable remedies such as injunctive relief or rescission. The Registrant's amended and restated certificate of incorporation also authorizes the Registrant to indemnify its officers, directors and other agents to the fullest extent permitted under Delaware law.

As permitted by Section 145 of the Delaware General Corporation Law, the Registrant's amended and restated bylaws provide that:

- the Registrant may indemnify its directors, officers and employees to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions;
- the Registrant may advance expenses to its directors, officers and employees in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions; and
- the rights provided in the amended and restated bylaws are not exclusive.

The Registrant's amended and restated certificate of incorporation and the Registrant's amended and restated bylaws provide for the indemnification provisions described above and elsewhere herein. The Registrant has also entered into separate indemnification agreements with its directors and officers which may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements generally require the Registrant, among other things, to indemnify its officers and directors against liabilities that may arise by reason of their status or service as directors or officers, other than liabilities arising from willful misconduct. These indemnification agreements also generally require the Registrant to advance any expenses incurred by the directors or officers as a result of any proceeding against them as to which they could be indemnified. In addition, the Registrant has purchased a policy of directors' and officers' liability insurance that insures the Registrant's directors and officers against the cost of defense, settlement or payment of a judgment in some circumstances. These indemnification provisions and the indemnification agreements may be sufficiently broad to permit indemnification of its officers and directors for liabilities, including reimbursement of expenses incurred, arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Description of Document	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
4.1	Amended and Restated Certificate of Incorporation.	10-Q	05/28/2010	3.1	
4.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation.	8-K	06/16/2023	3.1	
4.3	Amended and Restated Bylaws.	10-Q	05/28/2010	3.2	
4.4	Form of Common Stock Certificate.	10-Q	09/09/2012	4.1	
5.1	Opinion of Latham & Watkins LLP.				X
23.1	Consent of Independent Registered Public Accounting Firm.				X
23.2	Consent of Latham & Watkins LLP (included in Exhibit 5.1).				X
24.1	Power of Attorney. Reference is made to the signature page to the Registration Statement.				X
99.1	Codexis, Inc. 2023 Employee Stock Purchase Plan.	8-K	06/16/2023	10.1	
107.1	Filing Fee Table.				X

Item 9. Undertakings.

(a) The 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 20% change in the maximum aggregate offering price set forth in the "Calculation of Filing Fee Tables" in the effective registration statement;

(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 registration statement is on FormS-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the Registrant pursuant to Section 13 or 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 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 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 SEC 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 Redwood City, State of California, on this 3rd day of August 2023.

Codexis, Inc.

By: /s/ Stephen Dilly
Stephen Dilly
President and Chief Executive Officer

POWER OF ATTORNEY

Each person whose individual signature appears below hereby authorizes and appoints Stephen Dilly, Sriram Ryali and Margaret Fitzgerald, and each of them, with full power of substitution and resubstitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act in his or her name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to file any and all amendments to this registration statement, including any and all post-effective amendments and amendments thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing, ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes may lawfully do or cause to be done by virtue thereof.

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 date indicated.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Stephen Dilly</u> Stephen Dilly	President, Chief Executive Officer and Director (Principal Executive Officer)	August 3, 2023
<u>/s/ Sriram Ryali</u> Sriram Ryali	Chief Financial Officer (Principal Financial and Accounting Officer)	August 3, 2023
<u>/s/ Byron L. Dorgan</u> Byron L. Dorgan	Chairman of the Board of Directors	August 3, 2023
<u>/s/ Jennifer Aaker</u> Jennifer Aaker	Director	August 3, 2023
<u>/s/ Esther Martinborough</u> Esther Martinborough	Director	August 3, 2023
<u>/s/ Alison Moore</u> Alison Moore	Director	August 3, 2023
<u>/s/ Stewart Parker</u> Stewart Parker	Director	August 3, 2023
<u>/s/ Rahul Singhvi, Sc.D.</u> Rahul Singhvi, Sc.D.	Director	August 3, 2023
<u>/s/ David V. Smith</u> David V. Smith	Director	August 3, 2023
<u>/s/ Dennis P. Wolf</u> Dennis P. Wolf	Director	August 3, 2023

LATHAM & WATKINS LLP

August 3, 2023

505 Montgomery Street, Suite 2000
 San Francisco, California 94111-6538
 Tel: +1.415.391.0600 Fax: +1.415.395.8095
 www.lw.com

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Los Angeles	Tokyo
Madrid	Washington, D.C.

Codexis, Inc.
 200 Penobscot Drive
 Redwood City, California 94063

Re: Registration Statement on Form S-8; 2,000,000 shares of Common Stock of Codexis, Inc., par value \$0.0001 per share

To the addressee set forth above:

We have acted as special counsel to Codexis, Inc., a Delaware corporation (the "**Company**"), in connection with the registration by the Company of an aggregate of 2,000,000 shares of common stock of the Company, par value \$0.0001 per share (the "**Shares**"), issuable pursuant to the Company's 2023 Employee Stock Purchase Plan, as amended (the "**Plan**"). The Shares are included in a registration statement on Form S-8 under the Securities Act of 1933, as amended (the "**Act**"), filed with the Securities and Exchange Commission (the "**Commission**") on August 3, 2023 (the "**Registration Statement**"). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the related prospectus, other than as expressly stated herein with respect to the issuance of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein as to the General Corporation Law of the State of Delaware (the "**DGCL**"), and we express no opinion with respect to any other laws.

LATHAM & WATKINS LLP

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the purchasers, or certificates representing the Shares have been manually signed by an authorized officer of the transfer agent and registrar therefor, and have been issued by the Company for legal consideration (not less than par value) in the circumstances contemplated by the Plan, assuming in each case that the individual issuances, grants or awards under the Plan are duly authorized by all necessary corporate action and duly issued, granted or awarded and exercised in accordance with the requirements of law and the Plan (and the agreements and awards duly adopted thereunder and in accordance therewith), the issuance and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Registration Statement. 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.

Sincerely,

/s/ Latham & Watkins LLP

Consent of Independent Registered Public Accounting Firm

Codexis, Inc.
Redwood City, California

We hereby consent to the incorporation by reference in the Prospectus constituting a part of this Registration Statement of our reports dated February 27, 2023, relating to the consolidated financial statements of Codexis, Inc. and the effectiveness of Codexis, Inc.'s internal control over financial reporting appearing in the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ BDO USA, P.A.
San Francisco, California

August 3, 2023

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Codexis, 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 Share ⁽²⁾	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.0001 par value per share	457(c) and 457(h)	2,000,000	\$3.25	\$6,500,000.00	\$110.20 per \$1,000,000	\$716.30
Total Offering Amounts					\$6,500,000.00		\$716.30
Total Fee Offsets ⁽³⁾							—
Net Fee Due							\$716.30

- (1) 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 Codexis, Inc. 2023 Employee Stock Purchase Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration that increases the number of the Registrant's outstanding shares of common stock.
- (2) Pursuant to 457(c) and 457(h) under the Securities Act, the proposed maximum offering price per share is estimated solely for the purpose of calculating the registration fee and is based upon the average of the high and low prices of the Registrant's common stock as reported on the Nasdaq Global Select Market on August 2, 2023, which date is within five business days prior to filing this Registration Statement.
- (3) The Registrant does not have any fee offsets.