

Biotechs Turn To Licensing, Collaboration Deals For Capital

By Yeji Jesse Lee

Law360 (April 16, 2024, 2:15 PM EDT) -- Biotech companies are turning to licensing and collaboration deals amid a tough public market and larger economic slowdown.

That's according to attorneys at Latham & Watkins LLP, who said in their most recent "Healthcare & Life Sciences Market Update" report, published this month, that biotech companies are looking to diversify their funding options to continue their programs and progress treatments through clinical programs.

Nondilutive financing options, which help bring in some immediate capital, have become a creative solution to a tough funding environment that's persisted over the past 18 months or so, Robbie McLaren, a mergers and acquisitions partner at Latham's London office and global vice chair of the firm's healthcare and life sciences industry group, told Law360.

Such agreements can take the shape of licensing deals or collaborations between companies, where innovative and often smaller biotechs license out specific assets to larger corporations in exchange for upfront cash and a partner that can help reduce risk in the development and regulatory process.

While there has been an improvement in the market over the past few months, McLaren said, these sorts of deals have become much more common over the past few quarters than they were a few years ago.

"I think if you rewind to Q1 or Q4 last year, you would probably see twice as many or three times as many of these deals as you might have seen in 2019 before COVID hit," he said.

Venture capital investment in biotech companies was down 41% in 2023 compared to 2022, according to data provider PitchBook. And while there may be optimism for a better public market for life sciences companies this year, the past two years have been tough for the industry, according to data company Dealogic, which reported just 41 and 30 biotech public offerings for 2022 and 2023, respectively, compared to the more than 100 IPOs the industry saw in each of the prior two years.

"Candidly, since the biotech financing market or any market venture financing has been super patchy in the last 18 months, but the demand for capital is still there and as a consequence, people just have to think a lot more creatively around how we would raise money," McLaren said.

And companies are doing just that.

Earlier this month, French biopharmaceutical company Ipsen announced an exclusive global licensing agreement with Sutro Biopharma worth a potential \$900 million. German pharmaceutical giant Merck also inked a potentially \$1.4 billion partnership with artificial intelligence techbio company Caris Discovery to discover and research new potential antibody drug conjugate targets for cancer patients. And in March, Gilead Sciences and Xilio Therapeutics said they had signed an exclusive license agreement to develop an early-stage cancer treatment through trials.

According to McLaren, a lot of the momentum for licensing and collaboration deals is coming from investors, who know companies need more capital to survive and may be worried about the possibility of a down round in the future.

For company founders and leaders, these types of deals pose a mixed bag. "It's a really broad range of motivations for doing the transaction," McLaren said.

Some companies may be entering such deals out of necessity, at a lower upfront value and earlier than they would have liked, in order to have enough resources to push a treatment through trials and stay afloat. Others, however, are snagging lucrative contracts with Big Pharma companies that can provide the best commercial infrastructure, massive amounts of capital and the promise of potentially more through royalties and milestones.

While these deals may be less popular as the funding environment improves, there are certain macro-factors that aren't disappearing anytime soon, said McLaren, who noted that these sorts of licensing deals could be Big Pharma's preferred deal structure amid increased antitrust scrutiny from regulators.

Eveline Van Keymeulen, a partner in Latham's Brussels and Paris offices and global vice chair of Latham's healthcare and life sciences practice, added that the rise of AI and digital health could also play a role in the popularity of such deals.

Van Keymeulen said that she's seeing pharmaceutical companies entering into licensing deals and collaborations with startups focused on AI as a way of getting familiar with the new technology and often as a preliminary step for a potential M&A transaction down the line.

"I think if we take it from a broader market perspective, there are a number of reasons why I think we could expect licenses and collaborations to continue to thrive, at least in the near future," she said.

--Editing by Haylee Pearl.