

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549**

**FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

ITERUM THERAPEUTICS PLC

(Exact name of registrant as specified in its charter)

Ireland
(State or other Jurisdiction
of Incorporation or Organization)

2834
(Primary Standard Industrial
Classification Code Number)

98-1283148
(I.R.S. Employer
Identification No.)

**Block 2 Floor 3, Harcourt Centre,
Harcourt Street,
Dublin 2,
Ireland
+353 1 9038920**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Corey N. Fishman
President and Chief Executive Officer
200 South Wacker Drive, Suite 2550
Chicago, Illinois 60606
(312) 778-6070**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**Brian A. Johnson
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center
250 Greenwich Street
New York, New York 10007
Telephone: (212) 230-8800**

**Robert F. Charron, Esq.
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
New York, New York 10105
(212) 370-1300**

Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement is declared effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box: ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☒ 333-249432

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

Accelerated filer ☐

Non-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. ☒

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price(1)(2)(3)	Amount of Registration Fee(1)
Ordinary Shares, nominal value \$0.01 per share(3)	\$2,500,000	\$272.75
Pre-funded Warrants to purchase Ordinary Shares(3)		
Ordinary Shares issuable upon exercise of Pre-funded Warrants(3)(4)		
Warrants to purchase Ordinary Shares (3)(4)(5)		
Ordinary Shares issuable upon exercise of Warrants(3)(4)(5)	\$1,875,000	\$204.57
Placement agent warrants to purchase Ordinary Shares and Ordinary Shares issuable upon exercise thereof(6)	\$218,750	\$23.87
Total	\$4,593,750	\$501.19

- (1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended. Represents only the additional number of securities being registered. Does not include the securities that the registrant previously registered on the registration statement on Form S-1, as amended (File No. 333-249432).
- (2) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this registration statement shall also cover an indeterminate number of additional securities that may from time to time be offered or issued to prevent dilution as a result of share splits, share dividends, dividends or other distributions, reclassifications, or similar transactions.
- (3) The proposed maximum aggregate offering price of the Ordinary Shares and Warrants will be reduced on a dollar-for-dollar basis based on the offering price of any Pre-funded Warrants and Warrants issued in the offering, and the proposed maximum aggregate offering price of the Pre-funded Warrants and Warrants to be issued in the offering will be reduced on a dollar-for-dollar basis based on the offering price of any Ordinary Shares and Warrants issued in the offering. Accordingly, the proposed maximum aggregate offering price of the Ordinary Shares or Pre-funded Warrants, as applicable, and Warrants is \$2,500,000.
- (4) Filing fee included with the Ordinary Shares or Pre-funded Warrants, as applicable.
- (5) Pursuant to Staff Compliance and Disclosure Interpretation 240.06, equals the aggregate exercise price of the Warrants. Each Warrant offered with an Ordinary Share or Pre-funded Warrant, as applicable, is a Warrant to purchase 0.75 of an Ordinary Share.
- (6) Represents warrants issuable to H.C. Wainwright & Co., LLC, or its designees, to purchase a number of Ordinary Shares equal to 7.0% of the aggregate number of Ordinary Shares and Pre-funded Warrants being offered at an exercise price equal to 125% of the combined public offering price per Ordinary Share and Warrant.

The Registration Statement shall become effective upon filing in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

EXPLANATORY NOTE AND INCORPORATION BY REFERENCE

This registration statement is being filed with respect to the registration of (i) additional ordinary shares, nominal value \$0.01 per share (each an “Ordinary Share”), together with a warrant to purchase 0.75 of an Ordinary Share (each a “Warrant”), (ii) additional pre-funded warrants to purchase one Ordinary Share (each a “Pre-funded Warrant”), together with a Warrant and (iii) additional placement agent warrants to purchase 7.0% of the aggregate number of Ordinary Shares and Pre-funded Warrants being offered (each a “Placement Agent Warrant”), of Iterum Therapeutics plc, an Irish public limited company, as set forth in the Registration Statement and the prospectus contained therein, pursuant to Rule 462(b) under the Securities Act of 1933, as amended. The contents of the earlier registration statement on Form S-1, as amended (File No. 333-249432), which was declared effective by the Securities and Exchange Commission (the “Commission”) on October 22, 2020, are incorporated in this registration statement by reference.

The required opinions and consents are listed on an Exhibit Index attached hereto and filed herewith.

The registrant hereby certifies to the Commission that (i) it has instructed its bank to pay the Commission the filing fee set forth in the cover page of this registration statement by wire transfer of such amount to the Commission’s account as soon as practicable (but no later than the close of business on October 23, 2020); (ii) it will not revoke such instruction; and (iii) it has sufficient funds in the relevant account to cover the amount of such filing fee.

EXHIBIT INDEX

Exhibit No.	Description of Document	Filed with this Registration Statement	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File Number
5.1	Opinion of A&L Goodbody	X			
5.2	Opinion of Wilmer Cutler Pickering Hale and Dorr LLP	X			
23.1	Consent of KPMG, Independent Registered Public Accounting Firm	X			
23.2	Consent of A&L Goodbody (included in Exhibit 5.1)	X			
23.3	Consent of Wilmer Cutler Pickering Hale and Dorr LLP (included in Exhibit 5.2)	X			
24.1	Power of Attorney		S-1 (Exhibit 24.1)	October 9, 2020	333-249432

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Chicago, State of Illinois, on October 22, 2020.

ITERUM THERAPEUTICS PLC

Date: October 22, 2020

By: /s/ Corey N. Fishman

Name: Corey N. Fishman

Title: Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Corey N. Fishman</u> Corey N. Fishman	Chief Executive Officer and Director (Principal Executive Officer)	October 22, 2020
<u>/s/ Judith M. Matthews</u> Judith M. Matthews	Chief Financial Officer (Principal Financial and Accounting Officer)	October 22, 2020
<u>*</u> Brenton K. Ahrens	Interim Chairman of the Board of Directors	October 22, 2020
<u>*</u> Mark Chin	Director	October 22, 2020
<u>*</u> Patrick J. Heron	Director	October 22, 2020
<u>*</u> Ronald M. Hunt	Director	October 22, 2020
<u>*</u> David G. Kelly	Director	October 22, 2020
<u>*</u> Shahzad Malik, M.D.	Director	October 22, 2020
<u>*By: /s/ Corey N. Fishman</u> Corey N. Fishman Attorney-in-fact		



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 International Financial Services Centre
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 D01 H104
 T: +353 1 649 2000
 DX: 29 Dublin | www.algoodbody.com

Dublin
 Belfast
 London
 New York
 San Francisco
 Palo Alto

Date | 22 October 2020
 Our ref | 01416740
 Your ref |

Iterum Therapeutics plc
 Block 2, Floor 3
 Harcourt Centre, Harcourt Street
 Dublin 2,
 Ireland

Iterum Therapeutics plc (the Company)

Dear Sirs

We are acting as Irish Counsel to the Company, a public limited company incorporated under the laws of Ireland (registration number 563531), in connection with the filing of a registration statement (the **Registration Statement**) on Form S-1 to be filed by the Company under the Securities Act of 1933, as amended (the **Securities Act**), pursuant to which we understand the Company will register the offering, issuance and sale by the Company of the following securities (the **Securities**):

- ordinary shares in the capital of the Company with a nominal value of US\$0.01 each (**Ordinary Shares**) up to a maximum aggregate amount of \$2,500,000 (the **Offering Shares**);
- pre-funded warrants (the **Pre-Funded Warrants**) to purchase Ordinary Shares up to a maximum aggregate amount of \$2,500,000 (the **Pre-Funded Warrant Shares**);
- warrants (the **Warrants**) to purchase Ordinary Shares up to a maximum aggregate amount of \$1,875,000 (the **Warrant Shares**); and
- placement agent warrants (the **Placement Agent Warrants**) to purchase Ordinary Shares up to a maximum aggregate amount of \$218,750 (the **Placement Agent Shares**, and together with the Offering Shares, the Pre-Funded Warrant Shares and the Warrant Shares, the **Shares**),

pursuant to the terms of the Registration Statement, the prospectus incorporated by reference therein, and any amendments or supplements thereto.

In connection with this Opinion, we have reviewed copies of:

- the Registration Statement; and
- copies of such corporate records of the Company as we have deemed necessary as a basis for the opinions hereinafter expressed.

CE Gill • JG Grennan • PD White • VJ Power • LA Kennedy • SM Doggett • B McDermott • C Duffy • PV Maher • S O'Riordan • MP McKenna • KA Feeney • M Sherlock • E MacNeill
 KP Allen • EA Roberts • C Rogers • G O'Toole • JN Kelly • N O'Sullivan • MJ Ward • AC Burke • D Widger • C Christle • S O'Croinin • JW Yarr • DR Baxter • A McCarthy • JF Whelan
 JB Somerville • MF Barr • AM Curran • A Roberts • M Dale • RM Moore • D Main • J Cahir • M Traynor • PM Murray • P Walker • K Furlong • PT Fahy • D Inverarity • M Coghlan • DR Francis
 A Casey • B Hosty • M O'Brien • L Mulleady • K Ryan • E Hurley • G Stanley • D Dagostino • R Grey • R Lyons • J Sheehy • C Morrissey • C Carroll • SE Carson • P Diggins
 J Williams • A O'Beirne • MD Cole • G Conheady • J Dallas • SM Lynch • M McElhinney • C Owens • AD Ion • K O'Connor • JH Milne • T Casey • M Doyle • CJ Comerford • R Marron
 D Berkery • K O'Shaughnessy • S O'Connor • SE Murphy • D Nangle • L Butler • A Lawler • C O Conluain • N McMahon • HP Brandt • A Sheridan
 Consultants: SW Haughey • Professor JCW Wylie • AF Browne • MA Greene • AV Fanagan • PM Law

In rendering this Opinion, we have examined, and have assumed the truth and accuracy of the contents of, all such corporate records, documents and certificates of officers of the Company and of public officials as to factual matters and have conducted such searches on 22 October 2020 (being the last practicable date on which searches could be conducted) in public registries in Ireland as we have deemed necessary or appropriate for the purposes of this Opinion but have made no independent investigation regarding such factual matters. In our examination we have assumed the (continued) truth and accuracy of the information contained in such documents, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such documents.

We have further assumed:

- 1 that as of today's date and at each time Securities are issued, none of the resolutions and authorities of the shareholders or directors of the Company upon which we have relied have been varied, amended or revoked in any respect or have expired, and that the Securities will be issued in accordance with such resolutions and authorities and the terms of the applicable agreement relating to the Securities;
- 2 that at each time Shares will be issued, a sufficient number of ordinary shares of the Company, nominal value \$0.01 per share, will remain authorised and available for issuance by the Board pursuant to the constitution of the Company;
- 3 that any issue of Shares will be paid up in consideration of the receipt by the Company prior to, or simultaneously with, the issue of the Shares of cash at least equal to the nominal value of such Shares;
- 4 that the issuance of the Securities will be in compliance with the Companies Act 2014, the Irish Takeover Panel Act 1997, Takeover Rules 2013, and all applicable Irish company, takeover, securities, market abuse, insider dealing laws and other rules and regulations;
- 5 that the filing of the Registration Statement with the Securities and Exchange Commission (**SEC**) has been authorised by all necessary actions under all applicable laws other than Irish law;
- 6 that when filed with the SEC, the Registration Statement will not differ in any material respect from the drafts that we have examined;
- 7 the absence of fraud on the part of the Company and its respective officers, employees, agents and advisors; and
- 8 that: (i) the Company will be fully solvent at the time of and immediately following the issue of any Securities; (ii) no resolution or petition for the appointment of a liquidator or examiner will be passed or presented prior to the issue of any Securities; (iii) no receiver will have been appointed in relation to any of the assets or undertaking of the Company prior to the issue of any Securities; and (iv) no composition in satisfaction of debts, scheme of arrangement, or compromise or arrangement with creditors or members (or any class of creditors or members) will be proposed, sanctioned or approved in relation to the Company prior to the issue of the Securities.

Subject to the foregoing and to the within additional qualifications and assumptions, and based upon searches carried out in the Irish Companies Registration Office and the Central Office of the High Court on 22 October 2020, we are of the opinion that:

- the Company is a company duly incorporated under the laws of Ireland and validly existing under the laws of Ireland;
- the Offering Shares, when delivered against due payment thereof, will be validly issued, fully paid and not subject to calls for any additional payments ("non-assessable");

- the Warrants, the Pre-Funded Warrants and the Placement Agent Warrants when (i) delivered against due payment therefor; and (ii) the applicable Warrant, Pre-Funded Warrant or Placement Agent Warrant has been duly authorized, executed and delivered by the Company and the other parties thereto, will be duly authorized, validly issued and binding obligations of the Company; and
- the Warrant Shares, the Pre-Funded Warrant Shares and the Placement Agent Shares when (i) delivered against due payment therefor; and (ii) the applicable Warrant, Pre-Funded Warrant or Placement Agent Warrant has been duly authorized, executed and delivered by the Company and the other parties thereto, will be validly issued, fully paid and not subject to calls for any additional payments (“non-assessable”).

In rendering this Opinion we have confined ourselves to matters of Irish law. We express no opinion on any laws other than the laws of Ireland (and the interpretation thereof) in force as at the date hereof. This Opinion speaks only as of its date. We are not under any obligation to update this Opinion from time to time, nor to notify you of any change of law, facts or circumstances referred to or relied upon in the giving of this Opinion.

This Opinion is given solely for the benefit of the addressee of this Opinion and may not be relied upon by any other person without our prior written consent, provided, however, that it may be relied upon by persons entitled to rely on it pursuant to applicable provisions of US federal securities laws.

This Opinion is also strictly confined to the matters expressly stated herein and is not to be read as extending by implication or otherwise to any other matter.

We hereby consent to the filing of this Opinion with the SEC as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K of the Securities Act, and to the use of our name therein and in the related prospectus and in any prospectus supplement under the caption “Legal Matters.”

The Opinion is governed by and construed in accordance with the laws of Ireland.

Yours faithfully

/s/ **A&L Goodbody**

M-51904722-3

WILMERHALE

October 22, 2020

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wilmerhale.com

Iterum Therapeutics plc
Block 2 Floor 3, Harcourt Centre
Harcourt Street,
Dublin 2, Ireland

Re: Registration Statement on Form S-1

Ladies and Gentlemen:

This opinion is furnished to you in connection with the Registration Statement on Form S-1 (the "Registration Statement") filed by Iterum Therapeutics plc, an Irish public limited company (the "Company"), with the Securities and Exchange Commission (the "Commission") pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the "Securities Act"), for the registration of (i) ordinary shares (the "Shares") of the Company, nominal value \$0.01 per share (the "Ordinary Shares") with a proposed maximum aggregate offering price of up to \$2,500,000, (ii) warrants to purchase Ordinary Shares (the "Ordinary Share Warrants") with a proposed maximum aggregate offering price of up to \$1,875,000, (iii) pre-funded warrants to purchase Ordinary Shares (the "Pre-Funded Warrants") with a proposed maximum aggregate offering price of up to \$2,500,000, and (iv) placement agent warrants to purchase Ordinary Shares (the "Placement Agent Warrants," and together with the Ordinary Share Warrants and Pre-Funded Warrants, the "Warrants") with a proposed maximum aggregate price of \$218,750. The Shares and the Warrants are herein collectively referred to as the "Securities."

The Shares, Ordinary Share Warrants, and Pre-Funded Warrants are to be offered and sold by the Company pursuant to a securities purchase agreement (the "Purchase Agreement"), between the Company and the purchasers named therein (the "Purchasers"), the form of which has been incorporated by reference into the Registration Statement.

We are acting as United States counsel for the Company in connection with the issue and sale by the Company of the Securities. We have examined copies of the Registration Statement as filed with the Commission. We have examined and relied upon the Purchase Agreement and the forms of Warrants, which have been incorporated by reference into the Registration Statement. For purposes of this opinion, we have also examined the opinion letter of A&L Goodbody, Irish counsel for the Company, dated the date hereof and filed as Exhibit 5.1 to the Company's Registration Statement (the "ALG Opinion"). We have also examined and relied upon originals

Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007
Beijing Berlin Boston Brussels Denver Frankfurt London Los Angeles New York Palo Alto San Francisco Washington

or copies of such corporate records of the Company, such other agreements and instruments, such certificates of public officials, and such other documents, instruments and certificates as we have deemed necessary as a basis for the opinions hereinafter expressed.

In our examination of the documents referred to above, we have assumed the genuineness of all signatures, the legal capacity and competence of all individual signatories, the authenticity, accuracy and completeness of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of such original documents and the completeness and accuracy of the corporate records of the Company provided to us by the Company. Insofar as this opinion relates to factual matters, we have assumed, without independent investigation, that representations of officers and directors of the Company and documents furnished to us by the Company are true and correct.

We have also assumed, consistent with the ALG Opinion, that (i) the Company is incorporated and validly existing under the laws of the Republic of Ireland; (ii) the Company has all requisite power and authority to execute and deliver, and to perform its obligations under the Purchase Agreement and the Warrants; (iii) the Purchase Agreement has been duly authorized, executed and delivered by the Company under the laws of the Republic of Ireland and (iv) the Warrants have been duly authorized, executed and delivered by the Company under the laws of the Republic of Ireland.

Our opinion below is qualified to the extent that it may be subject to or affected by (i) applicable bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance or similar laws relating to or affecting the rights or remedies of creditors generally, (ii) duties and standards imposed on creditors and parties to contracts, including, without limitation, requirements of materiality, good faith, reasonableness and fair dealing, (iii) general equitable principles, and (iv) applicable usury laws of jurisdictions other than the State of New York. Furthermore, we express no opinion as to the availability of any equitable or specific remedy upon any breach of any of the agreements as to which we are opining herein, or any of the agreements, documents or obligations referred to therein, or to the successful assertion of any equitable defenses, inasmuch as the availability of such remedies or the success of any equitable defenses may be subject to the discretion of a court. We also express no opinion herein as to any provision of any agreement (a) that may be deemed to or construed to waive any right of the Company; (b) to the effect that rights and remedies are not exclusive, that every right or remedy is cumulative and may be exercised in addition to or with any other right or remedy and does not preclude recourse to one or more other rights or remedies; (c) relating to the effect of invalidity or unenforceability of any provision of an agreement on the validity or enforceability of any other provision thereof; (d) requiring the payment of penalties, consequential damages or liquidated damages; (e) which is in violation of public policy, including, without limitation, any provision relating to indemnification and contribution with respect to securities law matters; (f) which provides that the terms of any agreement may not be waived or modified except in

October 22, 2020

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writing; (g) purporting to indemnify any person against his, her or its own negligence or misconduct; or (h) relating to choice of law or consent to jurisdiction. We express no opinion herein as to the laws of any jurisdiction other than the state laws of the State of New York. We have not acted as counsel for the Company with respect to matters of Irish law or other applicable foreign law.

Based upon and subject to the foregoing, we are of the opinion that when the Warrants have been duly executed by the Company and are delivered and paid for in accordance with the terms and conditions of the Purchase Agreement and the prospectus which has been incorporated by reference into the Registration Statement, the Warrants will constitute valid and binding obligations of the Company.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions and is rendered as of the date hereof, and we disclaim any obligation to advise you of any change in any of the foregoing sources of law or subsequent developments in law or changes in facts or circumstances that might affect any matters or opinions set forth herein.

We hereby consent to the filing of this opinion with the Commission, in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, as an exhibit to the Registration Statement and to the use of our name therein and in the related prospectus under the caption "Legal Matters." In giving such consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

Very truly yours,

WILMER CUTLER PICKERING HALE AND DORR LLP

By: /s/ Brian A. Johnson

Brian A. Johnson, a Partner

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Iterum Therapeutics plc:

We consent to the use of our report incorporated by reference herein.

Our report dated March 12, 2020 contains an explanatory paragraph that states that the Company has suffered recurring losses from operations and has a net capital deficiency, which raise substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of that uncertainty. Also, our report on the consolidated financial statements refers to a change to the method of accounting for leases as of January 1, 2019 due to the adoption of ASC Topic 842, *Leases*.

/s/ KPMG
Dublin, Ireland
October 22, 2020