

On November 9, 2023, the Board of Directors (the "Board") of 89bio, Inc. (the "Company") adopted an amendment and restatement of the Company's Second Amended and Restated Bylaws (as so amended and restated, the "Third Amended and Restated Bylaws"), effective as of such date, in order to, among other things:

- Enhance procedural and disclosure requirements related to business proposals and director nominations submitted by stockholders, including to align with recently adopted Rule 14a-19 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including, without limitation:
 - Requiring additional background information and disclosures regarding proposing stockholders, proposed nominees (including clarifying the timing and procedures for providing, updating and correcting such information), proposals of other business and other persons who directly or indirectly control the proposing stockholders that are entities;
 - Requiring any stockholder submitting a notice of director nomination to make a representation as to whether such stockholder intends to solicit proxies in support of director nominees other than the Company's nominees in accordance with Rule 14a-19 under the Exchange Act and to provide evidence that such stockholder has complied with such requirements;
 - Clarifying that any stockholder submitting a nomination or other proposal must also comply with applicable Exchange Act requirements in addition to the requirements under the Third Amended and Restated Bylaws;
 - Clarifying the Company's ability to disregard such nomination or proposal in the event such stockholder does not provide such information or comply with such solicitation requirements or does not comply with any other applicable requirements;
 - Clarifying that a stockholder cannot nominate a greater number of director candidates than the number of directors to be elected at the applicable annual or special meeting;
 - Clarifying that a stockholder cannot make additional or substitute nominations, submit new proposal or amend or update any previously submitted nominations or other proposals following the expiration of the time periods for submitting director nominations and proposals of other business; and
 - Requiring that a stockholder directly or indirectly soliciting proxies from other stockholders use a proxy card color other than white, with the white proxy card being reserved for exclusive use by the Board.
- Update various provisions in line with recent amendments to the Delaware General Corporation Law (the "DGCL"), including:
 - Clarifying logistics around holding a virtual stockholder meeting, including updating the methods for giving notice of adjourned stockholder meetings to address the adjournment of virtual meetings;
 - Eliminating the requirement that the list of stockholders be open to examination at meetings of stockholders; and
 - Updating provisions related to delivery of information and documents to the Company and the Board's authority during an emergency.

The Third Amended and Restated Bylaws also incorporate certain administrative, ministerial, clarifying and conforming changes, including changes to align with the language used in certain provisions of the DGCL.