

MERRIMACK PHARMACEUTICALS INC  
Form S-8  
February 01, 2013

As filed with the Securities and Exchange Commission on February 1, 2013

Registration No. 333-

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, DC 20549

**FORM S-8**

**REGISTRATION STATEMENT UNDER  
THE SECURITIES ACT OF 1933**

**MERRIMACK PHARMACEUTICALS, INC.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of Incorporation

or Organization)

**One Kendall Square, Suite B7201**

**Cambridge, MA**  
(Address of Principal Executive Offices)

**04-3210530**  
(I.R.S. Employer  
Identification No.)

**02139**  
(Zip Code)

**2011 Stock Incentive Plan**

(Full Title of the Plan)

**Robert J. Mulroy**

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**President and Chief Executive Officer**

**Merrimack Pharmaceuticals, Inc.**

**One Kendall Square, Suite B7201**

**Cambridge, Massachusetts 02139**

(Name and Address of Agent for Service)

**(617) 441-1000**

(Telephone Number, Including Area Code, of Agent For Service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

**CALCULATION OF REGISTRATION FEE**

| <b>Title of Securities to be Registered</b> | <b>Amount to be Registered(1)</b> | <b>Proposed Maximum Offering Price Per Share</b> | <b>Proposed Maximum Aggregate Offering Price</b> | <b>Amount of Registration Fee</b> |
|---|-----------------------------------|--|--|-----------------------------------|
| Common Stock, \$0.01 par value per share    | 3,353,882 shares                  | \$ 6.125(2)                                      | \$ 20,542,527.25(2)                              | 2,802.01                          |

(1) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act of 1933, as amended, and based upon the average of the high and low prices of the Registrant's Common Stock as reported on the NASDAQ Global Market on January 28, 2013.

**EXPLANATORY NOTE**

This Registration Statement on Form S-8, relating to the 2011 Stock Incentive Plan of Merrimack Pharmaceuticals, Inc. (the Registrant), is being filed for the purpose of registering additional securities of the same class as other securities for which a Registration Statement on Form S-8 has previously been filed and is effective. Accordingly, this Registration Statement incorporates by reference the contents of the Registration Statement on Form S-8, File No. 333-180996, filed with the Securities and Exchange Commission on April 27, 2012 by the Registrant, relating to the Registrant's 1999 Stock Option Plan, as amended, 2008 Stock Incentive Plan, as amended, and 2011 Stock Incentive Plan, except for Item 8, Exhibits, with respect to which the Exhibit Index immediately preceding the exhibits attached hereto is incorporated herein by reference.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Cambridge, Commonwealth of Massachusetts, on this 1st day of February, 2013.

MERRIMACK PHARMACEUTICALS, INC.

By: /s/ Robert J. Mulroy  
Robert J. Mulroy  
President and Chief Executive Officer

**POWER OF ATTORNEY AND SIGNATURES**

We, the undersigned officers and directors of Merrimack Pharmaceuticals, Inc., hereby severally constitute and appoint Robert J. Mulroy and William A. Sullivan, and each of them singly, our true and lawful attorneys with full power to any of them, and to each of them singly, to sign for us and in our names in the capacities indicated below the Registration Statement on Form S-8 filed herewith and any and all amendments to said Registration Statement, and generally to do all such things in our name and on our behalf in our capacities as officers and directors to enable Merrimack Pharmaceuticals, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to said registration statement and any and all amendments thereto.

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.

| <b>Signature</b>                                   | <b>Title</b>  | <b>Date</b>      |
|--|---|------------------|
| /s/ Robert J. Mulroy<br>Robert J. Mulroy           | President, Chief Executive Officer and Director<br>(Principal Executive Officer)      | February 1, 2013 |
| /s/ William A. Sullivan<br>William A. Sullivan     | Chief Financial Officer and Treasurer<br>(Principal Financial and Accounting Officer) | February 1, 2013 |
| /s/ Gary L. Crocker<br>Gary L. Crocker             | Chairman of the Board   | February 1, 2013 |
| /s/ James van B. Dresser<br>James van B. Dresser   | Director  | February 1, 2013 |
| /s/ Gordon J. Fehr<br>Gordon J. Fehr               | Director  | February 1, 2013 |
| /s/ John Mendelsohn, M.D.<br>John Mendelsohn, M.D. | Director  | February 1, 2013 |



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|  |          |                  |
|--|----------|------------------|
| /s/ Sarah E. Nash<br>Sarah E. Nash                         | Director | February 1, 2013 |
| /s/ Michael E. Porter, Ph.D.<br>Michael E. Porter, Ph.D.   | Director | February 1, 2013 |
| /s/ James H. Quigley<br>James H. Quigley                   | Director | February 1, 2013 |
| /s/ Anthony J. Sinskey, Sc.D.<br>Anthony J. Sinskey, Sc.D. | Director | February 1, 2013 |

**EXHIBIT INDEX**

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| 4.1(1)             | Restated Certificate of Incorporation of the Registrant   |
| 4.2(2)             | Amended and Restated Bylaws of the Registrant   |
| 5.1                | Opinion of Wilmer Cutler Pickering Hale and Dorr LLP  |
| 23.1               | Consent of Wilmer Cutler Pickering Hale and Dorr LLP, counsel to the Registrant (included in Exhibit 5.1) |
| 23.2               | Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm for the Registrant   |
| 24.1               | Powers of Attorney (included on the signature pages to the Registration Statement)                        |
| 99.1(2)            | 2011 Stock Incentive Plan   |

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(1) Previously filed with the Securities and Exchange Commission as an Exhibit to the Registrant's Registration Statement on Form S-8 (File No. 333-180996) and incorporated herein by reference.

(2) Previously filed with the Securities and Exchange Commission as an Exhibit to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-175427), and incorporated herein by reference.