

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 8-K/A  
(Amendment No. 1)

CURRENT REPORT  
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): August 14, 2020

PHUNWARE, INC.  
(Exact name of registrant as specified in its charter)

<b>Delaware</b> (State or other jurisdiction of incorporation)	<b>001-37862</b> (Commission File Number)	<b>26-4413774</b> (IRS Employer Identification No.)
<b>7800 Shoal Creek Blvd, Suite 230-S, Austin, Texas</b> (Address of principal executive offices)		<b>78757</b> (Zip Code)

Registrant's Telephone Number, Including Area Code: **(512) 693-4199**

**Not Applicable**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	PHUN	The NASDAQ Capital Market
Warrants to purchase one share of Common Stock	PHUNW	The NASDAQ Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act. ☐

---

### Explanatory Note

This Current Report on Form 8-K/A (this “Amendment”) is being filed by Phunware, Inc., a Delaware corporation (the “Company”), to amend its Current Report on Form 8-K (the “Original 8-K”) filed with the Securities and Exchange Commission (the “SEC”) on August 14, 2020, in connection with the an At-The-Market Issuance Sales Agreement (the “Sales Agreement”) with Ascendant Capital Markets, LLC (“Ascendant”), as sales agent, pursuant to which the Company may offer and sell, from time to time, through Ascendant shares of our common stock. The Company is filing this Amendment to amend and supplement Item 1.01 and Item 9.01 of the Original 8-K to disclose the filing date of the Prospectus Supplement pursuant to which sales will be made under the Sales Agreement and provide an opinion relating to legality of the issuance and sale of shares of our common stock thereunder. All other items in the Original 8-K remain the unchanged and are hereby incorporated by reference into this Amendment.

#### Item 1.01 Entry Into a Material Definitive Agreement.

Sales of shares of common stock under the Sales Agreement will be made pursuant to the registration statement on Form S-3 (File No. 333-235896), which was declared effective by the U.S. Securities and Exchange Commission (the “SEC”) on January 23, 2020, and a related Prospectus Supplement filed with the SEC on August 17, 2020, for an aggregate offering price of up to \$15,000,000.

A copy of the opinion of Winstead PC relating to the legality of the issuance and sale of shares, is attached hereto as Exhibit 5.1 to this Current Report on Form 8-K.

#### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<i>Exhibit No.</i>	<i>Exhibit Title</i>
5.1	<a href="#">Opinion of Winstead PC.</a>
10.1*	<a href="#">At-The-Market Issuance Sales Agreement, by and between Phunware, Inc. and H.C. Ascendant Capital Markets, LLC, dated August 14, 2020 (Incorporated by reference to Exhibit 10.1 of the Registrants Form 8-K filed on August 14, 2020).</a>
23.1	<a href="#">Consent of Winstead PC (included in Exhibit 5.1).</a>

\* Previously filed.

---

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: August 17, 2020

**Phunware, Inc.**

By: /s/ Matt Aune

Matt Aune  
Chief Financial Officer

August 17, 2020

Phunware Inc.  
7800 Shoal Creek Boulevard  
Suite 230-S  
Austin, Texas 78757

Ladies and Gentlemen:

We have acted as legal counsel to Phunware Inc., a Delaware corporation (the “Company”), in connection with the offering and sale by the Company of shares (the “Shares”) of the Company’s common stock, \$0.0001 par value per share (“Common Stock”), having an aggregate offering price of up to \$15,000,000 to be offered and sold from time to time pursuant to a prospectus supplement dated August 17, 2020 (the “Prospectus Supplement”) and the accompanying prospectus dated January 23, 2020 (together with the Prospectus Supplement, the “Prospectus”) that form part of the Company’s registration statement on Form S-3 (File No. 333- 235896) (together with the Prospectus, the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”). The Shares are to be sold by the Company through or to Ascendant Capital Markets, LLC (the “Sales Agent”), as sales agent pursuant to the terms of an At-The-Market Issuance Sales Agreement dated August 14, 2020, by and between the Company and the Sales Agent (the “Sales Agreement”), as described in the Prospectus Supplement.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Registration Statement, including the Prospectus Supplement, (ii) the Sales Agreement, (iii) the Amended and Restated Certificate of Incorporation of the Company, as currently in effect, (iv) the Amended and Restated Bylaws of the Company, as currently in effect, and (v) certain resolutions adopted by the Board of Directors of the Company and committees thereof with respect to the Sales Agreement and the issuance of the Shares. We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates of public officials, certificates of officers or other representatives of the Company and others, and such other documents, certificates and records, as we have deemed necessary or appropriate as a basis for the opinion set forth herein.

In our examination, we have assumed and have not verified (i) the legal capacity of all natural persons, (ii) the genuineness of all signatures (other than persons signing on behalf of the Company), (iii) the authenticity of all documents submitted to us as originals, (iv) the conformity with the originals of all documents supplied to us as copies, (v) the accuracy and completeness of all corporate records and documents made available to us by the Company and (vi) that the foregoing documents, in the form submitted to us for our review, have not been altered or amended in any respect material to our opinion stated herein. We have relied as to factual matters upon certificates from officers of the Company and certificates and other documents from public officials and government agencies and departments and we have assumed the accuracy and authenticity of such certificates and documents. We have further assumed that the Shares will be issued and delivered in accordance with the terms of the Sales Agreement.

Based on the foregoing, and subject to the assumptions, qualifications and limitations set forth herein, as of the date hereof, we are of the opinion that the Shares have been duly authorized for issuance, and when issued and delivered by the Company and paid for pursuant to the terms of the Sales Agreement, the Shares will be validly issued, fully paid and non-assessable.

For purposes of our opinion above, we express no opinion as to the law of any jurisdiction other than the General Corporation Law of the State of Delaware (including the statutory provisions, all applicable provisions of the Delaware Constitution and reported judicial decisions interpreting the foregoing). The opinion expressed

---

herein is given as of this date, and we do not undertake to supplement this opinion with respect to any events or changes occurring subsequent to the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Current Report on Form 8-K to be filed with the Commission in connection with the offering and to the use of our name under the caption “Legal Matters” in the Prospectus Supplement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

**WINSTEAD PC**

By: /s/ Alex R. Allemann  
Alex R. Allemann  
Authorized Signatory