

INSPIREMD, INC.

FORM 8-K (Current report filing)

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): March 21, 2019

InspireMD, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction
of incorporation)

001-35731
(Commission File Number)

26-2123838
(IRS Employer
Identification No.)

4 Menorat Hamaor St.
Tel Aviv, Israel
(Address of principal executive offices)

6744832
(Zip Code)

Registrant's telephone number, including area code: (857) 305-2410

(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))

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.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Fifth Amendment to the InspireMD, Inc. 2013 Long-Term Incentive Plan

On March 21, 2019, InspireMD, Inc. (the “Company”) held its 2019 annual meeting of stockholders (the “Annual Meeting”). As described below under Item 5.07, at the Annual Meeting, the Company’s stockholders approved the Fifth Amendment to the InspireMD, Inc. 2013 Long-Term Incentive Plan (the “Plan”) to (i) increase the number of shares of common stock available for issuance pursuant to awards under such Plan by 25,000,000 shares, to a total of 33,919,737 shares of common stock, and (ii) reflect certain changes to the U.S. Internal Revenue Code upon the enactment of the Tax Cuts and Jobs Act of 2017 (the “Fifth Plan Amendment”). The board of directors of the Company (the “Board”) previously approved the Fifth Plan Amendment on February 4, 2019, subject to stockholder approval.

Election of Class 2 Directors

As previously reported in the Company’s definitive proxy statement filed with the Securities and Exchange Commission on February 19, 2019 (the “2019 Proxy”), the term of the Company’s Class 2 directors, Michael Berman and Campbell Rogers, M.D., was scheduled to expire at the Annual Meeting, and the Board nominated Mr. Berman and Dr. Rogers for re-election at the Annual Meeting as Class 2 directors.

At the Annual Meeting, Mr. Berman and Dr. Rogers were elected as Class 2 members of the Board to serve for a term expiring at the Company’s 2022 annual meeting of stockholders or until his successor is elected and qualified.

For more information about the matters above, see the Company’s 2019 Proxy, the relevant portions of which are incorporated herein by reference. The description of the Fifth Plan Amendment above and such portions of the 2019 Proxy are qualified in their entirety by reference to the full text of the Fifth Plan Amendment, filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

At the Annual Meeting, the following five proposals were submitted to a vote of the Company’s stockholders:

- (1) Election of two Class 2 directors to serve on the Board for a term of three years or until their successors are elected and qualified, for which Michael Berman and Campbell Rogers, M.D. were the nominees.
 - (2) Approval of the Fifth Plan Amendment to (i) increase the number of shares of common stock of the Company available for issuance pursuant to awards under the Plan by 25,000,000 shares, to a total of 33,919,737 shares of common stock, and (ii) reflect certain changes to the U.S. Internal Revenue Code upon the enactment of the Tax Cuts and Jobs Act of 2017.
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- (3) Authorization of the board of directors, in its discretion, to amend the Amended and Restated Certificate of Incorporation of the Company to effect a reverse stock split of the Company's outstanding shares of common stock at a ratio in the range of 1-for-25 to 1-for-50, such ratio to be determined by the board of directors and included in a public announcement (the "Reverse Stock Split Proposal").
- (4) If and only if the Reverse Stock Split Proposal is not approved, approval of an amendment to the Amended and Restated Certificate of Incorporation of the Company to increase the number of authorized shares of common stock from 150,000,000 to 500,000,000.
- (5) Ratification of the appointment of Kesselman & Kesselman, Certified Public Accountants, as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2019.

For more information about the foregoing proposals, see the Company's 2019 Proxy. Holders of the Company's common stock were entitled to one vote per share. The number of votes cast for and against and the number of abstentions and broker non-votes with respect to each matter voted upon are set forth below:

- (1) Election of two Class 2 directors to serve on the Board for a term of three years or until his successor is elected and qualified:

Director	For	Withheld
Michael Berman	8,098,385	762,580
Campbell Rogers, M.D.	8,197,228	663,737

- (2) Approval of the Fifth Plan Amendment:

For	Against	Abstain	Broker Non-Votes
6,299,042	2,214,096	347,827	24,112,257

- (3) Approval of the Reverse Stock Split Proposal:

For	Against	Abstain
23,697,130	7,893,029	1,383,063

- (4) Not applicable

Since the Reverse Stock Split Proposal was approved, the number of votes cast with respect to the proposal to increase the number of authorized shares of common stock was not tabulated.

- (5) Ratification of the appointment of Kesselman & Kesselman, Certified Public Accountants, as the Company's independent registered public accounting firm for the year ending December 31, 2019:

For	Against	Abstain
29,824,486	2,558,837	589,899

The results reported above are final voting results. No other matters were considered or voted upon at the meeting.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
10.1	Fifth Amendment to the InspireMD, Inc. 2013 Long-Term Incentive Plan

SIGNATURES

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

InspireMD, Inc.

Date: March 21, 2019

By: /s/ Craig Shore

Name: Craig Shore

Title: Chief Financial Officer

**FIFTH AMENDMENT TO THE
INSPIREMD, INC. 2013 LONG-TERM INCENTIVE PLAN**

This FIFTH AMENDMENT TO THE INSPIREMD, INC. 2013 LONG-TERM INCENTIVE PLAN (this “*Amendment*”), dated as of March 21, 2019 (the “*Effective Date*”) is made and entered into by InspireMD, Inc., a Delaware corporation (the “*Company*”). Terms used in this Amendment with initial capital letters that are not otherwise defined herein shall have the meanings ascribed to such terms in the InspireMD, Inc. 2013 Long-Term Incentive Plan, as amended (the “*Plan*”).

RECITALS

WHEREAS, Article 9 of the Plan provides that the Company’s Board of Directors (the “*Board*”) may amend the Plan at any time and from time to time;

WHEREAS, the Company previously reserved a total of nine million seven hundred thousand (9,700,000) shares of common stock of the Company, par value \$0.0001 (“*Common Stock*”), to be delivered pursuant to awards under the Plan;

WHEREAS, on October 1, 2015, the Company effected a one-for-ten reverse stock split such that, after giving effect to the reverse stock split, there were nine hundred seventy thousand (970,000) shares of Common Stock reserved for issuance under the Plan;

WHEREAS, on April 18, 2016, the Board and, on May 24, 2016, at the Company’s 2016 annual meeting of stockholders, the stockholders, approved an amendment to the Plan to increase the number of shares of Common Stock available for issuance pursuant to awards under the Plan by ten million (10,000,000) shares, to a total of ten million nine hundred seventy thousand (10,970,000) shares of Common Stock;

WHEREAS, on August 4, 2016, the Board and, on September 28, 2016, at the Company’s special meeting of stockholders, the stockholders, approved an amendment to the Plan to increase the number of shares of Common Stock available for issuance under the Plan by six million three hundred thousand (6,300,000) shares, to a total of seventeen million two hundred seventy thousand (17,270,000) shares of Common Stock;

WHEREAS, on October 7, 2016, the Company effected a 1-for-25 reverse stock split such that, after giving effect to the reverse stock split, there were six hundred ninety thousand eight hundred (690,800) shares of Common Stock reserved for issuance pursuant to awards under the Plan;

WHEREAS, on February 7, 2018, the Company effected a 1-for-35 reverse stock split such that, after giving effect to the reverse stock split, there were nineteen thousand seven hundred thirty-seven (19,737) shares of Common Stock reserved for issuance pursuant to awards under the Plan;

WHEREAS, on May 23, 2018, the Board and, on October 24, 2018, at the Company’s 2018 annual meeting of stockholders, the stockholders, approved an amendment to the Plan to increase the number of shares of Common Stock available for issuance under the Plan by eight million nine hundred thousand (8,900,000) shares, to a total of eight million nine hundred nineteen thousand seven hundred thirty-seven (8,919,737) shares of Common Stock;

WHEREAS, the Company intends, at its next annual meeting of its stockholders, to seek stockholder approval of a reverse stock split in the range of 1-for-25 to 1-for-50 (the “*Reverse Stock Split*”);

WHEREAS, the Board desires to amend the Plan to (i) increase the number of shares of Common Stock that may be delivered pursuant to awards under the Plan by an additional 25,000,000 shares, for an aggregate maximum total of 33,919,737 shares of Common Stock available for issuance under the Plan; provided, however, that such number of shares will be adjusted, in accordance with Article 11 of the Plan, if the Reverse Stock Split is approved by the Company’s stockholders and (ii) to reflect certain changes to the Internal Revenue Code of 1986, as amended, upon the enactment of the Tax Cuts and Jobs Act of 2017; and

WHEREAS , the Board intends to submit this Amendment to the Company's stockholders for their approval.

NOW, THEREFORE , in accordance with Article 9 of the Plan and subject to stockholder approval, the Plan is hereby amended, effective as of the date hereof, as follows:

1. Section 2.17 of the Plan is hereby amended by deleting the phrase "or a 'covered employee' as defined in Section 162(m)(3) of the Code" from said Section in its entirety.

2. Section 3.1 of the Plan is hereby amended by deleting the phrase "'outside directors' under Section 162(m) of the Code and" from the second paragraph of said Section in its entirety.

3. Section 3.3 of the Plan is hereby amended by deleting the phrase "Section 162(m) of the Code," from the third paragraph of said Section in its entirety.

4. Section 5.1 of the Plan is hereby amended by deleting said section in its entirety and substituting in lieu thereof the following new Section 5.1:

5.1 Number Available for Awards . Subject to adjustment as provided in Articles 11 and 12 , the maximum number of shares of Common Stock that may be delivered pursuant to Awards granted under the Plan is 30,480,435 shares, of which one hundred percent (100%) may be delivered pursuant to Incentive Stock Options. Shares to be issued may be made available from authorized but unissued Common Stock, Common Stock held by the Company in its treasury, or Common Stock purchased by the Company on the open market or otherwise. During the term of this Plan, the Company will at all times reserve and keep available the number of shares of Common Stock that shall be sufficient to satisfy the requirements of this Plan.

5. Section 6.1 of the Plan is hereby amended by deleting the phrase " , (ii) to the extent an Award issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder, and (iii) to the extent the Committee determines that an Award shall comply with the requirements of Section 162(m) of the Code, in compliance with the applicable requirements of Section 162(m) of the Code and the regulations and other guidance issued thereunder" from said Section and replacing it with the phrase "and (ii) to the extent an Award issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder."

6. Section 6.4 of the Plan is hereby amended by deleting the phrase " , to the extent applicable and in the event the Committee determines that an Award shall comply with the requirements of Section 162(m) of the Code, in compliance with the requirements of Section 162(m) of the Code and the regulations and other guidance issued thereunder" from said Section in its entirety.

7. Section 6.5 of the Plan is hereby amended by deleting the phrase " , (ii) to the extent a SAR issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder, and (iii) to the extent the Committee determines that a SAR shall comply with the requirements of Section 162(m) of the Code, in compliance with the applicable requirements of Section 162(m) and the regulations and other guidance issued thereunder" and replacing it with the phrase "and (ii) to the extent a SAR issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder."

8. Section 6.6 of the Plan is hereby amended by deleting the phrase " , (ii) to the extent a Restricted Stock Unit issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder, and (iii) to the extent the Committee determines that a Restricted Stock Unit award shall comply with the requirements of Section 162(m) of the Code, in compliance with the applicable requirements of Section 162(m) and the regulations and other guidance issued thereunder" and replacing it with the phrase "and (ii) to the extent a Restricted Stock Unit issued under the Plan is subject to Section 409A of the Code, in compliance with the applicable requirements of Section 409A of the Code and the regulations or other guidance issued thereunder."

9. Section 6.7(a) of the Plan is hereby amended by deleting the second paragraph of said Section in its entirety.

10. Section 6.7(a) of the Plan is hereby further amended by deleting the phrase “With respect to a Performance Award that is not intended to satisfy the requirements of Code Section 162(m), if the Committee determines” and replacing it with the phrase “If the Committee determines.”

11. Section 6.7(c) is amended by deleting said Section in its entirety.

12. Section 6.10 of the Plan is hereby amended by deleting the phrase “, where applicable, shall be within the meaning of Section 162(m) of the Code and” with the word “shall.”

13. Section 6.10 of the Plan is hereby further amended by deleting the last sentence of said Section in its entirety.

14. Article 9 of the Plan is hereby amended by deleting the phrase “Sections 162(m), 421, and 422 of the Code” and replacing it with the phrase “Sections 421 and 422 of the Code”.

15. Section 15.5 of the Plan is hereby amended by deleting the phrase “and Section 162(m) of the Code” in its entirety.

16. Except as expressly amended by this Amendment, the Plan shall continue in full force and effect in accordance with the provisions thereof, and all awards granted under the Plan prior to the Effective Date shall continue to be governed pursuant to the terms of the Plan as in effect immediately prior to the Effective Date.

*[Remainder of Page Intentionally Left Blank;
Signature Page Follows .]*

IN WITNESS WHEREOF , the Company has caused this Amendment to be duly executed as of the date first written above.

INSPIREMD, INC.

By: /s/ Craig Shore

Name: Craig Shore

Title: Chief Financial Officer, Chief Administrative Officer, Treasurer and Secretary
