

INSPIREMD, INC.

FORM 8-K (Current report filing)

Filed 07/05/18 for the Period Ending 06/28/18

Telephone	(888) 776-6804
CIK	0001433607
Symbol	NSPR
SIC Code	3841 - Surgical and Medical Instruments and Apparatus
Industry	Medical Equipment, Supplies & Distribution
Sector	Healthcare
Fiscal Year	12/31

**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): June 28, 2018

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: (888) 776-6804

(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 1.01 Entry into a Material Definitive Agreement.

Series C and D Convertible Preferred Stock Redemption

As previously reported, on November 28, 2017, InspireMD, Inc. (the “Company”) entered into a Securities Purchase Agreement (the “Series D Purchase Agreement”) with an institutional investor (the “Series D Investor”) pursuant to which the Company issued and sold 750 shares of its Series D Convertible Preferred Stock (the “Series D Preferred Stock”), which was amended on February 21, 2018, February 26, 2018 and March 28, 2018. Pursuant to the Series D Purchase Agreement, as amended, and the certificate of designation for the Series D Preferred Stock, the holders of the Series D Preferred Stock have the option, subject to certain limitations, to exchange their shares of Series D Preferred Stock into the securities the Company sells in an offering of the Company’s common stock or common stock equivalents for gross proceeds of at least \$8 million (a “Qualified Offering”). Pursuant to the Series D Purchase Agreement, as amended, the Company was also required to, upon closing of a Qualified Offering, exchange all remaining outstanding shares of Series C Convertible Preferred Stock (the “Series C Preferred Stock”) held by the Series D Investor for the securities issued in such Qualified Offering on a \$1.00 per stated value for \$1.00 new subscription amount basis.

On June 28, 2018, the Company and the Series D Investor entered into a letter agreement (the “Letter Agreement”) which further amended the Series D Purchase Agreement to provide that, notwithstanding anything to the contrary in the prior agreements, in the event the Company consummates a Qualified Offering in which the Series D Investor and its affiliates invest at least \$3 million, (i) instead of an automatic exchange of all outstanding shares of Series C Preferred Stock held by the Series D Investor into securities issued in a Qualified Offering on a \$1.00 per stated value for \$1.00 new subscription amount basis, all outstanding shares of Series C Preferred Stock held by the Series D Investor will be redeemed at a per share purchase price equal to the stated value of the Series C Preferred Stock, and (ii) all outstanding shares of Series D Preferred Stock will be redeemed at a per share purchase price equal to the stated value of the Series D Preferred Stock.

Pursuant to the Letter Agreement, on July 3, 2018, upon closing of the Offering (as defined below) that was a Qualified Offering, the Company used \$2,264,269 of the net proceeds of the Offering to redeem 306,917 shares of Series C Preferred Stock and 300 shares of Series D Preferred Stock held by the Series D Investor.

The foregoing description of the Letter Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Letter Agreement, a copy of which is attached hereto as Exhibit 10.1 and incorporated herein by reference.

Public Offering

On June 29, 2018, the Company entered into an underwriting agreement (the “Underwriting Agreement”) with H.C. Wainwright & Co., LLC (the “Underwriter”), relating to an underwritten public offering (the “Offering”) of (i) 10,851,417 common units (“Common Units”), with each Common Unit being comprised of one share of the Company’s common stock, par value \$0.0001 per share, and one Series D warrant (collectively, the “Series D Warrants”) to purchase one share of common stock and (ii) 22,481,916 pre-funded units (“Pre-Funded Units”), with each Pre-Funded Unit being comprised of one pre-funded warrant (collectively, the “Pre-Funded Warrants”) to purchase one share of common stock and one Series D Warrant, which closed on July 3, 2018.

The Company also granted the Underwriter a 30-day option to purchase up to an additional 4,999,999 shares of common stock at a purchase price of \$0.29 per share and/or up to 4,999,999 additional Series D Warrants to purchase 4,999,999 shares of common stock at a purchase price of \$0.01 per Series D Warrant, less the underwriting discounts and commissions of \$0.0203 per share and \$0.0007 per Series D Warrant. The Underwriter exercised its option to purchase an additional 4,999,999 Series D Warrants to purchase 4,999,999 shares of common stock.

The offering price to the public was \$0.30 per Common Unit and \$0.29 per Pre-Funded Unit.

The Series D Warrants included in the Common Units and the Pre-Funded Units are immediately exercisable at a price of \$0.30 per share of common stock, subject to adjustment in certain circumstances, and expire five years from the date of issuance. The shares of common stock, or Pre-Funded Warrants in the case of the Pre-Funded Units, and the Series D Warrants were offered together, but the securities contained in the Common Units and the Pre-Funded Units were issued separately.

The Pre-Funded Units were offered and sold to purchasers whose purchase of Common Units in the Offering would otherwise result in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of the Company's outstanding common stock immediately following the consummation of this Offering, if the purchaser so chose in lieu of Common Units that would otherwise result in the purchaser's beneficial ownership exceeding 4.99% of the Company's outstanding common stock (or at the election of the purchaser, 9.99%). Each Pre-Funded Warrant contained in a Pre-Funded Unit is exercisable for one share of our common stock at an exercise price of \$0.01 per share. The Pre-Funded Warrants are immediately exercisable and may be exercised at any time until all of the Pre-Funded Warrants are exercised in full.

The Underwriting Agreement contains customary representations and warranties, agreements and obligations, conditions to closing and termination provisions. The Underwriting Agreement provides for indemnification by the Underwriter of the Company, its directors and certain of its executive officers, and by the Company of the Underwriter, for certain liabilities, including liabilities arising under the Securities Act of 1933, as amended, and affords certain rights of contribution with respect thereto.

The net proceeds to the Company from the Offering and the exercise of the Underwriter's option to purchase additional 4,999,999 Series D Warrants to purchase 4,999,999 shares of common stock is approximately \$8.7 million, excluding the proceeds, if any, from the exercise of the Series D Warrants and the Pre-Funded Warrants sold in this Offering, and after deducting underwriting discounts and commissions and payment of other estimated expenses associated with the Offering that are payable by the Company. The Company used \$2,264,269 of the proceeds of the Offering to redeem the outstanding shares of its Series C Convertible Preferred Stock held by the holder of its Series D Convertible Preferred Stock and all outstanding shares of its Series D Convertible Preferred Stock pursuant to the Letter Agreement described above under "*Series C and D Convertible Preferred Stock Redemption*." The Company intends to use the remainder of the net proceeds of the Offering for research and development, capital expenditures, working capital and other general corporate purposes, as well as potential acquisition.

Pursuant to the Underwriting Agreement, the Company, upon closing of the Offering, issued to the Underwriter warrants to purchase up to 2,000,000 shares of common stock, or 6% of the aggregate number of shares of common stock sold in the offering (including the number of shares of common stock issuable upon exercise of the Pre-Funded Warrants sold in the Offering). The Underwriter warrants are exercisable at any time and from time to time, in whole or in part, following the date of issuance and ending five years from the date of the execution of the Underwriting Agreement, at a price per share equal to \$0.375 (125% of the offering price to the public per Common Unit).

A registration statement on Form S-1 relating to the Offering (File No. 333-225680) was declared effective by the Securities and Exchange Commission on June 29, 2018. The Offering is being made only by means of a prospectus forming a part of the effective registration statement.

The foregoing descriptions of the Underwriting Agreement, the Series D Warrants, the Pre-Funded Warrants and the Underwriter's warrants are not complete and are qualified in their entirety by reference to the full text of the Underwriting Agreement, the Series D Warrant, the Pre-Funded Warrant and the Underwriter's warrant, copies of which are filed as Exhibit 1.1, Exhibit 4.1, Exhibit 4.2 and Exhibit 4.3 respectively, and incorporated by reference herein.

Item 3.03. Material Modification to Rights of Security Holders.

The information set forth in Item 5.03 of this Current Report on Form 8-K is hereby incorporated by reference into this Item 3.03.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On July 2, 2018, the Company filed with the office of the Secretary of State of the State of Delaware a Certificate of Amendment to Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock (the "Certificate of Amendment") which removes the provision providing for an automatic exchange of all outstanding shares of Series B Convertible Preferred Stock into securities issued in a Qualified Offering on a \$1.00 per stated value for \$1.00 new subscription amount basis upon a Qualified Offering.

The foregoing description of the terms and provisions of the Certificate of Amendment does not purport to be complete and is qualified in its entirety by reference to the Certificate of Amendment, which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated by reference herein.

Item 8.01. Other Events.

On June 29, 2018, the Company issued a press release announcing the pricing of the underwritten public offering of 33,333,333 units at \$0.30 per unit. A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and is hereby incorporated by reference herein.

Pursuant to the full ratchet anti-dilution adjustment provisions in the respective certificate of designation for the Company's Series B Convertible Preferred Stock and Series C Preferred Stock, the conversion price of the outstanding shares of the Series B Convertible Preferred Stock and the Series C Preferred Stock was reduced to \$0.30 per share, effective as of the date of the Underwriting Agreement.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
1.1	<u>Form of Underwriting Agreement (incorporated by reference to Exhibit 1.1 to the Company's Registration Statement on Form S-1, Amendment No. 2, filed with the SEC on June 26, 2018 (File No. 333-225680)).</u>
3.1	<u>Certificate of Amendment, dated July 2, 2018</u>
4.1	<u>Form of Series D Warrant (incorporated by reference to Exhibit A to Exhibit 4.3 to the Company's Registration Statement on Form S-1, Amendment No. 2, filed with the SEC on June 26, 2018 (File No. 333-225680)).</u>
4.2	<u>Form of Pre-Funded Warrant (incorporated by reference to Exhibit 4.4 to the Company's Registration Statement on Form S-1, Amendment No. 2, filed with the SEC on June 26, 2018 (File No. 333-225680)).</u>
4.3	<u>Form of Underwriter Warrant (incorporated by reference to Exhibit 4.5 to the Company's Registration Statement on Form S-1, Amendment No. 2, filed with the SEC on June 26, 2018 (File No. 333-225680)).</u>
10.1	<u>Letter Agreement, dated June 28, 2018 (incorporated by reference to Exhibit 10.67 to the Company's Registration Statement on Form S-1, Amendment No. 3, filed with the SEC on June 28, 2018 (File No. 333-225680)).</u>
99.1	<u>Press Release, dated June 29, 2018</u>

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: July 5, 2018

By: /s/ James Barry

Name: James Barry, Ph.D.

Title: President and Chief Executive Officer

**CERTIFICATE OF AMENDMENT
TO
CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES B CONVERTIBLE PREFERRED STOCK
OF
INSPIREMD, INC.**

INSPIREMD, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “Corporation”), in accordance with the provisions of Section 242 thereof, hereby certifies that the following resolutions amending the rights of the Series B Convertible Preferred Stock (a) were duly adopted by the Board of Directors of the Corporation (the “Board of Directors”) pursuant to authority conferred upon the Board of Directors by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, as amended (the “Certificate of Incorporation”), and the Amended and Restated Bylaws of the Corporation (the “Bylaws”), by unanimous written consent on June 29, 2018, and (b) was consented to by holders of at least a majority of the outstanding shares of Series B Convertible Preferred Stock, par value of \$0.0001 (the “Series B Preferred Stock”), consenting separately as a class.

RESOLVED, that effective upon the filing of this Certificate of Amendment to Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock (this “Certificate of Amendment”), the Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock dated and filed with the Delaware Secretary of State on July 6, 2016 (the “Certificate of Designation”), are hereby amended as follows:

1. Section 6(f) of the Certificate Designation is hereby amended and restated in its entirety to read as follows:

“(f) Reserved.”

RESOLVED, that the Certificate of Designation as amended by the Certificate of Amendment shall remain in full force and effect except as expressly amended hereby.

[signature page follows]

THE UNDERSIGNED, being a duly authorized officer of the Corporation, does file this Certificate of Amendment to Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock, hereby declaring and certifying that the facts herein stated are true and accordingly has hereunto set his hand this 29th day of June, 2018.

By: /s/ Craig Shore

Name: Craig Shore

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

Signature Page to Certificate of Amendment (Series B)



InspireMD, Inc. Announces Pricing of \$10 Million Underwritten Public Offering

Tel Aviv, Israel— June 29, 2018 – InspireMD, Inc. (NYSE American: NSPR), a leader in embolic prevention systems (EPS) / thrombus management technologies and neurovascular devices, today announced the pricing of an underwritten public offering of 33,333,333 units at a price to the public of \$0.30 per unit. InspireMD expects to receive aggregate gross proceeds of approximately \$10 million from the offering, assuming no exercise of the underwriter's option to purchase additional securities. Each unit contains one share of common stock (or common stock equivalent) and one Series D warrant to purchase one share of common stock. The common stock (or common stock equivalents) and the accompanying Series D warrants included in the units can only be purchased together in this offering, but will be issued separately and will be immediately separable upon issuance.

In connection with the offering, InspireMD has granted the underwriter a 30-day option to purchase up to additional 4,999,999 shares of common stock and/or Series D warrants to purchase up to 4,999,999 shares of common stock. The offering is expected to close on or about July 3, 2018, subject to customary closing conditions.

H.C. Wainwright & Co. is acting as the sole book-running manager for the offering.

InspireMD intends to use \$2,264,269 of the proceeds of this offering to redeem the outstanding shares of its Series C Convertible Preferred Stock held by the holder of its Series D Convertible Preferred Stock and all outstanding shares of its Series D Convertible Preferred Stock and the remainder of the net proceeds of this offering for research and development, capital expenditures, working capital and other general corporate purposes, as well as potential acquisition.

A registration statement on Form S-1 relating to the public offering of the securities described above was filed with the Securities and Exchange Commission ("SEC") and was declared effective on June 29, 2018. The offering is being made only by means of a prospectus forming part of the effective registration statement. A preliminary prospectus relating to and describing the terms of the offering has been filed with the SEC and a final prospectus relating to the offering will be filed with the SEC, and will be available on the SEC's website at www.sec.gov. Copies of the final prospectus, when available, may also be obtained from H.C. Wainwright & Co., LLC, 430 Park Avenue, 3rd Floor, New York, NY 10022, by calling (646) 975-6996 or by emailing placements@hcwco.com.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About InspireMD, Inc.

InspireMD seeks to utilize its proprietary MicroNet™ technology to make its products the industry standard for embolic protection and to provide a superior solution to the key clinical issues of current stenting in patients with a high risk of distal embolization, no reflow and major adverse cardiac events.

InspireMD intends to pursue applications of this MicroNet technology in coronary, carotid (CGuard™), neurovascular, and peripheral artery procedures. InspireMD's common stock is quoted on the NYSE American under the ticker symbol NSPR and certain warrants are quoted on the NYSE American under the ticker symbol NSPR.WS.

Forward-Looking Statements

This press release includes statements relating to the offering of InspireMD's securities, including as to the closing of this offering described above and the use of net proceeds therefrom. These statements and other statements in this press release constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are not guarantees of future performance, are based on certain assumptions and are subject to various known and unknown risks and uncertainties, many of which are beyond the Company's control, and cannot be predicted or quantified and consequently, actual results may differ materially from those expressed or implied by such forward-looking statements. Such risks and uncertainties include, without limitation, risks and uncertainties associated with (i) market acceptance of our existing and new products, (ii) negative clinical trial results or lengthy product delays in key markets, (iii) an inability to secure regulatory approvals for the sale of our products, (iv) intense competition in the medical device industry from much larger, multinational companies, (v) product liability claims, (vi) product malfunctions, (vii) our limited manufacturing capabilities and reliance on subcontractors for assistance, (viii) insufficient or inadequate reimbursement by governmental and other third party payers for our products, (ix) our efforts to successfully obtain and maintain intellectual property protection covering our products, which may not be successful, (x) legislative or regulatory reform of the healthcare system in both the U.S. and foreign jurisdictions, (xi) our reliance on single suppliers for certain product components, (xii) the fact that we will need to raise additional capital to meet our business requirements in the future and that such capital raising may be costly, dilutive or difficult to obtain (xiii) the fact that we conduct business in multiple foreign jurisdictions, exposing us to foreign currency exchange rate fluctuations, logistical and communications challenges, burdens and costs of compliance with foreign laws and political and economic instability in each jurisdiction and (xiv) market conditions. More detailed information about the Company and the risk factors that may affect the realization of forward looking statements is set forth in the Company's filings with the Securities and Exchange Commission (SEC), including the Company's Annual Report on Form 10-K and its Quarterly Reports on Form 10-Q. Investors and security holders are urged to read these documents free of charge on the SEC's web site at <http://www.sec.gov>. The Company assumes no obligation to publicly update or revise its forward-looking statements as a result of new information, future events or otherwise.

Investor Contacts:

InspireMD, Inc.
Craig Shore
Chief Financial Officer
Phone: 1-888-776-6804 FREE
Email: craigs@inspiremd.com

Crescendo Communications, LLC
David Waldman
Phone: (212) 671-1021
Email: NSPR@crescendo-ir.com
