

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): May 7, 2024

**MKS Instruments, Inc.**

(Exact name of registrant as specified in its charter)

Massachusetts  
(State or other jurisdiction  
of incorporation)

000-23621  
(Commission  
File Number)

04-2277512  
(I.R.S. Employer  
Identification No.)

2 Tech Drive, Suite 201, Andover,  
Massachusetts  
(Address of principal executive offices)

01810  
(Zip Code)

Registrant's telephone number, including area code: 978-645-5500

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, no par value | MKSI              | Nasdaq Global Select 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.

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

On May 7, 2024, MKS Instruments, Inc. (the “Company”) and James A. Schreiner, Executive Vice President and Chief Operating Officer of the Company’s Materials Solutions Division, entered into an amendment (the “Amendment”) to Mr. Schreiner’s employment agreement with the Company, dated September 16, 2019, as amended on October 25, 2021. Pursuant to the Amendment, the Company and Mr. Schreiner agreed to extend his expatriate service in Berlin, Germany for a third year and in connection therewith, his expatriate service bonus in the amount of \$500,000 due to be paid out on or shortly after August 17, 2024 was replaced with an expatriate service equity award with a grant date value of \$850,000, in the form of time-based restricted stock units (the “Expatriate RSUs”). Subject to Mr. Schreiner’s continued expatriate service, 60% of the Expatriate RSUs will vest on August 17, 2024 and 40% of the Expatriate RSUs will vest on August 17, 2025. The Expatriate RSUs are expected to be granted on or about May 15, 2024 and will be subject to the terms and conditions of the Company’s 2022 Stock Incentive Plan and related restricted stock unit agreement.

The foregoing description of the material terms of the Amendment is qualified in its entirety by reference to the full text of the Amendment, which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

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

The following sets forth the results of voting by shareholders at the 2024 Annual Meeting of Shareholders of the Company held on May 7, 2024:

a) Election of three Class I Directors to serve for a three-year term and until their successors are elected:

| <u>Director Nominee</u> | <u>Votes For</u> | <u>Votes Withheld</u> |
|-------------------------|------------------|-----------------------|
| Rajeev Batra            | 57,707,241       | 4,406,687             |
| Gerald G. Colella       | 59,703,395       | 2,410,533             |
| Elizabeth A. Mora       | 49,280,867       | 12,833,061            |

There were broker non-votes of 2,405,183 shares on this proposal.

b) Approval of compensation paid to the Company’s Named Executive Officers, as disclosed pursuant to the compensation disclosure rules of the U.S. Securities and Exchange Commission, including the Compensation Discussion and Analysis, the compensation tables and any related material disclosed in the Proxy Statement for this meeting:

| <u>Votes For</u> | <u>Votes Against</u> | <u>Votes Abstained</u> |
|------------------|----------------------|------------------------|
| 57,810,465       | 4,262,593            | 40,870                 |

There were broker non-votes of 2,405,183 shares on this proposal.

c) Ratification of the appointment of PricewaterhouseCoopers LLP as the Company’s independent registered public accounting firm for the year ending December 31, 2024:

| <u>Votes For</u> | <u>Votes Against</u> | <u>Votes Abstained</u> |
|------------------|----------------------|------------------------|
| 62,942,476       | 1,554,019            | 22,616                 |

There were no broker non-votes for this proposal.

d) A shareholder proposal regarding simple majority voting:

| <u>Votes For</u> | <u>Votes Against</u> | <u>Votes Abstained</u> |
|------------------|----------------------|------------------------|
| 51,772,218       | 10,284,207           | 57,503                 |

There were broker non-votes of 2,405,183 shares for this proposal.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

| <u>Exhibit No.</u> | <u>Description</u>   |
|--------------------|--|
| 10.1*              | <a href="#">Second Amendment to Employment Agreement, dated May 7, 2024, by and between MKS Instruments, Inc. and James A. Schreiner</a> |
| 104                | Cover Page Interactive Data File (embedded within the Inline XBRL document)  |

\* Management contract or compensatory plan arrangement

**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.

MKS Instruments, Inc.

Date: May 8, 2024

By: /s/ Kathleen F. Burke  
Name: Kathleen F. Burke  
Title: Executive Vice President, General Counsel & Secretary

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT**

This SECOND AMENDMENT (the “Second Amendment”) to the Employment Agreement (as defined below) is made this 7th day of May 2024, by and between MKS Instruments, Inc., a Massachusetts corporation (“MKS”), and James A. Schreiner (“Employee”).

WHEREAS, MKS and Employee are parties to an employment agreement dated September 16, 2019 (the “Employment Agreement”), as amended by an Amendment dated October 25, 2021 (the “First Amendment”);

WHEREAS, at the request of MKS, Employee has agreed to extend his expatriate assignment through August 17, 2025; and

WHEREAS, pursuant to Section 13 of the Employment Agreement, MKS and Employee wish to modify certain provisions of the Employment Agreement, as amended by the First Amendment, relating to Employee’s eligibility to earn compensation related to his expatriate assignment, as described herein.

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt whereof are hereby acknowledged, the parties agree as follows:

1. Effective as of Employee’s execution of this Second Amendment, the phrase “Senior Vice President” is replaced by “Executive Vice President” in all instances in Sections 1 and 6(l) of the Employment Agreement, as amended by the First Amendment.
2. Effective as of Employee’s execution of this Second Amendment, the base salary rate of “\$465,000” in Section 4(a) of the Employment Agreement, as amended by the First Amendment, is replaced by “\$472,000”.
3. Effective as of Employee’s execution of this Second Amendment, Section 4(g) to the Employment Agreement, as added by Section 3 of the First Amendment, is deleted and replaced in its entirety with the following:

**Expatriate Equity Award.** Provided Employee remains employed by the Company and remains in his expatriate assignment (unless the Company directed he return earlier) on the identified vesting dates, and subject to the terms and conditions of the relevant Company equity plan, and relevant restricted stock unit agreement, and MKS Compensation Committee approval, Employee shall receive an equity award of time-based restricted stock units (RSUs) with a grant date value of \$850,000 (the “Expatriate Equity Award”). The Expatriate Equity Award will vest in two installments, as follows: (a) 60% of the Expatriate Equity Award will vest on August 17, 2024, and (b) 40% of the Expatriate Equity Award will vest on August 17, 2025. The grant date of the Expatriate Equity Award will be on or about May 15, 2024.

4. For the avoidance of doubt, following the execution of this Second Amendment, Employee shall no longer be eligible for the Expatriate Service Bonus as described in Section 3 of the First Amendment.
5. Effective as of Employee's execution of this Second Amendment, the last sentence of Section 6(l) to the Employment Agreement, as amended by Section 5 of the First Amendment, is deleted and replaced in its entirety with the following:

For the avoidance of doubt, this Expatriate Service Good Reason is available only after Employee has completed at least two years of the expatriate assignment (or such longer term of service as may be mutually agreed by the Company and Employee following the date hereof) and does not apply upon an earlier return by him to employment in the United States, unless the Company directed that he return earlier.
6. Except as modified in paragraphs 1-5 above, the Employment Agreement, as amended by the First Amendment, remains unchanged and in full force and effect.

In witness whereof, the parties hereto have executed, in the Commonwealth of Massachusetts, this Amendment as a sealed instrument, as of the day, month and year first written above.

MKS INSTRUMENTS, INC.

By: /s/ Sally Ann Bouley

Name: Sally Ann Bouley

Title: Executive Vice President and Chief  
Human Resources Officer

/s/ James A. Schreiner

James A. Schreiner