

**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 13, 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 8.01 Other Events.*Convertible Notes Offering*

On May 13, 2024, MKS Instruments, Inc. (the “Company”) issued a press release announcing that it intends to offer, subject to market and other conditions, \$1.0 billion aggregate principal amount of convertible senior notes due 2030 (the “Notes”) in a private placement to persons reasonably believed to be qualified institutional buyers in reliance on Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). The Company also expects to grant to the initial purchasers of the Notes an option to purchase, within a 13-day period beginning on, and including, the date the Company first issues the Notes, up to an additional \$150.0 million aggregate principal amount of the Notes.

In connection with the pricing of the Notes, the Company expects to enter into privately negotiated capped call transactions with one or more of the initial purchasers of the Notes or their respective affiliates and/or other financial institutions (the “option counterparties”). The capped call transactions are expected generally to reduce the potential dilution to the Company’s common stock upon conversion of any Notes and/or offset any cash payments that the Company is required to make in excess of the principal amount of any converted Notes, as the case may be, with such reduction and/or offset subject to a cap. If the initial purchasers exercise their option to purchase additional Notes, the Company expects to enter into additional capped call transactions with the option counterparties.

A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

This Current Report on Form 8-K shall not constitute an offer to sell, or a solicitation of an offer to buy any securities of the Company, nor shall there be any sale of, any securities of the Company in any state or jurisdiction in which such offer, solicitation or sale would be unlawful under the securities laws of any such state or jurisdiction.

Safe Harbor for Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, including regarding the size and timing of the offering, the granting to the initial purchasers of an option to purchase additional Notes in the offering, and the potential effects of entering into the capped call transactions in connection with the pricing of the Notes. These statements are only predictions based on current assumptions and expectations. Any statements that are not statements of historical fact (including statements containing the words “will,” “projects,” “intends,” “believes,” “plans,” “anticipates,” “expects,” “estimates,” “forecasts,” “continues” and similar expressions) should be considered to be forward-looking statements. Forward-looking statements are not promises or guarantees of future performance and are subject to a variety of risks and uncertainties, many of which are beyond the Company’s control. Actual results may differ materially from those described in the forward-looking statements and will be affected by a variety of risks and factors that are beyond our control including, without limitation, market risks and uncertainties, the completion of the offering on the anticipated terms or at all, and other important risks and factors described in the Company’s Annual Report on Form 10-K for the year ended December 31, 2023, any subsequent Quarterly Reports on Form 10-Q, the preliminary offering memorandum related to the offering of the Notes, and in subsequent filings made by the Company with the U.S. Securities and Exchange Commission. Forward-looking statements speak only as of the date hereof, and, except as required by law, the Company undertakes no obligation to update or revise these forward-looking statements.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

<u>Exhibit No.</u>	<u>Description</u>
99.1	Press Release, dated May 13, 2024, of MKS Instruments, Inc.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

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.

Date: May 13, 2024

MKS Instruments, Inc.

By: /s/ Kathleen F. Burke

Name: Kathleen F. Burke

Title: Executive Vice President, General Counsel & Secretary



**MKS Instruments Announces Proposed Private Offering of
\$1.0 Billion of Convertible Senior Notes**

ANDOVER, MA, May 13, 2024 – MKS Instruments, Inc. (NASDAQ: MKSI) (“MKS”) today announced that it intends to offer, subject to market and other conditions, \$1.0 billion aggregate principal amount of convertible senior notes due 2030 (the “notes”) in a private placement (the “offering”) to persons reasonably believed to be qualified institutional buyers in reliance on Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). MKS also expects to grant to the initial purchasers of the notes an option to purchase, within a 13-day period beginning on, and including, the date MKS first issues the notes, up to an additional \$150.0 million aggregate principal amount of the notes. The offering is subject to market and other conditions, and there can be no assurance as to whether, when or on what terms the offering may be completed.

MKS intends to use a portion of the net proceeds from the offering to pay the cost of the capped call transactions described below. MKS intends to use the remainder of the net proceeds from the offering to repay approximately \$850.0 million in borrowings outstanding under its secured U.S. dollar tranche B term loan, as well as for general corporate purposes. If the initial purchasers exercise their option to purchase additional notes, MKS intends to use a portion of the net proceeds from the sale of such additional notes to enter into additional capped call transactions with one or more of the initial purchasers of the notes or their respective affiliates and/or other financial institutions (the “option counterparties”) and the balance to repay additional borrowings, together with accrued interest, under its secured U.S. dollar tranche B term loan.

The notes will be unsecured, senior obligations of MKS and will bear interest payable semi-annually in arrears on June 1 and December 1 of each year, beginning on December 1, 2024. The notes will mature on June 1, 2030, unless earlier converted, redeemed or repurchased in accordance with their terms. Subject to certain conditions, on or after June 5, 2027, MKS may redeem for cash all or any portion of the notes at a redemption price equal to 100% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date, if the last reported sale price of MKS common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on, and including, the trading day immediately preceding the date the notice of redemption is sent.

Upon conversion, MKS will pay cash up to the aggregate principal amount of the notes to be converted and pay or deliver, as the case may be, cash, shares of common stock or a combination of cash and shares of common stock, at MKS’s election, in respect of the remainder, if any, of its conversion obligation in excess of the aggregate principal amount of the notes being converted. Prior to March 1, 2030, noteholders may convert



all or any portion of their notes only upon the occurrence of certain events and during certain periods, and thereafter, at any time until the second scheduled trading day immediately preceding the maturity date. The interest rate, conversion rate, conversion price and certain other terms of the notes will be determined at the time of pricing of the offering.

If MKS undergoes a fundamental change (as defined in the indenture governing the notes) prior to the maturity date of the notes, holders may require MKS to repurchase for cash all or any portion of their notes at a fundamental change repurchase price equal to 100% of the principal amount of the notes to be repurchased, plus any accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

In connection with the pricing of the notes, MKS expects to enter into privately negotiated capped call transactions with the option counterparties. The capped call transactions are expected generally to reduce the potential dilution to MKS common stock upon conversion of any notes and/or offset any cash payments that MKS is required to make in excess of the principal amount of any converted notes, as the case may be, with such reduction and/or offset subject to a cap. If the initial purchasers exercise their option to purchase additional notes, MKS expects to enter into additional capped call transactions with the option counterparties.

MKS has been advised that, in connection with establishing their initial hedges of the capped call transactions, the option counterparties and/or their respective affiliates expect to enter into various derivative transactions with respect to MKS common stock and/or purchase shares of MKS common stock concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of MKS common stock or the notes at that time.

In addition, MKS expects the option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to MKS common stock and/or purchasing or selling MKS common stock or other securities of MKS in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so (x) during any observation period related to a conversion of notes or following any optional redemption or repurchase of notes by MKS in connection with any fundamental change and (y) following any repurchase of notes by MKS other than in connection with an optional redemption or fundamental change if MKS elects to unwind a corresponding portion of the capped call transactions in connection with any such repurchase). This activity could cause or avoid an increase or a decrease in the market price of MKS common stock or the notes, which could affect noteholders' ability to convert the notes and, to the extent the activity occurs following conversion or during any observation period related to a conversion of notes, it could affect the amount and value of the consideration that noteholders will receive upon conversion of such notes.



The notes will be offered and sold to persons reasonably believed to be qualified institutional buyers pursuant to Rule 144A under the Securities Act. The offer and sale of the notes and the shares of MKS common stock issuable upon conversion of the notes, if any, have not been and will not be registered under the Securities Act or any state securities laws and, unless so registered, such securities may not be offered or sold in the United States absent registration or an applicable exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and other applicable securities laws. Any offer of the notes will be made only by means of a private offering memorandum.

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

Safe Harbor for Forward Looking Statements

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, including regarding the size and timing of the offering, the granting to the initial purchasers of an option to purchase additional notes in the offering, the use of proceeds from the offering, the terms of the notes and related capped call transactions and the potential effects of entering into the capped call transactions in connection with the pricing of the notes. These statements are only predictions based on current assumptions and expectations. Any statements that are not statements of historical fact (including statements containing the words “will,” “projects,” “intends,” “believes,” “plans,” “anticipates,” “expects,” “estimates,” “forecasts,” “continues” and similar expressions) should be considered to be forward-looking statements. Forward-looking statements are not promises or guarantees of future performance and are subject to a variety of risks and uncertainties, many of which are beyond MKS’ control. Actual results may differ materially from those described in the forward-looking statements and will be affected by a variety of risks and factors that are beyond our control including, without limitation, market risks and uncertainties, the completion of the offering on the anticipated terms or at all, and other important risks and factors described in MKS’ Annual Report on Form 10-K for the year ended December 31, 2023, any subsequent Quarterly Reports on Form 10-Q, the preliminary offering memorandum related to the offering and in subsequent filings made by MKS with the U.S. Securities and Exchange Commission. Forward-looking statements speak only as of the date hereof, and, except as required by law, MKS undertakes no obligation to update or revise these forward-looking statements.

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