

**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 8, 2018**

Supernus Pharmaceuticals, Inc.
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
Incorporation)

0-50440

(Commission File Number)

20-2590184

(IRS Employer Identification No.)

1550 East Gude Drive, Rockville MD
(Address of principal executive offices)

20850

(Zip Code)

Registrant's telephone number, including area code: **(301) 838-2500**

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 (see General Instruction A.2. below):

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).

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 and Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

As of May 8, 2018, Supernus Pharmaceuticals, Inc. (the "Company") entered into the Third Amendment to Amended and Restated Employment Agreement with Jack Khattar, President and Chief Executive Officer of the Company (the "Employment Agreement"). Also as of the same day, the Company and certain key executives entered into amendments to their existing Executive Retention Agreements (the "Retention Agreements"). The amendments to the Employment Agreement and the Retention Agreements provide that all amounts payable to the executive under the applicable Employment Agreement or Retention Agreement are subject to the Company's Clawback Policy effective as of April 23, 2018 (the "Clawback Policy") notwithstanding the effective date of the Clawback Policy. The Clawback Policy provides that if (i) the Board of Directors of the Company (the "Board") determines that a covered executive engaged in fraud, intentional misconduct or gross negligence that requires a material restatement of financial results, and (ii) such fraud or intentional misconduct resulted in an incorrect determination that an incentive compensation performance goal had been achieved, then the Board may take appropriate action to recover from such covered executive any incentive compensation resulting from such incorrect determination paid to such covered executive during the three-year period preceding the filing of such accounting restatement.

A copy of the amendment to the Employment Agreement is attached as an exhibit to this Current Report on Form 8-K and is incorporated herein by reference (and this description is qualified in its entirety by reference to such document). A copy of the form of amendment to the Retention Agreement is attached as an exhibit to this Current Report on Form 8-K and is incorporated herein by reference (and this description is qualified in its entirety by reference to such document).

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit 10.1 — [Third Amendment to Amended and Restated Employment Agreement, dated May 8, 2018, between Supernus Pharmaceuticals, Inc. and Jack Khattar.](#)

Exhibit 10.2 — [Form of Amendment to Executive Retention Agreement.](#)

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SIGNATURE

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.

SUPERNUS PHARMACEUTICALS, INC.

DATED: May 11, 2018

By: /s/ Gregory S. Patrick
Gregory S. Patrick
Vice-President and Chief Financial Officer

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SUPERNUS PHARMACEUTICALS, INC.
THIRD AMENDMENT TO
AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This THIRD AMENDMENT TO AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “Amendment”) is made this 8th day of May, 2018 to that certain Amended and Restated Employment Agreement (the “Employment Agreement”), dated February 29, 2012, as amended by Amendment dated August 8, 2014 and Second Amendment dated March 2, 2016, by and between Supernus Pharmaceuticals, Inc., a Delaware corporation (the “Company”), and Jack Khattar (the “Executive”).

WHEREAS, the Company and the Executive wish to amend the Employment Agreement as provided herein;

WHEREAS, Section 16 of the Employment Agreement provides that the Employment Agreement may be amended or modified only by a written instrument signed by the Executive and by an expressly authorized representative of the Company; and

WHEREAS, the Board of Directors of the Company adopted that certain Clawback Policy of Supernus Pharmaceuticals, Inc., which policy is attached hereto as Exhibit A (the “Clawback Policy”), on February 24, 2017, and the Compensation Committee ratified the Clawback Policy on April 23, 2018;

NOW THEREFORE, in consideration of the foregoing premises and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree that the Agreement shall be amended as follows:

AMENDMENT

1. Notwithstanding the Effective Date set forth in the Clawback Policy, the Company and the Executive hereby agree that all amounts payable to the Executive under the Employment Agreement shall be subject to the terms and conditions of the Clawback Policy.

2. Except as expressly provided herein, the remaining terms of the Employment Agreement shall continue in full force and effect.

[Signature Page Follow]

IN WITNESS WHEREOF the undersigned have executed and delivered this Third Amendment to Amended and Restated Employment Agreement as of the date first above written.

COMPANY:

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Gregory Patrick
Name: Gregory Patrick
Title: Chief Financial Officer

EXECUTIVE:

/s/ Jack Khattar
Jack Khattar

EXHIBIT A

Clawback Policy of Supernus Pharmaceuticals, Inc.

Introduction: The Board of Directors (the “**Board**”) of Supernus Pharmaceuticals, Inc. (the “**Company**”) believes that it is in the best interests of the Company and its stockholders to create and maintain a culture that emphasizes integrity and accountability and that reinforces the Company’s pay-for-performance compensation philosophy. The Board has therefore adopted this policy which permits the recoupment of certain executive compensation in accordance with the terms herein (the “**Policy**”).

Administration: This Policy shall be administered by the Board or, if so designated by the Board, the Compensation Committee of the Board (the “**Compensation Committee**”), in which case references herein to the Board shall be deemed references to the Compensation Committee. Any determinations made by the Board shall be final and binding on all affected individuals.

Covered Executives: This Policy applies to the Company’s current and former executive officers and vice presidents (the “**Covered Executives**”).

Incentive Compensation: For purposes of this Policy, Incentive Compensation means any bonuses and/or equity compensation awarded to a Covered Executive.

Recoupment; Accounting Restatement: In the event that (a) the Board determines that a Covered Executive engaged in fraud, intentional misconduct or gross negligence that requires a material restatement of financial results, and (b) such fraud or intentional misconduct resulted in an incorrect determination that an incentive compensation performance goal had been achieved, then the Board may take appropriate action to recover from such Covered Executive any Incentive Compensation resulting from such incorrect determination that had been paid to such Covered Executive during the three-year period preceding the filing of such accounting restatement. The Company may recoup Incentive Compensation paid to the Covered Executive who engaged in the fraud, intentional misconduct or gross negligence to the extent it was based on such incorrect determination, as determined by the Board.

Method of Recoupment: The Board will determine, in its sole discretion, the method for recouping Incentive Compensation hereunder which may include, without limitation: (a) requiring reimbursement of cash incentive compensation previously paid; (b) seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer or other disposition of any equity-based awards; (c) offsetting the recouped amount from any compensation otherwise owed by the Company to the Covered Executive; (d) cancelling outstanding vested or unvested equity awards or (e) taking any other remedial or recovery action permitted by law or in equity, as determined by the Board.

Effective Date: This Policy shall be effective as of April 23, 2018 (the “**Effective Date**”) and shall only apply to Incentive Compensation that is approved, awarded or granted to Covered Executives on or after the Effective Date.

Amendment; Termination: The Board may amend or terminate this Policy at any time.

Other Recoupment Rights: The Board may require that any employment agreement, equity award agreement or similar agreement entered into on or after the Effective Date shall, as a condition to the grant of any benefit thereunder, require a Covered Executive to agree to abide by the terms of this Policy. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar policy in any employment agreement, equity award agreement or similar agreement and any other legal remedies available to the Company. Nothing herein shall preclude the Company from pursuing any action permitted by law or in equity against a Covered Executive who engages in fraud, intentional misconduct or gross negligence which does not involve a restatement of financial results.

Successors: This Policy shall be binding and enforceable against all Covered Executives and their beneficiaries, heirs, executors, administrators or other legal representatives.

Approved by the Board of Directors on February 24, 2017 and ratified by the Compensation Committee on April 23, 2018.

SUPERNUS PHARMACEUTICALS, INC.
AMENDMENT TO EXECUTIVE RETENTION AGREEMENT

This AMENDMENT TO EXECUTIVE RETENTION AGREEMENT (this “Amendment”) is made this 8th day of May, 2018 to that certain Executive Retention Agreement (the “Retention Agreement”), dated [·], by and between Supernus Pharmaceuticals, Inc., a Delaware corporation (the “Company”), and [·] (the “Executive”).

WHEREAS, the Company and the Executive wish to amend the Retention Agreement as provided herein;

WHEREAS, Section 12 of the Retention Agreement provides that the Retention Agreement may be amended or modified only by a written instrument signed by the Executive and by an expressly authorized representative of the Company; and

WHEREAS, the Board of Directors of the Company adopted that certain Clawback Policy of Supernus Pharmaceuticals, Inc., which policy is attached hereto as Exhibit A (the “Clawback Policy”), on February 24, 2017, and the Compensation Committee ratified the Clawback Policy on April 23, 2018;

NOW THEREFORE, in consideration of the foregoing premises and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree that the Agreement shall be amended as follows:

AMENDMENT

1. Notwithstanding the Effective Date set forth in the Clawback Policy, the Company and the Executive hereby agree that all amounts payable to the Executive under the Retention Agreement shall be subject to the terms and conditions of the Clawback Policy.

2. Except as expressly provided herein, the remaining terms of the Retention Agreement shall continue in full force and effect.

[Signature Page Follow]

IN WITNESS WHEREOF the undersigned have executed and delivered this Amendment to Executive Retention Agreement as of the date first above written.

COMPANY:

SUPERNUS PHARMACEUTICALS, INC.

By:

Name:	Jack Khattar
Title:	President and Chief Executive Officer

EXECUTIVE:

[Name]

EXHIBIT A

Clawback Policy of Supernus Pharmaceuticals, Inc.

Introduction: The Board of Directors (the “**Board**”) of Supernus Pharmaceuticals, Inc. (the “**Company**”) believes that it is in the best interests of the Company and its stockholders to create and maintain a culture that emphasizes integrity and accountability and that reinforces the Company’s pay-for-performance compensation philosophy. The Board has therefore adopted this policy which permits the recoupment of certain executive compensation in accordance with the terms herein (the “**Policy**”).

Administration: This Policy shall be administered by the Board or, if so designated by the Board, the Compensation Committee of the Board (the “**Compensation Committee**”), in which case references herein to the Board shall be deemed references to the Compensation Committee. Any determinations made by the Board shall be final and binding on all affected individuals.

Covered Executives: This Policy applies to the Company’s current and former executive officers and vice presidents (the “**Covered Executives**”).

Incentive Compensation: For purposes of this Policy, Incentive Compensation means any bonuses and/or equity compensation awarded to a Covered Executive.

Recoupment; Accounting Restatement: In the event that (a) the Board determines that a Covered Executive engaged in fraud, intentional misconduct or gross negligence that requires a material restatement of financial results, and (b) such fraud or intentional misconduct resulted in an incorrect determination that an incentive compensation performance goal had been achieved, then the Board may take appropriate action to recover from such Covered Executive any Incentive Compensation resulting from such incorrect determination that had been paid to such Covered Executive during the three-year period preceding the filing of such accounting restatement. The Company may recoup Incentive Compensation paid to the Covered Executive who engaged in the fraud, intentional misconduct or gross negligence to the extent it was based on such incorrect determination, as determined by the Board.

Method of Recoupment: The Board will determine, in its sole discretion, the method for recouping Incentive Compensation hereunder which may include, without limitation: (a) requiring reimbursement of cash incentive compensation previously paid; (b) seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer or other disposition of any equity-based awards; (c) offsetting the recouped amount from any compensation otherwise owed by the Company to the Covered Executive; (d) cancelling outstanding vested or unvested equity awards or (e) taking any other remedial or recovery action permitted by law or in equity, as determined by the Board.

Effective Date: This Policy shall be effective as of April 23, 2018 (the “**Effective Date**”) and shall only apply to Incentive Compensation that is approved, awarded or granted to Covered Executives on or after the Effective Date.

Amendment; Termination: The Board may amend or terminate this Policy at any time.

Other Recoupment Rights: The Board may require that any employment agreement, equity award agreement or similar agreement entered into on or after the Effective Date shall, as a condition to the grant of any benefit thereunder, require a Covered Executive to agree to abide by the terms of this Policy. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar policy in any employment agreement, equity award agreement or similar agreement and any other legal remedies available to the Company. Nothing herein shall preclude the Company from pursuing any action permitted by law or in equity against a Covered Executive who engages in fraud, intentional misconduct or gross negligence which does not involve a restatement of financial results.

Successors: This Policy shall be binding and enforceable against all Covered Executives and their beneficiaries, heirs, executors, administrators or other legal representatives.

Approved by the Board of Directors on February 24, 2017 and ratified by the Compensation Committee on April 23, 2018.
