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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

SUPERNUS PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

20-2590184
(I.R.S. Employer Identification No.)

9715 Key West Avenue, Rockville, MD
(Address of principal executive offices)

20850
(Zip Code)

**Supernus Pharmaceuticals, Inc. Amended and Restated
2021 Equity Incentive Plan**
(Full title of the plan)

Jack A. Khattar
President and Chief Executive Officer
Supernus Pharmaceuticals, Inc.
9715 Key West Avenue
Rockville, Maryland 20850
(301) 838-2500
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies of all communications to:

Mark I. Gruhin
George A. Naya
Saul Ewing LLP
1919 Pennsylvania Avenue N.W.
Suite 550
Washington, DC 20006-3434
(202) 333-8800

See next page for calculation of registration fee.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

This Registration Statement is being filed in order to effect the registration of an additional 4,000,000 shares of Common Stock of Supernus Pharmaceuticals, Inc. (the “Registrant”) under the Registrant’s Amended and Restated 2021 Equity Incentive Plan (the “Equity Plan”). Following the registration of these additional shares, we will have registered an aggregate of 15,012,893 shares of Common Stock to be issued under the Equity Plan. The Company previously filed a Registration Statement on Form S-8 with the Securities and Exchange Commission (the “SEC”) on June 25, 2021 ([File No. 333-257392](#)) to register 11,012,893 shares of Common Stock issuable under the Equity Plan. Pursuant to General Instruction E to Form S-8, the contents of the foregoing earlier registration statement on Form S-8 concerning the Equity Plan filed with the SEC is incorporated herein by reference, except to the extent supplemented, amended or superseded by the information set forth herein.

PART I INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

As permitted by Rule 428 under the Securities Act of 1933, this Registration Statement omits the information specified in Part I of Form S-8. The documents containing the information specified in Part I will be delivered to the participants of the Equity Plan as required by Rule 428(b).

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The documents listed in clauses 1 through 5 below are incorporated herein by this reference thereto, and all documents subsequently filed (other than respective filings or portions of filings that are furnished, under applicable SEC rules, rather than filed) by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment, which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by this reference in this registration statement and to be a part hereof from the date of filing of such documents:

1. [The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2023, filed with the SEC on February 27, 2024;](#)
2. The Registrant’s Current Reports on Form 8-K, filed with the SEC on [February 5, 2024](#), [February 21, 2024](#), [February 28, 2024](#), [April 8, 2024](#), [April 24, 2024 \(Date of Report April 22, 2024\)](#), [May 9, 2024](#), and [June 17, 2024](#);
3. [The Registrant’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2024, filed with the SEC on May 8, 2024;](#)
4. The Registrant’s [Proxy Statement, dated April 29, 2024, for the Registrant’s 2024 annual meeting of stockholders, filed with the SEC on April 29, 2024](#); and
5. The description of the Registrant’s common stock, \$0.001 par value per share, which is contained in the Registrant’s Registration Statement on [Form S-3 filed with the SEC on December 3, 2014](#), including any subsequently filed amendments and reports updating such description.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant's amended and restated certificate of incorporation contains provisions that eliminate, to the maximum extent permitted by the General Corporation Law of the State of Delaware, the personal liability of directors and executive officers for monetary damages for breach of their fiduciary duties as a director or officer. The Registrant's amended and restated certificate of incorporation and bylaws provides that the Registrant shall indemnify its directors and executive officers and may indemnify its employees and other agents to the fullest extent permitted by the General Corporation Law of the State of Delaware.

Sections 145 and 102(b)(7) of the General Corporation Law of the State of Delaware provide that a corporation may indemnify any person made a party to an action by reason of the fact that he or she was a director, executive officer, employee or agent of the corporation or is or was serving at the request of the corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, except that, in the case of an action by or in right of the corporation, no indemnification may generally be made in respect of any claim as to which such person is adjudged to be liable to the corporation.

The Registrant has entered into indemnification agreements with each of its directors and executive officers, in addition to the indemnification provided for in the Registrant's amended and restated certificate of incorporation and bylaws, and intends to enter into indemnification agreements with any new directors and executive officers in the future.

The Registrant has purchased and intends to maintain insurance on behalf of any person who is or was a director or officer of the Registrant against any loss arising from any claim asserted against him or her and incurred by him or her in any such capacity, subject to certain exclusions.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following is a list of exhibits filed with, or incorporated by reference into, this Registration Statement:

Exhibit Number	Description
4.1	Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1, File No. 333-184930, filed with the SEC on November 14, 2012).
4.2	Amended and Restated By-Laws of the Registrant (incorporated by reference to Exhibit 3.2 to the Company's Registration Statement on Form S-1, File No. 333-184930, as amended on November 26, 2012).
4.3	Supernus Pharmaceuticals, Inc. Amended and Restated 2021 Equity Incentive Plan (previously filed as Appendix A to the Registrant's Proxy Statement dated April 29, 2024 relating to the Registrant's 2024 Annual Meeting of Stockholders, incorporated herein by reference).
5.1	Opinion of Saul Ewing LLP.
23.1	Consent of KPMG LLP.
23.2	Consent of Saul Ewing LLP (included in the opinion filed as Exhibit 5.1 to this Registration Statement).
24.1	Power of Attorney (included on signature page of this Registration Statement).
107	Filing Fee Table (filed herewith).

Item 9. Undertakings

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the Registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Rockville, State of Maryland, on June 17, 2024.

SUPERNUS PHARMACEUTICALS, INC.

By: /s/ Jack A. Khattar

Name: Jack A. Khattar

Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below hereby makes, constitutes and appoints Jack A. Khattar and Timothy C. Dec, and each of them, with full power to act without the other, such person's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities to sign any and all amendments to this Registration Statement, including post-effective amendments, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in connection therewith, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or any substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jack A. Khattar</u> Jack A. Khattar	President and Chief Executive Officer and Director (Principal Executive Officer)	June 17, 2024
<u>/s/ Timothy C. Dec</u> Timothy C. Dec	Senior Vice President, Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	June 17, 2024
<u>/s/ Charles W. Newhall, III</u> Charles W. Newhall, III	Director and Chairman of the Board	June 17, 2024
<u>/s/ Carolee Barlow, M.D., Ph.D.</u> Carolee Barlow, M.D., Ph.D.	Director	June 17, 2024
<u>/s/ Georges Gemayel, Ph.D.</u> Georges Gemayel, Ph.D.	Director	June 17, 2024
<u>/s/ Frederick M. Hudson</u> Frederick M. Hudson	Director	June 17, 2024
<u>/s/ Bethany L. Sensenig</u> Bethany L. Sensenig	Director	June 17, 2024



lawyers@saul.com
www.saul.com

June 17, 2024

Supernus Pharmaceuticals, Inc.
9715 Key West Avenue
Rockville, Maryland 20850

The Board of Directors:

We refer to the Registration Statement on Form S-8 (the "Registration Statement") of Supernus Pharmaceuticals, Inc., a Delaware corporation (the "Company"), to be filed with the Securities and Exchange Commission (the "Commission") covering the registration under the Securities Act of 1933, as amended (the "Securities Act"), of 4,000,000 shares of common stock, par value \$0.001 per share, of the Company (the "Shares") authorized pursuant to the Company's Amended and Restated 2021 Equity Incentive Plan (the "Plan").

We have examined the Registration Statement, the Amended and Restated Certificate of Incorporation of the Company and the Plan, each of which have been filed with the Commission as exhibits to the Registration Statement. In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and have made such other investigations as we have deemed relevant and necessary in connection with the opinion hereinafter set forth.

In rendering the opinion set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents.

Based upon and subject to the foregoing, we are of the opinion that the Shares to be issued pursuant to the terms of the Plan have been duly authorized and, when issued in accordance with the terms of the Plan, will be duly and validly issued, fully paid and non-assessable.

We hereby consent to the use of our name in the Registration Statement as counsel who will pass upon the legality of the Shares for the Company and as having prepared this Opinion as an exhibit to the Registration Statement. In giving the foregoing consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ SAUL EWING LLP
Saul Ewing LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the use of our reports dated February 27, 2024, with respect to the consolidated financial statements of Supernus Pharmaceuticals, Inc. and subsidiaries, and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP

Baltimore, Maryland

June 17, 2024

Calculation of Filing Fees Table

Form S-8
(Form Type)

SUPERNUS PHARMACEUTICALS, INC.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(2)	Proposed Maximum Offering Price Per Unit(3)	Maximum Aggregate Offering Price(3)	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.001 par value per Share ("Common Stock")	Other(1)	4,000,000	\$25.98	\$103,920,000	\$0.0001476	\$15,339
Total Offering Amounts					\$103,920,000		\$15,339
Total Fee Offsets							\$-
Net Fee Due							\$15,339

- (1) Fee calculated in accordance with Rules 457(c) and (h) under the Securities Act of 1933, as amended (the "Securities Act").
- (2) Pursuant to Rule 416(a) under the Securities Act of 1933, this Registration Statement also covers such additional shares of Common Stock, of Supernus Pharmaceuticals, Inc. (the "Registrant"), as may be issued by reason of a stock dividend, recapitalization, stock split, or combination or exchange of shares or similar transactions.
- (3) Estimated pursuant to Rule 457(c) and (h) solely for the purposes of calculating the Maximum Aggregate Offering Price and the Amount of Registration Fee based upon the average of the high and low prices of the Registrant's Common Stock as reported on the NASDAQ Global Market on June 10, 2024.