
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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): August 28, 2020

Tesla, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-34756
(Commission
File Number)

91-2197729
(I.R.S. Employer
Identification No.)

**3500 Deer Creek Road
Palo Alto, California 94304**
(Address of Principal Executive Offices, and Zip Code)

(650) 681-5000
Registrant's Telephone Number, Including Area Code

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 communication 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 communication pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communication 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	TSLA	The 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 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.***Equity Distribution Agreement***

On September 1, 2020, Tesla, Inc. (“Tesla”) entered into an equity distribution agreement (the “Equity Distribution Agreement”) with Goldman Sachs & Co. LLC, BofA Securities, Inc., Barclays Capital Inc., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, SG Americas Securities, LLC, Wells Fargo Securities, LLC and BNP Paribas Securities Corp., as sales agents (each, a “Sales Agent” and collectively, the “Sales Agents”), to sell shares of common stock, par value \$0.001 per share, of Tesla (the “Common Stock”) having aggregate sales proceeds of up to \$5.0 billion (the “Shares”), from time to time, through an “at-the-market” offering program (the “Offering”).

Upon delivery of a placement notice and subject to the terms and conditions of the Equity Distribution Agreement, the Sales Agents will use reasonable efforts consistent with their normal trading and sales practices, applicable state and federal laws, rules and regulations, and the rules of the Nasdaq Global Select Market to sell the Shares from time to time based upon Tesla’s instructions for the sales, including any price, time or size limits specified by Tesla. Under the Equity Distribution Agreement, the Sales Agents may sell the Shares by any method permitted by law, including in ordinary brokers’ transactions, in negotiated transactions, in block trades, and in transactions that are deemed to be an “at-the-market offering” as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended (the “Securities Act”). The Sales Agents’ obligations to sell the Shares under the Equity Distribution Agreement are subject to satisfaction of certain conditions, including customary closing conditions.

The Equity Distribution Agreement provides that the Sales Agents will be entitled to compensation for their services in the form of a commission of up to 0.50% of the aggregate gross proceeds from each sale of the Shares, and Tesla has agreed to reimburse the Sales Agents for certain specified expenses. Tesla has also agreed to provide the Sales Agents with customary indemnification and contribution rights. Tesla is not obligated to sell any Shares under the Equity Distribution Agreement and may at any time suspend solicitation and offers under the Equity Distribution Agreement. The Equity Distribution Agreement may be terminated by Tesla at any time by giving written notice to the Sales Agents for any reason or by each Sales Agent at any time, with respect to such Sales Agent only, by giving written notice to Tesla for any reason or immediately under certain circumstances, including but not limited to the occurrence of a material adverse change in the company. The Offering of the Shares pursuant to the Equity Distribution Agreement will terminate upon the termination of the Equity Distribution Agreement by Tesla or the Sales Agents.

The sales and issuances of the Shares under the Equity Distribution Agreement will be made pursuant to Tesla’s effective shelf registration statement on Form S-3 (File No. 333-231168) (the “Registration Statement”) declared effective by the Securities and Exchange Commission (the “SEC”) on May 2, 2019. On the date hereof, Tesla intends to file a prospectus supplement with the SEC in connection with the offer and sale of the Shares pursuant to the Equity Distribution Agreement.

The foregoing description of the Equity Distribution Agreement is not complete and is qualified in its entirety by reference to the full text of such agreement, a copy of which is filed herewith as Exhibit 1.1 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 the solicitation of an offer to buy any securities under the Equity Distribution Agreement, nor shall there be any sale of such 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.

Vehicle Lease Warehouse Credit Facilities

In order to support Tesla’s direct vehicle leasing program, Tesla’s subsidiaries from time to time establish warehouse credit facilities where Tesla is not a guarantor or otherwise a party. As previously reported, (i) Tesla Finance LLC (“TFL”) and Tesla 2014 Warehouse SPV LLC are parties to an Amended and Restated Loan and Security Agreement, dated August 17, 2017, with Deutsche Bank A.G. New York Branch (“DB”) as administrative agent and the other parties thereto (as amended, the “A&R Warehouse Agreement”), and (ii) TFL and LML 2018

Warehouse SPV, LLC, an indirect Tesla subsidiary, were parties to a separate Loan and Security Agreement, dated December 28, 2018, with DB as administrative agent and the other parties thereto (as amended, the “2018 Warehouse Agreement”).

On August 28, 2020:

- The 2018 Warehouse Agreement was terminated following the payment in full of all obligations thereunder as a result of a securitization of the leased vehicle assets collateralizing the 2018 Warehouse Agreement; and
- The A&R Warehouse Agreement was further amended and restated to, among other things, reflect the termination of the 2018 Warehouse Agreement and to extend the borrowing availability date to August 13, 2021 and extend the maturity date to September 2022.

As so amended, the A&R Warehouse Agreement has an aggregate lender commitment of \$1.1 billion, the same amount as the aggregate lender commitment previously shared by the A&R Warehouse Agreement and the 2018 Warehouse Agreement prior to the termination of the latter.

The foregoing description of the A&R Warehouse Agreement is not complete and is qualified in its entirety by reference to the full text of such agreement, a copy of which will be filed as an exhibit to the Company’s Quarterly Report on Form 10-Q for the quarter ending September 30, 2020.

Item 1.02 Termination of a Material Definitive Agreement.

The information set forth in Item 1.01 above under the heading “Vehicle Lease Warehouse Credit Facilities” is incorporated herein by reference.

Item 8.01 Other Events.

Offering Matters

In connection with the Offering, the legal opinion as to the legality of the Common Stock sold is being filed as Exhibit 5.1 to this Current Report on Form 8-K and is incorporated herein and into the Registration Statement by reference.

Stock Dividend Adjustments

On August 10, 2020, the board of directors of Tesla declared a five-for-one forward split of its Common Stock in the form of a stock dividend to stockholders of record on August 21, 2020 (the “Stock Dividend”). The Stock Dividend was distributed after close of trading on August 28, 2020, and trading began on a stock split-adjusted basis on August 31, 2020. As of August 28, 2020, there were approximately 933,540,135 shares of Common Stock outstanding.

Tesla is filing updated capitalization and dilution data for the quarter ended June 30, 2020, as adjusted to reflect the Stock Dividend. The full text of the update is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
1.1	Equity Distribution Agreement, dated as of September 1, 2020, by and between Tesla, Inc. and Goldman Sachs & Co. LLC, BofA Securities, Inc., Barclays Capital Inc., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, SG Americas Securities, LLC, Wells Fargo Securities, LLC and BNP Paribas Securities Corp.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, P.C.
23.1	Consent of Wilson Sonsini Goodrich & Rosati, P.C. (included in Exhibit 5.1).
99.1	Adjusted Capitalization and Dilution Data of Tesla, Inc. adjusted to reflect the stock dividend distributed on August 28, 2020.
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.

TESLA, INC.

By: /s/ Zachary J. Kirkhorn

Zachary J. Kirkhorn
Chief Financial Officer

Date: September 1, 2020