

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

**FORM 8-K/A
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 5, 2020



Delaware
(State or Other Jurisdiction of Incorporation)

001-34112
(Commission File Number)

01-0616867
(I.R.S. Employer Identification No.)

1717 Doolittle Drive, San Leandro, California 94577
(Address of Principal Executive Offices) (Zip Code)

(510) 483-7370
(Registrant's telephone number, including area code)

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, \$0.001 par value per share	ERII	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

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 5, 2020, Energy Recovery, Inc. (the "Company") filed a Current Report on Form 8-K (the "Original Report") to announce the appointment of Mr. Robert Yu Lang Mao as the Company's President and Chief Executive Officer. At the time of the filing of the Original Report, Mr. Mao's compensation as President and Chief Executive Officer had not yet been determined by the Company's Compensation Committee. Pursuant to Item 5.02(e) of Current Report on Form 8-K, the Company is filing this Amendment No. 1 to the Original Report (the "Amendment") solely for the purpose of disclosing a brief description of Mr. Mao's compensation arrangements as President and Chief Executive Officer. The information contained in the Amendment should be read in conjunction with the information contained in the Original Report.

Mr. Mao's compensation as President and Chief Executive Officer are set forth in that certain Offer of Employment dated May 20, 2020, by and between the Company and Mr. Mao (the "Employment Letter"). Pursuant to the terms of the Employment Letter, Mr. Mao will receive an annual salary of \$500,000, be eligible for an annual bonus from 0% to 100% of his annual base salary, a one-time stock option award to purchase \$1,000,000 of the Company's common stock, par value \$0.001 per share (the "Common Stock"), be eligible to receive additional equity awards under the Company's Long Term Incentive Plan and other standard Company benefits. The stock option award will vest over a four (4) year period, with twenty-five percent (25%) of the stock option vesting on the one year anniversary of the grant date and 1/36th monthly thereafter. In connection with Mr. Mao's employment, Mr. Mao will be named a participant in the Company's Change of Control Plan, as amended (the "CCP").

Mr. Mao's Employment Letter provides for an "at will" employment however, if Mr. Mao's employment is terminated by the Company for any reason without "Cause" and not as part of an "Anticipatory Termination" (each as defined in the CCP), Mr. Mao will be entitled to receive as severance the greater of (i) the severance benefits provided in any then-existing and applicable Company severance plan or (ii) all earned but unpaid salary, all earned but unpaid and un-deferred bonus attributable to the year immediately preceding the year in which the termination occurs, and subject to the execution and effectiveness of a separation agreement and release, full acceleration of the vesting of 25% of unvested equity awards held by Mr. Mao.

The foregoing description of the Employment Letter does not purport to be complete and is qualified in its entirety by reference to the Employment Letter, which is attached hereto as Exhibit 10.1 and is incorporated herein by reference into this Item 5.02.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
10.1	Offer of Employment with Energy Recovery, Inc., as President and Chief Executive Officer

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.

Energy Recovery, Inc.

Date: May 22, 2020

By: /s/ William Yeung
William Yeung
Chief Legal Officer



May 20, 2020

Mr. Robert Yu Lang Mao
1717 Doolittle Drive
San Leandro, CA 94577

Re: Offer of Employment with Energy Recovery, Inc., as President and Chief Executive Officer

Dear Robert;

On behalf of the Board of Directors of Energy Recovery, Inc. ("ERI" or the "Company"), I am pleased to confirm your appointment to the position of President and Chief Executive Officer of ERI, reporting to the Board of Directors, subject to the following terms and conditions.

Effective Date and Salary: Your appointment as President and Chief Executive Officer was effective on May 5, 2020. In connection with your role, you will receive a bi-weekly salary of \$19,230.77 (annualized \$500,000.00), less deductions authorized or required by law. The salary will be paid bi-weekly in accordance with the Company's standard payroll procedures. Since you are now a full time employee of ERI, you will no longer receive any separate compensation for your role as the Chairman of the Board or as a Director of ERI.

Annual Incentive Plan (AIP): You will be eligible to participate in the Company's Annual Incentive Plan ("AIP), under which you will be eligible to receive from zero (0%) to one hundred percent (100%) of your base salary as a bonus for achieving performance goals established by the Board of Directors each year.

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Long Term Incentive Plan. Subject to the approval and discretion of the Company's Board of Directors or its Compensation Committee, each year you may continue to be granted additional equity awards under the Company's 2016 Incentive Plan, which we expect to be in an annual amount approximately equal to two times (2x) your base salary. The awards will be in the form of option awards, however, the Compensation Committee may permit you to elect to take up to 25% of the annual award in the form of RSUs. The exercise price per share of an option award or the value of the RSUs will be equal to the closing price on NASDAQ of a share of the Company's common stock on the day the Committee approves your grant, and all awards will be subject to the terms and conditions of the 2016 Incentive Plan or such other Plan the Board and shareholders may approve and any award agreement.

One-time Equity Grant. In connection with your appointment, you will be granted an option award under the Company's 2016 Incentive Plan to purchase \$1,000,000 worth of the Company's common stock. The option will vest over a four (4) year period, with twenty-five percent (25%) of the option vesting on the one year anniversary of the grant date and 1/36th monthly thereafter. The option award will in all cases be subject to the terms and conditions of the Company's 2016 Incentive Plan, award agreement, and notice of grant.

Change of Control Plan. In connection with your appointment, you will be named as a Participant in the Company's Change in Control Plan ("CCP"), as amended.

Benefits. In connection with your role, you will be eligible to receive employee benefits including paid-time-off under the company's Discretionary Time Off policy; medical, dental and vision insurance for you and your dependents; as well as long-term disability and life insurance. Please note that the benefits program may change from time to time at the Company's discretion.

Employment Status. Although your status may change, your employment with the Company remains "at will", meaning that either you or the Company will be entitled to terminate your employment at any time and for any reason, with or without cause. Any contrary representations which may have been made to you are superseded by this offer letter. In addition, although your job duties, compensation, benefits, as well as the Company's personnel policies and procedures may change in the future, the "at will" nature of your employment may not be changed.

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Termination for Convenience. In the event that you are terminated without Cause (as defined in the CCP) and not as part of an Anticipatory Termination (as defined in the CCP), you will be entitled to receive the greater of the severance benefits provided in any then-existing and applicable Company severance plan, or as defined in this section, specifically: all payments required by applicable local law, including all earned and unpaid salary, and all earned but unpaid and un-deferred bonus attributable to the year that ends immediately before the year in which the termination occurs, less deductions required or permitted by law; and (without altering the “at will” nature of your employment), the following additional benefits (“Additional Benefits”), in exchange for a mutually agreeable form of release of all claims known or unknown, and satisfying any other conditions or restrictive covenants set forth in any Company severance plan, provided that ERI receives the signed, unrevoked agreement within forty five (45) days of your termination date:

(A) the immediate vesting of twenty five (25%) of all unvested equity compensation held by you as of the date of termination, including unvested equity compensation where the amount payable is based on the satisfaction of performance criteria to the extent such vesting acceleration would not cause any award intended to constitute “qualified performance-based compensation,” within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended (the “Code”) to fail to so qualify, less deductions required or permitted by applicable law, with the vesting acceleration to occur in the following order: stock options and similar equity awards would vest before “full” value equity awards and, within each category of awards, equity awards would vest in the order that they were granted. All other provisions of the option will continue in effect in accordance with the original terms of the agreement evidencing the option.

To the extent the Additional Benefits compensation is subject to Section 409A of the Code, the severance payment or the distribution of the equity compensation shall be paid or made, as applicable, on the 45th day following “separation from service” (within the meaning of Code Section 409A and any the regulations or other guidance thereunder (“Section 409A”). Notwithstanding anything to the contrary contained herein, no such payment or distribution will be made to you prior to the earlier of (a) the expiration of the six-month period measured from the date of your separation from service or (b) the date of your death, if you are deemed at the time of such separation from service to be a “specified employee” (within the meaning of Section 409A) and to the extent such delayed commencement is otherwise required in order to avoid a prohibited distribution under Section 409A. All payments which had been delayed pursuant to the immediately preceding sentence will be paid to you in a lump sum upon expiration of such six-month period (or, if earlier, upon your death).

In the event that you voluntarily resign (other than under the circumstances described in the CCP) or are terminated by ERI for Cause, you will only be entitled to payment required by applicable local law, including all earned and unpaid salary, any accrued and unused vacation pay and all earned but unpaid and un-deferred bonus attributable to the year that ends immediately before the year in which the termination occurs, less deductions required or permitted by law.

Thank you for signing and returning this offer letter to Stacy Proctor, Vice President of Human Resources.

Sincerely,

Arve Hanstveit
Compensation Committee Chairman
On behalf of the ERI Board of Directors

I hereby accept the foregoing offer of employment and acknowledge that no representations, offer, commitments, other than those contained herein, have been issued, given, or made to me whatsoever. I understand that this agreement does not constitute a guarantee of employment for a fixed period.

Robert Yu Lang Mao

Date

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