

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): May 2, 2023

LATHAM GROUP, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation)	001-40358 (Commission File Number)	83-2797583 (I.R.S. Employer Identification No.)
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**787 Watervliet Shaker Road
Latham, NY 12110**

(Address of principal executive offices) (Zip Code)

(800) 833-3800

(Registrant's Telephone Number, Including Area Code)

(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	Name of each exchange on which registered
Common stock, par value \$0.0001 per share	SWIM	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 (§230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (§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 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Amendment to Latham Group, Inc. 2021 Omnibus Equity Incentive Plan

On May 2, 2023, at the 2023 annual meeting of stockholders (the “Annual Meeting”) of Latham Group, Inc. (the “Company”), the stockholders approved the first amendment (the “First Amendment”) to the Latham Group, Inc. 2021 Omnibus Equity Incentive Plan (the “2021 Omnibus Equity Plan”), which was previously approved by the Board of Directors of the Company (the “Board”). The First Amendment became effective upon stockholder approval, and provides for (i) an increase by 8,000,000 shares of the share pool, i.e. the maximum number of shares of the Company’s common stock that may be issued pursuant to awards granted under the 2021 Omnibus Equity Plan, (ii) a prohibition on recycling of shares withheld or remitted to pay taxes for all awards, (iii) a minimum vesting period of one year for all awards, with an exception for shares representing 5% of the share pool, and (iv) a prohibition on the transfer of stock options and stock appreciation rights (“SARs”) for value or to third-party financial institutions without stockholder approval.

Except as amended by the First Amendment, the other terms of the 2021 Omnibus Equity Plan remain in full force and effect. A description of the terms of the First Amendment and 2021 Omnibus Equity Plan is included in “Proposal Three: Amendment to the 2021 Omnibus Equity Incentive Plan” in the Company’s definitive proxy statement for the Annual Meeting filed with the Securities and Exchange Commission (the “SEC”) on March 21, 2023, which description is incorporated herein by reference. Such description is a summary only and is qualified in its entirety by reference to the full text of the First Amendment and 2021 Omnibus Equity Incentive Plan included in such definitive proxy statement. The First Amendment is attached hereto as Exhibit 10 and is incorporated herein by reference.

Stock Appreciation Rights

On March 1, 2023, the Compensation Committee of the Board approved annual equity award grants under the 2021 Omnibus Equity Plan to officers and other employees. A portion of the annual equity awards granted to our executive officers included SARs for an aggregate of 790,181 shares of common stock, with a strike price of \$3.24 per share, which were subject to stockholder approval of the First Amendment at the Annual Meeting because the Company did not have enough shares of common stock in the share pool to support such grant as of such date. On May 2, 2023, following stockholder approval of the First Amendment at the Annual Meeting, the foregoing SARs awards to our executive officers became effective without condition. The form of Stock Appreciation Right Award Agreement used for such awards was filed as Exhibit 10.15 to Company’s Annual Report on Form 10-K for the year ended December 31, 2022, which was filed with the SEC on March 7, 2023.

Item 5.07 Submission of Matters to a Vote of Security Holders.

The Annual Meeting was held on May 2, 2023. At the Annual Meeting, the stockholders:

- (1) Elected the three Class II director nominees, with each director to hold office until the 2026 annual meeting of stockholders and until such director’s successor is duly elected and qualified, or until such director’s earlier resignation, retirement or other termination of service;
- (2) Ratified the appointment of Deloitte and Touche LLP as the Company’s independent registered public accounting firm for the year ending December 31, 2023; and
- (3) Approved the First Amendment.

Set forth below are the final voting results for each matter presented to stockholders at the Annual Meeting.

Proposal 1: Election of Class II Directors

Nominee	Votes For	Votes Withheld	Broker Non-Votes
Robert D. Evans	85,133,259	18,779,118	2,237,990
William M. Pruellage	84,906,739	19,005,638	2,237,990
Scott M. Rajeski	90,370,536	13,541,841	2,237,990

Proposal 2: Ratification of Appointment of Independent Registered Public Accounting Firm

For	Against	Abstain
106,147,692	1,970	705

Proposal 3: Approval of Amendment to the Latham Group, Inc. 2021 Omnibus Equity Incentive Plan

For	Against	Abstain	Broker Non-Votes
103,273,068	454,717	184,592	2,237,990

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
10*	First Amendment to the Latham Group, Inc. 2021 Omnibus Equity Incentive Plan
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Filed herewith. Indicates management contract or compensatory plan.

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 4, 2023

LATHAM GROUP, INC.

By: /s/ Scott M. Rajeski

Name: Scott M. Rajeski

Title: Chief Executive Officer and President

Latham Group, Inc.
First Amendment to
2021 Omnibus Equity Incentive Plan

The Latham Group, Inc. 2021 Omnibus Incentive Plan (as amended from time to time, the “**Plan**”), effective April 22, 2021, of Latham Group, Inc., a Delaware corporation (including any successor thereto, the “**Company**”) and its Affiliates is hereby amended by this First Amendment (the “**First Amendment**”) as set forth below. The First Amendment shall be effective from and after the date this First Amendment is approved by the stockholders of the Company in accordance with Section 13(a) of the Plan. Following such effective date, any reference to the “**Plan**” shall mean the Plan, as amended by this First Amendment. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Plan.

1. Section 5(a) of the Plan is hereby deleted and replaced in its entirety with the following:

(a) Awards; Minimum Vesting.

(i) The Committee may grant Awards to one or more Eligible Persons. All Awards granted under the Plan shall vest and become exercisable in such manner and on such date or dates or upon such event or events as determined by the Committee, including, without limitation, attainment of Performance Conditions.

(ii) Notwithstanding any other provision of the Plan to the contrary and subject to the remaining terms of this clause (ii), any Awards granted under the Plan that settle in shares of Common Stock (excluding, for this purpose, any Substitute Awards) shall vest no earlier than the first anniversary of the date of grant for such Award; provided, however, that the Committee may grant Awards without regard to the foregoing minimum vesting requirement with respect to a maximum of 5% of the shares of Common Stock subject to the Share Pool (which such Share Pool may be increased from time to time in accordance with the Plan). For purposes of Awards to non-employee directors, such Award will be deemed to vest no earlier than the first anniversary of the date of grant of the Award if such Award vests on the earlier of (X) the date of the next annual meeting of stockholders (which date is at least 50 weeks after the immediately preceding year’s annual meeting of stockholders) and (Y) the first anniversary of the date of grant. For the avoidance of doubt, this Section 5(a)(ii) shall not be construed to limit the Committee’s discretion to provide for accelerated exercisability or vesting of an Award, or to deem an Award to be earned, including in cases of death, Disability, retirement, termination without Cause or a Change in Control.

2. Section 5(b) of the Plan is hereby deleted and replaced in its entirety with the following:

(b) Share Limits. Subject to Section 11 of the Plan and subsection (e) below, the following limitations apply to the grant of Awards: (i) no more than 21,170,212 shares of Common Stock may be reserved for issuance and delivered in the aggregate pursuant to Awards granted under the Plan (the “**Share Pool**”); (ii) no more than 4,830,086 shares of Common Stock may be delivered pursuant to the exercise of Incentive Stock Options granted under the Plan; and (iii) the maximum amount (based on the Fair Market Value of shares of Common Stock on the date of grant as determined in accordance with applicable financial accounting rules) of Awards that may be granted in any single fiscal year to any non-employee member of the Board, taken together with any cash fees paid to such non-employee member of the Board in respect of service as a member of the Board during such fiscal year, shall be \$750,000; provided, that the foregoing limitation shall not apply in respect of any Awards issued to (x) a non-employee director in connection with the Company’s initial public offering of shares of Common Stock, or in respect of any one-time equity grant upon his or her appointment to the Board or (y) a non-executive chairman of the Board, provided, that the non-employee director receiving such additional compensation does not participate in the decision to award such compensation.

3. Section 5(c) of the Plan is hereby deleted and replaced in its entirety with the following:

(c) **Share Counting.** The Share Pool shall be reduced, on the date of grant, by the relevant number of shares of Common Stock for each Award granted under the Plan that is valued by reference to a share of Common Stock; provided that Awards that are valued by reference to shares of Common Stock but are required to be paid in cash pursuant to their terms shall not reduce the Share Pool. If and to the extent that Awards originating from the Share Pool terminate, expire, or are cash-settled, canceled, forfeited, exchanged, or surrendered without having been exercised, vested, or settled, the shares of Common Stock subject to such Awards shall again be available for Awards under the Share Pool. Notwithstanding the foregoing, the following shares of Common Stock shall not become available for issuance under the Plan: (i) shares of Common Stock tendered by Participants, or withheld by the Company, as full or partial payment to the Company upon the exercise of Stock Options granted under the Plan; (ii) shares of Common Stock reserved for issuance upon the grant of Stock Appreciation Rights, to the extent that the number of reserved shares of Common Stock exceeds the number of shares of Common Stock actually issued upon the exercise of the Stock Appreciation Rights; and (iii) shares of Common Stock withheld by, or otherwise remitted to, the Company to satisfy a Participant's tax withholding obligations upon the exercise of, upon the lapse of restrictions on, or settlement of, an Award.

4. Section 14(b)(ii) of the Plan is hereby deleted and replaced in its entirety with the following:

(ii) Notwithstanding the foregoing, the Committee may permit Awards (other than Incentive Stock Options) to be transferred by the Participant, without consideration, subject to such rules as the Committee may adopt, to: (A) any person who is a "family member" of the Participant, as such term is used in the instructions to Form S-8 under the Securities Act or any successor form of registration statements promulgated by the Securities and Exchange Commission (collectively, the "**Immediate Family Members**"); (B) a trust solely for the benefit of the Participant or the Participant's Immediate Family Members; (C) a partnership or limited liability company whose only partners or stockholders are the Participant and the Participant's Immediate Family Members; or (D) any other transferee as may be approved either (1) by the Board or the Committee, or (2) as provided in the applicable Award Agreement, in each case in compliance with the instructions to Form S-8 (each transferee described in clause (A), (B), (C) or (D) above is hereinafter referred to as a "**Permitted Transferee**"); provided, that the Participant gives the Committee advance written notice describing the terms and conditions of the proposed transfer and the Committee notifies the Participant in writing that such a transfer would comply with the requirements of the Plan; and provided further, that in no event shall any Option or SAR (either granted independently or in tandem) be transferable for value or to any third-party financial institutions without stockholder approval. Nothing in this Section 14(b)(ii) shall apply to any portion of an Award that has been fully exercised or settled, as the case may be, and shall not preclude the forfeiture of an Award in accordance with the terms thereof or the Plan.

5. This First Amendment shall be and is hereby incorporated into and forms a part of the Plan. Except as expressly provided herein, all terms and conditions of the Plan shall remain in full force and effect.

* * *

As adopted by the Board of Directors of the Company on March 2, 2023.

As approved by the stockholders of the Company on May 2, 2023.
