

MOOG INC  
Form 8-K  
January 11, 2013

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): **January 9, 2013**

**MOOG INC.**

(Exact name of registrant as specified in its charter)

New York	1-5129	16-0757636
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

East Aurora, New York	14052-0018
(Address of principal executive offices)	(Zip Code)

Registrant's Telephone Number, Including Area Code: **(716) 652-2000**

N/A

(Former name or former address, if changed since last report)

Edgar Filing: MOOG INC - Form 8-K

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))

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

(a) The Company's Annual Meeting of Shareholders was held on January 9, 2013.

The following matters were submitted to a vote of shareholders at the 2013 Annual Meeting. In accordance with the Company's Restated Certificate of Incorporation, other than on matters relating to the election of directors or as (b) required by law, where the holders of Class A shares and Class B shares vote as a separate class, each Class A share is entitled to one-tenth vote per share, and each Class B share is entitled to one vote per share. The final results reported below reflect such vote.

(i) The nominees to the Board of Directors were elected based on the following votes:

Nominee	For	Authority Withheld	Broker Non-Votes
Class A			
Albert F. Myers (term expiring 2016)	35,102,668	2,782,779	2,221,300
Class B			
Kraig H. Kayser (term expiring 2014)	3,966,217	115,784	196,127
Robert H. Maskrey (term expiring 2016)	3,963,359	118,642	196,127

The terms of the following directors continued after the Annual Meeting: Joe C. Green, Robert T. Brady and John R. Scannell (Class B directors with terms expiring in 2014); Raymond W. Boushie (Class A director with a term expiring in 2014); Richard A. Aubrecht, Peter J. Gundermann and William G. Gisel Jr (Class B directors with terms expiring in 2015) and Brian J. Lipke (Class A director with a term expiring in 2015).

The Company's Class A shareholders and Class B shareholders, voting together as a single class, ratified the (ii) appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the 2013 fiscal year based on the following votes:

For, 8,055,626; Against, 181,122; Abstain, 52,054.

(iii) The Company's Class A shareholders and Class B shareholders, voting together as a single class, approved an amendment of the Moog Inc. 2008 Stock Appreciation Rights Plan based on the following votes:

For 7,416,709; Against, 345,422; Abstain, 108,414; Broker Non-Votes, 418,257.

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.

MOOG INC.

Dated: January 11, 2013 By: /s/ Jennifer Walter  
Name: Jennifer Walter  
Controller

TTOM: 12pt; FONT-SIZE: 10pt; FONT-FAMILY: 'Times New Roman', Times, serif; TEXT-ALIGN: justify; TEXT-INDENT: 36pt">Redemption. The Board of Directors may redeem the Rights for \$0.01 per Right at any time before any person or group becomes an Acquiring Person. If the Board redeems any Rights, it must redeem all of the Rights. Once the Rights are redeemed, the only right of the holders of the Rights will be to receive the redemption price of \$0.01 per Right. The redemption price will be adjusted if the Company has a stock dividend or a stock split.

Exchange. After a person or group becomes an Acquiring Person, but before an Acquiring Person owns 50% or more of our outstanding common shares, the Board may extinguish the Rights by exchanging one common share or an equivalent security for each Right, other than Rights held by the Acquiring Person. In certain circumstances, the Company may elect to exchange the Rights for cash or other securities of the Company having a value approximately equal to one common share.

Expiration. The Rights expire on the earliest of (i) September 22, 2026; or (ii) the redemption or exchange of the Rights as described above.

Anti-Dilution Provisions. The Board may adjust the purchase price of the Series A Preferred Shares, the number of Series A Preferred Shares issuable and the number of outstanding Rights to prevent dilution that may occur from a stock dividend, a stock split, or a reclassification of the Series A Preferred Shares or our common shares. No adjustments to the Exercise Price of less than 1% will be made.

Amendments. The terms of the Rights and the Rights Agreement may be amended in any respect without the consent of the holders of the Rights on or prior to the Distribution Date. Thereafter, the terms of the Rights and the Rights Agreement may be amended without the consent of the holders of Rights, with certain exceptions, in order to (i) cure any ambiguities; (ii) correct or supplement any provision contained in the Rights Agreement that may be defective or inconsistent with any other provision therein; (iii) shorten or lengthen any time period pursuant to the Rights Agreement; or (iv) make changes that do not adversely affect the interests of holders of the Rights (other than an Acquiring Person or an affiliate or associate of an Acquiring Person).

Taxes. The distribution of Rights should not be taxable for federal income tax purposes. However, following an event that renders the Rights exercisable or upon redemption of the Rights, shareholders may recognize taxable income.

Transfer Agent

The registrar and transfer agent for our common shares is Computershare Trust Company, Inc.

Listing

Our common shares traded on the Nasdaq Capital Market under the symbol "TOPS."

**TAX CONSIDERATIONS**

You should carefully read the discussion of the principal U.S. federal income tax and Marshall Islands and other tax considerations associated with our operations and the acquisition, ownership and disposition of our common stock set forth in the section entitled "Taxation" of our annual report on Form 20-F for the year ended December 31, 2016 filed on March 14, 2017.

## PLAN OF DISTRIBUTION

On December 11, 2017, which we refer to as the Effective Date, we entered into the Purchase Agreement with the Investor. The Purchase Agreement provides that, upon the terms and subject to the conditions set forth therein, the Investor is committed to purchase up to \$25,000,000 worth of shares of our common stock over the 24-month term of the Purchase Agreement.

This prospectus supplement and accompanying prospectus relate to the issuance and sale of: (i) up to \$25,000,000 of shares of our common stock that may be sold from time to time to the Investor over the next 24 months pursuant to the Purchase Agreement and (ii) up to \$500,000 of shares of our common stock that are being issued to the Investor as a commitment fee in consideration for entering into the Purchase Agreement. This prospectus supplement and accompanying prospectus also cover the resale of these shares by the Investor to the public.

From time to time over the term of the Purchase Agreement, we may, in our sole discretion, provide the Investor with a Request Notice to purchase a specified Purchase Amount of shares of our common stock over a Purchase Period commencing on the trading day specified in the applicable Request Notice, with each request subject to the limitations discussed below. The maximum Purchase Amount requested to be purchased pursuant to any single Request Notice shall equal (i) if the VWAP of the first 30 minutes of trading is equal to or lower than the VWAP of the Business Day immediately prior to the Purchase Date, the greater of (A) 10% of the US Dollar value traded of the Common Stock on the Principal Market on the Business Day immediately prior to the Purchase Date or (B) 10% of the US Dollar value traded of the Common Stock on the Principal Market on the Purchase Date, or (ii) if the VWAP of the first 30 minutes of trading on the Purchase Date is higher than the VWAP of the Business Day immediately prior to the Purchase Date, the greater of (A) 20% of the US Dollar value traded of the Common Stock on the Principal Market on the Business Day immediately prior to the Purchase Date or (B) 20% of the US Dollar value traded of the Common Stock on the Principal Market on the Purchase Date; provided that in each case, the Company and the Investor may agree upon a higher Purchase Price.

Once presented with a Request Notice, the Investor is required to purchase the number of Purchase Shares specified in such notice, up to the maximum number of Purchase Shares on such Business Day. The per share purchase price for the shares of our common stock subject to a Request Notice will be equal to the product of a discount factor of 91% multiplied by the lowest daily VWAP during the applicable Purchase Period. Each purchase pursuant to a Request Notice will reduce, on a dollar-for-dollar basis, the Total Commitment under the Purchase Agreement. The payment for, against subsequent delivery of, Shares in respect of each Purchase Request shall be settled on the Settlement Date therefor, which will be the same day the Investor received the Shares.

We are prohibited from issuing a Request Notice if (i) the aggregate of the Purchase Amounts exceeds the Aggregate Limit, or (ii) the sale of shares of our common stock pursuant to the Request Notice would cause us to sell or the Investor to purchase an aggregate number of shares of our common stock which would result in beneficial ownership by the Investor of more than 9.99% of our common stock (as calculated pursuant to Section 13(d) of the Exchange Act and the rules and regulations thereunder). We are also prohibited from delivering any Request Notice or otherwise offering or selling Shares to the Investor (i) during any period in which the Company is, or may be deemed to be, in possession of material non-public information, or (ii) at any time from and including the date on which the Company shall issue a press release containing, or shall otherwise publicly announce, its earnings, revenues or other results of operations through and including the time that is 24 hours after the time that the Company files a Report on Form 6-K or an Annual Report on Form 20-F that includes consolidated financial statements as of and for the same period or periods, as the case may be, covered by such Earnings Announcement.

The Purchase Agreement contains customary representations, warranties, covenants and conditions by, among and for the benefit of the parties. The Purchase Agreement may be terminated by the Company at any time by one business day's prior written notice. Unless earlier terminated, the Purchase Agreement will terminate automatically on the earlier of (i) date on which the Company sells and the Investor purchases the full Available Amount as provided in the Purchase Agreement and (ii) the Maturity Date. Under certain circumstances set forth in the Purchase Agreement, the Investor may terminate the Purchase Agreement on five Business Days' prior written notice.



We have agreed to issue to the Investor a commitment fee as consideration for the Investor entering into this Agreement (i) on the first Purchase Date, such number of shares of Common Stock that would have a value equivalent to Two Hundred Fifty Thousand Dollars (\$250,000), (ii) on the Purchase Date on which the Company has issued Request Notices, in the aggregate with all previous Request Notices, to the Investor for an aggregate Purchase Amount of at least Twelve Million Five Hundred Thousand Dollars (\$12,500,000), such number of shares of Common Stock that would have a value equivalent to One Hundred Thousand Dollars (\$100,000), (iii) on the Purchase Date on which the Company has issued Request Notices, in the aggregate with all previous Request Notices, to the Investor for an aggregate Purchase Amount of at least Seventeen Million Five Hundred Thousand Dollars (\$17,500,000), such number of shares of Common Stock that would have a value equivalent to One Hundred Thousand Dollars (\$100,000), and (iv) on the Purchase Date on which the Company has issued Request Notices, in the aggregate with all previous Request Notices, to the Investor for an aggregate Purchase Amount of at least Twenty-Two Million Five Hundred Thousand Dollars (\$22,500,000), such number of shares of Common Stock that would have a value equivalent to Fifty Thousand Dollars (\$50,000), in each case of clauses (i) through (iv), as such number of shares of Common Stock to be issued as consideration are calculated using the VWAP of the previous day to such applicable Purchase Date.

We have further agreed with the Investor that each party shall be responsible for the payment of any fees or commissions, if any, of any financial advisor, placement agent, broker or finder engaged by such party relating to or arising out of the transactions contemplated by the Purchase Agreement, and each party shall pay, and hold the other party harmless against, any liability, loss or expense (including, without limitation, attorneys' fees and out of pocket expenses) arising in connection with any such claim.

We may suspend the sale of shares of our common stock to the Investor pursuant to this prospectus supplement for certain periods of time for certain reasons, including if this prospectus supplement is required to be supplemented or amended to include additional material information.

The Investor is an "underwriter" within the meaning of Section 2(a)(11) of the Securities Act. The Investor has informed us that it will use an unaffiliated broker-dealer to effectuate all sales, if any, of the common stock that it may purchase from us pursuant to the Purchase Agreement. Such sales will be made on Nasdaq at prices and at terms then prevailing or at prices related to the then current market price. Each such unaffiliated broker-dealer will be an underwriter within the meaning of Section 2(a)(11) of the Securities Act. The Investor has informed us that each such broker-dealer will receive commissions from the Investor that will not exceed customary brokerage commissions.

The shares of our common stock may be sold in one or more of the following manners:

- Ordinary brokerage transactions and transactions in which the broker solicits purchasers; or
- A block trade in which the broker dealer so engaged will attempt to sell the shares of our common stock as agent, but may position and resell a portion of the block as principal to facilitate the transaction.

We know of no existing arrangements between the Investor and any other stockholder, broker, dealer, underwriter, or agent relating to the sale or distribution of the shares of our common stock offered by this prospectus supplement. At the time a particular offer of the shares of our common stock is made, a prospectus supplement, if required, will be distributed that will set forth the names of any agents, underwriters, or dealers and any compensation from the selling stockholder, and any other required information.

The Investor has agreed that during the term of the Purchase Agreement, neither the Investor nor any of its affiliates will, directly or indirectly, engage in any short sales involving our securities or grant any option to purchase, or acquire any right to dispose of or otherwise dispose for value of, any shares of our common stock or any securities convertible into or exercisable or exchangeable for any shares of our common stock, or enter into any swap, hedge or other similar agreement that transfers, in whole or in part, the economic risk of ownership of any shares of our common stock.

We have advised the Investor that it is required to comply with Regulation M promulgated under the Exchange Act to the extent applicable to this offering. With certain exceptions, Regulation M precludes the Investor, any affiliated purchasers, and any broker-dealer or other person who participates in the distribution from bidding for or purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of the distribution until the entire distribution is complete. Regulation M also prohibits any bids or purchases made in order to stabilize the price of a security in connection with the distribution of that security. All of the foregoing may affect the marketability of the shares of our common stock offered by this prospectus supplement.

We have entered into an agreement with Newbridge Securities Corporation, member FINRA/SIPC, or Newbridge, a registered broker-dealer and FINRA member, pursuant to which Newbridge agreed to act as the placement agent in connection with the Purchase Agreement with the Investor. Newbridge will receive a placement fee of \$45,000, and a \$15,000 non-accountable expense reimbursement upon receipt of written confirmation from the Financial Industry Regulatory Authority, Inc., or FINRA, to the effect that FINRA's Corporate Finance Department has determined not to raise any objection with respect to the fairness or reasonableness of the terms of the Purchase Agreement or the transactions contemplated thereby. Following receipt of the \$45,000 placement fee and the \$15,000 non-accountable expense reimbursement, Newbridge shall not be entitled to any additional compensation upon the closing of any subsequent stock sales effected pursuant to the purchase agreement, and Newbridge shall not be deemed a "distribution participant" in connection with any subsequent sales of stock pursuant to this prospectus supplement. We have also agreed to indemnify Newbridge and certain other persons against certain liabilities in connection with the offering of shares of our common stock offered hereby.

We will pay all fees and expenses in connection with satisfying our obligations to ensure the prompt listing of all of the Shares and Commitment Shares.

The transfer agent and registrar for our common stock is Computershare Trust Company, Inc.

Our common shares are listed on the Nasdaq Capital Market under the symbol "TOPS."

Please also see the information set forth under the caption "Plan of Distribution" in the accompanying prospectus, and the disclosure set forth in our report on Form 6-K relating to the Purchase Agreement with the Investor, pursuant to the Exchange Act, which is incorporated herein by reference. For more information, please see the section entitled "Incorporation by Reference" in this prospectus supplement.

## EXPENSES

The following are the estimated expenses of the issuance and distribution of the securities offered by this prospectus supplement, all of which will be paid by us.

SEC Registration fees	\$23,457 *
Legal fees and expenses	\$60,000
Accounting Fees	\$15,000
FINRA related fees	\$31,498 *
Miscellaneous	\$5,000
Total:	\$134,955

\*Previously Paid

## LEGAL MATTERS

The validity of the common shares offered by this prospectus supplement with respect to Marshall Islands law and certain other legal matters relating to United States and Marshall Islands law will be passed upon for us by Seward & Kissel LLP, New York, New York. The Investor is being represented by McDermott Will & Emery LLP, New York, New York. The Placement Agent is represented by Schiff Hardin LLP, Washington, D.C.

## EXPERTS

The consolidated financial statements incorporated in this prospectus supplement by reference from Top Ships Inc.'s annual report on Form 20-F for the year ended December 31, 2016, have been audited by Deloitte Certified Public Accountants S.A., an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing. The offices of Deloitte Certified Public Accountants S.A. are located at Fragoklissias 3a & Granikou Str., 15125 Maroussi, Athens, Greece.

## WHERE YOU CAN FIND ADDITIONAL INFORMATION

As required by the Securities Act, we filed a registration statement relating to the securities offered by this prospectus supplement and the accompanying prospectus with the Commission. This prospectus supplement and prospectus are a part of that registration statement, which includes additional information.

### Government Filings

We file annual and special reports within the Commission. You may read and copy any document that we file at the public reference facilities maintained by the Commission at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the public reference room by calling 1 (800) SEC-0330, and you may obtain copies at prescribed rates from the Public Reference Section of the Commission at its principal office in Washington, D.C. 20549. The Commission maintains a website (<http://www.sec.gov>) that contains reports, proxy and information statements and other information regarding registrants that file electronically with the Commission. Our filings are also available on our website at <http://www.topships.org>. The information on our website, however, is not, and should not be deemed to be, a part of this prospectus supplement. Further, other than as described below, the information contained in or accessible from the Commission's website is not part of this prospectus supplement.

### Information Incorporated by Reference

The Commission allows us to "incorporate by reference" information that we file with it. This means that we can disclose important information to you by referring you to those filed documents. The information incorporated by reference is considered to be a part of this prospectus supplement and the accompanying prospectus, and information that we file later with the Commission prior to the termination of this offering will also be considered to be part of this prospectus supplement and prospectus and will automatically update and supersede previously filed information, including information contained in this document.

We incorporate by reference in this prospectus supplement the following documents filed with the Commission pursuant to the Exchange Act:

- Annual Report on Form 20-F for the year ended December 31, 2016, filed with the Commission on March 14, 2017, which contains our audited consolidated financial statements for the most recent fiscal year for which those statements have been filed.
- Report on Form 6-K furnished to the Commission on February 2, 2017.
- Report on Form 6-K furnished to the Commission on February 21, 2017.
- Report on Form 6-K furnished to the Commission on March 20, 2017.
- Report on Form 6-K furnished to the Commission on March 22, 2017.
- Report on Form 6-K furnished to the Commission on March 24, 2017.
- Report on Form 6-K furnished to the Commission on March 27, 2017.
- Report on Form 6-K furnished to the Commission on March 28, 2017.
- The three Reports on Form 6-K, each of which was furnished to the Commission on April 5, 2017.
- Report on Form 6-K furnished to the Commission on April 28, 2017.
- Report on Form 6-K furnished to the Commission on May 8, 2017.
- Report on Form 6-K furnished to the Commission on May 10, 2017.
- The two Reports on Form 6-K, each of which was furnished to the Commission on May 15, 2017.
- Report on Form 6-K furnished to the Commission on May 19, 2017.
- Report on Form 6-K furnished to the Commission on May 30, 2017.
- Report on Form 6-K furnished to the Commission on June 6, 2017.
- Report on Form 6-K furnished to the Commission on June 9, 2017.
- Report on Form 6-K furnished to the Commission on June 16, 2017.
- Report on Form 6-K furnished to the Commission on June 22, 2017.
- The two Reports on Form 6-K, each of which was furnished to the Commission on June 26, 2017.
- Report on Form 6-K furnished to the Commission on June 30, 2017.
- Report on Form 6-K furnished to the Commission on July 6, 2017.
- Report on Form 6-K furnished to the Commission on July 11, 2017.

- Report on Form 6-K furnished to the Commission on July 12, 2017.
- Report on Form 6-K furnished to the Commission on July 14, 2017.
- Report on Form 6-K furnished to the Commission on August 3, 2017.
- Report on Form 6-K furnished to the Commission on August 8, 2017.
- The two Reports on Form 6-K, each of which was furnished to the Commission on August 18, 2017.
- Report on Form 6-K furnished to the Commission on August 29, 2017.
- Report on Form 6-K furnished to the Commission on September 7, 2017.
- Report on Form 6-K furnished to the Commission on September 13, 2017.
- The two Reports on Form 6-K, each of which was furnished to the Commission on September 15, 2017.
- Report of Form 6-K furnished to the Commission on September 29, 2017.
- Report on Form 6-K furnished to the Commission on October 5, 2017.
- The two Reports on Form 6-K, each of which was furnished to the Commission on October 12, 2017.
- Report on Form 6-K furnished to the Commission on October 19, 2017.
- Report on Form 6-K furnished to the Commission on October 23, 2017.
- Report on Form 6-K furnished to the Commission on November 3, 2017.
- Report on Form 6-K furnished to the Commission on November 8, 2017.
- Report on Form 6-K furnished to the Commission on November 13, 2017.
- Report on Form 6-K furnished to the Commission on November 14, 2017.
- Report on Form 6-K furnished to the Commission on November 22, 2017.
- Report on Form 6-K furnished to the Commission on November 24, 2017.

We are also incorporating by reference all subsequent annual reports on Form 20-F that we file with Commission and certain Reports on Form 6-K that we furnish to the Commission after the date of this prospectus supplement (if they state that they are incorporated by reference into this prospectus supplement or prospectus) until we file a post-effective amendment indicating that the offering of the securities made by this prospectus supplement has been terminated. In all cases, you should rely on the later information over different information included in this prospectus supplement or the accompanying prospectus.

You should rely only on the information contained or incorporated by reference in this prospectus supplement and any accompanying prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus supplement and any accompanying prospectus supplement as well as the information we previously filed with the Commission and incorporated by reference, is accurate as of the dates on the front cover of those documents only. Our business, financial condition and results of operations and prospects may have changed since those dates.

You may obtain a copy of above mentioned filing or any subsequent filing we incorporated by reference to this prospectus supplement by writing or telephoning us at the following address:

Top Ships Inc.

1 Vas. Sofias and Meg. Alexandrou Str,

15124 Maroussi, Greece

(011) 30 210 812-8180 (telephone number)

Information Provided by the Company

We will furnish holders of our common stock with annual reports containing audited financial statements and a report by our independent registered public accounting firm. The audited financial statements will be prepared in accordance with U.S. generally accepted accounting principles. As a "foreign private issuer," we are exempt from the rules under the Exchange Act prescribing the furnishing and content of proxy statements to shareholders. While we furnish proxy statements to shareholders in accordance with the rules of the Nasdaq Capital Market, those proxy statements do not conform to Schedule 14A of the proxy rules promulgated under the Exchange Act. In addition, as a "foreign private issuer," our officers and directors are exempt from the rules under the Exchange Act relating to short swing profit reporting and liability.