

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 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): April 4, 2022

MAGNACHIP SEMICONDUCTOR CORPORATION
(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-34791
(Commission
File Number)

83-0406195
(I.R.S. Employer
Identification No.)

c/o MagnaChip Semiconductor S.A.
1, Allée Scheffer, L-2520
Luxembourg, Grand Duchy of Luxembourg
(Address of Principal Executive Offices)

Not Applicable
(Zip Code)

(352) 45-62-62
(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, par value \$0.01 per share	MX	New York Stock Exchange

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 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

As previously disclosed, on March 25, 2021, Magnachip Semiconductor Corporation, a Delaware corporation (the “Company”), South Dearborn Limited, an exempted company incorporated in the Cayman Islands with limited liability (“Parent”) formed by an affiliate of Wise Road Capital LTD (“Wise Road”), and Michigan Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Parent (“Merger Sub”), entered into an Agreement and Plan of Merger (as amended, the “Merger Agreement”), providing for, among other things and subject to the terms and conditions thereof, the merger of Merger Sub with and into the Company (the “Merger”), with the Company surviving the Merger as a wholly owned subsidiary of Parent.

The closing of the Merger was subject to certain conditions, including clearance by the Committee on Foreign Investment in the United States (“CFIUS”) under the Defense Production Act of 1950, as amended. As previously disclosed, the Company and Parent were advised that CFIUS clearance of the Merger will not be forthcoming and received permission from CFIUS to withdraw their joint filing. In connection therewith, the Company, Parent and Wise Road entered into a Termination and Settlement Agreement, dated December 13, 2021 (the “Termination Agreement”), which was attached as Exhibit 10.1 in the Registrant’s Current Report on Form 8-K, dated December 13, 2021, pursuant to which Parent agreed to pay \$70.2 million (the “Termination Fee”) to the Company on the terms specified in the Termination Agreement in satisfaction of Parent’s obligation to pay a termination fee in connection with the termination of the Merger Agreement.

The Merger Agreement was previously terminated on December 20, 2021 pursuant to the Termination Agreement following the Company’s receipt of a portion of the Termination Fee equal to \$51 million from Parent and the issuance of a new standby letter of credit, which secured a deferred portion of the Termination Fee equal to \$19.2 million from Parent due on or before March 31, 2022. In connection therewith, the Company, Parent and Wise Road entered into a First Amendment to the Termination Agreement, dated April 4, 2022 (the “Amendment to Termination Agreement”), pursuant to which Parent agreed to pay the Company \$19.2 million, of which a portion of the Termination Fee, equal to \$14.4 million, has been paid by Parent on April 4, 2022 and payment of the remaining portion of the Termination Fee, equal to \$4.8 million (which amount is secured by a new standby letter of credit, dated April 4, 2022), will be paid by Parent on or before June 30, 2022. As of April 4, 2022, \$65.4 million of the Termination Fee has been paid by Parent.

The foregoing description of the Amendment to Termination Agreement does not purport to be complete and is qualified in its entirety by reference to the Amendment to Termination Agreement, which is attached hereto as Exhibit 10.1 and incorporated herein by reference.

Item 1.02. Termination of a Material Definitive Agreement.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference herein.

Item 7.01. Regulation FD Disclosure.

On April 4, 2022, the Company, Parent and Wise Road entered into the Amendment to the Termination Agreement at the request of Parent and Wise Road.

In accordance with General Instruction B.2 of Form 8-K, the information set forth in this Item 7.01 is furnished pursuant to Item 7.01 and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities under that section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.**(d) Exhibits.**

The following exhibits are furnished as part of this report:

<u>Exhibit No.</u>	<u>Description</u>
10.1	First Amendment to Termination and Settlement Agreement, dated as of April 4, 2022, by and between Magnachip Semiconductor Corporation, South Dearborn Limited and Wise Road Capital LTD.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

Date: April 6, 2022

MAGNACHIP SEMICONDUCTOR CORPORATION

By: /s/ Theodore Kim

Name: Theodore Kim

Title: Chief Compliance Officer, General
Counsel and Secretary

FIRST AMENDMENT TO TERMINATION AND SETTLEMENT AGREEMENT

This First Amendment to Termination and Settlement Agreement (this “Amendment”) is entered into as of April 4, 2022, by and among South Dearborn Limited, an exempted company incorporated in the Cayman Islands with limited liability (“Parent”), Magnachip Semiconductor Corporation, a Delaware corporation (the “Company”), and Wise Road Capital LTD (“Wise Road”). Each of Parent, Wise Road and the Company are sometimes referred to herein as a “Party”.

RECITALS

WHEREAS, Parent, Company and Michigan Merger Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent (the “Merger Sub”), previously entered into that certain Agreement and Plan of Merger, dated as of March 25, 2021 (“Merger Agreement”), pursuant to which Merger Sub was to merge with and into the Company with the Company surviving as a wholly-owned subsidiary of Parent, subject to the terms and conditions of the Merger Agreement;

WHEREAS, Parent, Merger Sub, the Company and Wise Road have entered into that certain Termination and Settlement Agreement (the “Agreement”), dated as of December 13, 2021, pursuant to which, among other things, the Merger Agreement was terminated on December 20, 2021 upon the Company’s receipt of the Parent Initial Fee and the Amended Standby Letter of Credit; and

WHEREAS, pursuant to Section 16 of the Agreement, the Parties, with the exception of Merger Sub, which was dissolved effective March 21, 2022, desire to mutually amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and understandings herein contained, the receipt and sufficiency of which are acknowledged, on the terms and subject to the conditions set forth in this Amendment, the parties, intending to be legally bound, agree as follows:

1. Section 2 of the Agreement titled “Parent Fees” is hereby amended and restated as follows:

“Promptly following the execution of this Agreement, and in any event no later than 5:00 p.m. Eastern time on December 15, 2021 (the “Parent Initial Fee Deadline”), and in consideration for the agreements made by the Company under this Agreement, Parent shall (and Wise Road shall cause Parent to) pay or cause to be paid \$51,000,000 (the “Parent Initial Fee”) in cash by wire transfer of immediately available funds to the account designated by the Company prior to the date hereof. Promptly following the execution of the first amendment to this Agreement, and in any event no later than 5:00 p.m. Eastern time on April 4, 2022 (the “Parent Second Fee Deadline”), and in consideration for the agreements made by the Company under this Agreement, Parent shall (and Wise Road shall cause Parent to) pay or cause to be paid \$14,400,000 (the “Parent Second Fee”) in cash by wire transfer of immediately available funds to the account designated by the Company. By no later than 5:00 p.m. Eastern time on June 30, 2022 (the “End Date”), Parent shall (and Wise Road shall cause Parent to) pay or cause to be paid \$4,800,000 (the “Remaining Parent Fee”) in cash by wire transfer of immediately available funds to the account designated by the Company. None of the Parent Initial Fee, the Parent Second Fee or the Remaining Parent Fee shall be repayable or refundable under any circumstances. The Parties acknowledge and agree that, effective as of, and from and after, the Termination Effective Time, neither the Company Termination Fee nor the Parent Termination Fee shall be payable in connection with this Agreement, the Merger Agreement, the Termination or otherwise.”

2. Section 3 of the Agreement titled “Amended Standby Letter of Credit” is hereby amended and restated as follows:

“Promptly following the execution of this Agreement, and in any event no later than 5:00 p.m. Eastern time on December 22, 2021 (the “SBLC Deadline”), (a) the Parties shall cause the Standby Letter of Credit to be amended to provide that, on or any time after April 1, 2022, if Parent has not paid the Parent Second Fee to the Company by the Parent Second Fee Deadline, the Company may deliver a draw notice to the Issuing Bank and demand immediate payment of the full amount of the Parent Second Fee (which, for the avoidance of doubt, will not require any consent, instruction or other approval or acknowledgment from Parent or any of its Affiliates) (the “Amended Standby Letter of Credit”), and (b) Parent and Wise Road shall cause an original fully executed version of the Amended Standby Letter of Credit to be delivered to the Company or its designee. Promptly following the execution of the first amendment to this Agreement, and in any event immediately prior to the payment of the Parent Second Fee (the “Second SBLC Deadline”), (a) the Parties shall cause the Amended Standby Letter of Credit, dated as of December 20, 2021, to be amended to provide that, on or any time after June 30, 2022, if Parent has not paid the Remaining Parent Fee to the Company by the End Date, the Company may deliver a draw notice to the Issuing Bank and demand immediate payment of the full amount of the Remaining Parent Fee (which, for the avoidance of doubt, will not require any consent, instruction or other approval or acknowledgment from Parent or any of its Affiliates) (the “Second Amended Standby Letter of Credit”), and (b) Parent and Wise Road shall cause an original fully executed version of the Second Amended Standby Letter of Credit to be delivered to the Company or its designee.”

3. All references herein and in the Agreement to the “Agreement” shall mean and include the Agreement as amended by this Amendment. Except as amended hereby, the Agreement shall remain unchanged, and the Agreement, as so amended, shall continue in full force and effect in accordance with its terms.

4. The provisions of this Amendment may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing specifically designated as a subsequent amendment to the Agreement, signed on behalf of each of the Parties. No Party may assign either this Amendment or any of its rights, interests, or obligations hereunder without the prior written approval of the other Parties. Subject to the preceding sentence, this Amendment shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. This Amendment and any dispute, claim, legal action, suit, proceeding or controversy arising out of or relating hereto, shall be governed by, and construed in accordance with, the Law of the State of Delaware, without regard to conflict of law principles (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

5. Each Party represents and warrants to the other Parties that: (i) such Party has all requisite power and authority to enter into this Amendment and to take the actions contemplated hereby; (ii) the execution and delivery of this Amendment and the actions contemplated hereby have been duly authorized by all necessary corporate or other action on the part of such Party; and (iii) this Amendment has been duly executed and delivered by such Party and, assuming the due authorization, execution and delivery by the other Parties, constitutes a legal, valid and binding obligation of such, enforceable against such Party in accordance with its terms, subject to the Enforceability Exceptions.

6. This Amendment may be executed in any number of counterparts, as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall be deemed an original of this Amendment. Facsimile signatures or signatures received as a pdf attachment to electronic mail shall be treated as original signatures for all purposes of this Amendment. This Amendment shall become effective when, and only when, each Party shall have received a counterpart signed by all of the other Parties.

7. Capitalized terms used herein but not otherwise defined shall have the respective meanings ascribed thereto in the Agreement.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, this Amendment has been duly executed and delivered by the duly authorized officers of the Parties as of the date first written above.

SOUTH DEARBORN LIMITED

By: /s/ Yuanjie Zhang

Name: Yuanjie Zhang

Title: Director

WISE ROAD CAPITAL LTD

By: /s/ Yuanjie Zhang

Name: Yuanjie Zhang

Title: Director

IN WITNESS WHEREOF, this Amendment has been duly executed and delivered by the duly authorized officers of the Parties as of the date first written above.

MAGNACHIP SEMICONDUCTOR CORPORATION

By: /s/ Theodore S. Kim
Name: Theodore S. Kim
Title: Chief Compliance Officer, General Counsel and Secretary