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NUWAVE TECHNOLOGIES INC
Form DEFS14A
October 26, 2001

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 14A-INFORMATION REQUIRED
IN A PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934

Filed by the Registrant
Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Materials Pursuant to Section 240.14a-11(c) or Section 240.14a-12

NUWAVE TECHNOLOGIES, INC.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement if other than Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

- 1) Title of each class of securities to which transaction applies:

- 2) Aggregate number of securities to which transaction applies:

- 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth amount on which the filing fee is calculated and state how it was determined):
- 4) Proposed maximum aggregate value of transaction:
- 5) Total fee paid:

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[] Fee paid previously with preliminary materials.

[] Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- 1) Amount Previously Paid:
- 2) Form, Schedule or Registration Statement No:
- 3) Filing Party:
- 4) Date Filed:

NUWAVE TECHNOLOGIES, INC.

ONE PASSAIC AVE.
FAIRFIELD, NEW JERSEY 07004

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON NOVEMBER 28, 2001.

To the Stockholders of NUWAVE Technologies, Inc.:

NOTICE IS HEREBY GIVEN THAT a Special Meeting of Stockholders (the "Special Meeting") of NUWAVE Technologies, Inc., a Delaware corporation (the "Company"), will be held at offices of Thelen Reid & Priest LLP, 40 West 57th Street, New York, New York, at 10:00 a.m. local time, on November 28, 2001, to consider and act upon the following matter:

To approve a contemplated private placement of shares of the Company's Common Stock, included shares underlying any related warrants, aggregating not more than 7,500,000 shares of Common Stock, to fulfill Nasdaq Stock Market Rule 4350(i)(1)(D)(ii).

The Company's Board of Directors has fixed the close of business on October 22, 2001 as the record date (the "Record Date") for the determination of stockholders having the right to notice of, and to vote at, the Special Meeting and any adjournment thereof. Only holders of record of Common Stock of the Company at the close of business on the Record Date shall be entitled to receive notice of and to vote at the Special Meeting and any adjournments or postponements thereof.

Information concerning the matter to be acted upon at the Special Meeting is set forth in the accompanying Proxy Statement.

All stockholders are cordially invited to attend the Special Meeting.

By Order of the Board of Directors,

Jeremiah F. O'Brien
Secretary

Fairfield, New Jersey
October 25, 2001

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WHETHER OR NOT YOU EXPECT TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, DATE AND SIGN THE ENCLOSED PROXY AND MAIL IT PROMPTLY IN THE ENCLOSED ENVELOPE IN ORDER TO ENSURE REPRESENTATION OF YOUR SHARES. NO POSTAGE NEED BE AFFIXED IF THE PROXY IS MAILED IN THE UNITED STATES. THE GIVING OF YOUR PROXY AS REQUESTED HEREBY WILL NOT AFFECT YOUR RIGHT TO VOTE IN PERSON SHOULD YOU DECIDE TO ATTEND THE SPECIAL MEETING.

NUWAVE TECHNOLOGIES, INC.

ONE PASSAIC AVE.
FAIRFIELD, NEW JERSEY 07004
(973) 882-8810

PROXY STATEMENT
SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON NOVEMBER 28, 2001.

TO THE STOCKHOLDERS:

GENERAL INFORMATION

This Proxy Statement has been prepared and is being furnished by the Board of Directors of NUWAVE Technologies, Inc., a Delaware corporation (the "Company"), in connection with the solicitation of proxies at the special meeting of stockholders (the "Special Meeting") to be held at the offices of Thelen Reid & Priest LLP, 40 West 57th Street, New York, New York, on Wednesday, November 28, 2001, at 10:00 a.m. local time, and at any adjournment or postponement thereof, for the purpose set forth in the attached Notice. When proxies are properly dated, executed, and returned, the shares they represent will be voted at the Special Meeting in accordance with the instructions of the stockholder completing the proxy.

It is anticipated that this Proxy Statement and the accompanying form of proxy will be mailed to the stockholders on or about October 26, 2001.

VOTING SECURITIES AND VOTE REQUIRED

Only holders of record of the Company's common stock, \$.01 par value (the "Common Stock"), on the books of the Company at close of business on October 22, 2001 (the "Record Date") are entitled to vote at the Special Meeting and any adjournments or postponements thereof. On that date, there were 10,992,711 issued and outstanding shares of Common Stock entitled to vote at the Special Meeting. Each stockholder is entitled to one vote for each share of Common Stock registered in that person's name on the books of the Company on the Record Date on all business to come before the Special Meeting.

The presence at the Special Meeting, in person or by proxy, of the holders of a majority of the Company's Common Stock issued and outstanding and entitled to vote at the Special Meeting as of the Record Date is necessary to constitute a quorum to transact business.

At the Special Meeting, stockholders will be asked to approve a proposed placement of securities in order to fulfill Nasdaq Stock Market corporate governance requirements (the "Placement Proposal").

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Assuming a quorum is present, the affirmative vote of the holders of a majority of the total votes cast is required for approval of the Placement Proposal. Abstention votes will have the effect of a vote against the Placement Proposal. Broker no-votes will be counted for the purpose of determining whether there is a quorum at the Special Meeting, but they will have no effect on the outcome of the vote on the Placement Proposal.

Shares of Common Stock which are represented by properly executed proxies, unless such proxies shall have previously been revoked, will be voted in accordance with the instructions indicated in such proxies. If no contrary instructions are indicated, such shares will be voted: (1) FOR the Placement Proposal detailed below and (2) in the discretion of the persons named in the proxies as proxy appointees as to any other matter that may properly come before the Special Meeting.

If a stockholder cannot be present in person at the Special Meeting, the Board of Directors of the Company requests such stockholder to execute and return the enclosed proxy as soon as possible. The person who signs the proxy must be either (i) the registered stockholder of the shares of Common Stock, or (ii) a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or any other person acting in a fiduciary or representative capacity on behalf of such registered stockholder.

A stockholder who has given a proxy may revoke it at any time before it is voted at the Special Meeting by giving written notice of revocation to the Secretary of the Company, by submitting a proxy bearing a later date, or by attending the Special Meeting and voting in person. Any such notice or subsequent proxy should be sent to the attention of Jeremiah F. O'Brien, Secretary, NUWAVE Technologies, Inc., One Passaic Avenue, Fairfield, New Jersey 07004.

The Company is paying all the expenses of the solicitation of proxies, including the expenses of printing and mailing this Proxy Statement, the accompanying Notice of Special Meeting of Stockholders, and the enclosed proxy. The Company will also reimburse brokerage houses and other custodians, nominees and fiduciaries for their expenses, in accordance with the regulations of the Securities and Exchange Commission (the "SEC"), in sending proxies and proxy materials to the beneficial owners of the Company's Common Stock. Officers or employees of the Company may also solicit proxies in person, or by mail, telegram or telephone, but such persons will receive no compensation for such work, other than their normal compensation as such officers or employees. The Company also has retained Georgeson Shareholder Communications Inc. to aid in the solicitation of proxies for the Special Meeting, for which it will receive a fee of \$10,000 plus per call costs and expenses.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The table below is based on information obtained from the persons named therein with respect to the shares of Common Stock beneficially owned, as of the Record Date (except as noted below), by (i) each person known by the Company to be the owner of more than 5% of the outstanding shares of Common Stock, (ii) each director of the Company, and (iii) all executive officers and directors of the Company as a group.

NAME AND ADDRESS OF BENEFICIAL OWNER (1)	AMOUNT AND NATURE OF BENEFICIAL OWNERSHIP (2)	PERCENTAGE OF OUTSTANDING SHARES OWNED
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Gerald Zarin	1,138,000 (3)	9.75%
Edward Bohn	99,335 (4)	*
Lyle Gramley	63,001 (5)	*
Richard E. Ekstract	55,001 (6)	*
Joseph A. Sarubbi	78,001 (7)	*
Helen Burgess	577,854	5.26%
40 E. 30th St., 10th Fl. New York, NY 10016		
Bruce Meyers	983,683 (8)	7.94%
c/o Roan-Meyers Associates, L.P. 17 State Street New York, NY 10004		
All executive officers and directors as a group (8 persons)	1,818,338 (9)	14.81%

* Less than 1%.

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(1) Unless otherwise noted, the address of the beneficial owner is: c/o NUWAVE Technologies, Inc., One Passaic Ave., Fairfield, NJ 07004.

(2) The number of shares of Common Stock beneficially owned by each person is determined in accordance with the rules of the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Under such rules, beneficial ownership includes any shares as to which the individual has sole or shared voting power or investment power and also any shares of Common Stock which the individual has the right to acquire within 60 days after the Record Date through the exercise of any stock option, warrant or other right. The inclusion herein of any shares of Common Stock deemed beneficially owned does not constitute an admission of beneficial ownership of those shares. Unless otherwise indicated, the persons named in the table have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them.

(3) Includes 685,000 shares subject to exercisable options.

(4) Includes 94,335 shares subject to exercisable options.

(5) Includes 43,001 shares subject to exercisable options.

(6) Includes 35,001 shares subject to exercisable options.

(7) Includes 43,001 shares subject to exercisable options.

(8) Includes (i) 7,000 shares held in a pension account, (ii) 465,460 shares subject to exercisable warrants, and (iii) 496,223 shares directly and indirectly beneficially owned by Roan-Meyers Associates L.P., to which shares Mr. Meyers disclaims beneficial interest. Bruce Meyers is a principal of Roan-Meyers.

(9) See footnotes (3) through (7) above.

PLACEMENT PROPOSAL

APPROVE THE ISSUANCE OF THE COMPANY'S SECURITIES
IN A PROPOSED PRIVATE PLACEMENT AGGREGATING NOT MORE THAN
7,500,000 SHARES OF COMMON STOCK, TO COMPLY WITH
NASDAQ STOCK MARKET RULE 4350(i)(1)(D)(ii).

BACKGROUND

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The Company is contemplating a private placement (the "Placement") of up to 7,500,000 shares of its Common Stock, including shares underlying warrants (the "Warrants") which may be part of the Placement; provided that the aggregate gross proceeds from the Placement does not exceed \$6,000,000 (without giving effect to proceeds which would be obtained upon subsequent exercise of the Warrants). Although the Company has been in discussions with potential placement agents, it has not yet finalized a term sheet for a Placement, therefore the specific terms of the proposed Placement have not been determined. As the Common Stock is listed on the Nasdaq Small Cap Market, the Company is subject to the Nasdaq corporate governance rules. Nasdaq Rule 4350(i)(1)(D)(ii) requires a listed company to obtain stockholder approval for a sale, issuance or potential issuance of a number of shares equal to or greater than 20% of its outstanding securities at a purchase price less than the greater of book value or current market price per share of the Common Stock. The Company has outstanding 10,992,711 shares of Common Stock. The aggregate number of shares of Common Stock plus the shares underlying the Warrants which may be issuable upon the Placement could exceed 20% of the Company's currently outstanding shares and will be at a per share purchase price at a discount from the current market price.

THE PRIVATE PLACEMENT

The Placement will consist of shares of the Company's Common Stock, and would be conducted by a designated placement agent on a "best efforts" basis. The per share price to investors of the Common Stock for the initial closing would be at a discount consistent with the Company's prior placements of approximately 15% to 25% from the average closing bid price for the Common Stock for a predetermined period of trading days immediately preceding the closing or commencement date. The Company anticipates that the Placement would close within three months after stockholder approval.

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The Company contemplates that the Placement may be of units (the "Units") consisting of shares of Common Stock and Warrants to purchase a number of shares of Common Stock from 1/4 Warrant to one Warrant for each share offered in the Placement, exercisable for from three to five years from the initial closing at an exercise price not less than the market price on the pricing date, subject to customary anti-dilution provisions. Depending upon market conditions and other factors, the Company may modify the possible terms of the Placement as in the discretion of the Board of Directors would be in the best interests of the stockholders, or terminate the Placement.

The principal purpose of the Placement is for the Company to obtain funds needed to support its current business plan. The business plan calls for further development and continuation of the Company's comprehensive marketing programs and international sales activities related to its recently completed retail and OEM products, including its Video Game Enhancer to retailers and its proprietary NVP 104 ASIC chip to OEMs, as well as the undertaking of licensing and marketing efforts for its recently patented high speed noise reduction filter technology, and for further enhancing of its current product lines.

The Placement would be made in reliance upon an available exemption from registration under the Securities Act of 1933, as amended (the "Securities Act"), by reason of Section 4(2) thereof or other appropriate exemptions, to persons who are "accredited investors," as defined in Regulation D under the Securities Act and who meet the other suitability requirements established for the Placement. It is contemplated that no single investor or a group of investors would acquire a substantial portion of the Units in the Placement.

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The Company would grant to the purchasers in the Placement certain rights to register under the Securities Act their purchased shares of Common Stock and shares exercisable under their Warrants.

As compensation to a firm for its services as acting as placement agent, the Company would pay such firm reasonable and customary cash commissions from the gross proceeds received from the sale of the Units, and a non-accountable expense allowance and reimbursement for expenses related to the Placement up to 10% of the gross proceeds, subject to receipt by the Company of appropriate documentation. In addition, the Company may grant the placement agent or its designees warrants to purchase a number of shares of the Company's Common Stock equal up to 10% of the number of Units sold in the Placement, exercisable on terms similar to those for Warrants sold in the Placement.

NASDAQ SMALLCAP MARKET STOCKHOLDER APPROVAL REQUIREMENT

Stockholder approval of the Placement is being sought as the aggregate number of shares of Common Stock which may be issuable upon the Placement could exceed 20% of the Company's currently outstanding shares and will be at a purchase price less than the current market price. Assuming an offering price of \$1.25 per share for the Company's Common Stock for the Placement, a 50% Warrant coverage and maximum gross proceeds of \$6,000,000 (excluding any proceeds receivable upon exercise of the Warrants), the Placement would result in issuance of 4,800,000 shares of Common Stock and Warrants to purchase 2,400,000 shares of Common Stock. These shares would represent approximately 65.5% of the shares of the Company's Common Stock presently outstanding, excluding shares previously reserved for issuance upon exercise of options or warrants. In the event of any change in the per share market price, the amount of the discount and of the Warrant coverage, and closing upon less than \$6,000,000, the number of shares of Common Stock issued and issuable on the Placement would change. Management shall endeavor to maintain the terms of the Placement within the proposed terms, and the stockholder approval would not be conditioned upon any specific Placement terms.

The Company's Common Stock is traded on the Nasdaq SmallCap Market and the Company is subject to the Nasdaq corporate governance rules. Nasdaq Stock Market Rule 4350(i)(1)(D)(ii), which governs the Company for so long as its Common Stock is quoted on such Market, requires that in connection with a transaction other than a public offering, an issuer must obtain stockholder approval for the

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sale or issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock outstanding before the issuance for less than the greater of book or market value of the stock. Because the aggregate shares of Common Stock issuable in the Placement may represent greater than 20% of the Common Stock outstanding before the issuance and they will be issued at a price lower than market value, the Company is required to obtain stockholder approval prior to such issuance.

The Company's Board of Directors has determined that the proposed Placement will further the best interests of the Company because the proceeds from the Placement will be an integral part of the Company's ability to implement its business plans and should satisfy its financing needs for the next 18 months. The inability to effect the Placement could negatively effect future operations and jeopardize the maintenance of the Nasdaq listing. The Board unanimously approved the Placement. The Company's Board of Directors now recommends that the Company's stockholders vote to approve the Placement.

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FOR THE ABOVE REASONS, THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE "FOR" THE PLACEMENT PROPOSAL.

OTHER MATTERS

The Board of Directors is not aware of any matters to be presented at the Special Meeting other than the matter described herein and does not intend to bring any other matters before the Special Meeting. However, if any other matters should come before the Special Meeting, or any adjournments or postponements thereof, the persons named in the proxies will have discretionary authority to vote all proxies in accordance with their best judgment.

By Order of the Board of Directors,

Gerald Zarin
Chairman

Fairfield, New Jersey
October 25, 2001

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NUWAVE TECHNOLOGIES, INC.

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS

The undersigned stockholder of NUWAVE Technologies, Inc. (the "Company") acknowledges receipt of the Notice of Special Meeting of Stockholders and Proxy Statement, dated October 25, 2001, and hereby appoints Gerald Zarin and Jeremiah F. O'Brien, and each of them, as Proxies, with full power of substitution, and hereby authorizes them to represent and vote, as designated below, all shares of Common Stock, which the undersigned would be entitled to vote at the Special Meeting, or at any adjournment or postponement thereof, hereby revoking any proxy heretofore given and ratifying and confirming all that said proxies may do or cause to be done by virtue thereof with respect to the following matters:

1. Approve the private placement of shares of the Company's Common Stock and related warrants to fulfill Nasdaq Stock Market Rule 4350(i)(1)(D)(ii).

FOR	AGAINST	ABSTAIN
[]	[]	[]

2. In their discretion, the Proxies are authorized to vote upon such other business as may properly come before the Special Meeting.

THIS PROXY WHEN PROPERLY EXECUTED WILL BE VOTED AS DIRECTED HEREIN BY THE UNDERSIGNED STOCKHOLDER. IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED

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"FOR" THE PROPOSAL.

Please sign and date this proxy where shown below and return it promptly:

Date: _____, 2001

Signed: _____

SIGNATURE: _____

SIGNATURE IF HELD JOINTLY: _____

Please sign exactly as name appears hereon. If the stock is registered in the names of two or more persons, each should sign. Executors, administrators, trustees, guardians, attorneys, and corporate officers should add their titles.