

Ocean Power Technologies, Inc.
Form DEF 14A
August 28, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

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

Exchange Act of 1934 (Amendment No.)

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 Material Pursuant to §240.14a-12

Ocean Power Technologies, Inc.

(Name of Registrant as Specified In Its Charter)

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

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) 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 the 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:
-

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:

1590 Reed Road

Pennington, NJ 08534 USA

Tel: 609-730-0400 — Fax: 609-730-0404

August 28, 2013

Dear Stockholder,

We cordially invite you to attend our 2013 Annual Meeting of Stockholders to be held at 9:00 a.m. Eastern Daylight Time on Thursday, October 3, 2013 at our offices at 1590 Reed Road, Pennington, NJ 08534. The attached notice of annual meeting and proxy statement describes the business we will conduct at the meeting and provides information about Ocean Power Technologies, Inc. that you should consider when you vote your shares.

Your vote is very important, regardless of the number of shares you hold. Whether or not you plan to attend the meeting, please carefully review the enclosed proxy statement and then cast your vote.

We hope that you will join us on October 3, 2013.

Sincerely,

/s/CHARLES F. DUNLEAVY

Charles F. Dunleavy

Chairman of the Board of Directors

OCEAN POWER TECHNOLOGIES, INC.

1590 Reed Road

Pennington, NJ 08534

Notice of 2013 Annual Meeting of Stockholders

NOTICE IS HEREBY GIVEN that the 2013 Annual Meeting of Stockholders of Ocean Power Technologies, Inc., a Delaware corporation, will be held on:

Date: October 3, 2013

Time: 9:00 a.m. Eastern Daylight Time

1590 Reed Road

Place: Pennington, NJ 08534

USA

- Purposes:***
1. To elect five persons to our Board of Directors;
 2. To consider and take action on the ratification of the selection of KPMG LLP as our independent registered public accounting firm for fiscal 2014;
 3. To conduct a nonbinding advisory vote on executive officer compensation;
 4. To approve an amendment to our 2006 Stock Incentive Plan to increase the aggregate number of shares authorized for issuance under the plan by 800,000 shares; and
 5. To transact such other business as may properly come before the meeting or any adjournments thereof.

Record Date: The Board of Directors has fixed the close of business on August 19, 2013 as the record date for determining stockholders entitled to notice of, and to vote at, the meeting or any adjournment or postponement of the meeting.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE 2013 ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON OCTOBER 3, 2013:

Copies of this proxy statement and of our annual report for the fiscal year ended April 30, 2013 are available by visiting the following website: <http://phx.corporate-ir.net/phoenix.zhtml?c=155437&p=proxy>

FOR THE BOARD OF DIRECTORS

/s/BRIAN M. POSNER

Brian M. Posner

Chief Financial Officer,

Secretary and Treasurer

Pennington, NJ

August 28, 2013

TABLE OF CONTENTS

	Page
General Information	1
Proposal One — Election of Directors	2
Proposal Two — Ratification of the Selection of Independent Registered Public Accounting Firm	9
Security Ownership of Certain Beneficial Owners and Management	10
Certain Relationships and Related Person Transactions	11
Executive Compensation	12
Proposal Three – Advisory Resolution on Executive Compensation Practices	19
Proposal Four – Proposal to Approve Amendment to our 2006 Stock Incentive Plan	20
Report of Audit Committee	25
Other Matters	25

OCEAN POWER TECHNOLOGIES, INC.

1590 Reed Road

Pennington, NJ 08534

PROXY STATEMENT

Annual Meeting of Stockholders To Be Held October 3, 2013

GENERAL INFORMATION

This Proxy Statement is furnished to stockholders of Ocean Power Technologies, Inc., a Delaware corporation (the “Company”), in connection with the solicitation by our Board of Directors of proxies for use at our Annual Meeting of Stockholders (the “Meeting”). The Meeting is scheduled to be held on Thursday, October 3, 2013, at 9:00 a.m., Eastern Daylight Time, at our offices located at 1590 Reed Road, Pennington, NJ. We anticipate that this Proxy Statement and the enclosed form of proxy will be mailed to stockholders on or about August 28, 2013.

At the Meeting, stockholders will be asked to vote upon: (1) the election of five directors; (2) the ratification of the selection of our independent registered public accounting firm for fiscal 2014; (3) a nonbinding advisory vote on executive officer compensation; (4) the approval of an amendment to our 2006 Stock Incentive Plan to increase the aggregate number of shares issuable under the plan by 800,000; and (5) such other business as may properly come before the Meeting and at any adjournments thereof.

Voting Rights and Votes Required

The close of business on August 19, 2013 has been fixed as the record date for the determination of stockholders entitled to receive notice of and to vote at the Meeting. As of the close of business on such date, we had outstanding and entitled to vote 10,356,946 shares of Common Stock, par value \$0.001 per share (the “Common Stock”). Because stockholders often cannot attend the meeting in person, a large number of shares is usually represented by proxy. You may vote your shares by completing the enclosed proxy card and mailing it in the envelope provided. Stockholders who hold shares in “street name” should refer to their proxy card or the information forwarded by their bank, broker or other holder of record for instructions on the voting options available to them.

A majority of the shares of Common Stock entitled to vote at the Meeting must be represented in person or by proxy at the Meeting in order to constitute a quorum for the transaction of business. The record holder of each share of Common Stock entitled to vote at the Meeting will have one vote for each share so held. Abstentions and broker nonvotes will count for quorum purposes.

Directors are elected by a plurality of the votes cast. Stockholders may not cumulate their votes. The five candidates receiving the highest number of votes will be elected. If the shares you own are held in street name by a bank or brokerage firm, that bank or brokerage firm, as the record holder of your shares, is required to vote your shares according to your instructions. **If you do not instruct your bank or broker how to vote with respect to this item, your bank or broker may not vote with respect to the election of directors.** In tabulating the votes, votes withheld in connection with the election of one or more nominees and broker nonvotes will be disregarded and will have no effect on the outcome of the vote.

In addition, each of the following proposals requires the affirmative vote of a majority of the votes cast for approval:

- The proposal to ratify the selection of our independent registered public accounting firm (Proposal 2);
- The proposal to approve the compensation of our Executive Officers by a nonbinding advisory vote (Proposal 3);
- The proposal to approve an amendment to our 2006 Stock Incentive Plan to increase the aggregate number of shares authorized for issuance by 800,000 shares (Proposal 4).

For each of these proposals, abstentions and broker non-votes will be disregarded and will have no effect on the outcome.

Voting of Proxies

If the accompanying proxy is properly executed and returned, the shares represented by the proxy will be voted at the Meeting as specified in the proxy. If no instructions are specified, the shares represented by any properly executed proxy will be voted **FOR** the election of the nominees listed below under “Proposal One - Election of Directors,” **FOR** the ratification of the selection of our independent registered public accounting firm, **FOR** the approval of the compensation of our Executive Officers by a nonbinding advisory vote and **FOR** the approval of the amendment to our 2006 Stock Incentive Plan to increase aggregate number of shares issuable under the plan by 800,000.

Revocation of Proxies

Any proxy given pursuant to this solicitation may be revoked by a stockholder at any time before it is exercised by: (i) providing written notice to our Secretary, (ii) delivery to us of a properly executed proxy bearing a later date, or (iii) voting in person at the Meeting.

Solicitation of Proxies

We will bear the cost of this solicitation, including amounts paid to banks, brokers, and other record owners to reimburse them for their expenses in forwarding solicitation materials regarding the Meeting to beneficial owners of Common Stock. The solicitation will be by mail, with the materials being forwarded to stockholders of record and certain other beneficial owners of Common Stock, and by our officers and other regular employees (at no additional compensation). Our officers and employees may also solicit proxies from stockholders by personal contact, by telephone, or by other means if necessary in order to assure sufficient representation at the Meeting.

Computershare Investor Services has been retained to receive and tabulate proxies.

PROPOSAL ONE - ELECTION OF DIRECTORS

Pursuant to our by-laws, our directors serve one-year terms and are elected for a new one-year term at each annual meeting of stockholders.

The five persons listed in the table below have been designated by the Board of Directors as nominees for election as directors with terms expiring at the 2013 annual meeting. Bruce A. Peacock and David L. Davis are not standing for reelection to the Board of Directors, and David L. Keller is a new nominee for director. Unless a contrary direction is indicated, it is intended that proxies received will be voted for the election as directors of the five nominees, to serve for one-year terms, and in each case until their successors are elected and qualified. Each of the nominees has consented to being named in this Proxy Statement and to serve as a director if elected. In the event any nominee for director declines or is unable to serve, the proxies may be voted for a substitute nominee selected by the Board of Directors. Our Board of Directors has resolved that immediately after the conclusion of the current term of our directors and immediately before the commencement of the term of the directors elected at the Meeting that the size of the Board of Directors be reduced to five.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR ALL NOMINEES.

All of our directors bring to our Board of Directors executive leadership experience from their service as executives and/or directors of our Company and/or other entities. The biography of each of the nominees below contains information regarding the person's service as a director, business experience, director positions held currently or at any time during the last five years, and the experiences, qualifications, attributes and skills that caused the Nominating and Corporate Governance Committee and our Board of Directors to determine that the person should serve as a director, given our business and structure.

Name	Age	Position(s) with Ocean Power Technologies, Inc.	Served as
			Director From
Terence J. Cryan	51	Director	2012
David L. Keller	59	New Nominee for Director	—
Seymour S. Preston III	79	Vice Chairman and Lead Independent Director	2003
Dr. George W. Taylor	79	Executive Vice Chairman	1984
Charles F. Dunleavy	64	Chairman of the Board and Chief Executive Officer	1990

Terence J. Cryan has been a member of the OPT Board of Directors since October 2012. Since September 2001, Mr. Cryan has been Co-founder and Managing Director of Concert Energy Partners, LLC, an investment banking and private equity investment firm with a focus on the traditional and alternative energy, power and natural resources industries. In addition to his responsibilities at Concert Energy Partners, from 2007 through 2010, Mr. Cryan also served as President and CEO of Medical Acoustics LLC, a medical device technology company. Between 1990 and 2001, Mr. Cryan was a Senior Managing Director in the investment banking department at Bear Stearns & Co. Inc. in New York City and a Managing Director at Paine Webber/Kidder Peabody in both New York City and London serving clients in the energy and natural resources sector. Mr. Cryan has served on the boards of directors of a number of publically traded companies including, Uranium Resources, Inc., since 2006; Global Power Equipment Group Inc., since 2008; Gryphon Gold Corporation from 2009 to 2012; and The Providence Service Corporation from 2009 to 2011. From September 2012 until April 2013, Mr. Cryan also served as interim President and CEO of Uranium Resources, Inc. Prior to joining our Board of Directors, Mr. Cryan was a member of our Board of Advisors since 2003. Mr. Cryan earned his Bachelor of Arts degree from Tufts University in 1983 and a Masters of Science degree in Economics from The London School of Economics in 1984. We believe Mr. Cryan's qualifications to sit on our Board of Directors include his significant experience in financial matters, his prior board and executive experience at other companies, his broad energy industry background and his extensive expertise in financings, mergers and acquisitions.

David L. Keller is a new nominee for director. He is currently an independent director of ThermoEnergy, Inc., a company engaged in the worldwide development, sales and commercialization of patented and/or proprietary municipal and industrial wastewater treatment and power generation technologies. Mr. Keller previously served as

President, Chief Executive Officer and Director of Global Power Equipment Group Inc., a comprehensive provider of power generation equipment and modification and maintenance services for customers in the domestic and international energy, power infrastructure and service industries, from September 2009 until his retirement in June 2012 and, following his retirement, continued to serve Global Power Equipment Group Inc. as a consultant until March 2013. Mr. Keller served as the President and Chief Operating Officer of The Babcock & Wilcox Company (“B&W”), a wholly owned subsidiary of McDermott International, Inc., from March 2001 until his retirement in June 2007. Mr. Keller’s prior position was President of Diamond Power International, Inc., a wholly owned subsidiary of B&W, from March 1998 to February 2001. During his tenure with B&W, Mr. Keller served as a Board Chairman or Director of subsidiaries and joint ventures in the People’s Republic of China, Denmark, the United Kingdom, Australia and South Africa. Mr. Keller holds a Bachelor of Science degree in Mathematics from the University of Akron. He brings to the Board of Directors a comprehensive knowledge of the power generation industry. In addition to his experience and understanding in the industry, Mr. Keller also has significant executive management experience, having directly overseen sales, manufacturing, accounting, legal, supply chain and personnel functions of a business whose revenues reached approximately \$2 billion under his management.

Seymour S. Preston III has been a director since September 2003. Mr. Preston has been our vice chairman and lead independent director since January 2009. Since 1994, Mr. Preston has been President of The Millrace Group, a management consulting firm. Mr. Preston is also a director and serves on the audit committee of Independent Publications, Inc., a newspaper publisher. Mr. Preston was a director of Albemarle Corporation, a specialty chemicals company, from 1996 to 2008; Scott Specialty Gas Corporation, a provider of gases for calibration, testing and emission standards, from 1994 to 2007; and, Tufco Technologies, Inc., a consumer products contract manufacturing company, from 1999 to 2009. From 1994 to 2003, he was the chairman and chief executive officer of AAC Engineered Systems, Inc., a privately-held manufacturing company. Over the period from 1961 to 1989, Mr. Preston held various positions at Pennwalt Corporation, including serving as president, chief operating officer and director from 1978 to 1989. Mr. Preston served as president and chief executive officer of Elf Atochem North America, Inc., a chemical and plastics company, from 1990 to 1993. Mr. Preston received his Masters of Business Administration from Harvard Business School and his B.A. degree from Williams College. We believe Mr. Preston’s qualifications to sit on our Board of Directors include his leadership and business skills. Mr. Preston has prior experience as a chairman, chief executive officer, board member, audit committee member and president of several companies.

Dr. George W. Taylor has served as our executive vice chairman since October 2011. From January 2009 to October 2011 he served as our executive chairman. Prior to January 2009, Dr. Taylor had served as our chief executive officer since 1993 and as a director since 1984, when he co-founded our company. From 1990 to 2004, Dr. Taylor was our president, and from 1984 to 1990, he was our vice president. In 1979, he co-founded and served as president of Princeton Research Associates, Inc., a consulting engineering, technical marketing and product development company. In 1970, Dr. Taylor co-founded Princeton Materials Science, Inc., a manufacturer of liquid crystal displays and digital watches. Dr. Taylor received a Bachelor of Engineering degree with First Class Honours in Electrical Engineering and a Doctor of Engineering degree from the University of Western Australia and a Ph.D. in Electrical Engineering degree from the University of London. He is a Fellow of the Institute of Engineers, Australia and the Institute of Electrical Engineers, London. We believe Dr. Taylor's qualifications to sit on our Board of Directors include his leadership skills, business development experience and technical knowledge. Dr. Taylor has been a director of the Company for over 25 years and offers the perspective, institutional knowledge and deep understanding of our business accumulated over his many years of involvement with the Company.

Charles F. Dunleavy has served as our chairman since October 2011. He has also served as our chief executive officer since January 2010. Prior to his appointment as our chief executive officer, he served as our chief financial officer and our senior vice president since 2001 and as a director and as our treasurer and secretary since 1990. From 1993 to 2001, Mr. Dunleavy served as our vice president, finance. From 1990 to 1993, Mr. Dunleavy served as vice president, chief financial officer and director of Whole Systems International Corp., a privately held company specializing in multimedia instructional systems and information technology. From 1983 to 1990, Mr. Dunleavy was the corporate controller for Intermetrics, Inc., a publicly held software engineering company that is now a part of L-3 Communications. Mr. Dunleavy holds a Master of Business Administration degree with honors from Rutgers Graduate School of Business Administration. He received his A.B. degree from Colgate University with honors. We believe Mr. Dunleavy's qualifications to sit on our Board of Directors include his leadership skills and significant business development, finance and capital market experience. In addition, Mr. Dunleavy has over 20 years of experience with the Company and over that time has developed a significant perspective, institutional knowledge and understanding of the Company's business.

Executive Officers

We have one executive officer who is not also a director:

<u>Name</u>	<u>Age</u>	<u>Position with Ocean Power Technologies, Inc.</u>
-------------	------------	---

Brian M. Posner	51	Chief Financial Officer, Secretary and Treasurer
-----------------	----	--

Brian M. Posner has served as our chief financial officer since June 2010. From January 2009 until its sale to Covidien plc in September 2009, Mr. Posner was chief financial officer of Power Medical Interventions, a publicly-traded medical device company. From June 1999 to December 2008, Mr. Posner served in a series of

positions of increasing responsibility with Pharmacopeia, Inc., a clinical development stage biopharmaceutical company, culminating in his service as Executive Vice President and Chief Financial Officer from May 2006 to December 2008. Mr. Posner also worked at other early-stage and publicly-held businesses and served on the audit staff of PricewaterhouseCoopers LLP where he had a diverse group of clients in the manufacturing, banking and natural resources sectors. Mr. Posner is a Certified Public Accountant and holds a Master of Business Administration degree from Pace University and a Bachelors degree in accounting from Queens College in New York City.

On July 31, 2013, Mr. Posner notified the Company of his decision to resign as the Chief Financial Officer in order to pursue another business opportunity. Mr. Posner's last date of employment with the Company will be August 30, 2013, and until that date, he will continue to perform his responsibilities and assist with transition matters. Mr. Posner's decision to submit his resignation was not the result of any disagreement with the Company, its board of directors or its management on any matter relating to the Company's operations, policies or practices.

After Mr. Posner's departure, Mr. Dunleavy will serve as Interim Chief Financial Officer while the Company conducts a search for a permanent Chief Financial Officer.

Director Compensation

Each non-employee director annually receives \$15,000 and a choice of either (a) an option worth \$20,000, based on the Black-Scholes formula, to purchase shares of Common Stock that is fully vested at the time of grant, or (b) Common Stock worth \$20,000, which vests in equal installments over three years. Prior to the October 2012 Annual Meeting, equity compensation was awarded to each non-employee board member at the time of the annual meeting for the past year served. Beginning with the October 2012 meeting, equity compensation to non-employee board members was changed to an award at the time of the Annual meeting on a prospective basis, or for the year to be served. Such change resulted in an unusually large aggregate award in fiscal 2013. Each non-employee director also receives \$3,000 for each Board meeting he attends in person or by video or teleconference, \$2,500 for each Audit Committee meeting he attends in person or by video or teleconference, \$2,000 for each Compensation Committee he attends in person or by video or teleconference and \$1,500 for each Nominating and Corporate Governance Committee meeting he attends in person or by video or teleconference.

We reimburse each non-employee director for out-of-pocket expenses incurred in connection with attending our Board and Board committee meetings. Compensation for our directors, including cash and equity compensation, is determined, and remains subject to adjustment, by our Board of Directors.

The following table summarizes compensation paid to our non-employee directors in fiscal 2013.

<u>Name</u>	<u>Fees</u>	<u>Restricted</u>			<u>Total (\$)</u>
	<u>Earned or Paid in Cash (\$)</u>	<u>Stock and</u>			
		<u>Option</u>	<u>All Other</u>		
		<u>Awards (\$)</u>	<u>Compensation (\$)</u>		
		<u>(1)(2)</u>			
Terence J. Cryan	33,500	20,000	4,365	(3)	57,865
David L. Davis	56,000	40,000	—		96,000
Thomas J. Meaney(4)	21,500	20,000	42,000	(4)	83,500
Bruce A. Peacock	49,000	40,000	—		89,000
Seymour S. Preston III	55,000	40,000	—		95,000

(1) Represents the fair valu