

SYNEX CORP  
Form S-8  
September 27, 2013

As filed with the Securities and Exchange Commission on September 27, 2013

Registration No. 333-\_\_\_\_\_

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**FORM S-8**  
**REGISTRATION STATEMENT**  
*Under*  
***THE SECURITIES ACT OF 1933***

**SYNEX CORPORATION**  
**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**44201 Nobel Drive**

**94-2703333**  
**(I.R.S. Employer**  
**Identification No.)**

**94538**

**Fremont, California**  
**(Address of principal executive offices)** **(Zip Code)**  
**SYNEX Corporation 2013 Stock Incentive Plan**

**(Full title of the plan)**

**Simon Y. Leung**

**Senior Vice President, General Counsel and Secretary**

**SYNEX Corporation**

**44201 Nobel Drive**

**Fremont, CA 94538**

**510-656-3333**

**(Name, address and telephone number of agent for service)**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated Filer   
 Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

| <b>Title of Securities</b>                | <b>Amount To Be Registered(2)</b> | <b>Proposed</b>                            |  | <b>Amount of Registration Fee</b> |
|---|-----------------------------------|--|--|-----------------------------------|
|   |                                   | <b>Maximum Offering Price Per Share(3)</b> | <b>Proposed Maximum Aggregate Offering Price</b> |                                   |
| <b>To Be Registered(1)</b>                |                                   |  |  |                                   |
| Common Stock, par value \$0.001 per share | 2,750,000                         | \$62.09                                    | \$170,747,500                                    | \$23,290                          |

- (1) The securities to be registered include options and rights to acquire Common Stock.
- (2) Pursuant to Rule 416, this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend, recapitalization or any other similar transaction effected without receipt of consideration, which results in an increase in the number of the Registrant's outstanding shares of Common Stock.
- (3) Offering prices of shares and options to purchase shares that have not yet been granted as of the date of this Registration Statement are estimated pursuant to Rules 457(h) and 457(c) under the Securities Act of 1933, as amended (the Securities Act), solely for the purposes of calculating the registration fee, based on the average of the high and low prices of our Common Stock as reported on the New York Stock Exchange on September 20, 2013. Offering prices are estimated solely for the purpose of calculating the registration fee.

The Registration Statement shall become effective upon filing in accordance with Rule 462 under the Securities Act.

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

**Item 1. Plan Information.\***

**Item 2. Registrant Information and Employee Program Annual Information.\***

\* Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the Securities Act ) and the Note to Part I of Form S-8.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

The following documents filed by the Registrant with the Securities and Exchange Commission are hereby incorporated by reference in this Registration Statement:

(a) Registrant's Annual Report on Form 10-K (File No. 000-31892) for the fiscal year ended November 30, 2012.

(b) Registrant's Quarterly Reports on Form 10-Q (File No. 001-31892) filed with the Commission on April 4, 2013 and July 8, 2013.

(c) Registrant's Current Reports on Form 8-K (File No. 000-31892) filed with the Commission on December 18, 2012, January 11, 2013, March 25, 2013, April 3, 2013, April 16, 2013, September 10, 2013 and September 25, 2013 (excluding any portion furnished under Item 2.02).

(d) The description of Registrant's Capital Stock contained in Registrant's registration statement on Form 8-A, filed on November 7, 2003 (File No. 000-31892) pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended (the Exchange Act ), including any amendment or report filed for the purpose of updating such description.

In addition, all documents subsequently filed by Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (excluding any portion thereof furnished under Item 2.02 or 7.01 of Form 8-K), prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

The validity of the shares of common stock offered hereby has been passed upon for the Registrant by Pillsbury Winthrop Shaw Pittman LLP, Palo Alto, California.

**Item 6. Indemnification of Directors and Officers.**

Section 145 of the Delaware General Corporation Law authorizes a court to award or a corporation's board of directors to grant indemnification to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act of 1933. Article VII of the Registrant's Amended and Restated Certificate of Incorporation (Exhibit 3(i).3 to the Registration Statement on Form S-1 (File No. 333-108543) (the "Form S-1 Registration Statement") and Section 6 of the Registrant's Amended and Restated Bylaws (Exhibit 3(ii).1 to the Current Report on Form 8-K filed on April 2, 2008) provide for indemnification of the Registrant's directors, officers, employees and other agents to the extent and under the circumstances permitted by the Delaware General Corporation Law.

The Registrant has entered into Indemnification Agreements (Exhibit 10.6 to the Form S-1 Registration Statement) with its officers and directors that will require the Registrant to, among other things, indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers to the fullest extent not prohibited by law.

The Registrant maintains liability insurance for the benefit of its officers and directors.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

See Index to Exhibits, which list of exhibits is incorporated herein by reference.

**Item 9. Undertakings.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to the Registration Statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment hereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in this registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in Fremont, State of California, on the 27th day of September, 2013.

**SYNEX CORPORATION**

By /s/ Simon Leung  
Simon Leung  
Senior Vice President, General Counsel  
and Secretary

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Kevin Murai and Simon Leung, and each of them, his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments, exhibits thereto and other documents in connection therewith), to this Registration Statement on Form S-8, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or either of them individually, or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

| <b>Name</b>           | <b>Title</b>   | <b>Date</b>        |
|-----------------------|--|--------------------|
| /s/ Kevin Murai       | President, Chief Executive Officer                     | September 27, 2013 |
| Kevin Murai           | (Principal Executive Officer) and<br>Director          |                    |
| /s/ Marshall Witt     | Chief Financial Officer (Principal                     | September 27, 2013 |
| Marshall Witt         | Financial Officer and Principal<br>Accounting Officer) |                    |
| /s/ Dwight Steffensen | Chairman of the Board                                  | September 27, 2013 |

Dwight Steffensen

/s/ Fred Breidenbach                      Director                      September 27, 2013

Fred Breidenbach

/s/ Hau Lee                      Director                      September 27, 2013

Hau Lee

/s/Matthew Miao                      Director                      September 27, 2013

Matthew Miao

/s/ Dennis Polk                      Director                      September 27, 2013

Dennis Polk

/s/ Gregory Quesnel                      Director                      September 27, 2013

Gregory Quesnel



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| <b>Name</b>         | <b>Title</b> | <b>Date</b>        |
|---------------------|--------------|--------------------|
| /s/ Thomas Wurster  | Director     | September 27, 2013 |
| Thomas Wurster      |              |                    |
| /s/ Duane Zitzner   | Director     | September 27, 2013 |
| Duane Zitzner       |              |                    |
| /s/ Andrea Zulberti | Director     | September 27, 2013 |
| Andrea Zulberti     |              |                    |

**INDEX TO EXHIBITS**

| <b>Exhibit No.</b> | <b>Description</b>   |
|--------------------|--|
| 5.1                | Opinion of Pillsbury Winthrop Shaw Pittman LLP.  |
| 23.1               | Consent of KPMG LLP, Independent Registered Public Accounting Firm.  |
| 23.2               | Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.  |
| 23.3               | Consent of Pillsbury Winthrop Shaw Pittman LLP (included in Exhibit 5.1).  |
| 24.1               | Power of Attorney (see signature page).  |
| 99.1               | SYNEX Corporation 2013 Stock Incentive Plan was filed with the Commission with SYNEX Corporation's 2013 Proxy Statement on Schedule 14A (File No. 001-31892) and is incorporated by reference. |