

Ocean Power Technologies, Inc.
Form 10-K/A
October 12, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K/A

(Amendment No.1)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended April 30, 2018

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to .

Commission File Number 001-33417

Ocean Power Technologies, Inc.

Delaware 22-2535818

*(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification No.)*

28 ENGELHARD DRIVE

MONROE TOWNSHIP, NJ 08831

(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (609) 730-0400

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Exchange on Which Registered
Common Stock, par value \$0.001	The Nasdaq Capital Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.
☒

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. (Check one):

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

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. ☐

The aggregate market value of the common stock of the registrant held by non-affiliates as of October 31, 2017, the last business day of the registrant’s most recently completed second fiscal quarter, was \$22.6 million based on the closing sale price of the registrant’s common stock on that date as reported on the NASDAQ Capital Market.

The number of shares outstanding of the registrant’s common stock as of July 5, 2018 was 18,368,286.

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (the “Form 10-K/A”) hereby amends the Annual Report on Form 10-K for the fiscal year ended April 30, 2018, which Ocean Power Technologies, Inc. (the “Company,” “we” or “us”) previously filed with the Securities and Exchange Commission (“SEC”) on July 17, 2018 (the “Original Form 10-K”). We are filing this amendment to add conformed signatures omitted on the following pages; page 68- signatures for all Board of Directors; page F-2- signatures for George H. Kirby III and Matthew T. Shafer; Exhibit 31.1 and 32.1- signature for George H. Kirby III; and Exhibit 31.2 and 32.2- signature for Matthew T. Shafer. Except as expressly set forth herein, this Form 10-K/A does not reflect events occurring after the date of the original filing of the Original Form 10-K or modify or update any of the other disclosures contained therein in any way. Accordingly, this Form 10-K/A should be read in conjunction with the Original Form 10-K and the Company’s other filings with the SEC.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

OCEAN POWER TECHNOLOGIES,
INC.

Date: July 17, 2018

/s/ George H. Kirby III
By: George H. Kirby III
President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

SIGNATURE	TITLE	DATE
<i>/s/ George H. Kirby III</i> George H. Kirby III	President and Chief Executive Officer (Principal Executive Officer) Director	July 17, 2018
<i>/s/ Matthew T. Shafer</i> Matthew T. Shafer	Chief Financial Officer and Treasurer (Principal Financial Officer and Principal Accounting Officer)	July 17, 2018
<i>/s/ Terence J. Cryan</i> Terence J. Cryan	Chairman of the Board Director	July 17, 2018
<i>/s/ Dean J. Glover</i> Dean J. Glover	Director	July 17, 2018
<i>/s/ Steven M. Fludder</i> Steven M. Fludder	Director	July 17, 2018

/s/ Robert K. Winters
Robert K. Winters

Director

July 17, 2018

Reports of Management

Management's Report on Consolidated Financial Statements

The accompanying consolidated financial statements have been prepared by the management of Ocean Power Technologies, Inc. (the Company) in conformity with generally accepted accounting principles to reflect the financial position of the Company and its operating results. The financial information appearing throughout this Annual Report is consistent with the consolidated financial statements. Management is responsible for the information and representations in such consolidated financial statements, including the estimates and judgments required for their preparation. The consolidated financial statements have been audited by KPMG LLP, an independent registered public accounting firm, as stated in their report, which appears herein.

The Audit Committee of the Board of Directors, which is composed entirely of directors who are not officers or employees of the Company, meets regularly with management and the independent registered public accounting firm. The independent registered public accounting firm has had, and continues to have, direct access to the Audit Committee without the presence of other management personnel, and have been directed to discuss the results of their audit work and any matters they believe should be brought to the Committee's attention. The independent registered public accounting firm reports directly to the Audit Committee.

Management's Annual Report on Internal Control over Financial Reporting

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States. The Company's internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The Company's management assessed the effectiveness of the Company's internal control over financial reporting as of April 30, 2018. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control — Integrated Framework (2013)*. Based on this assessment using those criteria, management concluded that the Company's internal control over financial reporting was effective as of April 30, 2018.

/s/ George H. Kirby III

George H. Kirby III

President and Chief Executive Officer

/s/ Matthew T. Shafer

Matthew T. Shafer

Chief Financial Officer and Treasurer

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

OCEAN POWER TECHNOLOGIES,
INC.

Date: October 12, 2018

/s/ George H. Kirby III
By: George H. Kirby III
President and Chief Executive Officer

