

# SECURITIES & EXCHANGE COMMISSION EDGAR FILING

## BIO KEY INTERNATIONAL INC

**Form: 10-K/A**

**Date Filed: 2020-05-20**

Corporate Issuer CIK: 1019034

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K/A**

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2019

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: 1-13463

**BIO-KEY INTERNATIONAL, INC.**

(Exact name of registrant as specified in its charter)

**DELAWARE**

(State or other jurisdiction of  
incorporation or organization)

**41-1741861**

(IRS Employer  
Identification Number)

**3349 HIGHWAY 138, BUILDING A, SUITE E, WALL, NJ 07719**

(Address of principal executive offices) (Zip Code)

**(732) 359-1100**

Registrant's telephone number, including area code.

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of exchange on which registered</u>
Common Stock, \$0.0001 par value per share	BKYI	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

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Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted 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 such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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.

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

As of June 28, 2019 (the last business day of the registrant's most recently completed second fiscal quarter), the aggregate market value of the registrant's common stock held by non-affiliates was approximately \$8.2 million based upon the closing price for shares of the registrant's common stock of \$1.23 as reported by the Nasdaq Stock Market on that date.

As of May 12, 2020, the registrant had 21,212,297 shares of common stock outstanding.

#### EXPLANATORY NOTE

BIO-key International, Inc. (the "Company") is filing this Amendment No. 1 on Form 10-K/A (this "Amendment No. 1") to amend its Annual Report on Form 10-K for the year ended December 31, 2019, originally filed with the Securities and Exchange Commission (the "SEC") on May 14, 2020 (the "Original Form 10-K"), solely to disclose that the Company filed the Original Form 10-K after the March 30, 2020 deadline applicable to the Company for the filing of a Form 10-K in reliance on the 45-day extension provided by an order issued by the U.S. Securities and Exchange Commission (the "SEC") under Section 36 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), dated March 4, 2020 (Release No. 34-88318), as modified and superseded by SEC order issued on March 25, 2020 (Release No. 34-88465) (collectively, the "Order").

On March 19, 2020, the Company filed a Current Report on Form 8-K to indicate its intention to rely on the Order for such extension. Consistent with the Company's statements made in the Form 8-K, the Company was unable to file the Original Form 10-K until May 14, 2020, and therefore relied on the Order due to circumstances related to COVID-19. In particular, the remote work environment caused by the COVID-19 pandemic resulted in disruptions in the Company's ability to complete its remaining accounting and review processes for the year ended December 31, 2019. Professional staff of the Company's independent public accounting firm were unable to perform certain auditing procedures on the Company's assets that are located in China related to their audit of the Company's financial statements for the year ended December 31, 2019. As a result, the Company was unable to compile and review certain information required in order to permit the Company to file its Annual Report on Form 10-K for its year ended December 31, 2019 by the prescribed date without unreasonable effort or expense due to circumstances related to COVID-19.

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In accordance with Rules 12b-15 and 13a-14 under the Exchange Act, the Company has also amended Part IV, Item 15 to include currently dated certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 from the Company's principal executive officer and principal financial officer. Because no financial statements have been included in this Amendment No. 1 and this Amendment No. 1 does not contain or amend any disclosure with respect to Items 307 and 308 of Regulation S-K, paragraphs 3, 4 and 5 of the certifications have been omitted. Similarly, because no financial statements have been included in this Amendment No. 1, certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 have been omitted.

Except as described above, this Amendment No. 1 does not amend, modify or update the information in, or exhibits to, the Original Form 10-K, and we have not updated disclosures included therein to reflect any subsequent events. This Amendment No. 1 should be read in conjunction with the Original Form 10-K and with our other filings made with the SEC subsequent to the filing of the Original Form 10-K.

**ITEM 15. Exhibits and Financial Statement Schedules**

<b>Exhibit Number</b>	<b>Description</b>
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>

**SIGNATURES**

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

**BIO-KEY INTERNATIONAL, INC.**

Date: May 20, 2020

By: /s/ Michael DePasquale  
Michael DePasquale  
Chief Executive Officer

## CERTIFICATION

I, Michael DePasquale, Chief Executive Officer of BIO-key International, Inc. certify that:

1. I have reviewed this Amendment No. 1 to Annual Report on Form 10-K of BIO-key International, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: May 20, 2020

*/s/ Michael DePasquale*

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BIO-key International  
Chief Executive Officer

## CERTIFICATION

I, Cecilia Welch, Chief Financial Officer of BIO-key International, Inc. certify that:

1. I have reviewed this Amendment No. 1 to Annual Report on Form 10-K of BIO-key International, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: May 20, 2020

*/s/ Cecilia Welch*

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Cecilia Welch

Chief Financial Officer