

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

BIO KEY INTERNATIONAL INC

Form: 8-K

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Corporate Issuer CIK: 1019034

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 16, 2020

BIO-key International, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

1-13463
(Commission File Number)

41-1741861
(I.R.S. Employer Identification No.)

3349 Highway 138, Building A, Suite E
Wall, NJ 07719

(Address of principal executive offices)

(732) 359-1100
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	BKYI	Nasdaq Capital Market

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR 240.12b-2).

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.

Item 5.03 Amendments to Articles of Incorporation of Bylaws; Change in Fiscal Year.

On November 16, 2020, at a Special Meeting of the Stockholders (the "Special Meeting"), BIO-key International, Inc.'s (the "Company," "we," "our," or "us") stockholders approved an amendment to our Certificate of Incorporation to effect a reverse stock split of our common stock in the range of 1-for-4 to 1-for-10, with the final decision of whether to proceed with the reverse stock split and the exact ratio and timing of the reverse split to be determined by our board of directors (the "Board"), in its discretion, no later than October 31, 2021 (the "Proposal"). The Proposal is more fully described in the Company's definitive proxy statement, which was filed with the Securities and Exchange Commission on October 14, 2020.

After the Special Meeting, on November 17, 2020, our Board set the reverse split ratio at 1-for-8 and on November 18, 2020, we filed a Certificate of Amendment (the "Certificate of Amendment") with the Secretary of State of the State of Delaware to effect the reverse stock split. A copy of the Certificate of Amendment is attached hereto as Exhibit 3.1 and is incorporated by reference herein. Our common stock will begin trading on the Nasdaq Capital Market on a split-adjusted basis on November 20, 2020 under a new CUSIP number 09060C4087.

At the effective time of the 1-for-8 reverse stock split, every eight (8) shares of issued and outstanding common stock will be converted into one (1) share of issued and outstanding common stock, and the total outstanding shares of common stock will be reduced from approximately 62.3 million to approximately 7.78 million. The number of authorized shares and the par value per share will remain unchanged. No fractional shares will be issued in connection with the reverse stock split. Any fractional shares resulting from the reverse stock split will be rounded up to the nearest whole share.

Item 5.07 Submission of Matters to a Vote of Security Holders.

The information provided in Item 5.03 is hereby incorporated by reference.

On November 16, 2020, the Company held the above referenced Special Meeting. All holders of record of the Company's common stock outstanding as of the close of business on October 5, 2020 were entitled to vote at the Special Meeting. At the Special Meeting, stockholders approved the Proposal, which is set forth in its entirety below.

1. To consider and approve a proposed amendment to our Certificate of Incorporation, as amended, to effect a reverse split of our issued and outstanding common stock at a ratio between 1-for-4 and 1-for-10, with the final decision of whether to proceed with the reverse stock split and the exact ratio and timing of the reverse split to be determined by our board of directors, in its discretion, following stockholder approval (if obtained), but no later than October 31, 2021. The final voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
31,223,906	11,900,935	776,182	-

Item 8.01 Other Events

On November 19, 2020, we issued a press release announcing the effectiveness of the reverse split, a copy of which is attached hereto as Exhibit 99.1 and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

3.1 [Certificate of Amendment](#)
99.1 [Press Release dated November 19, 2020](#)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: November 19, 2020

BIO-KEY INTERNATIONAL, INC.

By: /s/ Cecilia C. Welch

Cecilia C. Welch
Chief Financial Officer

**CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
BIO-KEY INTERNATIONAL, INC.**

**Pursuant to Section 242 of the
General Corporation Law of the State of Delaware**

BIO-key International, Inc., a Delaware corporation (the "**Corporation**"), does hereby certify as follows:

FIRST: Upon the effectiveness (the "**Effective Time**") pursuant to the General Corporation Law of the State of Delaware (the "**DGCL**") of this Certificate of Amendment to the Certificate of Incorporation of the Corporation, each eight (8) shares of the Corporation's common stock, par value \$0.0001 per share (the "**Common Stock**"), issued and outstanding or held by the Corporation in treasury stock immediately prior to the Effective Time shall automatically be combined into one (1) validly issued, fully paid and non-assessable share of Common Stock without any further action by the Corporation or the holder thereof, subject to the treatment of fractional interests as described below. Notwithstanding the immediately preceding sentence, no fractional shares will be issued in connection with the reverse stock split. Stockholders of record who otherwise would be entitled to receive fractional shares, will be entitled to rounding up of their fractional share to the nearest whole share. No stockholder will receive cash in lieu of fractional shares. Each certificate that immediately prior to the Effective Time represented shares of Common Stock (the "**Old Certificates**") shall thereafter represent that number of shares of Common Stock into which the shares of Common Stock represented by the Old Certificate shall have been combined, subject to the adjustment for fractional shares as described above.

SECOND: The foregoing amendment was duly adopted in accordance with Section 242 of the DGCL.

THIRD: This Certificate of Amendment shall become effective at 5:00 pm eastern time on November 19, 2020.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its undersigned officer this 18th day of November, 2020.

BIO-KEY INTERNATIONAL, INC.

By: /s/ Michael W. DePasquale
Name: Michael W. DePasquale
Title: Chief Executive Officer



**Following Approval at its Special Meeting of Shareholders, BIO-key Announces 1-for-8
Reverse Stock Split to Regain Compliance with Nasdaq Minimum Bid Price Requirement**

WALL, NJ – November 19, 2020 - BIO-key International, Inc. (Nasdaq: BKYI), an innovative provider of biometric and other multi-factor identity and access management (IAM) solutions for strong, convenient authentication and large-scale identity applications, today announced that the Company's Board of Directors has approved a 1-for-8 reverse stock split that is expected to become effective on November 20, 2020. On November 16th, BIO-key shareholders approved an amendment to the Company's Certificate of Incorporation to effect a reverse split at a ratio between 1-for-4 and 1-for-10, with the final ratio determined by the Company's Board of Directors. Pursuant to the reverse split, BIO-key shareholders will receive one (1) new share of common stock for every eight (8) shares held prior to the effective date. Any fractional shares will be rounded up to the next whole share and shareholders will not receive cash in lieu of any such fractional shares. BIO-key expects to commence trading on the Nasdaq Capital Market on a split-adjusted basis on November 20, 2020.

BIO-key had approximately 62.4M issued and outstanding shares of common stock as of September 30, 2020. After giving effect to the 1-for-8 reverse stock split, BIO-key will have approximately 7.8M issued and outstanding shares of common stock. At September 30, 2020, the Company had approximately \$18.4M of cash, which on a split-adjusted basis represents approximately \$2.36 per share.

BIO-key CEO Michael DePasquale commented, "The reverse split is the final step in our efforts this year to build a sound financial foundation and reposition BIO-key for growth and improved financial performance. A reverse split was required to regain compliance with Nasdaq's \$1 minimum closing bid maintenance requirement. We chose the 1-for-8 ratio to balance ongoing minimum bid price compliance with adequate liquidity for our common stock.

"We view our Nasdaq listing as key to the Company's success and an asset to our shareholders. In Q3, we accomplished a significant recapitalization, paid off all outstanding debt, funded the PistolStar acquisition, and ended the quarter with more than \$18 million of cash. Our strong balance sheet and Nasdaq listing are noticed by large corporate customers and was also critical to accomplishing the PistolStar acquisition. We've made much progress in 2020 and believe we are well positioned for future growth as we continue to expand our product portfolio and build customer relationships in lucrative global markets for identity and authentication solutions, network security, and access management."

About BIO-key International, Inc. (www.bio-key.com)

BIO-key is revolutionizing authentication with biometric centric, multi-factor identity and access management (IAM) solutions, including its PortalGuard IAM solution, that provide convenient and secure access to devices, information, applications and high-value transactions. BIO-key's proprietary software and hardware solutions, with industry leading biometric capabilities, enable large-scale on-premise and Identity-as-a-Service (IDaaS) solutions as well as customized enterprise and cloud solutions.

BIO-key Safe Harbor Statement

All statements contained in this press release other than statements of historical facts are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995 (the "Act"). The words "estimate," "project," "intends," "expects," "anticipates," "believes" and similar expressions are intended to identify forward-looking statements. Such forward-looking statements are made based on management's beliefs, as well as assumptions made by, and information currently available to, management pursuant to the "safe-harbor" provisions of the Act. These statements are not guarantees of future performance or events and are subject to risks and uncertainties that may cause actual results to differ materially from those included within or implied by such forward-looking statements. These risks and uncertainties include, without limitation, our history of losses and limited revenue; our ability to raise additional capital; our ability to protect our intellectual property; changes in business conditions; changes in our sales strategy and product development plans; changes in the marketplace; continued services of our executive management team; security breaches; competition in the biometric technology industry; market acceptance of biometric products generally and our products under development; our ability to execute and deliver on contracts in Africa; our ability to expand into Asia, Africa and other foreign markets; our ability to integrate the operations and personnel of PistolStar into our business; the duration and severity of the current coronavirus COVID-19 pandemic and its effect on our business operations, sales cycles, personnel, and the geographic markets in which we operate; delays in the development of products and statements of assumption underlying any of the foregoing as well as other factors set forth under the caption see "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2019 and other filings with the Securities and Exchange Commission. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date made. Except as required by law, the Company undertakes no obligation to disclose any revision to these forward-looking statements whether as a result of new information, future events, or otherwise. Additionally, there may be other factors of which the Company is not currently aware that may affect matters discussed in forward-looking statements and may also cause actual results to differ materially from those discussed. In particular, the consequences of the coronavirus outbreak to economic conditions and the industry in general and the financial position and operating results of our Company in particular have been material, are changing rapidly, and cannot be predicted.

Facebook – Corporate: BIO-key International
Twitter – Corporate: @BIOkeyIntl
Twitter – Investors: @BIO_keyIR
StockTwits: BIO_keyIR

Investor & Media Contacts

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