

XSUNX INC  
Form 10-K/A  
February 17, 2017

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

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FORM 10-K/A  
(Amendment No.1)

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ANNUAL REPORT PURSUANT TO  
THE SECURITIES EXCHANGE ACT OF 1934

For the Fiscal Year Ended September 30, 2016

Commission File Number 000-29621

XSUNX, INC.  
(Exact Name of Registrant as Specified in Its Charter)

Colorado                      84-1384159  
(State of Incorporation)      (I.R.S. Employer  
Identification No.)

65 Enterprise, Aliso Viejo, CA 92656  
(Address of Principal Executive Offices) (Zip Code)

(949) 330-8060  
(Registrant's Telephone Number)

Securities registered pursuant to Section 12(b) of the Act: Title of each class: None

Name of Each Exchange on which Registered: N/A

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

Title of each class: Common Stock, no par value per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  
Yes o 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 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 during

the preceding 12 months. Yes      NO

Check if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K 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.

(Check one):

Large accelerated filer   Accelerated filer   Non-accelerated filer   Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.)

(Check one): Yes      NO

As of March 31, 2016, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately \$3,124,899 based on the closing price as reported on the OTC Markets.

As of December 14, 2016, there were 889,331,125 shares of the registrant's company common voting stock outstanding.

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Explanatory Note

The purpose of this Amendment No. 1 (the “Amendment”) to the registrant’s Annual Report on Form 10-K for the year ended September 30, 2016, filed with the Securities and Exchange Commission on December 14, 2016 (the “Original Form 10-K Filing Date”), is solely to furnish additional disclosure in Item 9A to explain the conditions of change that occurred between fiscal year 2015 and fiscal year 2016 that enables us to deem our disclosure controls and procedures to be effective in 2016 while not effective in 2015. See also “Changes in Internal Control over Financial Reporting.” In addition, in connection with the filing of this Amendment and pursuant to Rule 12b-15 of the Securities Exchange Act of 1934, as amended, the certifications of our principal executive officer and principal financial officer are attached as exhibits to this Amendment.

Except as set forth above, we have not modified or updated disclosures presented in the Original Form 10-K filing to reflect events or developments that have occurred after the date of the Original Filing. Among other things, forward-looking statements made in the Original Filing have not been revised to reflect events, results or developments that have occurred or facts that have become known to us after the date of the Original Filing (other than as discussed above), and such forward-looking statements should be read in their historical context. Accordingly, this Amendment should be read in conjunction with our filings made with the SEC subsequent to the filing of the Original Filing. This Amendment No. 1 to the Form 10-K speaks as of the original filing date of the Form 10-K and does not contain any other changes.

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Item 9A. Controls and Procedures

Disclosure Controls and Procedures

Our Chief Executive Officer has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. The evaluation included certain control areas in which we have made, and are continuing to make, changes to improve and enhance controls. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Based on such evaluation, our Chief Executive Officer has concluded that, as of the end of such period, our disclosure controls and procedures were effective, and we have not discovered a material weakness in our closing process for account reconciliations, or segregation of duties. See also “Changes in Internal Control Over Financial Reporting” below in Item 9A of this report.

Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control structure and procedures over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f)) under the Exchange Act. The SEC rule making for the Sarbanes-Oxley Act of 2002 Section 404 requires that a company’s internal controls over financial reporting be based upon a recognized internal control framework. Our management conducted an assessment of the effectiveness of our internal control over financial reporting as of September 30, 2016 based on the framework set forth in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission 2013 (“COSO”) that has been modified to more appropriately reflect the current limited operational scope of the Company. The Company used the COSO guide - The Internal Control over Financial Reporting - Guidance for Smaller Public Companies to implement the Company’s internal control framework. Additionally, the limited scope of operations, and staffing, of the Company means that traditional separation of duties and controls are not used by the Company requiring that the Company rely on alternative procedures to overcome this internal control weakness.

Based on that evaluation, our Chief Executive Officer concluded that our internal control over financial reporting as of September 30, 2016 was effective. Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. 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.

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### Changes in Internal Control over Financial Reporting

During the fiscal year ended September 30, 2016, Management implemented oversight procedures to address the material weakness related to segregations of duties, and its closing process for account reconciliations that it determined to be ineffective as of September 30, 2015. The changes implemented included the addition of an outside professional accounting services firm to expand the separation of duties and oversight, and to assist in the monthly closing process and reconciliation of accounts. These changes have been designed to ensure adherence with the Company's overall methodology, supervision and monitoring processes related to internal control over financial reporting. After giving consideration to the control weaknesses identified at September 30, 2015, management believes that the financial statements included in this Annual Report on Form 10-K, as amended, present fairly in all material respects the Company's financial condition, results of operations and cash flows for the periods presented.

Except as noted above, there have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during our fourth fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### Auditors Report on Internal Control over Financial Reporting

This annual report does not include an attestation report of the company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the company's registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit the company to provide only management's report in this annual report.

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PART IV

Item 15. Exhibits, Financial Statement Schedules

Exhibits:

Exhibit Description

31.1 Sarbanes-Oxley Certification (1)

32.1 Sarbanes-Oxley Section 906 Certification (1)

(1) Provided Herewith

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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.

Date: February 17, 2017 XSUNX, INC.

By: /s/ Tom Djokovich  
Name: Tom Djokovich  
Title: CEO and Principal  
Accounting 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.

/s/ Tom Djokovich February 17, 2017  
Tom Djokovich, Chief Executive Officer,  
Principal Executive Officer, Principal  
Financial and Accounting Officer, and Director

/s/ Thomas Anderson February 17, 2017  
Thomas Anderson, Director

Oz Fundingsland February 17, 2017  
Oz Fundingsland, Director

/s/ Michael Russak February 17, 2017  
Michael Russak, Director