

Zendesk, Inc.
Form 10-K/A
March 09, 2015

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

FORM 10-K/A
Amendment No. 1

(Mark One)

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

For the fiscal year ended December 31, 2014

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 001-36456

ZENDESK, INC.

(Exact name of Registrant as specified in its Charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

26-4411091
(I.R.S. Employer
Identification No.)

1019 Market Street

94103

San Francisco, CA
(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: **(415) 418-7506**

Securities registered pursuant to Section 12(b) of the Act: Common Stock, Par Value \$0.01 Per Share; Common stock traded on the New York Stock Exchange

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 15(d) of the Act. YES NO

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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) 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 definition 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 (Do not check if a small reporting company)

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

The aggregate market value of common stock held by non-affiliates of the registrant, computed by reference to the closing price at which the common stock was sold on June 30, 2014, the last business day of the registrant's most recently completed second fiscal quarter, as reported on the New York Stock Exchange, was approximately \$561.8 million. Shares of common stock held by each executive officer, director and holder of 5% or more of the outstanding common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status does not reflect a determination that such persons are affiliates of the registrant for any other purpose.

The number of shares of Registrant's Common Stock outstanding as of January 31, 2015 was 75,791,926.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive Proxy Statement for its 2015 Annual Meeting of Stockholders are incorporated by reference in Part III of this Annual Report on Form 10-K. Such Proxy Statement will be filed with the U.S. Securities and Exchange Commission within 120 days after the end of the fiscal year ended December 31, 2014. Except with respect to information specifically incorporated by reference in this Form 10-K, the Proxy Statement is not deemed to be filed as part of this Form 10-K.

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (Amendment No. 1) is being filed to amend our Annual Report on Form 10-K for the fiscal year ended December 31, 2014 (Original Filing), filed with the U.S. Securities and Exchange Commission on February 17, 2015 (Original Filing Date). The purposes of this Amendment No. 1 are to (i) include our repurchases of our common stock for the quarter ended December 31, 2014 under the heading Issuer Purchases of Equity Securities in Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities, which were inadvertently omitted from the Original Filing, and (ii) update the Exhibit Table to include our Forms of Indemnification Agreement, which were inadvertently omitted from the Original Filing. The complete text of Item 5 is set forth herein, including those portions of the text that have not been amended from the Original Filing, and replaces Item 5 in the Original Filing in its entirety.

The required exhibits for this Form 10-K/A have also been included in Item 15 and the exhibits that were filed with the original Form 10-K have been incorporated by reference from that original report. Pursuant to Rule 12b-15 under the Securities Exchange Act of 1934, as amended, this Amendment No. 1 also contains new certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, which are attached hereto. 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.

Except as described above, no changes have been made to the Original Filing and this Amendment No. 1 does not modify, amend or update in any way any of the financial or other information contained in the Original Filing. This Amendment No. 1 does not reflect events that may have occurred subsequent to the Original Filing Date.

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information for Common Stock

Our common stock has been listed on the New York Stock Exchange under the symbol ZEN since May 15, 2014, the date of our initial public offering.

The following table sets forth for the indicated periods the high and low intra-day sales prices of our common stock as reported by the New York Stock Exchange.

| | High | Low |
|------------------------------------|-------------|------------|
| Year ended December 31, 2014 | | |
| Second quarter (from May 15, 2014) | \$ 18.75 | \$ 11.06 |
| Third quarter | \$ 28.05 | \$ 15.50 |
| Fourth quarter | \$ 28.20 | \$ 19.39 |

Stock Performance Graph

| Company/Index | Base Period | | | | | | | | | |
|-----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|-------------------|-------------------|-------------------|--|
| | 5/15/14 | 5/31/2014 | 6/30/2014 | 7/31/2014 | 8/31/2014 | 9/30/2014 | 10/31/2014 | 11/30/2014 | 12/31/2014 | |
| Zendesk, Inc. | 100 | 118.99 | 129.41 | 129.49 | 202.46 | 160.76 | 193.60 | 176.92 | 181.46 | |
| S&P 500 Index | 100 | 102.82 | 104.78 | 103.20 | 107.08 | 105.42 | 107.87 | 110.51 | 110.05 | |
| S&P 1500 Composite/Software | 100 | 102.48 | 105.09 | 105.88 | 110.58 | 109.57 | 112.36 | 116.76 | 115.84 | |

Holder

As of December 31, 2014, there were approximately 117 holders of record of our common stock. However, because many of our shares of common stock are held by brokers and other institutions on behalf of stockholders, we are unable to accurately estimate the total number of stockholders represented by these record holders.

Dividends

We have never declared or paid any cash dividend on our capital stock. We currently intend to retain any future earnings and do not expect to pay any dividends in the foreseeable future. Any future determination to declare cash dividends will be made at the discretion of our board of directors, subject to applicable laws, and will depend on a number of factors, including our financial condition, operating results, capital requirements, contractual restrictions, general business conditions, and other factors that our board of directors may deem relevant. Currently, our credit facility prohibits the payment of any dividends without obtaining the lender's prior written consent, other than dividends payable solely in our common stock.

Issuer Purchases of Equity Securities

The following table provides information with respect to repurchases of unvested shares of our common stock made pursuant to the 2009 Stock Option and Incentive Plan during the three months ended December 31, 2014. No shares of our common stock were repurchased during the period.

| Period | Total Number of Shares Purchased (1) | Weighted Average Price Paid Per Share | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | Maximum Number of Shares That May Yet Be Purchased Under the Plans or Programs |
|--------------------------------|--|--|---|---|
| October 1 - October 31, 2014 | 3,543 | \$ 2.47 | | |
| November 1 - November 30, 2014 | | | | |
| December 1 - December 31, 2014 | 886 | 1.92 | | |
| Total | 4,429 | \$ 2.36 | | |

(1) Certain stock option awards under our 2009 Stock Option and Incentive Plan allow participants to exercise options prior to vesting, subject to a right of a repurchase by us. All shares in the above table were shares repurchased as a result of us exercising this right and not pursuant to a publicly announced plan or program.

Securities Authorized for Issuance Under Equity Compensation Plans

See Item 12, Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters for information regarding securities authorized for issuance.

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.

Zendesk, Inc.

Date: March 9, 2015

By: /s/ Alan Black
 Alan Black
 Senior Vice President and Chief

Financial Officer (Principal Financial and
 Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, 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 |
|------------------|---|---------------|
| /s/ Mikkel Svane | Chief Executive Officer and Chair | March 9, 2015 |
| Mikkel Svane | of the Board of Directors (Principal Executive Officer) | |
| /s/ Alan Black | Senior Vice President and Chief | March 9, 2015 |
| Alan Black | Financial Officer (Principal Financial and Accounting Officer) | |
| * | Director | March 9, 2015 |
| Peter Fenton | | |
| * | Director | March 9, 2015 |
| Caryn Marooney | | |
| * | Director | March 9, 2015 |
| Elizabeth Nelson | | |
| * | Director | March 9, 2015 |
| Dana Stalder | | |

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*

Director

March 9, 2015

Michelle Wilson

*

Director

March 9, 2015

Devdutt Yellurkar

*By: /s/ Alan Black
Alan Black
Attorney-in-Fact

Exhibit Index

| Exhibit Number | Exhibit Description | Incorporated by Reference | | | |
|----------------|---|---------------------------|------------|---------|------------------|
| | | Form | File No. | Exhibit | Filing Date |
| 2.1 | Share Purchase and Sale Agreement by and among the Registrant, the sellers listed therein, the option holders listed therein, Zopim Technologies Pte Ltd., and the representative of the sellers and option holders listed therein, dated as of March 14, 2014. | S-1 | 333-195176 | 2.1 | April 10, 2014 |
| 3.1 | Amended and Restated Certificate of Incorporation of the Registrant. | 10-Q | 001-36456 | 3.1 | August 7, 2014 |
| 3.2 | Amended and Restated By-laws of the Registrant. | 10-Q | 001-36456 | 3.2 | April 10, 2014 |
| 4.1 | Form of Common Stock Certificate of the Registrant. | S-1 | 333-195176 | 4.1 | May 5, 2014 |
| 4.2 | Third Amended and Restated Investors Rights Agreement by and among the Registrant and certain of its stockholders, dated as of September 5, 2012. | S-1 | 333-195176 | 4.2 | April 10, 2014 |
| 10.1 | Forms of Indemnification Agreement. | S-1 | 333-195176 | 10.1 | April 10, 2014 |
| 10.2# | 2009 Stock Option and Grant Plan, as amended, and related form agreements | S-1 | 333-195176 | 10.2 | April 10, 2014 |
| 10.3# | 2014 Stock Option and Incentive Plan, and related form agreements. | S-1 | 333-195176 | 10.3 | May 5, 2014 |
| 10.4# | 2014 Employee Stock Purchase Plan. | 10-Q | 001-36456 | 10.2 | November 6, 2014 |
| 10.5# | Offer Letter between the Registrant and Alan Black, dated as of October 28, 2011. | S-1 | 333-195176 | 10.5 | April 10, 2014 |
| 10.6# | Offer Letter between the Registrant and Marcus Bragg, dated as of July 25, 2013. | S-1 | 333-195176 | 10.6 | April 10, 2014 |
| 10.7# | Offer Letter between the Registrant and Adrian McDermott, dated as of June 16, 2010. | S-1 | 333-195176 | 10.7 | April 10, 2014 |
| 10.8 | Office Lease between the Registrant and 989 Market Street, LLC, dated as of April 29, 2011. | S-1 | 333-195176 | 10.8 | April 10, 2014 |
| 10.9 | First Amendment to Lease between the Registrant and 989 Market Street, LLC, dated as of June 28, 2011. | S-1 | 333-195176 | 10.9 | April 10, 2014 |
| 10.10 | Second Amendment to Lease between the Registrant and 989 Market Street, LLC, dated as of August 11, 2011. | S-1 | 333-195176 | 10.10 | April 10, 2014 |
| 10.11 | Third Amendment to Lease between the Registrant and HMC Mid-Market Ventures LLC, dated as of September 11, 2013. | S-1 | 333-195176 | 10.11 | April 10, 2014 |
| 10.12 | Sublease between the Registrant and Zoosk, Inc., dated as of August 1, 2012. | S-1 | 333-195176 | 10.12 | April 10, 2014 |

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10.13 Lease Agreement between the Registrant and 1019
Market St. Property, LLC, dated as of September 6,
2013. 10-Q 001-36456 10.1 November 6, 2014

| | | | | | |
|----------|---|-----|------------|-------|-------------------|
| 10.14 | Loan and Security Agreement by and between the Registrant and Silicon Valley Bank, dated as of June 12, 2012. | S-1 | 333-195176 | 10.14 | April 10, 2014 |
| 10.15 | First Amendment and Waiver to Loan and Security Agreement by and between the Registrant and Silicon Valley Bank, dated as of June 14, 2013. | S-1 | 333-195176 | 10.15 | April 10, 2014 |
| 10.16 | Second Amendment to Loan and Security Agreement by and between the Registrant and Silicon Valley Bank, dated as of December 30, 2013. | S-1 | 333-195176 | 10.16 | April 10, 2014 |
| 10.17 | Third Amendment to Loan Security Agreement by and between the Registrant and Silicon Valley Bank, dated as of February 7, 2014. | S-1 | 333-195176 | 10.17 | April 10, 2014 |
| 10.18# | Non-Employee Director Compensation Policy. | S-1 | 333-195176 | 10.18 | April 23, 2014 |
| 10.19# | Executive Cash Incentive Bonus Plan. | 8-K | 001-36456 | 10.1 | February 11, 2015 |
| 21.1 | List of Subsidiaries of the Registrant | S-1 | 333-195176 | 21.1 | April 10, 2014 |
| 23.1* | Consent of Ernst & Young LLP, independent registered public accounting firm. | | | | |
| 31.1 | Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. | | | | |
| 31.2 | Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. | | | | |
| 32.1 | Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. | | | | |
| 101.INS* | XBRL Instance Document | | | | |
| 101.SCH* | XBRL Taxonomy Extension Schema Document | | | | |
| 101.CAL* | XBRL Taxonomy Extension Calculation Linkbase Document | | | | |
| 101.DEF* | XBRL Taxonomy Extension Definition Linkbase Document | | | | |
| 101.LAB* | XBRL Taxonomy Extension Label Linkbase Document | | | | |
| 101.PRE* | XBRL Taxonomy Extension Presentation Linkbase Document | | | | |

Indicates management contract or compensatory plan, contract, or agreement.

* Previously filed with our Annual Report on Form 10-K filed on February 17, 2015
 Previously furnished with our Annual Report on Form 10-K filed on February 17, 2015.