

FORWARD INDUSTRIES INC
Form 10-Q/A
January 14, 2014

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q/A

(Amendment No. 1)

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

For the quarterly period ended June 30, 2013.

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: 0-6669

FORWARD INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

New York

(State or other jurisdiction of
incorporation or organization)

13-1950672

(I.R.S. Employer Identification No.)

477 Rosemary Ave., Suite 219, West Palm Beach, FL 33401

(Address of principal executive offices, including zip code)

(561) 465-0030

(Registrant's telephone number, including area code)

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 twelve 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 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.

Large accelerated filer Accelerated filer
 Non-accelerated filer (Do not check if a smaller 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 number of shares outstanding of the registrant's common stock, par value \$0.01 per share, at the latest practical date January 14, 2014, was 8,236,479 shares.

EXPLANATORY NOTE

We are filing this Amendment No. 1 on Form 10-Q/A (the Amended Filing) to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2013 originally filed with the Securities and Exchange Commission (Commission) on August 12, 2013 (the Original Filing) to restate our financial statements as of June 30, 2013 and for the three- and nine-month periods ended June 30, 2013 to record a non-cash deemed dividend of approximately \$293,000 related to a beneficial conversion feature present in the Company's 6% Senior Convertible Preferred Stock, par value \$0.01 per share (the Convertible Preferred Stock), which was issued on June 28, 2013, to adjust the related carrying value of the convertible preferred stock and warrants, and to update the related disclosures in the Original Filing.

Description of the Restatement

The effect of the non-cash deemed dividend is to increase net loss applicable to common equity by approximately \$293,000 and to increase the basic and diluted loss per share from continuing operations by \$0.04 for the three-month period ended June 30, 2013 and to decrease net income available to common equity by approximately \$293,000 and to decrease basic and diluted earnings per share from continuing operations by approximately \$0.04 for the nine-month period ended June 30, 2013. Additionally, the effect on the consolidated balance sheet at June 30, 2013 was to increase both additional paid-in capital and the accumulated deficit by approximately \$293,000. The effect of adjusting the carrying value of the convertible preferred stock and warrants was to increase accrued expenses and other current liabilities and reduce convertible preferred stock by approximately \$51,000 on the consolidated balance sheet as of June 30, 2013. The adjustments did not have an effect on our previously reported net loss for the three and nine months ended June 30, 2012, or assets on the consolidated balance sheet as of June 30, 2013 or the consolidated statement of cash flows for the nine month period ended June 30, 2013.

Items Amended in this Filing

This Amended Filing amends and restates the following items of our Original Filing for the quarterly period ended June 30, 2013:

Part I Item 1. Financial Statements, including Note 2, Restatement of Previously Issued Financial Statements

Part I Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Part I Item 4. Controls and Procedures

Part II Item 1A. Risk Factors

Part II Item 6. Exhibits

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In accordance with applicable Commission rules, this Amended Filing includes new certifications as required by Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the Exchange Act) from our Principal Executive Officer and Principal Financial Officer dated as of the date of filing this Amended Filing.

Except for the items noted above, no other information included in the Original Filing is being amended or updated by this Amended Filing. This Amended Filing continues to describe the conditions as of the date of the Original Filing, and, except as contained herein, we have not updated or modified the disclosures contained in the Original Filing. Accordingly, this Amended Filing should be read in conjunction with our filings made with the Commission subsequent to the filing of the Original Filing, including any amendment to those filings.

Forward Industries, Inc.

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Note Regarding Use of Certain Terms

In this Quarterly Report on Form 10-Q/A, unless the context otherwise requires, the following terms have the meanings assigned to them as set forth below:

"we", "our", and the "Company" refer to Forward Industries, Inc., a New York corporation, together with its consolidated subsidiaries;

Forward or Forward Industries refers to Forward Industries, Inc.;

common stock refers to the common stock, \$.01 par value per share, of Forward Industries, Inc.;

"Forward US" refers to Forward Industries wholly owned subsidiary Forward Industries (IN), Inc., an Indiana corporation;

Forward HK refers to Forward Industries wholly owned subsidiary Forward Industries HK, Ltd., a Hong Kong corporation;

Forward Switzerland refers to Forward Industries wholly owned subsidiary Forward Industries (Switzerland) GmbH, a Swiss corporation;

Forward APAC refers to Forward Industries wholly owned subsidiary Forward Asia Pacific Limited, a Hong Kong corporation;

Forward UK refers to Forward Industries wholly owned subsidiary Forward Ind. (UK) Limited, a limited company of England and Wales;

Forward China refers to Forward Industries Asia-Pacific Corporation (f/k/a Seaton Global Corporation), Forward's exclusive sourcing agent in the Asia-Pacific region;

GAAP refers to accounting principles generally accepted in the United States;

Commission refers to the United States Securities and Exchange Commission;

Exchange Act refers to the United States Securities Exchange Act of 1934, as amended;

Fiscal 2011 refers to our fiscal year ended September 30, 2011;

Fiscal 2012 refers to our fiscal year ended September 30, 2012;

Fiscal 2013 refers to our fiscal year ending September 30, 2013;

Europe refers to the countries included in the European Union;

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EMEA Region means the geographic area encompassing Europe, the Middle East and Africa;

APAC Region refers to the Asia Pacific Region, consisting of Australia, New Zealand, Hong Kong, Taiwan, China, South Korea, Japan, Singapore, Malaysia, Thailand, Indonesia, India, the Philippines and Vietnam;

Americas refers to the geographic area encompassing North, Central, and South America;

OEM refers to Original Equipment Manufacturer;

Retail refers to the retail distribution channel; and

Corporate refers to the corporate distribution channel.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Forward Industries, Inc.

CONSOLIDATED BALANCE SHEETS

	June 30, 2013	September 30, 2012
	(Unaudited)	(Note 1)
	(as Restated)	
	(Note 2)	
<u>Assets:</u>		
Current assets:		
Cash and cash equivalents.....	\$5,011,600	\$4,608,246
Marketable securities.....	405,721	420,605
Accounts receivable, net	6,222,761	7,533,491
Inventories, net.....	2,363,833	3,380,813
Prepaid expenses and other current assets.....	755,826	367,552
Assets of discontinued operations.....	312,319	621,879
Total current assets	15,072,060	16,932,586
Property and equipment, net.....	123,533	138,774
Other assets.....	40,442	40,442
Total Assets	\$15,236,035	\$17,111,802
<u>Liabilities and shareholders equity</u>		
Current liabilities:		
Accounts payable.....	\$4,223,383	\$5,936,848
Accrued expenses and other current liabilities.....	920,022	1,725,185
Liabilities of discontinued operations.....	35,391	261,806
Total current liabilities	5,178,796	7,923,839

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Other liabilities.....	82,811	--
Total Liabilities	5,261,607	7,923,839
6% Senior Convertible Preferred Stock, par value \$0.01 per share; 1,500,000 shares authorized; 381,674 shares issued and outstanding (aggregate liquidation value of \$750,000).....	397,089	--
Commitments and contingencies		
Shareholders equity:		
Preferred stock, par value \$0.01 per share; 4,000,000 shares authorized; no shares issued and outstanding.....	--	--
Series A Participating Preferred stock, par value \$0.01; 100,000 authorized; no shares issued and outstanding.....	--	--
Common stock, par value \$0.01 per share; 40,000,000 shares authorized, 8,819,095 and 8,811,595 shares issued; and 8,112,685 and 8,105,185 shares outstanding, respectively.....	88,191	88,116
Additional paid-in capital.....	17,646,995	17,020,771
Treasury stock, 706,410 shares at cost.....	(1,260,057)	(1,260,057)
Accumulated deficit.....	(6,876,240)	