

CEL SCI CORP
Form 10-K/A
December 15, 2016

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

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
(Mark One)

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

For the fiscal year ended September 30, 2016.

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 1-11889

CEL-SCI CORPORATION
(Exact name of registrant as specified in its charter)

COLORADO 84-0916344
(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

8229 Boone Blvd., Suite 802
Vienna, Virginia 22182
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (703) 506-9460
Securities registered pursuant to Section 12(b) of the Act: None
Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$.01 par value
Series S Warrants
(Title of Class)

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ☐

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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 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 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 aggregate market value of the voting stock held by non-affiliates of the Registrant, based upon the closing sale price of the registrant's common stock on March 31, 2016, as quoted on the NYSE MKT, was \$60,807,407.

As of December 9, 2016, the Registrant had 188,724,407 issued and outstanding shares of common stock.

Documents Incorporated by Reference: None

Explanatory Note

The purpose of the Amendment No. 1 on Form 10-K/A to CEL-SCI CORPORATION's annual report of Form 10-K for the year ended September 30, 2016, filed with the Securities and Exchange Commission on December 14, 2016 (the "Form 10-K"), is solely to furnish Exhibit 101 to the Form 10-K in accordance with Rule 405 of Regulation S-T.

No other changes have been made to the Form 10-K. This Amendment No. 1 speaks as of the original filing date of the Form 10-K, does not reflect events that may have occurred subsequent to the original filing date and does not modify or update in any way disclosures made in the original Form 10-K.

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

See the Financial Statements attached to this Report.

Exhibits

3(a)	Articles of Incorporation	Incorporated by reference to Exhibit 3(a) of CEL-SCI's combined Registration Statement on Form S-1 and Post-Effective Amendment ("Registration Statement"), Registration Nos. 2-85547-D and 33-7531.
3(b)	Amended Articles	Incorporated by reference to Exhibit 3(a) of CEL-SCI's Registration Statement on Form S-1, Registration Nos. 2-85547-D and 33-7531.
3(c)	Amended Articles (Name change only)	Filed as Exhibit 3(c) to CEL-SCI's Registration Statement on Form S-1 Registration Statement (No. 33-34878).
3(d)	Bylaws	Incorporated by reference to Exhibit 3(b) of CEL-SCI's Registration Statement on Form S-1, Registration Nos. 2-85547-D and 33-7531.
3(e)	Amended Bylaws	Incorporated by reference to Exhibit 3(ii) of CEL-SCI's report on Form 8-K dated March 16, 2015.
4	Shareholders Rights Agreement, as Amended	Incorporated by reference to Exhibit 4 filed with CEL-SCI's 10-K report for the year ended September 30, 2015.
4(b)	Incentive Stock Option Plan	Incorporated by reference to Exhibit 4 (b) filed on September 25, 2012 with the Company's registration statement on Form S-8 (File number 333-184092).
4(c)	Non-Qualified Stock Option Plan	Incorporated by reference to Exhibit 4 (b) filed on August 19, 2014 with the Company's registration statement on Form S-8 (File number 333-198244).
4(d)	Stock Bonus Plan	Incorporated by reference to Exhibit 4 (d) filed on September 25, 2012 with the Company's registration statement on Form S-8 (File number 333-184092).
4(e)	Stock Compensation Plan	Incorporated by reference to Exhibit 4 (e) filed on September 25, 2012 with the Company's registration statement on Form S-8 (File number 333-184092).
4(f)	2014 Incentive Stock Bonus Plan	Filed with this Amendment No. 2 to the Company's annual report on Form 10-K for the year ended September 30, 2014.

10(f)	Securities Purchase Agreement (together with schedule required by Instruction 2 to Item 601 of Regulation S-K) pertaining to Series K notes and warrants, together with the exhibits to the Securities Purchase Agreement	Incorporated by reference to Exhibit 10 to CEL-SCI's report on Form 8-K dated August 4, 2006.
10(g)	Subscription Agreement (together with Schedule required by Instruction 2 to Item 601 of Regulation S-K) pertaining to April 2007 sale of 20,000,000 shares of CEL-SCI's common stock, 10,000,000 Series L warrants and 10,000,000 Series M Warrants	Incorporated by reference to Exhibit 10 of CEL-SCI's report on Form 8-K dated April 18, 2007
10(h)	Warrant Adjustment Agreement with Laksya Ventures	Incorporated by reference to Exhibit 10(i) of CEL-SCI's report on Form 8-K dated August 3, 2010
10(l)	First Amendment to Development Supply and Distribution Agreement with Orient Europharma.	Incorporated by reference to Exhibit 10(m) filed with CEL-SCI's 10-K report for the year ended September 30, 2010.
10(m)	Exclusive License and Distribution Agreement with Teva Pharmaceutical Industries Ltd.	Incorporated by reference to Exhibit 10(n) filed with CEL-SCI's 10-K report for the year ended September 30, 2010.
10(n)	Lease Agreement	Incorporated by reference to Exhibit 10(o) filed with CEL-SCI's 10-K report for the year ended September 30, 2010.
10(o)	Promissory Note with Maximilian de Clara, together with Amendments 1 and 2	Incorporated by reference to Exhibit 10(p) filed with CEL-SCI's 10-K report for the year ended September 30, 2010.
10(p)	Licensing Agreement with Byron Biopharma	Incorporated by reference to Exhibit 10(i) of CEL-SCI's report on Form 8-K dated March 27, 2009
10(z)	Development, Supply and Distribution Agreement with Orient Europharma	Incorporated by reference to Exhibit 10(z) filed with CEL-SCI's report on Form 10-K for the year ended September 30, 2003.
10(aa)	Securities Purchase Agreement and form of the Series F warrants, which is and exhibit to the Securities Purchase Agreement	Incorporated by reference to Exhibit 10(aa) of CEL-SCI's report on Form 8-K dated October 3, 2011.
10(bb)	Placement Agent Agreement	Incorporated by reference to Exhibit 10(bb) of CEL-SCI's report on Form 8-K dated October 3, 2011.
10(cc)	Securities Purchase Agreement, together with the form of the Series H warrant, which is an exhibit to the securities Purchase Agreement	Incorporated by reference to Exhibit 10(cc) of CEL-SCI's report on Form 8-K

dated January 25, 2012.

10(dd)Placement Agent Agreement

Incorporated by reference to Exhibit
10(dd) of CEL-SCI's report on Form 8-K
dated January 25, 2012.

Warrant Amendment Agreement, together with the form of 10(ee) the Series P warrant, which is an exhibit to the Warrant Amendment Agreement	Incorporated by reference to Exhibit 10(ee) of CEL-SCI's report on Form 8-K dated February 10, 2012.
10(ff) Placement Agent Agreement	Incorporated by reference to Exhibit 10(ff) of CEL-SCI's report on Form 8-K dated February 10, 2012.
Securities Purchase Agreement and the form of the Series 10(gg) Q warrant, which is an exhibit to the Securities Purchase Agreement	Incorporated by reference to Exhibit 10(gg) of CEL-SCI's report on Form 8-K dated June 18, 2012.
10(hh) Placement Agent Agreement	Incorporated by reference to Exhibit 10(hh) of CEL-SCI's report on Form 8-K dated June 18, 2012.
Securities Purchase Agreement and the form of the Series 10 (ii) R warrant, which is an exhibit to the Securities Purchase Agreement	Incorporated by reference to Exhibit 10(ii) of CEL-SCI's report on Form 8-K dated December 5, 2012.
10 (jj) Placement Agent Agreement	Incorporated by reference to Exhibit 10(jj) of CEL-SCI's report on Form 8-K dated December 5, 2012.
10 Underwriting Agreement, together with the form of Series S (nn) warrant which is an exhibit to the underwriting agreement	Incorporated by reference to Exhibit 1.1 of CEL-SCI's report on Form 8-K dated October 8, 2013.
10 Underwriting Agreement, together with the form of Series S (oo) warrant which is an exhibit to the underwriting agreement	Incorporated by reference to Exhibit 1.1 of CEL-SCI's report on Form 8-K dated December 19, 2013.
10 Underwriting Agreement, together with the form of Series T (pp) warrant which is an exhibit to the warrant agent agreement	Incorporated by reference to Exhibit 1.1 of CEL-SCI's report on Form 8-K dated April 15, 2014.
10 Underwriting Agreement, together with the form of Series S (qq) warrant which is an exhibit to the warrant agent agreement	Incorporated by reference to Exhibit 1.1 of CEL-SCI's report on Form 8-K dated October 23, 2014.
Assignment and Assumption Agreement with Teva 10 (rr) Pharmaceutical Industries, Ltd. and GCP Clinical Studies, Ltd.	Incorporated by reference to Exhibit 10(rr) of CEL-SCI's report on Form 10-K/A report for the year ended September 30, 2014 dated April 17, 2015.
10 (ss) Service Agreement with GCP Clinical Studies, Ltd., together with Amendment 1 thereto*	Incorporated by reference to Exhibit 10(ss) of CEL-SCI's first amendment to its Form 10-K

report for the year ended September 30, 2014
dated April 17, 2015.

10 (tt) Joinder Agreement with PLIVA Hrvatska d.o.o.

Incorporated by reference to Exhibit 10(tt) of
CEL-SCI's first amendment to its Form 10-K
report for the year ended September 30, 2014
dated April 17, 2015.

10 Master Service Agreement with Ergomed Clinical Research,
(uu) Ltd., and Clinical Trial Orders thereunder

Incorporated by reference to Exhibit 10(uu) of
CEL-SCI's first amendment to its Form 10-K
report for the year ended September 30, 2014
dated April 17, 2015.

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10 (vv)	Co-Development and Revenue Sharing Agreement with Ergomed Clinical Research Ltd., dated April 19, 2013, as amended	Incorporated by reference to Exhibit 10(vv) of CEL-SCI's first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (ww)	Co-Development and Revenue Sharing Agreement II: Cervical Intraepithelial Neoplasia in HIV/HPV co-infected women, with Ergomed Clinical Research Ltd., dated October 10, 2013, as amended	Incorporated by reference to Exhibit 10(ww) of CEL- first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (xx)	Co-Development and Revenue Sharing Agreement III: Anal warts and anal intraepithelial neoplasia in HIV/HPV co-infected patients, with Ergomed Clinical Research Ltd., dated October 24, 2013	Incorporated by reference to Exhibit 10(xx) of CEL-SCI's first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (yy)	Master Services Agreement with Aptiv Solutions, Inc.	Incorporated by reference to Exhibit 10(yy) of CEL-SCI's first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (zz)	Project Agreement Number 1 with Aptiv Solutions, Inc. together with Amendments 1 and 2 thereto*	Incorporated by reference to Exhibit 10(zz) of CEL-SCI's first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (aaa)	Second Amendment to Development Supply and Distribution Agreement with Orient Europharma	Incorporated by reference to Exhibit 10(aaa) of CEL-SCI's first amendment to its Form 10-K report for the year ended September 30, 2014 dated April 17, 2015.
10 (bbb)	Amended and Restated Promissory Note with Maximilian de Clara	Incorporated by reference to Exhibit 10(bbb) of CEL-SCI's report on Form 10-K/A report for the year ended September 30, 2014 dated April 17, 2015.
10 (ccc)	Placement Agent Agreement dated May 22, 2015 by and among CEL-SCI Corporation and Dawson James Securities, Inc.	Incorporated by reference to Exhibit 1.1 of CEL-SCI's report on Form 8-K filed on May 26, 2015.
10 (ddd)	Warrant Agent Agreement (as amended), Series V warrants	Incorporated by reference to Exhibit 10 (ccc) of CEL-SCI's report on Form 8-K filed on May 29, 2015.
10 (eee)	Assignment of Proceeds and Investment Agreement between CEL-SCI Corporation and Lake Whillans Vehicle 1.	Incorporated by reference to Exhibit 10 (ddd) of CEL-SCI's report on Form 8-K filed on October 16, 2015.

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10 Placement Agent Agreement dated October 22, 2015 by and Incorporated by reference to Exhibit 1.1 of
(fff) among CEL-SCI Corporation and Dawson James Securities, CEL-SCI's report on Form 8-K filed on October
Inc. 23, 2015.

10 Warrant Agent Agreement, Series W warrants Incorporated by reference to Exhibit 10 (eee) of
(ggg) CEL-SCI's report on Form 8-K filed on October
23, 2015.

10 (iii)	Amendment to Co-Development and Revenue Sharing Agreement with Ergomed Clinical Research, Ltd., dated September 15, 2015	Incorporated by reference to Exhibit 10 (iii) filed with CEL-SCI's 10-K report for the year ended September 30, 2015.
10 (jjj)	Securities Purchase Agreement	Incorporated by reference to Exhibit 10(jjj) of CEL-SCI's report on Form 8-K dated May 19, 2016.
10 (kkk)	Securities Purchase Agreement	Incorporated by reference to Exhibit 10(kkk) of CEL-SCI's report on Form 8-K dated August 24, 2016.
10 (lll)	Termination Agreement with Maximilian de Clara	Incorporated by reference to Exhibit 10(lll) of CEL-SCI's report on Form 8-K dated September 2, 2016.
10 (mmm)	Employment Agreement with Geert Kersten (2016-2019)	Incorporated by reference to Exhibit 10(mmm) of CEL-SCI's report on Form 8-K dated September 2, 2016.
10 (nnn)	Employment Agreement with Patricia Prichep (2016-2019)	Incorporated by reference to Exhibit 10(nnn) of CEL-SCI's report on Form 8-K dated September 2, 2016.
10 (ooo)	Employment Agreement with Eyal Taylor (2016-2019)	Incorporated by reference to Exhibit 10(ooo) of CEL-SCI's report on Form 8-K dated September 2, 2016.
23.1	Consent of BDO USA, LLP	
31	Rule 13a-14(a) Certifications	
32	Section 1350 Certifications	
101.INS	XBRL Instance Document.**	
101.SCH	XBRL Taxonomy Extension Schema Document.**	
101.CAL	XBRL Taxonomy Calculation Linkbase Document.**	
101.LAB	XBRL Taxonomy Label Linkbase Document.**	
101.PRE	XBRL Taxonomy Presentation Linkbase Document.**	
101.DEF	XBRL Taxonomy	

*

Portions of this exhibit have been omitted pursuant to a request for confidential treatment filed with the Commission under Rule 24b-2 of the Securities Exchange Act of 1934. The omitted confidential material has been filed separately with the Commission. The location of the omitted confidential information is indicated in the exhibit with asterisks (*)

SIGNATURES

In accordance with Section 13 or 15(a) of the Securities Exchange Act of 1934, the Registrant has caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized on the 15th day of December 2016.

CEL-SCI CORPORATION

By: /s/ Geert R. Kersten
Geert R. Kersten, Chief Executive Officer

Pursuant to the requirements of the Securities 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.

Signature	Title	Date
/s/ Geert R. Kersten Geert R. Kersten	Chief Executive, Principal Accounting, Principal Financial Officer and a Director	December 15, 2016
/s/ Alexander G. Esterhazy Alexander G. Esterhazy	Director	December 15, 2016
/s/Peter R. Young Dr. Peter R. Young	Director	December 15, 2016
/s/ Bruno Baillavoine	Director	December 15, 2016