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GLOBE SPECIALTY METALS INC

Form 10-K/A

November 12, 2010

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Amendment No. 2 to

Form 10-K

(Mark One)

x

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

For the fiscal year ended June 30, 2010

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 001-34420

Globe Specialty Metals, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

20-2055624

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

One Penn Plaza

250 West 34th Street, Suite 4125

New York, NY 10119

(Address of principal executive offices, including zip code)

(212) 798-8122

(Registrant's telephone number, including area code)

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

Title of Each	Name of Each
Class	Exchange on
Common stock,	Which Registered
\$0.0001 par value	The NASDAQ
	Global Select
	Market

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 Section 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 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. (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 Act). Yes ☐ No ☒

As of September 27, 2010, the registrant had 74,866,374 shares of common stock outstanding. As of December 31, 2009 (the last business day of the Registrant's most recently completed second fiscal quarter), the aggregate market value of such shares held by non-affiliates of the Registrant was approximately \$591,000,000.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive Proxy Statement relating to the 2010 Annual Meeting of Stockholders, filed with the Securities and Exchange Commission, are incorporated by reference in Part III, Items 10 - 14 of this Annual Report on Form 10-K as indicated herein.

EXPLANATORY NOTE

We are filing this Amendment No. 2 ("Amendment No. 2") to our Annual Report on Form 10-K for the fiscal year ended June 30, 2010 (the "Form 10-K"), which was originally filed with the Securities and Exchange Commission on September 28, 2010 and amended on October 22, 2010 ("Amendment No. 1"). This Amendment No. 2 is being filed solely for the purpose of updating the date of the certifications set forth in Exhibits 31.1, 31.2 and 32.1.

This Amendment No. 2 amends and restates Exhibits 31.1, 31.2 and 32.1 in their entirety. No other information included in the original Form 10-K or Amendment No. 1 is amended hereby. Accordingly, this Amendment No. 2 to our Form 10-K does not reflect events occurring after the original filing of the Form 10-K or modify or update the disclosure contained therein in any way other than as described above. This amendment should be read in conjunction with the original Form 10-K, Amendment No. 1 and our other reports filed with the Securities and Exchange Commission subsequent to the filing of our original Form 10-K, including any amendments to those filings. Pursuant to Rule 12b-15 promulgated under the Securities Exchange Act of 1934, as amended, the complete text of Item 15, as amended, is repeated in this Amended 10-K.

This Amended 10-K consists solely of the preceding cover page, this explanatory note, amended Item 15, the signature page, the exhibit index and the certifications filed as Exhibits 31.1, 31.2 and 32.1 under amended Item 15 to this Amendment No. 2.

Item 15. Exhibits and Financial Statement Schedules

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial Statements

Reports of Independent Registered Public Accounting Firm	31
Consolidated Balance Sheets at June 30, 2010 and 2009	33
Consolidated Statements of Operations for the years ended June 30, 2010, 2009, and 2008	34
Consolidated Statements of Changes in Stockholders' Equity for the years ended June 30, 2010, 2009, and 2008	35
Consolidated Statements of Cash Flows for the years ended June 30, 2010, 2009, and 2008	36
Notes to Consolidated Financial Statements	37

(2) Financial Statement Schedules

Not applicable.

(3) Exhibits

The following exhibits are filed with this Annual Report or incorporated by reference:

Exhibit Number	Description of Document
2.1	Agreement and Plan of Merger, dated as of January 8, 2008, by and among GSM, Solsil Acquisition Corp. and Solsil**
2.2	Amendment to Agreement and Plan of Merger, dated as of February 29, 2008, by and among GSM, Solsil Acquisition Corp., Solsil and the Representatives named therein**
2.3	Purchase Agreement, dated as of November 5, 2009, by and between Dow Corning Corporation and GSM*****
2.4	Purchase and Sale Agreement dated as of March 26, 2010, by and among Globe Metals Enterprises, Inc., Core Metals Group Holdings LLC and each of the Sellers named therein*****
3.1	Amended and Restated Certificate of Incorporation*
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation*
3.3	Amended and Restated Bylaws**
4.1	Second Amended and Restated Credit Agreement dated as of September 18, 2008, by and among GMI, Alabama Sand and Gravel, Inc., Laurel Ford Resources, Inc., West Virginia Alloys, Inc., as subsidiary guarantors, GSM, as Parent, the lender parties thereto, and Societe Generale, as Sole Arranger, Administrative Agent, Issuing Bank, Swingline Lender and Collateral Agent**

- 10.1 2006 Employee, Director and Consultant Stock Option Plan*
- 10.2 Employment Agreement, dated May 26, 2008, between GSM and Jeff Bradley*
- 10.3 Employment Agreement, dated November 13, 2006, between GSM and Alan Kestenbaum*
- 10.4 Employment Agreement, dated May 31, 2006, between Solsil and Alan Kestenbaum*
- 10.5 Employment Agreement, dated November 13, 2006, between GSM and Arden Sims*
- 10.6 Employment Agreement, dated May 31, 2006, between Solsil and Arden Sims*
- 10.7 Employment Agreement, dated November 13, 2006, between GSM and Theodore A. Heilman, Jr.*
- 10.8 Employment Agreement, dated June 8, 2007, between GSM and Daniel Krofcheck*
- 10.9 Employment Agreement, dated June 20, 2008, between GSM and Stephen Lebowitz*
- 10.10 Solsil Secured Promissory Note made on October 24, 2007 and issued to Plainfield Direct Inc.**
- 10.11 Solsil Secured Promissory Note made on October 24, 2007 and issued to Plainfield Direct Inc.***
- 10.12 Employment Agreement, dated September 21, 2008, between GSM and Malcolm Appelbaum****
- 10.13 Amended and Restated Limited Liability Company Agreement of WVA Manufacturing, LLC, dated as of November 5, 2009, by and among WVA Manufacturing, LLC, GSM, GSM Alloys I, Inc., GSM Alloys II, Inc., Dow Corning Enterprises, Inc. and Dow Corning Corporation.*****
- 10.14 Output and Supply Agreement, dated as of November 5, 2009, by and among WVA Manufacturing, LLC, Dow Corning Corporation, Globe Metallurgical Inc., and GSM.*****
- 10.15 2010 Annual Executive Bonus Plan†
- 21.1 Subsidiaries†
- 23.1 Consent of KPMG LLP (filed with Amendment No. 1)
- 31.1 Certification of Principal Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed with Amendment No. 2)
- 31.2 Certification of the Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed with Amendment No. 2)
- 32.1 Certification of the Principal Executive Officers and Principal Financial Officer Pursuant to 18 U.S.C. 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed with Amendment No. 2)

† Filed with Annual Report on Form 10-K filed September 28, 2010.

*Incorporated by reference to the exhibit with the same designation filed with the Company's registration statement on Form S-1 (Registration No. 333-152513) filed on July 25, 2008.

** Incorporated by reference to the exhibit with the same designation filed with Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-152513) filed on November 4, 2008.

*** Incorporated by reference to the exhibit with the same designation filed with Amendment No. 2 to the Company's registration statement on Form S-1 (Registration No. 333-152513) filed on June 9, 2009.

**** Incorporated by reference to the exhibit with the same designation filed with Amendment No. 3 to the Company's registration statement Form S-1 (Registration Statement No. 333-152513) filed on July 16, 2009.

***** Incorporated by reference to the exhibit with the same designation filed with the Company's Form 8-K filed on November 12, 2009.

***** Incorporated by reference to the exhibit with the same designation filed with the Company's Form 8-K filed on April 1, 2010.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Amendment No. 2 to be signed on its behalf by the undersigned, thereunto duly authorized.

Globe Specialty Metals, Inc.
(Registrant)

By:	/s/ Malcolm Appelbaum
	Malcolm Appelbaum
	Chief Financial Officer

November 12, 2010

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