

MusclePharm Corp  
Form S-1/A  
December 19, 2012

**As filed with the Securities and Exchange Commission on December 19, 2012**

**Registration No. 333-184625**

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**AMENDMENT NO. 1**

**TO**

**FORM S-1**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**MusclePharm Corporation**

(Exact name of registrant as specified in its charter)

Nevada	2834	77-0664193
(State or other jurisdiction	(Primary Standard Industrial	(I.R.S. Employer
of incorporation or organization)	Classification Code Number)	Identification Number)

**4721 Ironton Street, Building A**

**Denver, Colorado 80239**

**Telephone: (303) 396-6100**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Brad J. Pyatt**

**Co-Chairman, Chief Executive Officer and President**

**MusclePharm Corporation**

**5348 Vegas Drive**

**Las Vegas, Nevada 89108**

**Telephone: (702) 953-1890**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**Copies to:**

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**Approximate date of commencement of proposed sale to the public:**

As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price (1)	Amount of Registration Fee (2)
Series D Convertible Preferred Stock, par value \$0.001 per share (3)	\$ 10,000,000	\$ 1,364
Common Stock, par value \$0.001 per share, issuable upon conversion of shares of Series D Convertible Preferred Stock (3) (4)		
<b>Total</b>	<b>\$ 10,000,000</b>	<b>\$ 1,364</b>

(1) Estimated pursuant to Rule 457(o) under the Securities Act of 1933, as amended (the “Securities Act”), based on the proposed maximum aggregate offering price.

(2) Registration fee previously paid by the registrant in the amount of \$2,812.

Pursuant to Rule 416 under the Securities Act, the securities being registered hereunder include such  
 (3) indeterminate number of additional shares of common stock as may be issued after the date hereof as a result of stock splits, stock dividends or similar transactions.

(4) No additional consideration is payable upon conversion of the Series D Convertible Preferred Stock.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to Section 8(a), may determine.**

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell and is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS SUBJECT TO COMPLETION DATED DECEMBER 19, 2012

## Shares

### Series D Convertible Preferred Stock

( **Shares of Common Stock underlying the Series D Convertible Preferred Stock**)

MusclePharm Corporation is offering up to    shares of its Series D Convertible Preferred Stock, \$0.001 par value per share (the “Series D Preferred Stock”) and up to    shares of our common stock, \$0.001 par value per share, in which the Series D Preferred Stock is convertible, pursuant to this prospectus. The Series D Preferred Stock converts at a rate of two shares of common stock for each share of Series D Preferred Stock, subject to adjustment. Further, the conversion of the Series D Preferred Stock is subject to certain ownership limitations described in this prospectus. Proceeds will be deposited in an escrow account and returned to investors in full, without interest or deduction, unless the subscribed shares of Series D Preferred Stock are sold hereby during the offering period. Investors will have no right to the return of their funds during the term of the escrow.

The Series D Preferred Stock is not listed on an exchange, and we do not intend to list the Series D Preferred Stock on any exchange or market. Our common stock is presently quoted on the OTCBB under the symbol “MSLP.OB”. On December 18, 2012, the last reported sale price for our common stock on the OTC QB was \$4.50 per share.

We have retained placement agents in this offering, with Aegis Capital Corp acting as representative of the placement agents. We have agreed to pay the placement agents’ fees as set forth in the table below. The placement agents are not required to sell any specific number or dollar amount of our Series D Preferred Stock in this offering, but will use their reasonable best efforts to solicit orders to purchase our Series D Preferred Stock offered.

**Our business and an investment in our securities involve a high degree of risk. See “Risk Factors” beginning on page 7 of this prospectus for a discussion of information that you should consider before investing in our securities.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

	Per Share	Maximum Offering Amount
Public offering price of Series D Preferred Stock	\$	\$
Placement Agents' fees <sup>(1)</sup>	\$	\$
Proceeds, before expenses, to us	\$	\$

(1) Does not include additional compensation payable to the placement agents. See "Plan of Distribution" beginning on page 64 of this prospectus for a description of compensation payable to the placement agents.

We estimate the total expenses of this offering, excluding the placement agents' fees, will be approximately \$ . Because there is no minimum offering amount required as a condition to closing in this offering, the actual public offering amount, placement agents' fees and net proceeds to us, if any, in this offering are presently not determinable and may be substantially less than the maximum offering amount set forth in this prospectus.

Delivery of the shares of Series D Preferred Stock and the closing are expected to occur on or about , 2012, subject to customary closing conditions, against payment for such shares to be received by us on the same date.

**Aegis Capital Corp**

The date of this prospectus is , 2012



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You should rely only on the information contained in this prospectus or in any free writing prospectus that we may specifically authorize to be delivered or made available to you. We have not, and the placement agents have not, authorized anyone to provide you with any information other than that contained in this prospectus or in any free writing prospectus we may authorize to be delivered or made available to you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus may only be used where it is legal to offer and sell our securities. The information in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of our securities. Our business, financial condition, results of operations and prospects may have changed since that date. We are not, and the placement agents are not, making an offer of these securities in any jurisdiction where the offer is not permitted.

## **PROSPECTUS SUMMARY**

*This summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our securities, you should carefully read this entire prospectus, including our financial statements and the related notes and the information set forth under the headings “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in each case included elsewhere in this prospectus.*

*Unless otherwise stated or the context requires otherwise, references in this prospectus to “MusclePharm”, the “Company”, “we”, “us”, or “our” refer to MusclePharm Corporation, and information in this prospectus gives effect to the 1-for-850 reverse stock split of our common stock that we effected on November 26, 2012.*

### **MusclePharm Corporation**

#### **Business Overview**

We develop, market and sell athlete-focused, high quality nutritional supplements primarily to specialty resellers. Our products have been formulated to enhance active fitness regimens, including muscle building, weight loss and maintaining general fitness. Our nutritional supplements are available for purchase in over 10,500 U.S. retail outlets, including Dick’s Sporting Goods, GNC, Vitamin Shoppe and Vitamin World. We also sell our products to over 100 online channels, including bodybuilding.com, amazon.com, gnc.com and vitacost.com. Internationally, our nutritional supplements are sold in over 110 countries, and we expect that international sales will be a significant part of our sales for the foreseeable future.

We started formulating our nutritional supplements in 2008 for consumption by active individuals, high performance athletes and fitness enthusiasts. We launched our sales and marketing programs in late 2008 through our internal sales executives and staff targeting specialty retail distributors.

Our wide-range variety of nutritional supplements, include Assault™, Combat Powder™, MusclePharm MuscleGel®, MusclePharm Shred Matrix®, and Re-Con®. These products are comprised of amino acids, herbs, and proteins tested by our scientists for the overall health of athletes. We developed these nutritional supplements to enhance the effects of workouts, repair muscles, and nourish the body for optimal physical fitness.

## **Our Growth and Core Marketing Strategy**

Our primary growth strategy is to:

· increase our product distribution and sales through increased market penetrations both domestically and internationally;

· increase our margins by focusing on streamlining our operations and seeking operating efficiencies in all areas of our operations;

· continue to conduct additional testing of the safety and efficacy of our products and formulate new products; and

· increase awareness of our products by increasing our marketing and branding opportunities through endorsements, sponsorships and brand extensions.

Our core marketing strategy is to brand MusclePharm as the “must have” fitness brand for workout enthusiasts and elite athletes. We seek to be known as the “athlete’s company”, run by athletes who create their products for other athletes, both professional and otherwise. We believe that our marketing mix of endorsers, sponsorships and providing sample products for our retail resellers to use is an optimal strategy to increase sales.

## Recent Developments

### *Significant Growth in Product Sales*

We have recently experienced significant growth in our product sales. Our net sales for the years ended December 31, 2010 and 2011 were \$3.2 million and \$17.2 million, respectively. Our net sales for the nine months ended September 30, 2011 and 2012 were \$10.9 million and \$50.6 million, respectively.

### *Conversion of Warrants into Common Stock*

In late September 2012, we issued 512,675 shares of our common stock to several accredited investors pursuant to conversions of warrants to purchase an aggregate of 723,747 shares of our common stock. As a result of these warrant conversions and other extinguishments of derivative liabilities during the quarter ended September 30, 2012, our stockholders' deficit decreased from \$11,013,113 at June 30, 2012 to \$7,297,593 at September 30, 2012 and our derivative liabilities decreased from \$7,908,960 at June 30, 2012 to \$24,889 at September 30, 2012. On December 5, 2012, we converted a warrant exercisable for 4,902 shares of common stock into 3,677 shares of our common stock. Thereafter, our derivative liability was reduced to approximately \$300 as of December 5, 2012.

### *Proportionate Reverse Stock Split and Increase in Number of Authorized Shares of Common Stock*

On November 26, 2012, we (i) effected a 1-for-850 reverse stock split of our common stock, including a proportionate reduction in the number of authorized shares of our common stock from 2.5 billion shares to 2,941,177 shares of common stock, and (ii) amended our articles of incorporation to increase the number of authorized shares of common stock (post reverse stock split) from 2,941,177 to 100 million effective November 27, 2012. See "Description of Securities" beginning on page 61 of this prospectus.

### *Bridge Loan*

On December 4, 2012, we entered into a \$1.0 million bridge loan to provide us with short-term financing. In connection with the bridge loan, we entered into a subscription agreement with six subscribers pursuant to which we

issued an aggregate \$1.0 million principal amount of promissory notes and 50,000 shares of common stock to the subscribers. The promissory notes are due January 18, 2013 (45-days after the date of the subscription agreement), do not bear interest, and may be pre-paid in full at any time without penalty to us. If not repaid in full at maturity, following a five-day grace period, the default interest rate would be 12% per annum. The events of default under the promissory notes are defined broadly and include failure to pay principal and breach of covenants in the subscription agreement. Additionally, we granted the subscribers “piggy-back” registration rights for the shares of common stock in certain circumstances. The subscription agreement also contained customary representations and warranties, indemnification provisions, and additional covenants. Pursuant to the terms of the bridge loan, we are required to repay the entire bridge loan upon closing of this offering.

### **Selected Risks Associated With Our Business**

Our business is subject to numerous risks described in the section entitled “Risk Factors” and elsewhere in this prospectus. You should carefully consider these risks before making an investment. Some of these risks include:

Our independent auditors have expressed substantial doubt about our ability to continue as a going concern, which may hinder our ability to obtain future financing;

Our business and operations are experiencing rapid growth. If we fail to effectively manage our growth, our business and operating results could be harmed;

Our failure to respond appropriately to competitive challenges, changing consumer preferences and demand for new products could significantly harm our customer relationships and product sales;

Our management has determined that our disclosure controls and procedures are ineffective which could result in material misstatements in our financial statements;

If we fail to comply with the rules under the Sarbanes-Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult;

Our industry is highly competitive, and our failure to compete effectively could adversely affect our market share, financial condition and future growth;

We rely on a limited number of customers for a substantial portion of our sales, and the loss of or material reduction in purchase volume by any of these customers would adversely affect our sales and operating results;

Adverse publicity or consumer perception of our products and any similar products distributed by others could harm our reputation and adversely affect our sales and revenues;

We rely on highly skilled personnel and, if we are unable to retain or motivate key personnel, hire qualified personnel, we may not be able to grow effectively;

If we are unable to retain key personnel, our ability to manage our business effectively and continue our growth could be negatively impacted;

Our operating results may fluctuate, which makes our results difficult to predict and could cause our results to fall short of expectations;

We may be exposed to material product liability claims, which could increase our costs and adversely affect our reputation and business;

Our insurance coverage or third party indemnification rights may not be sufficient to cover our legal claims or other losses that we may incur in the future;

Our intellectual property rights are valuable, and any inability to protect them could reduce the value of our products and brand;

We may be subject to intellectual property rights claims, which are costly to defend, could require us to pay damages and could limit our ability to sell some of our products;

An increase in product returns could negatively impact our operating results and profitability;

We have no manufacturing capacity and anticipate continued reliance on third-party manufacturers for the development and commercialization of our products;

A shortage in the supply of key raw materials could increase our costs or adversely affect our sales and revenues;

A member of our management team has been involved in a bankruptcy proceeding and other failed business ventures that may expose us to assertions