

Edgar Filing: PIVOTAL CORP - Form 10-K/A

PIVOTAL CORP  
Form 10-K/A  
October 01, 2001

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

AMENDMENT NO. 1  
TO  
FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended June 30, 2001

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 000-26867

PIVOTAL CORPORATION  
(Exact Name of Registrant as Specified in its Charter)

British Columbia, Canada  
(State or other Jurisdiction of  
Incorporation or Organization)

Not Applicable  
(IRS Employer Identification Number)

300-224 West Esplanade  
North Vancouver, British Columbia  
Canada  
V7M 3M6  
(Address of Principal Executive Offices)  
(Zip Code)

(604) 988-9982  
(Registrant's Telephone Number,  
Including Area Code)  
SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

TITLE OF EACH CLASS -----	NAME OF EACH EXCHANGE ON WHICH REGISTERED -----
N/A	N/A

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:  
Common Shares

-----  
(Title of Class)

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 THE FILING REQUIREMENTS FOR THE PAST 90 DAYS: 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

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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: [ ]

The aggregate market value of the voting shares held by non-affiliates of the registrant, based on the closing sale price of the common shares on September 4, 2001 as reported on the Nasdaq National Market was approximately U.S.\$5.44. Common shares held by each current executive officer and director and by each person who is known by the Registrant to own 5% or more of the outstanding common shares have been excluded from this computation in that such persons may be deemed to be affiliates of the Registrant. This determination of affiliate status is not a conclusive determination for other purposes.

AS OF SEPTEMBER 1, 2001, 23,996,235 COMMON SHARES OF THE REGISTRANT WERE OUTSTANDING.

DOCUMENTS INCORPORATED BY REFERENCE

Not Applicable.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) Financial Statements and Financial Statement Schedules

1. Index to Consolidated Financial Statements

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Independent Auditor's Report.....	53
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Consolidated Statements of Shareholders' Equity	56
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2. Index to Financial Statement Schedules

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(b) Reports on Form 8-K

Not Applicable

(c) Exhibits

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EXHIBIT NO.	DESCRIPTION
-----	-----
2.1(1)	Share Purchase Agreement by and between Pivotal and Pierre Marcel, Marc Bahda, Bernard Wach and Other Shareholders of Transitif S.A., dated December 3, 1999
2.2(2)	Stock Purchase Agreement among Pivotal and Industrial & Financial Systems AB and Eli Barak, Alon Hod and Tony Topaz concerning all of the Shares of Exactium Ltd. dated April 11, 2000
2.3(3)	Share Purchase Agreement among Pivotal and David Pritchard, Kirk Herrington, Michael Satterfield, Calvin Mah, VW B.C. Technology Investment Fund, LP, Venrock Associates, Venrock Associates II, LP, Working Ventures Canadian Fund Inc., Bank of Montreal Capital Corporation, Sussex Capital Inc. and the Other Shareholders of Simba Technologies Inc. concerning all of the Shares of Simba Technologies Inc. dated May 29, 2000
3.2(4)	Memorandum and Articles
4.1(4)	Specimen of common share certificate
4.2(4)	Registration Rights (included in Exhibit 10.15)
4.3(2)	Registration Rights Agreement dated June 2, 2000 (included in Exhibit 2.2)
4.4(3)	Registration Rights Agreement dated June 26, 2000 (included in Exhibit 2.3)
4.5(8)	Specimen of common share certificate as of August 17, 2000
10.1(4)	Employee Share Purchase Plan
10.2(4)	Lease dated as of July 18, 1997 between Sodican (B.C.) Inc. and Pivotal for premises located in North Vancouver, B.C.
10.3(4)	Lease dated as of May 26, 1998 between Novo Esplanade Ltd. and Pivotal for premises located in North Vancouver, B.C.
10.4(4)	Lease(1) dated as of December 14, 1998 between B.C. Rail Ltd. and Pivotal for premises located in North Vancouver, B.C.
10.5(4)	Lease(2) dated as of December 14, 1998, between B.C. Rail Ltd. and Pivotal with respect to premises located in North Vancouver, B.C.
10.6(4)	Lease dated as of December 11, 1998 between The Plaza at Yarrow Bay Inc. (previously Yarrow Bay Office III Limited Partnership) and Pivotal with respect to premises located in Kirkland, Washington
#10.7(4)	Letter agreement dated November 21, 1997 between Pivotal and Robert A. Runge granting an option to purchase 250,000 common shares
10.8(4)	Canadian Imperial Bank of Commerce Cdn\$2,000,000 Committed Installment Loan dated March 18, 1998

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- 10.9(4) Canadian Imperial Bank of Commerce Cdn\$3,000,000 Operating Line of Credit dated March 18, 1998
- 10.10(4) Security Agreement with Canadian Imperial Bank of Commerce dated for reference April 15, 1998
- 10.11(4) Contract Relative to Special Security under the Bank Act between Canadian Imperial Bank of Commerce and Pivotal dated April 30, 1998
- 10.12(4) Canadian Imperial Bank of Commerce Schedule - Standard Credit Terms dated March 18, 1998
- 10.13(4) Canadian Imperial Bank of Commerce Schedule-Standard Credit Terms dated March 18, 1998
- 10.14(4) Form of Indemnity Agreement between Pivotal and directors and officers of Pivotal
- 10.15(4) Investors' Rights Agreement dated January 15, 1999
- 10.16(5) Assignment Agreement dated July 12, 2000 between Pivotal and Meta Creations International Limited for premises located in Dublin, Republic of Ireland; Sub-Lease dated September 22, 1999 between The H.W. Wilson Company Inc. and Meta Creations International Limited for premises located in Dublin, Republic of Ireland
- 10.17(5) Lease dated April 14, 2000 among Deramore Holdings Limited(1), Pivotal Corporation (NI) Limited (2) and Pivotal for premises located in Belfast, Northern Ireland
- #10.18(5) Employment Agreement between Vince Mifsud and Pivotal dated November 10, 1998
- 10.19(6) Exactium Ltd. 1999 Stock Option Plan
- 10.20(7) Simba Technologies Incentive Stock Option Plan, as amended
- 10.21(8) Amended and Restated Incentive Stock Option Plan
- 10.22(8) Restated Offer to Lease dated July 28, 2000 between CB Richard Ellis Limited and Pivotal with respect to premises located in Vancouver, B.C.
- 10.23(8) First Amendment to Restated Offer to Lease dated October 16, 2000 between PCI Properties Corp. and Pivotal with respect to premises located in Vancouver, B.C.
- 10.24(8) Second Amendment to Restated Offer to Lease dated May 18, 2001 between PCI Properties Corp. and Pivotal with respect to premises located in Vancouver, B.C.
- 10.25(8) Lease dated June 3, 1996 between Yonge Wellington Property Limited and Simba Technologies Incorporated with respect to premises located in Vancouver, B.C.
- 10.26(8) Sublease dated January 1, 1999 between Brewster Transport Company Limited and Simba Technologies Incorporated with respect to premises located in Vancouver, B.C.

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- 10.27(8) Lease dated September 1, 2000 between Landgem Office I, Ltd. (previously Dallas Office Portfolio L.P.) and Software Spectrum CRM, Inc. for premises located in Dallas, Texas
- 10.28(8) Lease dated December 19, 2000 between 485 Properties, LLC and Pivotal for premises located in Atlanta, Georgia
- 10.29(8) Lease dated as of November 24, 2000 between Scholl Consumer Products Limited and Pivotal for premises located in Luton, England
- #10.30(8) Employment Agreement between Kirk Herrington and Pivotal dated June 7, 2000
- #10.31(8) Employment Agreement between Kent Roger (Bo) Manning and Pivotal dated August 22, 2001
- 10.32(8) Amendment No.1 dated June 19, 2001 to the Canadian Imperial Bank of Commerce Cdn\$3,000,000 Operating Line of Credit dated March 18, 1998
- 10.33(8) Amendment No.2 dated July 3, 2001 to the Canadian Imperial Bank of Commerce Cdn\$3,000,000 Operating Line of Credit dated March 18, 1998
- 21.1(8) Subsidiaries of Pivotal
- 23.1 Consent of Deloitte & Touche
- 24.1(8) Powers of Attorney (included on signature page)
- 99.1(8) Notice of Meeting and Management Information and Proxy Circular for the Annual General Meeting to be held on Thursday, November 15, 2001.

# Indicates management contract.

- (1) Incorporated by reference to Pivotal's Form 8-K filed on January 25, 2000.
- (2) Incorporated by reference to Pivotal's Form 8-K filed on June 19, 2000.
- (3) Incorporated by reference to Pivotal's Form 8-K filed on July 11, 2000.
- (4) Incorporated by reference to Pivotal's Registration Statement on Form F-1 (No. 333-82871).
- (5) Incorporated by reference to Pivotal's Annual Report on Form 10-K for the year ended June 30, 2000.
- (6) Incorporated by reference to Pivotal's Registration Statement on Form S-8 (No. 333-39922).
- (7) Incorporated by reference to Pivotal's Registration Statement on Form S-8 (No. 333-42460).
- (8) Previously filed on Pivotal's Annual Report on Form 10-K for the year ended June 30, 2001, filed September 28, 2001.

### SIGNATURES

Registrant. Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to

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be signed on its behalf by the undersigned, thereunto duly authorized, in Vancouver, British Columbia, Canada, on September 28, 2001.

PIVOTAL CORPORATION  
(Registrant)

By: /s/ Diane Malaher

-----  
Diane Malaher  
(Legal Counsel and Secretary)

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