

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

Form 10-K/A
Amendment No. 1

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

For the Fiscal Year Ended September 30, 2023
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: 1-35040

PHENIXFIN CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction of Incorporation or Organization)

27-4576073
(I.R.S. Employer Identification No.)

445 Park Avenue, 10th Floor
New York, NY
(Address of Principal Executive Offices)

10022
(Zip Code)

(212) 859-0390
(Registrant's Telephone Number, Including Area Code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	PFX	NASDAQ Global Market
5.25% Notes due 2028	PFXNZ	NASDAQ Global 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 15(d) of the Act. Yes No

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 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 the 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 has submitted electronically every Interactive Data File required to be submitted 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 such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes No

The aggregate market value of the registrant's common stock held by non-affiliates of the Registrant as of March 31, 2023 was \$60,578,642. The Registrant had 2,060,490 shares of common stock, \$0.001 par value, outstanding as of January 26, 2024.

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DOCUMENTS INCORPORATED BY REFERENCE

None.

EXPLANATORY NOTE

PhenixFIN Corporation, a Delaware corporation, or together with its subsidiaries, where applicable, the Company, which may also be referred to as “we”, “us” or “our”, is filing this Amendment No. 1 (the “Amendment”) to our Annual Report on Form 10-K for the fiscal year ended September 30, 2023, which was filed with the SEC on December 22, 2023 (the “Form 10-K”). The purpose of this Form 10-K/A is solely to disclose the information required in Part III (Items 10, 11, 12, 13 and 14) of the Form 10-K, which information was previously omitted from the Form 10-K in reliance on General Instruction G(3) to Form 10-K. Accordingly, we hereby amend and replace in its entirety Part III of the Form 10-K.

This Form 10-K/A does not amend any other information set forth in the Form 10-K, and we have not updated disclosures included therein to reflect any subsequent events. This Form 10-K/A should be read in conjunction with the Form 10-K and with our filings with the SEC subsequent to the Form 10-K.

PART III**Item 10. Directors, Executive Officers and Corporate Governance**

Our business and affairs are managed under the direction of our Board of Directors. The Board of Directors currently consists of five members, four of whom are not “interested persons” of the Company as defined in Section 2(a)(19) of the 1940 Act. We refer to these four individuals as our independent directors. Our Board of Directors elects our officers, who serve at the discretion of the Board of Directors. The responsibilities of each director include, among other things, oversight of our investment activity, quarterly valuation of our assets, and oversight of our financing arrangements. The Board of Directors has also established an audit committee, a nominating and corporate governance committee and a compensation committee and may establish additional committees in the future.

Board of Directors and Executive Officers

Pursuant to our charter and bylaws, the Board of Directors is divided into three classes, designated Class I, Class II, and Class III. Directors are elected for a staggered term of three years each, with a term of office of one of the three classes of directors expiring each year. Each director will hold office for the term to which he or she is elected or until his successor is duly elected and qualified.

Directors

Information regarding the Board of Directors is as follows:

Name, Address, and Age(1)	Position(s) Held with Company	Terms of Office and Length of Time Served	Principal Occupation(s) During Past 5 Years	Other Directorships Held by Director
Interested Directors				
David A. Lorber, 45	Chairman Chief Executive Officer	Class I Director since 2019; Term expires 2024	Chairman and Chief Executive Officer of the Company; Co-Founder, Director, Managing Member, and Portfolio Manager of FrontFour Capital; Co-Founder and Principal of FrontFour Capital Corp.	Director of FrontFour Capital. Former director of GSR II Meteora Acquisition Corp.

Independent Directors

Arthur S. Ainsberg, 77	Director	Class II Director, since 2011; Term expires 2025	President of Ainsberg Associates	Former director of AG Mortgage Investment Trust; Nomura Securities International, Inc.; Nomura Global Financial Products, Inc.; Nomura Holding America, Inc.; and National Financial Partners Corporation
Howard Amster, 76	Director	Class I Director since 2020; Term expires 2024	President, Pleasant Lake Apts. Corp. (since 1992); Principal and registered representative, investment advisor and financial options and operations principal, Ramat Securities Ltd. (since 1998); Registered Representative, McDonald Partners LLC (2015-July 2020).	Director, Novation Companies, Inc.; Director and member of the Executive Committee of Horizon Group Properties, Inc.
Karin Hirtler-Garvey, 67	Director	Class III Director since 2011; Term expires 2026	See “Other Directorships Held by Director”	Director of ProSight Global Inc.; USAA Federal Savings Bank; VA Capital Management; and Victory Capital Management. Previously director of ARO Liquidation Inc., the successor company to Aeropostale, Inc.; Aeropostale Inc.; Validus Holdings Ltd.; StarStone and Western World Insurance Group
Lowell W. Robinson, 75	Director	Class III Director since 2019; Term expires 2026	See “Other Directorships Held by Director”	Director of the New York Academy of Science. Former director of Starboard Value Acquisition Corporation; Aratana Therapeutics, Inc.; EVINE Live Inc. (formerly ShopHQ); Higher One Holdings, Inc.; Barnes and Noble Education.

(1) The business address of the directors is c/o PhenixFIN Corporation, 445 Park Avenue, 10th Floor, New York, NY 10022.

David A. Lorber is an “interested person” of the Company as defined in the 1940 Act due to his position as Chief Executive Officer of the Company. He was appointed Chairman of the Board of the Company and Chief Executive Officer effective January 1, 2021. He is a Co-Founder of FrontFour Capital, an investment adviser, and serves as a Portfolio Manager since January 2007. He is also a Co-Founder of FrontFour Capital Corp., an investment adviser, and has been a Principal since January 2011. Previously, Mr. Lorber was a Senior Investment Analyst at Pirate Capital LLC, a hedge fund, from 2003 to 2006. He was an Analyst at Vantis Capital Management LLC, a money management firm and hedge fund, from 2001 to 2003 and an Associate at Cushman & Wakefield, Inc., a global real estate firm, from 2000 to 2001. Mr. Lorber serves as a director of FrontFour Capital. From February 2022 till June 2023, Mr. Lorber served as a director of GSR II Meteora Acquisition Corp. (NASDAQ: GSRM), a blank check company formed for the purpose of effecting a business combination with one or more businesses. From May 2013 till April 2022 Mr. Lorber was the Lead Director of Ferro Corporation (NYSE:FOE), a leading producer of specialty materials and chemicals for manufacturers and served as the Chairman of its Governance & Nomination Committee and a member of its Compensation Committee.

Mr. Lorber’s position as Chief Executive Officer of the Company and his significant financial and investment industry background as well as his board experience and corporate governance awareness from his current and past service as a director allow him to provide valuable advice and guidance to our Board.

Independent Directors

Arthur S. Ainsberg is not an “interested person” of the Company as defined in the 1940 Act. Mr. Ainsberg has over 40 years of experience in the financial services industry and a deep understanding of public and accounting matters for financial service companies. Mr. Ainsberg served as a director, Chairman of the Audit Committee and member of the Compliance Committee of Nomura Securities International, Inc. (the U.S. based broker-dealer of The Nomura Group) from 1996 through December 2014. In September 2012, Mr. Ainsberg was named to the Board of Directors of Nomura Global Financial Products, Inc., and in July 2013, he was named to the Board of Directors of Nomura Holding America, Inc., and served on each board through December 2014. In May 2013, Mr. Ainsberg was named to the Board of Directors of AG Mortgage Investment Trust. AG is a NYSE company, structured as a REIT, investing in various types of mortgage investments and served in such capacity until June 2020. From July 2003 through May 2012, Mr. Ainsberg served as a director for National Financial Partners Corporation, an independent financial services distribution company. From August 2009 through June 2011, Mr. Ainsberg served as Chief Operating Officer of Lehman Brothers Inc. in liquidation, the largest and most complex bankruptcy in the United States. Prior to this engagement, Mr. Ainsberg served as the Independent Consultant for Morgan Stanley & Co. from December 2003 until July 2009, under the Global Research Analyst Settlement, and was responsible for selecting and monitoring the providers of independent research for the clients of Morgan Stanley. Previously, Mr. Ainsberg was Chief Operating Officer at two investment partnerships, Brahman Capital Corp. from 1996 to 2000 and Bessent Capital Corp. during 2001. He also served as Chairman of the New York State Board for Public Accountancy from 1999 to 2000 and was a member of that board from 1993 to 2001. From 1998 to 2000, he was also a member of the Board of District 10 of the National Association of Securities Dealers. Mr. Ainsberg is also the author of *Shackleton: Leadership Lessons from Antarctica (2008)* and the co-author of *Breakthrough: Elizabeth Hughes, the Discovery of Insulin, and the Making of a Medical Miracle (2010)*.

Mr. Ainsberg has extensive experience in the financial services industry and a deep understanding of public and financial accounting matters for financial services companies.

Howard Amster is not an “interested person” of the Company as defined in the 1940 Act. Mr. Amster has been active in the securities industry from 1979, as investor, registered representative, investment advisor, principal, and co-managed a convertible bond hedging and arbitrage department for a major NYSE brokerage firm. His duties included corporate finance, debt restructuring and creditor claims both in and out of bankruptcy, and serving on creditor committees in bankruptcy proceedings. Since 1992, he has been active in real estate as an investor in apartment projects of approximately 900 units in the Cleveland area. Since 2001, he has served as a member of the Board and the Executive Committee and as a major shareholder of Horizon Group Properties Inc., a real estate operating company (formerly a publicly held REIT) owning and managing outlet malls and a shopping center totaling approximately 2 million square feet of space. From 1988 to early 2020, Mr. Amster was a major shareholder and served as a director of Maple Leaf Financial and its subsidiary, Geauga Savings Bank, based in Newbury, OH. He was the chairman of the ALCO Committee, and member of the loan, personnel, and executive committees. In early 2020, the holding company and the bank were acquired by Farmers National Banc Corp. (ticker symbol FMNB).

Mr. Amster has extensive experience in the securities industry, has been both an investment advisor and a proprietary investor and has served as a director of various companies in the financial sector. He also has a significant investment position in the Company, aligning his interests with stockholders.

Karin Hirtler-Garvey is not an “interested person” of the Company as defined in the 1940 Act. Ms. Hirtler-Garvey serves as a Director of USAA Federal Savings Bank, a privately held consumer bank, where she formerly served as the Compensation Committee Chair from June 2018 to December 2019, and also serves as the Risk Committee Chair since January 2010 and as a member of the Finance and Audit, Risk, and Nominating and Corporate Governance Committees. She also serves as a Director of ProSight Global Holdings Inc., a privately held specialty insurance company, since August 2021 where she chairs the Audit Committee and serves as a member of the Risk Committee. She also serves as a Director of VA Capital Management, a privately held annuities firm, since August 2018, and a Director of Victory Capital Holdings, a publicly traded asset management firm, since October 2014, where she chairs the Audit Committee. Ms. Hirtler-Garvey served as a Director of StarStone, a specialty insurance company, from December 2019 to November 2020, Western World Insurance Group from December 2006 to June 2019, and chaired the Audit Committee from December 2009 to June 2019, and also served as a Member of its Compensation Committee and Pension Committee from April 2011 to September 2014. From August 2017 to August 2018, she served as a Director of Validus Holdings Ltd., the publicly-traded parent company of Western World. Ms. Hirtler-Garvey also served on the board of ARO Liquidation Inc., the successor company to Aeropostale, Inc., where she served as the Chairman of the Board of Directors from February 2012 to May 2016. Ms. Hirtler-Garvey served on the board of Aeropostale from August 2005 to April 2018 where she was the lead independent director and served as a member of the Nominating and Corporate Governance Committee and Chairperson of the Audit Committee. From May 2009 to December 2011, Ms. Hirtler-Garvey was the Chief Risk Executive for Ally Financial Inc. From June 2008 to June 2009, Ms. Hirtler-Garvey also served as a Director for Residential Capital LLC, a subsidiary of GMAC. From March 2005 to December 2008, Ms. Hirtler-Garvey was a principal in a start-up real estate development venture based in New Jersey. From 1995 to 2005, Ms. Hirtler-Garvey held various senior level management positions at Bank of America, including Chief Operating Officer, Global Markets, President of Trust and Credit Banking Products, and Chief Financial Officer/Chief Operating Officer for the Wealth and Investment Management division. Ms. Hirtler-Garvey is a C.P.A.

Ms. Hirtler-Garvey has had a lengthy tenure in the financial services industry, where she has accumulated extensive experience in senior management positions.

Lowell W. Robinson is not an “interested person” of the Company as defined in the 1940 Act. Mr. Robinson is an experienced executive with over thirty years of senior global strategic, financial, M&A, operational, turnaround and governance experience. From 2007 through 2009, Mr. Robinson served as the Chief Financial Officer and Chief Operating Officer of MIVA, Inc. (formerly NASDAQ:MIVA), an online advertising network, after initially joining the company in 2006 as its Chief Financial Officer and Chief Administrative Officer. Previously, from 2000 to 2002, he served as the Chief Financial Officer and Chief Administrative Officer at HotJobs.com Ltd. (formerly NASDAQ:HOTJ), an online recruiting and job search engine that was sold to Yahoo! Inc. Mr. Robinson was the Chief Financial Officer and Chief Administrative Officer at PRT Group Inc. (formerly NASDAQ:PRTG), a software and IT services company that he helped take public, from 1997 through 1999. Mr. Robinson also previously held senior financial positions at Advo, Inc. (formerly NYSE:AD), a leading direct-mail and marketing services company, Citigroup Inc. (NYSE:C), Uncle Bens Inc., a subsidiary of Mars, Incorporated, and Kraft Foods Inc. (formerly NYSE:KFT). Mr. Robinson served on the Board of Directors of Barnes and Noble Education Inc. (NYSE:BNED) from 2020 to 2022, where he chaired the Audit Committee and was on the Compensation Committee. He previously served as a director of each of Starboard Value Acquisition Corporation (until its merger with Cyxtera Technologies Inc. (NASDAQ:CYXT) in July 2021), Aratana Therapeutics, Inc. (NASDAQ: PETX), a commercial-stage biopharma company focused on pet products (May 2018 to July 2019) until its sale to Elanco Animal Health, ShopHQ, a digital omnichannel home shopping network (March 2014 to June 2018), Higher One Holdings, Inc. (formerly NYSE:ONE), a financial technology company focused on providing cost-saving solutions (June 2014 to August 2016), The Jones Group, Inc. (formerly NYSE:JNY), an American designer, marketer and wholesaler of branded clothing, shoes and accessories (2005 to April 2014), Independent Wireless One Corp., Diversified Investment Advisors Inc. and Edison Schools Inc. Since September 2018, Mr. Robinson serves on the executive committee and Board of Directors of The New York Academy of Science, a not-for-profit organization dedicated to driving innovative solutions to society’s challenges by advancing scientific research, education and policy. He previously was on the non-profit boards of The Council for Economic Education, The Metropolitan Opera Guild, the Smithsonian Libraries and the University of Wisconsin School of Business, where he currently is on the Advisory Board for its Department of Economics.

Mr. Robinson’s broad diversified expertise in various industries, including financial services, corporate finance, M&A and turnaround experience, as well as his experience serving as a director of numerous public companies makes him well qualified to serve on our Board of Directors.

Executive Officers

Information regarding our executive officers who are not directors of the Company are as follows:

Name, Address, and Age(1)	Position(s) Held with Company	Principal Occupation(s) During Past 5 Years
Ellida McMillan, 56	Chief Financial Officer	Chief Financial Officer and Chief Operating Officer (April 2017 – February 2020) of Alcentra Capital Corporation

(1) The business address of the executive officers is c/o PhenixFIN Corporation, 445 Park Avenue, 10th Floor, New York, NY 10022.

Ellida McMillan is the Chief Financial Officer of the Company. She served as Chief Financial Officer and Chief Operating Officer of Alcentra Capital Corporation, a NASDAQ-traded BDC, from April 2017 until it merged into Crescent Capital BDC, Inc. in February 2020. Previously, from November 2013 to April 2017, she served as Chief Accounting Officer, Treasurer and Secretary of Alcentra Capital. At Alcentra Capital she developed the company's financial and operating infrastructure, oversaw its IPO and initial NASDAQ listing, and participated in all corporate M&A and strategic processes involving the company.

Board Leadership Structure

Our Board of Directors monitors and performs an oversight role with respect to the business and affairs of the Company, including with respect to investment practices and performance, compliance with regulatory requirements and the services, expenses and performance of service providers to the Company. Among other things, our Board of Directors oversees the activities of our executive officers and other management personnel responsible for the Company's investment portfolio and operations, and approves the engagement, and reviews the performance of, our independent registered public accounting firm.

Under the Company's bylaws, our Board of Directors may designate a Chairman to preside over the meetings of the Board of Directors and meetings of the stockholders and to perform such other duties as may be assigned to him or her by the Board of Directors. We do not have a fixed policy as to whether the Chairman of the Board of Directors should be an independent director and believe that we should maintain the flexibility to select the Chairman and reorganize the leadership structure, from time to time, based on the criteria that is in the best interests of the Company and its stockholders at such times.

Presently, Mr. Lorber serves as the Chairman of our Board of Directors. Mr. Lorber is an "interested person" (as defined in Section 2(a)(19) of the 1940 Act) of the Company because he is Chief Executive Officer of the Company.

The currently designated lead independent director of our Board of Directors is Mr. Ainsberg.

Our corporate governance policies include regular meetings of the independent directors in executive session without the presence of the interested director and management, the establishment of the Audit Committee, the Nominating and Corporate Governance Committee, the Compensation Committee, and the appointment of a Chief Compliance Officer, with whom the independent directors meet regularly without the presence of the interested director and other members of management, for administering our compliance policies and procedures.

We recognize that different board leadership structures are appropriate for companies in different situations. We re-examine our corporate governance policies on an ongoing basis to ensure that they continue to meet the Company's needs.

Board of Directors Role in Risk Oversight

Our Board of Directors performs its risk oversight function primarily through (a) its standing Nominating and Corporate Governance Committee and Audit Committee, each of which report to the entire Board of Directors and are comprised solely of independent directors, and (b) active monitoring of our Chief Compliance Officer and our compliance policies and procedures.

As described below in more detail under "Committees of the Board of Directors," the Audit Committee assists the Board of Directors in fulfilling its risk oversight responsibilities. The Audit Committee's risk oversight responsibilities include overseeing the Company's accounting and financial reporting processes, the Company's systems of internal controls regarding finance and accounting, and audits of the Company's financial statements.

Our Board of Directors also performs its risk oversight responsibilities with the assistance of the Chief Compliance Officer. Every quarter, the Board of Directors reviews a report from the Chief Compliance Officer discussing the adequacy and effectiveness of the compliance policies and procedures of the Company and its service providers. The Chief Compliance Officer's quarterly report addresses the following: (a) the operation of the compliance policies and procedures of the Company and its service providers since the last report; (b) any material changes to such policies and procedures since the last report; (c) any recommendations for material changes to such policies and procedures as a result of the Chief Compliance Officer's quarterly review; and (d) any compliance matter that has occurred since the date of the last report about which the Board of Directors would reasonably need to know to oversee our compliance activities and risks. In addition, the Chief Compliance Officer meets separately in executive session with the independent directors at least once each year.

We believe that our Board of Directors' role in risk oversight is effective and appropriate given the extensive regulation to which we are already subject as a business development company ("BDC"). As a BDC, we are required to comply with certain regulatory requirements that control the levels of risk in our business and operations. For example, our ability to incur indebtedness is limited such that our asset coverage must equal at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met) immediately after each time we incur indebtedness, we generally have to invest at least 70% of our total assets in "qualifying assets," and we are not generally permitted to invest in any portfolio company in which one of our affiliates currently has an investment.

We recognize that different board roles in risk oversight are appropriate for companies in different situations. We re-examine the manner in which the Board of Directors administers its oversight function on an ongoing basis to ensure that it continues to meet the Company's needs.

Committees of the Board of Directors

An Audit Committee, a Nominating and Corporate Governance Committee and a Compensation Committee have been established by our Board of Directors. Previous to January 1, 2021, the Company also had a Special Committee. During the fiscal year of 2023, the Board of Directors held 6 meetings, the Audit Committee held 6 meetings, the Nominating and Corporate Governance Committee held 1 meeting, and the Compensation Committee held 1 meeting. All directors attended at least 75% of the aggregate number of meetings of the Board of Directors and of the respective committees on which they serve. We require each director to make a diligent effort to attend all Board of Directors' and committee meetings as well as each annual meeting of our stockholders.

Audit Committee. The Audit Committee operates pursuant to a charter approved by our Board of Directors, a copy of which is available on our website at <http://www.phenixfc.com>. The charter sets forth the responsibilities of the Audit Committee. The Audit Committee's responsibilities include selecting the independent registered public accounting firm for the Company, reviewing with such independent registered public accounting firm the planning, scope and results of its audit of the Company's financial statements, pre-approving the fees for services performed, reviewing with the independent registered public accounting firm the adequacy of internal control systems, reviewing the Company's annual financial statements and periodic filings and receiving the Company's audit reports and financial statements. The Audit Committee also establishes guidelines, recommends the appointment of the valuation designee, and oversees the valuation process conducted by our valuation designee regarding the valuation of our investments. The Board of Directors and the Audit Committee utilize the services of nationally recognized third-party valuation firms to help determine the fair value of these securities. The Audit Committee is currently composed of Karin Hirtler-Garvey (chair), Arthur S. Ainsberg, and Lowell W. Robinson, each of whom is independent as set forth in the listing rules and regulations of the NASDAQ Stock Market LLC (the "NASDAQ Listing Rules") and is not an "interested person" (as that term is defined in Section 2(a)(19) of the 1940 Act) of the Company. Our Board of Directors has determined that each of Karin Hirtler-Garvey, Arthur S. Ainsberg, and Lowell W. Robinson is an "audit committee financial expert" as that term is defined under Item 407 of Regulation S-K, as promulgated under the Exchange Act. Each of Karin Hirtler-Garvey, Arthur S. Ainsberg, and Lowell W. Robinson meets the current independence and experience requirements of Rule 10A-3 of the Exchange Act.

Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee operates pursuant to a charter approved by our Board of Directors, a copy of which is available on our website at <http://www.phenixfc.com>. The Nominating and Corporate Governance Committee is responsible for selecting, researching and nominating directors for election by our stockholders, selecting nominees to fill vacancies on the Board of Directors or a committee thereof, developing and recommending to the Board of Directors a set of corporate governance principles and overseeing the evaluation of the Board of Directors and our management. The Nominating and Corporate Governance Committee currently does not consider nominees recommended by our stockholders.

The Nominating and Corporate Governance Committee seeks candidates who possess the background, skills and expertise to make a significant contribution to the Board of Directors, the Company and its stockholders. In considering possible candidates for election as a director, the Nominating and Corporate Governance Committee takes into account, in addition to such other factors as it deems relevant, the desirability of selecting directors who:

- are of high character and integrity;
- are accomplished in their respective fields, with superior credentials and recognition;
- have relevant expertise and experience upon which to be able to offer advice and guidance to management;
- have sufficient time available to devote to the affairs of the Company;
- are able to work with the other members of the Board of Directors and contribute to the success of the Company;
- can represent the long-term interests of the Company's stockholders as a whole; and
- are selected such that with the other members of the Board of Directors represent a range of backgrounds and experience.

The Nominating and Corporate Governance Committee has not adopted a formal policy with regard to the consideration of diversity in identifying director nominees. In determining whether to recommend a director nominee, the Nominating and Corporate Governance Committee considers and discusses diversity, among other factors, with a view toward the needs of the Board of Directors as a whole. The Nominating and Corporate Governance Committee generally conceptualizes diversity expansively to include, without limitation, concepts such as race, gender, national origin, differences of viewpoint, professional experience, education, skill and other qualities that contribute to the Board of Directors, when identifying and recommending director nominees. The Nominating and Corporate Governance Committee believes that the inclusion of diversity as one of many factors considered in selecting director nominees is consistent with the Nominating and Corporate Governance Committee's goal of creating a Board of Directors that best serves the needs of the Company and the interest of its stockholders. The Nominating and Corporate Governance Committee is currently composed of Arthur S. Ainsberg (chair), Howard Amster and Karin Hirtler-Garvey, each of whom is independent as set forth in the NASDAQ Listing Rules and is not an "interested person" (as defined in Section 2(a)(19) of the 1940 Act) of the Company.

Compensation Committee. The Compensation Committee operates pursuant to a charter approved by our Board of Directors, a copy of which is available on our website at <http://www.phenixfc.com>. The Compensation Committee is responsible for formulating and recommending to the full Board of Directors the compensation of the Company's Chief Executive Officer, Chief Financial Officer and Chief Compliance Officer. Previous to January 1, 2021, when the Company was externally managed, the Compensation Committee was responsible for reviewing and approving the reimbursement by the Company of the compensation of the Company's Chief Financial Officer, the Company's Chief Compliance Officer and their respective staffs. The Compensation Committee is currently composed of Karin Hirtler-Garvey, Howard Amster, Arthur S. Ainsberg, and Lowell Robinson (chair), each of whom is independent as set forth in the NASDAQ and is not an "interested person" (as defined in Section 2(a)(19) of the 1940 Act) of the Company.

Communication with the Board of Directors

Stockholders with questions about the Company are encouraged to contact the Company's investor relations department. However, if stockholders believe that their questions have not been addressed, they may communicate with the Company's Board of Directors by sending their communications to Investor Relations, c/o PhenixFIN Corporation, 445 Park Avenue, 10th Floor, New York, NY 10022. All stockholder communications received in this manner will be delivered to one or more members of the Board of Directors.

Delinquent Section 16(a) Reports

Pursuant to Section 16(a) of the Exchange Act, the Company's directors and executive officers, and any persons holding more than 10% of its common stock, are required to report their beneficial ownership and any changes therein to the SEC and the Company. Specific due dates for those reports are established by the rules of the Securities and Exchange Commission, and the Company is required to report herein any failure to file such reports by those due dates. Based solely on a review of the copies of such reports and written representations delivered to the Company by such persons, we believe that there were no failures to comply with Section 16(a) reporting requirements by such persons during the Company's fiscal year ended September 30, 2023.

Code of Ethics

The Company has adopted a Code of Business Conduct and Ethics which applies to our Chief Executive Officer, our Chief Financial Officer, our chief accounting officer (which role is currently fulfilled by our CFO) and our controller. The Company's Code of Business Conduct and Ethics can be accessed via our website at <http://www.phenixfc.com>. The Company intends to satisfy disclosure requirements of any amendments to or waivers from any required provision of the Code of Ethics via posting such information on its internet website.

Item 11. Executive Compensation

Compensation Discussion & Analysis

The following Compensation Discussion and Analysis ("CD&A") provides information relating to the compensation of the Company's Named Executive Officers, ("NEOs") for the fiscal year ended September 30, 2023, who were:

- David A. Lorber, Chairman of the Board of Directors and Chief Executive Officer;
- Ellida McMillan, Chief Financial Officer

Effective January 1, 2021, our Board of Directors approved internalizing our operating structure, which we refer to as the "Internalization." As a result, we began operating as an internally managed non-diversified closed-end management investment company that has elected to be regulated as a business development company under the 1940 Act. Effective January 1, 2021, Mr. Lorber began service as Chairman and Chief Executive Officer, and Ms. McMillan began service as Chief Financial Officer.

Compensation Philosophy and Objectives

Our executive compensation program is designed to attract and retain key executives, motivate them to achieve our business objectives, and reward them for performance.

The compensation program for our NEOs is structured to reflect what we believe to be appropriate practices in corporate governance and executive compensation. The Compensation Committee has the primary authority to establish compensation for the NEOs and administers all executive compensation arrangements and policies. The Company's Chief Executive Officer assists the Compensation Committee by providing recommendations regarding the compensation of NEOs. The Compensation Committee exercises its discretion by modifying or accepting these recommendations. The Chief Executive Officer routinely attends a portion of the Compensation Committee meetings. However, the Compensation Committee typically also meets in executive session without the Chief Executive Officer when discussing compensation matters and on other occasions as determined by the Compensation Committee.

The Compensation Committee takes into account competitive market practices with respect to the salaries and total direct compensation of the NEOs. Members of the Compensation Committee consider market practices by reviewing public information for executives at comparable peers.

The Compensation Committee has authority to engage independent compensation consultants to assist the Compensation Committee and provide advice on a variety of compensation matters relating to NEO compensation, other key employee and independent director compensation, incentive compensation plans and compensation trends and best practices. Although compensation consultants may work directly with management on behalf of the Compensation Committee, any such work is under the ultimate control and supervision of the Compensation Committee.

The Compensation Committee retained Pearl Meyer & Partners LLC ("Pearl Meyer") as an independent compensation consultant to provide such compensation consulting services for fiscal year 2023, including to benchmark and opine on market competitive compensation levels and mix necessary to attract and retain quality executive officers and independent directors. Pearl Meyer received input from Company management regarding the Company's strategic goals and the manner in which executive compensation supports these goals. The Compensation Committee evaluated Pearl Meyer's independence from the Company and determined that Pearl Meyer is independent primarily because it does not work for management of the Company, receives no compensation from the Company other than its work in advising the Compensation Committee and maintains no other economic relationships with the Company or any of its affiliates.

Assessment of Market Data

In assessing the competitiveness of executive compensation levels, the Compensation Committee analyzes market data of certain peer companies, including internally managed BDCs. This analysis focuses on the compensation practices at companies reasonably comparable in management structure, asset size, typical investment size and type and general business scope as compared to the Company. Each key element of compensation is reviewed, including: base salary, annual bonuses and any short- and/or long-term incentives.

In regard to other internally managed BDCs like the Company, the Compensation Committee considers the compensation practices and policies pertaining to executive officers as detailed in their company's respective proxies, research analysts' reports and other publicly available information. The Compensation Committee may also rely on other available information to compare compensation practices and policies.

Items taken into account from comparable companies include, but are not necessarily limited to, base compensation, bonus compensation, stock option awards, restricted stock awards and other compensation. In addition to actual levels of compensation, the Compensation Committee also considers other approaches comparable companies are taking with regard to overall executive compensation practices. Finally, in addition to analyzing comparable companies, the Compensation Committee also evaluates the relative cost structure of the Company as compared to peer companies.

Assessment of Company Performance

The Compensation Committee believes that improving financial performance coupled with improving stockholders' returns as well as proportional employee compensation are essential components for the Company's long-term business success. Accordingly, much emphasis is focused on increasing net asset value per share and net investment income. These metrics, along with stock price performance, are the key performance measures the Compensation Committee uses in its assessment of financial performance.

The Company's investment objective is to generate current income and capital appreciation. The management team seeks to achieve this objective primarily through making loans, private equity or other investments in privately-held companies. Such investments are key drivers to stockholder returns and value. Achieving this strategy requires a methodical approach and active monitoring and management of our investment portfolio over time. A meaningful part of the Company's employee base is dedicated to the maintenance of asset values, the generation of new investment opportunities and sustaining and growing our net asset value, and thus stockholder returns and value. The Compensation Committee believes that stability of the management team is critical to achieving successful implementation of the Company's strategies. Further, the Compensation Committee, in establishing and assessing executive salary and bonuses, is focused on the Company's results as compared to its performance prior to undergoing the Internalization and not solely the performance of the Company relative to other comparable companies or industry metrics.

Executive Compensation Components

Overview

For fiscal year 2023, the components of the Company's direct compensation for NEOs included base salary, discretionary cash bonuses, and long-term incentive awards ("LTIA's"). The Compensation Committee analyzed the competitiveness of the components of compensation described herein on both an individual and aggregate basis. The Compensation Committee believes that the total compensation paid to the NEOs for the fiscal year ended September 30, 2023 is consistent with the overall objectives of the Company.

The Compensation Committee designs each NEO's direct compensation package to appropriately reward the NEO for his or her contribution to the Company. The judgment and experience of the Compensation Committee are weighed with individual and Company performance metrics and in consultation with the Compensation Committee's independent third-party compensation consultant and the Company's Chief Executive Officer to determine the appropriate mix of compensation. The Compensation Committee does not target a specific level of compensation relative to market practice; rather, it used such data as a reference point when establishing compensation levels for NEOs. Both the cash compensation consisting of base salary and discretionary target bonuses as well as the LTIA's tied to achievement of corporate objectives, are intended to motivate NEOs to remain with the Company and work to achieve expected business objectives. Each of Mr. Lorber and Ms. McMillan serves at the pleasure of the Board of Directors, and neither is party to an employment agreement with the Company.

For additional information regarding the compensation of the NEOs for fiscal year 2023, please refer to "2023 Compensation Determination" and "Compensation of Executive Officers."

Base Salary

Base salary is used to recognize the experience, skills, knowledge and responsibilities required of the NEOs in their roles. In connection with establishing the base salary of each NEO, the Compensation Committee and management consider a number of factors, including the seniority and experience level of the individual, the functional role of the position, the level of the individual's responsibility, the ability to replace the individual, the past base salary of the individual and the budgetary constraints of the Company. In addition, the Compensation Committee considers the base salaries paid to comparably situated executive officers and other competitive market practices. Relevant data is provided to the Compensation Committee by its independent third-party compensation consultant.

The salaries of the NEOs are reviewed on an annual basis. The leading factors in determining increases in salary level are individual performance, Company performance, budgetary constraints and competitive pressures.

For calendar year 2023, Mr. Lorber received an annual base salary of \$530,000. For calendar year 2023, Ms. McMillan received an annual base salary equal to \$350,000. Such amounts were determined to be appropriate with respect to the roles and responsibilities of the NEOs. The Compensation Committee's goal in setting the base salary levels for the NEOs is to adequately compensate the NEOs for expected base levels of performance and provide for the adequate retention of the NEOs. The Compensation Committee believes that the base salaries were competitive in the marketplace, consistent with budgetary constraints, and appropriate as a key component of an overall compensation package.

Annual Cash Bonuses

Annual cash bonuses are discretionary and are intended to reward individual performance during the year and can therefore be highly variable from year to year. Cash bonus awards for the NEOs are generally determined by the Compensation Committee annually on a discretionary basis based on performance criteria, particularly corporate and individual performance goals and other measures. Should actual performance exceed expected performance criteria, the Compensation Committee may adjust individual cash bonuses to take such superior performance into account. Likewise, should actual performance fall below expected performance criteria, the Compensation Committee may adjust individual cash bonuses to take such performance into account.

Upon the recommendation of the Compensation Committee, Mr. Lorber's 2023 annual discretionary bonus was \$1,395,000 which exceeded the target annual bonus amount which had been set at 137.5% of his base salary, as determined by the Compensation Committee in the manner described herein. Upon the recommendation of the Compensation Committee, Ms. McMillan's 2023 annual discretionary bonus was \$540,000 which exceeded the target annual bonus amount which had been set at 80% of her base salary, as determined by the Compensation Committee in the manner described herein.

The Compensation Committee considered several financial performance metrics as well as other factors when evaluating the cash bonuses paid to NEOs for 2023. The Compensation Committee considered such quantitative metrics as NAV per share, net investment income per share, and operating expenses (as a percentage of equity), as well as Mr. Lorber's and Ms. McMillan's respective performance versus the strategic goals that had been set for 2023. The Compensation Committee also consulted with its independent compensation consultant and also took into account Company budgetary constraints. The net result of these considerations resulted in the aforementioned discretionary annual cash bonuses being paid to the NEOs. In particular, cash bonuses paid to NEOs for 2023 performance included recognition of the Company's financial results, including net asset value ("NAV") per share growth, net investment income and key operational achievements.

The amount of the annual cash bonus paid to each NEO for 2023 is presented under the caption entitled "Compensation of Executive Officers - Summary Compensation Table." The Compensation Committee believes that these annual cash bonus awards are individually appropriate based on 2023 performance. Such bonuses comprise a key component of the Company's overall compensation program.

Long-Term Cash Incentive Plan

On May 9, 2022, the Board of Directors of the Company adopted the PhenixFIN 2022 Long-Term Cash Incentive Plan (the "CIP") pursuant to the recommendation by the Compensation Committee. The CIP provides for performance-based cash awards to key employees of the Company, as approved by the Compensation Committee, based on the achievement of pre-established financial goals for the relevant performance period. The performance goals may be expressed as one or a combination of net asset value of the Company, net asset value per share of the Company's common stock, changes in the market price of shares of the Company's common stock, individual performance metrics and/or such other goals and objectives the Compensation Committee considers relevant.

The Compensation Committee in April 2022 approved awards for the three-year performance period commencing on October 1, 2021 and ending on September 30, 2024 (the "2022 LTIP Plan"). Each participant is eligible to receive an amount of cash equal to 0%-200% of his or her target performance award, based on the achievement of NAV and NAV per share goals (weighted at 30% and 70%, respectively) as of the end of the performance period (the "Performance Goals"). Performance is evaluated separately for each Performance Goal. Each Performance Goal is subject to (i) a threshold level of performance at which a percentage of the target performance award attributable to that Performance Goal may be paid and below which no payment is made pursuant to an award, (ii) a target level of performance at which 100% of the target performance award attributable to that Performance Goal may be paid and (iii) a maximum level of performance, at which 200% of the target performance award attributable to that Performance Goal may be paid, in each case subject to such other terms and conditions of an award. No payment is made with respect to a Performance Goal if a threshold level of performance is not achieved. Between threshold, target and maximum performance levels for each Performance Goal, the amount of the award attributed to the Performance Goal will be linearly interpolated.

In December 2022, the Compensation Committee approved awards for Mr. Lorber and Ms. McMillan for the three-year performance period commencing on October 1, 2022 and ending on September 30, 2025 (the "2023 LTIP Plan"). Each participant is eligible to receive an amount of cash equal to 0%-200% of their target performance award, based on the achievement of NAV and NAV per share goals (weighted at 20% and 80%, respectively) as of the end of the performance period. Performance is evaluated separately for each Performance Goal. The threshold, target and maximum performance levels are structured similar to those of the April 2022 awards.

The target performance award for both the 2022 LTIP Plan and 2023 LTIP Plan for each of Mr. Lorber and Ms. McMillan is \$890,000 and \$380,000, respectively. During the year ended September 30, 2023, the Company recorded an accrual of \$318,000, for these awards. During the years ended September 30, 2022 and 2021, the Company did not record an accrual.

Tax Deductibility of Compensation

Section 162(m) of the Internal Revenue Code of 1986, as amended (the “Code”), generally disallows a tax deduction to public companies to the extent compensation paid to any “covered employee” exceeds \$1 million in a given taxable year. If we pay any of our “covered employees” compensation in excess of \$1 million for any taxable year, the Company generally cannot deduct such excess compensation for U.S. federal income tax purposes. For purposes of Section 162(m), a “covered employee” includes our CEO and our CFO and any other NEO that the Company may designate in the future. In addition, once a person is determined to be a covered employee, such person continues to be a covered employee regardless of whether such person remains an NEO.

While the Compensation Committee considers the deductibility of compensation as one factor in determining executive compensation, the Compensation Committee also considers other factors in making compensation decisions and retains the flexibility to authorize amounts and forms of compensation that it determines to be consistent with the goals of our executive compensation program even if such compensation is not deductible by the Company for tax purposes.

Risk Management and Compensation Policies and Practices

We believe that risks arising from our compensation policies and practices for our employees are not reasonably likely to have a material adverse effect on the Company. In addition, the Compensation Committee believes that the mix and design of the elements of executive compensation do not encourage management to assume excessive risks.

The Compensation Committee has reviewed the elements of executive compensation to determine whether any portion of executive compensation encourages excessive risk taking and concluded: compensation is allocated among base salaries, discretionary cash bonuses, and LTIA's in such a way as to not encourage excessive risk-taking.

Stockholder Advisory Vote on Executive Compensation

In accordance with applicable regulations, the Company held an advisory vote at the Company's 2023 annual meeting, whereby Company stockholders voted, on an advisory basis, on the approval of the compensation of the NEOs as disclosed pursuant to Item 402 of Regulation S-K. This proposal was approved by the requisite vote of shareholders.

Conclusion

We believe that our compensation policies and objectives are designed to fairly compensate, retain and motivate our NEOs and to ultimately reward them for outstanding performance. The retention and motivation of our NEOs should enable us to grow strategically and position ourselves competitively in the market in which we operate.

Compensation Committee Report

We have reviewed the foregoing Compensation Discussion and Analysis. Based on our review as well as on our discussions with management, we recommend to the Board of Directors that the Compensation Discussion and Analysis be included in the Annual Report on Form 10-K/A for the year ended September 30, 2023.

COMPENSATION COMMITTEE MEMBERS

Lowell Robinson, Chair
Arthur Ainsberg
Karin Hirtler-Garvey
Howard Amster

The information contained in the report above shall not be deemed to be “soliciting material” or to be “filed” with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or the Exchange Act except to the extent specifically incorporated by reference therein.

COMPENSATION OF EXECUTIVE OFFICERS

The following table sets forth compensation of the Company’s NEOs, for the fiscal year ended September 30, 2023:

Summary Compensation Table

Name and Principal Position	Year⁽¹⁾	Salary⁽²⁾	Bonus⁽³⁾	Total
David A. Lorber <i>Chairman of the Board of Directors and Chief Executive Officer</i>	2023	\$530,000.00	\$1,395,000.00	\$1,925,000.00
Ellida McMillan <i>Chief Financial Officer</i>	2023	\$350,000.00	\$ 540,000.00	\$ 890,000.00

- (1) The Company completed the Internalization effective January 1, 2021, prior to which period the Company did not directly compensate its management team in its capacity as such.
- (2) Effective January 1, 2021, Mr. Lorber began service as Chairman and Chief Executive Officer, and Ms. McMillan began service as Chief Financial Officer. The salaries of Mr. Lorber and Ms. McMillan were paid pursuant to the employment arrangements with such individuals and the Company.
- (3) Mr. Lorber’s target discretionary annual bonus amount was 137.5% of his base salary, and Mr. Lorber’s bonus exceeded such amount given the performance of the Company. Ms. McMillan’s target discretionary annual bonus amount was 80% of her base salary, and Ms. McMillan’s bonus exceeded such amount given the performance of the Company.

COMPENSATION OF DIRECTORS

The following table sets forth compensation of the Company’s directors, for the fiscal year ended September 30, 2023:

Director Compensation

Name	Fees Earned or Paid in Cash⁽¹⁾	Stock Awards⁽²⁾	Total
<i>Interested Directors</i>			
David Lorber ⁽³⁾		\$ -	\$ -
<i>Independent Directors</i>			
Arthur S. Ainsberg	\$ 213,333	-	\$ 213,333
Howard Amster	\$ 153,833	-	\$ 153,833
Karin Hirtler-Garvey	\$ 188,833	-	\$ 188,833
Lowell W. Robinson	\$ 172,833	-	\$ 172,833

- (1) See below for a breakdown of director fees.
- (2) We do not maintain a stock or option plan, non-equity incentive plan or pension plan for our directors. However, our independent directors have the option to receive all or a portion of the directors' fees to which they would otherwise be entitled in the form of shares of our common stock issued at a price per share equal to the greater of our then current net asset value per share or the market price at the time of payment. No shares were issued to any of our independent directors in lieu of cash during the fiscal year ended September 30, 2023.
- (3) Mr. Lorber is an "interested person" of the Company as that term is defined in Section 2(a)(19) of the 1940 Act and was not paid compensation for his role as Chairman of the Board of Directors.

As compensation for serving on our Board of Directors, each independent director received compensation according to the following schedule:

Compensation Type	Dollar Amount
<i>Annual Retainers</i>	
All Independent Directors	\$ 150,000
Lead Independent Director	\$ 30,000
Audit Committee Chair	\$ 25,000
Compensation Committee Chair	\$ 15,000
Nominating and Corporate Governance Committee Chair	\$ 15,000
Other Audit Committee Members	\$ 12,500
Other Compensation Committee Members	\$ 8,000
Other Nominating and Corporate Governance Committee Members	\$ 8,000
<i>Per Meeting Fees</i>	
Board	\$ 0
Committee	\$ 0

Directors also received reimbursement of reasonable out-of-pocket expenses incurred in connection with attending each Board of Directors and each Audit Committee, Nominating and Corporate Governance Committee, and Compensation Committee meeting, if applicable.

Indemnification Agreements

We have entered into indemnification agreements with our directors. The indemnification agreements are intended to provide our directors the maximum indemnification permitted under Delaware law and the 1940 Act. Each indemnification agreement provides that the Company shall indemnify the director who is a party to the agreement, including the advancement of legal expenses, if, by reason of his or her corporate status, the director is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed proceeding, to the maximum extent permitted by Delaware law and the 1940 Act.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The following table sets forth, as of January 24, 2024, the beneficial ownership of our directors, our executive officers, each person known to us to beneficially own 5% or more of the outstanding shares of our common stock, and the executive officers and directors as a group.

Beneficial ownership is determined in accordance with the rules of the SEC and includes voting or investment power with respect to the securities. Ownership information for those persons who beneficially own 5% or more of our shares of common stock is based upon reports filed by such persons with the SEC and other information obtained from such persons, if available.

Unless otherwise indicated, the Company believes that each beneficial owner set forth in the table below has sole voting and investment power and has the same address as the Company. The Company's directors are divided into two groups - interested director and independent directors. Interested directors are "interested persons" of the Company as defined in Section 2(a)(19) of the 1940 Act. The address of all executive officers and directors is c/o PhenixFIN Corporation, 445 Park Avenue, 10th Floor, New York, NY 10022.

Name and Address of Beneficial Owner	Number of Shares Owned Beneficially	Percentage of Class(1)
Interested Director		
David A. Lorber	187,099,416(2)	8.9%
Independent Directors		
Arthur S. Ainsberg	1,000	*%
Howard Amster	270,470(3)	12.9%
Karin Hirtler-Garvey	1,000	*%
Lowell W. Robinson	1,000	*%
Executive Officer		
Ellida McMillan	1,111	*%
All executive officers and directors as a group (6 persons)	461,680,416	22.0%

* Represents less than one percent.

- (1) Based on a total of 2,097,216,253 shares of the Company’s common stock issued and outstanding on January 24, 2024.
- (2) FrontFour Master Fund, Ltd., an exempted company formed under the laws of the Cayman Islands (“FrontFour Master Fund”), beneficially owns 81,662,416 of the reported shares. Each of David A. Lorber, Stephen E. Loukas, and Zachary R. George is a managing member and principal owner of FrontFour Capital Group LLC (“FrontFour Capital”), which serves as an investment manager of FrontFour Master Fund. Mr. Lorber disclaims beneficial ownership of such shares of common stock except to the extent of his pecuniary interest therein. Mr. Lorber also beneficially owns 2,440 shares in his spouse’s IRA.
- (3) These shares are deemed to be beneficially owned by Howard Amster, as a result of his personal ownership and in his capacity as President of Pleasant Lakes Apts. Corp., which is the General Partner of Pleasant Lakes Apts. Limited Partnership, and in his capacity as the trustee of the various trusts listed in the Form 4 filed with the SEC by Mr. Amster on June 16, 2023.

Set forth below is the dollar range of equity securities beneficially owned by each of our directors as of January 24, 2024. We are not part of a “family of investment companies,” as that term is defined in the 1940 Act.

Name of Director	Dollar Range of Equity Securities Beneficially Owned(1)(2)
Interested Director	
David A. Lorber	over \$100,000
Independent Directors	
Arthur S. Ainsberg	\$10,001-\$50,000
Howard Amster	over \$100,000
Karin Hirtler-Garvey	\$10,001-\$50,000
Lowell W. Robinson	\$10,001-\$50,000

- (1) The dollar ranges are: None, \$1 - \$10,000, \$10,001 - \$50,000, \$50,001 - \$100,000, or over \$100,000.
- (2) The dollar range of equity securities beneficially owned in us is based on the closing price for our common stock \$44.58 on January 24, 2024 on the NASDAQ Global Market. Beneficial ownership has been determined in accordance with Rule 16a-1(a)(2) of the Exchange Act.

Item 13. Certain Relationships and Related Transactions, and Director Independence

None.

Director Independence

Our Board of Directors annually evaluates each director’s independence. That evaluation is made in accordance with the rules of the NASDAQ Stock Market LLC, on which our shares are currently listed. We do not consider a director independent unless the Board of Directors has determined that he or she has no material relationship with us. We monitor the relationships of our directors and officers through the activities of our Nominating and Corporate Governance Committee and through a questionnaire each director completes no less frequently than annually and updates periodically as information provided in the most recent questionnaire changes.

Our governance guidelines require any director who has previously been determined to be independent to inform the Chairman of the Board of Directors and the Chairman of the Nominating and Corporate Governance Committee of any change in circumstance that may cause his or her status as an independent director to change. The Board of Directors limits membership on the Audit Committee, the Nominating and Corporate Governance Committee and the Compensation Committee to independent directors.

In order to evaluate the materiality of any such relationship, the Board of Directors currently uses the definition of director independence set forth in the NASDAQ Listing Rules. Rule 5615(a)(5) of the NASDAQ Listing Rules provides that BDCs, such as the Company, are required to comply with all of the provisions of the Rule 5600 series applicable to domestic issuers other than, in applicable part, Rule 5605(b), the section that defines director independence. A director of a BDC shall be considered to be independent if he or she is not an “interested person” of the Company, as defined in Section 2(a)(19) of the 1940 Act. Section 2(a)(19) of the 1940 Act defines an “interested person” to include, among other things, any person who has, or within the last two years had, a material business or professional relationship with the Company.

The Board of Directors has determined that each of Arthur Ainsberg, Howard Amster, Karin Hirtler-Garvey and Lowell W. Robinson is independent, has no material relationship with the Company, and is not an interested person (as defined in Section 2(a)(19) of the 1940 Act) of the Company. David Lorber is an interested person of the Company due to his position as Chief Executive Officer.

Item 14. Principal Accountant Fees and Services

The Audit Committee and the independent directors of the Board of Directors have appointed KPMG LLP as the Company’s independent registered public accounting firm for the fiscal year ending September 30, 2024, subject to ratification or rejection by the stockholders of the Company. For the fiscal year ended September 30, 2022, Ernst & Young LLP served as the Company’s independent public accounting firm. At the Company’s 2023 annual meeting, the stockholders voted to ratify the selection of KPMG LLP (New York, New York, PCAOB ID 185) as the Company’s independent public accounting firm for the fiscal year ended September 30, 2023. Ernst & Young LLP provided professional services to the Company in the fiscal year ended September 30, 2023 through February 27, 2023.

The following table displays fees for professional services for the fiscal year ended September 30, 2023 and the fees for professional services by Ernst & Young LLP for the fiscal year ended September 30, 2022 (dollars in thousands):

	Fiscal Year Ended September 30, 2023⁽¹⁾	Fiscal Year Ended September 30, 2022
Audit Fees	\$ 618	\$ 642
Audit Related Fees	-	-
Tax Fees	83	90
All Other Fees	-	-
	<u>\$ 701</u>	<u>\$ 732</u>

(1) Includes any fees for professional services paid to Ernst & Young LLP during the fiscal year ended September 30, 2023.

Audit Fees: Audit fees include fees for services that normally would be provided by KPMG LLP in connection with statutory and regulatory filings or engagements and that generally only an independent registered public accounting firm can provide. In addition to fees for the audit of our annual financial statements and the review of our quarterly financial statements in accordance with standards of the Public Company Accounting Oversight Board (United States) (“PCAOB”), this category contains fees for comfort letters, statutory audits, consents, and assistance with and review of documents filed with the SEC.

Audit-Related Fees: Audit-related services consist of fees billed for assurance and related services that are reasonably related to the performance of the audit or review of our financial statements and are not reported under “Audit Fees.” These services include attest services that are not required by statute or regulation and consultations concerning financial accounting and reporting standards.

Tax Services Fees: Tax services fees consist of fees billed for professional tax services. These services also include assistance regarding federal, state and local tax compliance.

All Other Fees: Other fees would include fees for products and services other than the services reported above.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(b) Exhibits:

31.1 [Certification of Chief Executive Officer pursuant to Rule 13a-14 of the Securities Exchange Act of 1934, as amended](#)*

31.2 [Certification of Chief Financial Officer pursuant to Rule 13a-14 of the Securities Exchange Act of 1934, as amended](#)*

SIGNATURES

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 be signed on its behalf by the undersigned, thereunto duly authorized on January 26, 2024.

PhenixFIN Corporation

By /s/ David Lorber

David Lorber
Chief Executive Officer
(Principal Executive Officer)

**Certification of Chief Executive Officer
of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)**

I, David Lorber, certify that:

1) I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K of PhenixFIN Corporation;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: January 26, 2024

/s/ David Lorber

David Lorber
Chief Executive Officer
(Principal Executive Officer)

**Certification of Chief Executive Officer
of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)**

I, Ellida McMillan, certify that:

1) I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K of PhenixFIN Corporation;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: January 26, 2024

/s/ Ellida McMillan

Ellida McMillan
Chief Financial Officer and Chief Accounting
Officer
(Principal Financial Officer)
