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SKILLSOFT PUBLIC LIMITED CO

Form 10-K/A

September 22, 2003

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K/A
AMENDMENT NO. 3

FOR ANNUAL AND TRANSITION REPORTS PURSUANT TO SECTIONS 13
OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

(MARK ONE)

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

FOR THE FISCAL YEAR ENDED JANUARY 31, 2003

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

FOR THE TRANSITION PERIOD FROM TO

COMMISSION FILE 0-25674

SKILLSOFT PUBLIC LIMITED COMPANY

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

REPUBLIC OF IRELAND
(STATE OR OTHER JURISDICTION OF
INCORPORATION OR ORGANIZATION)

NONE
(I.R.S. EMPLOYER IDENTIFICATION NO.)

107 NORTHEASTERN BOULEVARD
NASHUA, NEW HAMPSHIRE
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

03062
(ZIP CODE)

Registrant's telephone number, including area code: (603) 324-3000

Securities registered pursuant to section 12(b) of the Act: None

Securities Registered Pursuant to Section 12(g) of the Act:

(Title of Class)
Ordinary Shares, E0.11
Subscription Rights

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 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

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Form 10-K. []

Indicate by check mark whether registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes [X] No []

The approximate aggregate market value of voting shares held by non-affiliates of the registrant as of June 28, 2002 was \$173,566,073.

On April 11, 2003, the registrant had outstanding 99,608,695 Ordinary Shares (issued or issuable in exchange for the registrant's outstanding American Depositary Shares ("ADSs")).

DOCUMENTS INCORPORATED BY REFERENCE

None.

EXPLANATORY NOTE

This Annual Report on Form 10-K/A is being filed as Amendment No. 3 to the Annual Report on Form 10-K of SkillSoft Public Limited Company (the "Registrant" or the "Company") filed with the Securities and Exchange Commission (the "SEC") on April 29, 2003, as amended on May 23, 2003 and June 2, 2003, for the purpose of amending the following item: Item 15.

Each American Depositary Share of the Company ("ADS") represents one ordinary share, nominal value Euro 0.11 per share, of the Company. References to the ADSs herein shall also include a reference to the underlying ordinary shares of the Company.

SKILLSOFT PUBLIC LIMITED COMPANY

FORM 10-K

TABLE OF CONTENTS

	PAGE

PART IV	
ITEM 15. Exhibits, Financial Statements Schedules and Reports on Form 8-K.....	1
Signatures.....	2

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) Exhibits

1. Exhibits. The Exhibits listed in the Exhibit Index immediately preceding such Exhibits are filed as part of and incorporated by reference to this Form 10-K.

(b) Reports on Form 8-K.

We previously disclosed the following Current Reports on Form 8-K in our

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Quarterly Report on Form 10-Q for the quarter ended October 31, 2002:

On November 14, 2002, we filed a Current Report on Form 8-K dated September 4, 2002 that reported under Item 5 the amendment of certain deposit agreements with The Bank of New York.

On November 18, 2002, we filed a Current Report on Form 8-K dated June 10, 2002 that reported under Item 5 amendments to our Declaration of Subscription Rights.

On November 20, 2002, we filed a Current Report on Form 8-K dated November 19, 2002 that reported under Item 5 our intent to restate certain historical financial statements of SmartForce PLC.

1

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, this registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

SKILLSOFT PUBLIC LIMITED COMPANY
(Registrant)

By: /s/ Charles E. Moran

Charles E. Moran, President
and Chief Executive Officer

Date: September 22, 2003

2

EXHIBIT INDEX

EXHIBIT NUMBER -----	DESCRIPTION -----
2.1	Agreement and Plan of Merger, dated as of June 10, 2002, by and among SmartForce Public Limited Company, SkillSoft Corporation and Slate Acquisition Corp. (Incorporated by reference to exhibit 2.1 to SkillSoft PLC's Current Report on Form 8-K dated June 14, 2002 (File No. 000-25674)).
3.1	Memorandum of Association of SkillSoft PLC as amended on March 24, 1992, March 31, 1995, April 28, 1998, January 26, 2000, July 10, 2001, September 6, 2002 and November 19, 2002 (Incorporated by reference to exhibit 3.1 to SkillSoft PLC's Quarterly Report on Form 10-Q for the fiscal quarter ended October 31, 2002 as filed with the Securities and Exchange Commission on January 21, 2003 (File No. 000-25674)).
3.2	Articles of Association of SkillSoft PLC as amended on July 6, 1995, and April 28, 1998, January 26, 2000, July 10, 2001, September 6, 2002 and November 19, 2002 (Incorporated by reference to exhibit 3.2 to SkillSoft PLC's Quarterly Report on Form 10-Q for the fiscal quarter ended October 31, 2002 as filed with the Securities and

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Exchange Commission on January 21, 2003 (File No. 000-25674)).

- 4.1**** Specimen certificate representing the ordinary shares of SkillSoft PLC.
- 4.2 Amended and Restated Deposit Agreement (including the form of American Depositary Receipt), dated as of April 13, 1995 as amended and restated as of September 4, 2002, among SkillSoft PLC, The Bank of New York, as Depositary, and each Owner and Beneficial Owner from time to time of American Depositary Receipts issued thereunder (Incorporated by reference to Exhibit 4.1 to SkillSoft PLC's Current Report on Form 8-K dated September 4, 2002 (File No. 000-256740)).
- 4.3 Amended and Restated Restricted Deposit Agreement (including the form of American Depositary Receipt), dated as of November 30, 1995 and amended and restated as of September 4, 2002, among SkillSoft PLC, The Bank of New York, as Depositary, and each Owner and Beneficial Owner from time to time of American Depositary Receipts issued thereunder (Incorporated by reference to exhibit 4.2 to SkillSoft PLC's Current Report on Form 8-K dated September 4, 2002 (File No. 000-25674)).
- 4.4 Restricted Deposit Agreement (B) dated as of June 8, 1998 and amended and restated as of September 4, 2002 among SkillSoft PLC, The Bank of New York, and the owners and beneficial owners of Restricted American Depositary Receipts (Incorporated by reference to Exhibit 4.3 to SkillSoft PLC's Current Report on Form 8-K dated September 4, 2002 (File No.000-25674)).
- 4.5 Declaration of Subscription Rights dated as of October 4, 1998 (Incorporated by reference to exhibit 4.1 to SkillSoft PLC's Report on Form 8-A filed with the Securities and Exchange Commission on October 5, 1998).
- 4.6 Amendment to Declaration of Subscription Rights, dated as of June 10, 2002, of SkillSoft PLC (Incorporated by reference to exhibit 4.1 to SkillSoft PLC's Current Report on Form 8-K dated June 10, 2002 (File No. 000-25674)).
- 4.7 Second Amendment to Declaration of Subscription Rights, dated as of October 9, 2002, of SkillSoft PLC (Incorporated by reference to exhibit 4.2 to SkillSoft PLC's Current Report on Form 8-K dated June 10, 2002 (File No. 000-25674)).
- 10.1** 1990 Share Option Scheme (Incorporated by reference to exhibit 10.1 to SkillSoft PLC's Registration Statement on Form F-1 declared effective with the Securities and Exchange Commission on April 13, 1995 (File No. 333-89904)).
- 10.2** 1994 Share Option Plan (Incorporated by reference to exhibit 10.2 to SkillSoft PLC's Registration Statement on Form F-1 declared effective with the Securities and Exchange Commission on April 13, 1995 (File No. 333-89904)).
- 10.3** 1995 Employee Share Purchase Plan (Incorporated by reference to exhibit 10.3 to SkillSoft PLC's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2002 as filed with the Securities and Exchange Commission on August 14, 2002 (File No. 000-25674)).
- 10.4** Form of Indemnification Agreement between CBT Systems USA, Ltd. (formerly, Thornton Holdings, Ltd.) and its directors and officers dated as of April, 1995 (Incorporated by reference to exhibit 10.5

to SkillSoft PLC's Registration Statement on Form F-1 declared effective with the Securities and Exchange Commission on April 13, 1995 (File No. 333-89904)).

- 10.5*** Form of Indemnification Agreement between SmartForce (USA) and its directors and officers dated as of September 6, 2002.
- 10.6** 1996 Supplemental Stock Plan (Incorporated by reference to exhibit 10.16 to SkillSoft PLC's Annual Report on Form 10-K for the fiscal year ended December 31, 1996 as filed with the Securities and Exchange Commission on March 30, 1997 (File No. 0-25674)).
- 10.7** 2002 Share Option Plan (Incorporated by reference to exhibit 10.34 to SkillSoft PLC's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2002 as filed with the Securities and Exchange Commission on August 14, 2002 (File No. 000-256740)).
- 10.8** 2001 Outside Director Option Plan (Incorporated by reference to exhibit 10.1 to SkillSoft PLC's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001 as filed with the Securities and Exchange Commission on November 14, 2001 (File No. 000-25674)).
- 10.9 Agreement and Release, effective as of September 13, 2002, between SmartForce PLC and Jeff Newton (Incorporated by reference to exhibit 10.5 to SkillSoft PLC's Quarterly Report on Form 10-Q for the quarter ended October 31, 2002 as filed with the Securities and Exchange Commission on January 21, 2003 (File No. 000-25674)).
- 10.10 Separation Agreement and Release, effective as of May 8, 2002, between SmartForce PLC and Thomas Francis McKeagney (Incorporated by reference to exhibit 10.6 to SkillSoft PLC's Quarterly Report on Form 10-Q for the quarter ended October 31, 2002 as filed with the Securities and Exchange Commission on January 21, 2003 (File No. 000-25674)).
- 10.11** Amended and Restated Employment Agreement dated June 10, 2002 between SkillSoft PLC and Gregory M. Priest (Incorporated by reference to exhibit 10.30 to SkillSoft PLC's Amendment No. 1 to Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on July 30, 2002 (File No. 333-90872)).
- 10.12** Employment Agreement dated June 10, 2002 between SkillSoft PLC and Charles E. Moran (Incorporated by reference to exhibit 10.31 to SkillSoft PLC's Amendment No. 1 to Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on July 30, 2002 (File No. 333-90872)).
- 10.13** Employment Agreement dated as of June 10, 2002 between SkillSoft PLC and Jerald A. Nine, Jr. (Incorporated by reference to exhibit 10.33 to SkillSoft PLC's Amendment No. 1 to Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on July 30, 2002 (File No. 333-90872)).
- 10.14 Registration Rights Agreement dated as of June 10, 2002 between SkillSoft PLC and Warburg Pincus Ventures, L.P. (Incorporated by reference to exhibit 10.27 to SkillSoft PLC's Amendment No. 1 to Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on July 30, 2002 (File No. 333-90872)).

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- 10.15*** Employment Agreement dated January 12, 1998 between SkillSoft Corporation and Mark A. Townsend.
- 10.16*** Employment Agreement dated January 12, 1998 between SkillSoft Corporation and Thomas J. McDonald.
- 10.17*** Employment Agreement effective September 6, 2002 between SkillSoft PLC and Colm Darcy.
- 10.18**** Lease dated February 18, 1998, as amended, between SkillSoft Corporation and Five N Associates.
- 10.19**** Fifth Supplemental Agreement dated November 26, 2001 to the Lease between SkillSoft Corporation and Five N Associates.
- 10.20**** Lease dated May 25, 2001 between 1987 Tamposi Limited Partnership and SkillSoft Corporation.
- 21.1**** List of Significant Subsidiaries
- 23.1* Consent of Ernst & Young LLP, Independent Auditors.
- 23.2**** Information Regarding Consent of Arthur Andersen LLP.
- 31.1* Certification of SkillSoft PLC's CEO pursuant to Rule 13a-14 under the Securities Exchange Act of 1934.
- 31.2* Certification of SkillSoft PLC's CFO pursuant to Rule 13a-14 under the Securities Exchange Act of 1934.
- 32.1**** Certification of SkillSoft PLC's CEO pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002. (Previously filed as Exhibit 99.1 to SkillSoft PLC's

4

Amendment No. 1 to Annual Report on Form 10-K as filed with the Securities and Exchange Commission on May 23, 2003.)

- 32.2**** Certification of SkillSoft PLC's CFO pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002. (Previously filed as Exhibit 99.1 to SkillSoft PLC's Amendment No. 1 to Annual Report on Form 10-K as filed with the Securities and Exchange Commission on May 23, 2003.)

- * Filed herewith.
- ** Denotes management or compensatory plan or arrangement required to be filed by Registrant pursuant to Item 15(c) of this report on Form 10-K.
- *** Denotes management or compensatory plan or arrangement required to be filed by Registrant pursuant to Item 15(c) of this report on Form 10-K and is filed herewith.
- **** Previously filed.

5

