

ONYX ACCEPTANCE CORP

Form 11-K

June 30, 2003

Table of Contents

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM 11-K**

**ANNUAL REPORT**

PURSUANT TO SECTION 15(d) OF THE  
SECURITIES AND EXCHANGE ACT OF 1934

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

For the fiscal year ended December 31, 2002

OR

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

For the transition period from to

Commission file number

A. Full title of the Plan and the address of the Plan, if different from that of the issuer named below:

**Onyx Acceptance Corporation**

**401(k) Savings Plan**

B. Name of issuer of the securities held pursuant to the Plan and the address of its principal executive office:

**Onyx Acceptance Corporation  
27051 Towne Centre Drive  
Suite 100  
Foothill Ranch, CA 92610**

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**Table of Contents**

Kushner n Smith nJoanou nGregson  
CERTIFIED PUBLIC  
ACCOUNTANTS

**ONYX ACCEPTANCE CORPORATION  
401(k) SAVINGS PLAN**

**Financial Statements  
and  
Supplementary Information  
Years Ended December 31, 2002 and 2001  
(With Independent Auditor s Report Thereon)**

Kushner, Smith, Joanou & Gregson, LLP

8105 Irvine Center Dr. nSuite 1000 nIrvine California 92618 n949-261-2808 nFAX 949-261-0188

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**TABLE OF CONTENTS**

INDEPENDENT AUDITOR S REPORT

Statements of Net Assets Available for Plan Benefits December 31, 2002 and 2001

Statements of Changes in Net Assets Available for Plan Benifits Years Ended December 31, 2002 and 2001

Notes to Financial Statements December 31, 2002 and 2001

Schedule of Assets Held for Investment Purposes at End of Year December 31, 2002

Schedule of Assets Held for Investment Purposes at End of Year December 31, 2002

EXHIBIT INDEX

EXHIBIT 23.1

EXHIBIT 99.1

EXHIBIT 99.2

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**Table of Contents**

**Table of Contents**

|  | <b>Page<br/>Number</b> |
|--|------------------------|
| Independent Auditor's Report   | 1                      |
| Statements of Net Assets Available for Plan Benefits - December 31, 2002 and 2001                        | 2                      |
| Statements of Changes in Net Assets Available for Plan Benefits - Years Ended December 31, 2002 and 2001 | 3                      |
| Notes to Financial Statements - December 31, 2002 and 2001   | 4 - 10                 |
| Supplementary Information:   |                        |
| Schedule 1: Schedule of Assets Held for Investment Purposes at End of Year - December 31, 2002           | 11                     |
| Schedule 2: Schedule of Non-Exempt Transactions - December 31, 2002                                      | 12                     |

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**Table of Contents**

Kushner n Smith nJoanou nGregson  
CERTIFIED PUBLIC  
ACCOUNTANTS

**INDEPENDENT AUDITOR S REPORT**

Participants and Trustees  
The Onyx Acceptance Corporation 401(k) Saving Plan

We have audited the accompanying statements of net assets available for plan benefits and the related statements of changes in net assets available for plan benefits of the Onyx Acceptance Corporation 401(k) Savings Plan (the Plan), as of and for the year ended December 31, 2002. These financial statements are the responsibility of the Plan s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of the Plan and the changes in net assets available for plan benefits as of and for the year ended December 31, 2002, in conformity with accounting principles generally accepted in the United States of America.

Our audit was performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedule of assets held for investment purposes and schedule of non-exempt transactions are presented for the purpose of additional analysis and is not a required part of the basic financial statements but is supplementary information required by the Department of Labor s Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. These supplemental schedules are the responsibility of the Plan s management. The supplemental schedules have been subjected to the auditing procedures applied in the audit of the basic financial statements for the year ended December 31, 2002, and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

The financial statements of the Onyx Corporation 401(k) Savings Plan as of December 31, 2001, were audited by other auditors whose report dated June 18, 2002, expressed an unqualified opinion on those statements.

June 11, 2003

Kushner, Smith, Joanou & Gregson, LLP

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Table of Contents

2

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Statements of Net Assets Available for Plan Benefits**  
**December 31, 2002 and 2001**

**ASSETS**

|   | <u>2002</u>                 | <u>2001</u>                 |
|---|-----------------------------|-----------------------------|
| Investments at fair value (Notes 2, 3, and 4) | \$3,381,810                 | \$3,605,613                 |
| Participant loans receivable                  | 169,128                     | 198,747                     |
|   | <u>                    </u> | <u>                    </u> |
| Total investments                             | 3,550,938                   | 3,804,360                   |
|   | <u>                    </u> | <u>                    </u> |
| Contributions receivable                      |                             |                             |
| Employer contributions                        | 439,415                     | 409,132                     |
| Participant contributions                     | 49,898                      | 89,347                      |
|   | <u>                    </u> | <u>                    </u> |
| Total receivables                             | 489,313                     | 498,479                     |
|   | <u>                    </u> | <u>                    </u> |
| Net assets available for plan benefits        | \$4,040,251                 | \$4,302,839                 |
|   | <u>                    </u> | <u>                    </u> |

See accompanying notes to financial statements

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Table of Contents

3

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Statements of Changes in**  
**Net Assets Available for Plan Benefits**  
**Years Ended December 31, 2002 and 2001**

|  | 2002         | 2001        |
|--|--------------|-------------|
| Additions to net assets attributed to:                     |              |             |
| Contributions:   |              |             |
| Employer contributions                                     | \$ 439,415   | \$ 437,241  |
| Participant contributions                                  | 1,214,815    | 1,339,366   |
| Participant rollovers                                      | 18,117       | 39,733      |
| Total contributions  | 1,672,347    | 1,816,340   |
| Investment income:   |              |             |
| Participant loan interest                                  | 18,344       | 16,646      |
| Dividend income  | 10,257       | 10,257      |
| Net depreciation in the fair value of investments          | (1,297,668)  | (369,080)   |
| Other (loss)   | (18,005)     | (18,005)    |
| Total investment (loss)                                    | (1,297,329)  | (342,177)   |
| Total additions (deductions)                               | 375,018      | 1,474,163   |
| Deductions from net assets attributed to:                  |              |             |
| Benefits paid to participants                              | 622,191      | 439,384     |
| Corrective distributions                                   | 5,598        | 5,598       |
| Administrative expenses                                    | 9,817        | 7,765       |
| Total deductions   | 637,606      | 447,149     |
| Net increase (decrease)                                    | (262,588)    | 1,027,014   |
| Net assets available for plan benefits - beginning of year | 4,302,839    | 3,275,825   |
| Net assets available for plan benefits - end of year       | \$ 4,040,251 | \$4,302,839 |

See accompanying notes to financial statements

**Table of Contents**

**THE ONYX ACCEPTANCE CORPORATION  
401(k) SAVINGS PLAN**

**Notes to Financial Statements  
December 31, 2002 and 2001**

**NOTE 1 - DESCRIPTION OF PLAN**

The following description of The Onyx Acceptance Corporation 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Plan agreement for a more complete description of the Plan's provisions.

**General** - The Plan is a defined contribution plan covering substantially all of the employees of Onyx Acceptance Corporation and Subsidiaries (the Company) who have completed six months of eligibility service and are at least 21 years old. The Plan is designed to comply with Section 401(a) of the Internal Revenue Code as a defined contribution plan. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974. The assets of the Plan are held and invested by CNA Trust Company (CNA), acting as trustee, custodian and recordkeeper.

**Eligibility** - Employees other than those that are employed under a collective bargaining agreement, leased, expatriate employees covered by a nonqualified plan provided such expatriate employees have no U.S. income source, or employed on a temporary basis are eligible to enter the Plan following the completion of the sixth month of employment with the Company, and the employee has reached his or her 21st birthday.

**Contributions and Withdrawals** - Contributions are made to the Plan by means of a salary deferral agreement under which the participant is entitled to defer up to the lesser of 20 percent of their eligible compensation or a fixed amount determined annually by the Internal Revenue Service. The Company can make a discretionary matching contribution annually to participants. Currently, the Company matches 50 percent of participant contributions up to the first 6 percent of eligible contributions depending upon the years of service, subject to approval annually by the Board of Directors. For the years ended December 31, 2002 and 2001, the Company made matching contributions of \$439,415 and \$437,241, respectively. The Company may also make discretionary profit sharing contributions under the Plan. The Company made no discretionary contributions to the Plan for the years ended December 31, 2002 and 2001.

Participants in service may make hardship withdrawals from their accounts upon demonstrating immediate and heavy financial need as defined by provisions of the IRC.

(Note 1 continued on the following page)

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**Table of Contents**

**THE ONYX ACCEPTANCE CORPORATION  
401(k) SAVINGS PLAN**

**Notes to Financial Statements  
December 31, 2002 and 2001**

**NOTE 1 - DESCRIPTION OF PLAN (Continued)**

**Vesting** - Participants are vested on their contributions plus earnings, immediately. Vesting in the Company's matching contribution is based on years of service. A year of vesting service is defined as any period in which a participant completes 365 days of service. The following schedule describes the vesting percentages for participants:

| Years of Service        | Vested Benefit Percentage |
|-------------------------|---------------------------|
| 1 year but less than 2  | 20%                       |
| 2 years but less than 3 | 40%                       |
| 3 years but less than 4 | 60%                       |
| 4 years but less than 5 | 80%                       |
| 5 years or more         | 100%                      |

**Participant Accounts** - Each participant account is credited with the participant's contribution and an allocation of (a) the Company's matching contribution, (b) any Company discretionary contribution, and (c) Plan net earnings which include an allocation of certain administrative expenses. Allocations of matching contributions are based on participant contributions, as defined. Allocations of discretionary contributions are based on participant account balances. Allocations of Plan earnings and administrative expenses, when applicable, are based on participant account balances. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested interest in their account balance.

**Payment of Benefits** - Upon termination of service before the normal retirement age of 65, a participant with benefits of over \$5,000 may elect to defer distribution until normal retirement age or receive a lump sum payment equal to the vested share of the participant's account.

Upon termination of service at the normal retirement age of 65, a participant may elect to receive a lump-sum payment equal to the vested value of his or her account. Benefits may also be accessed in the event of disability or death.

The Plan allows participants to make early withdrawals for certain financial hardships. The Plan also allows in-service withdrawals by participants after they reach age 59-1/2. Participants age 59-1/2 taking in-service withdrawals will be required to pay all applicable taxes on the withdrawals but will not be subject to penalty taxes for early withdrawals.

(Note 1 continued on the following page)

**Table of Contents**

**THE ONYX ACCEPTANCE CORPORATION  
401(k) SAVINGS PLAN**

**Notes to Financial Statements  
December 31, 2002 and 2001**

**NOTE 1 - DESCRIPTION OF PLAN (Continued)**

**Participant Loans** - Participants may borrow 50 percent of their vested account balance up to \$50,000 at prime plus 1 percent, which range between 5.25 percent and 10.5 percent, with payment of principal and interest made through payroll deductions. A general loan will have a term of 5 years or less and up to 30 years will be allowed for a home loan. The loans are secured by the balance in the participant's account. Participant loans are stated at the unpaid principal value, which are estimated to approximate fair value.

**Administrative Expense** - Administrative expense, other than certain miscellaneous charges by the Trustee, are paid for by the Company on behalf of the Plan. Payments of administrative expenses on behalf of the Plan constitute exempt party-in-interest transactions, and are not reflected in the Statement of Changes in Net Assets Available for benefits.

**Forfeitures** - Forfeitures of unvested Plan assets are used to reduce the Company's contributions and costs of administering the Plan. Total forfeitures at December 31, 2002, were \$59,938.

**Reclassifications** - The financial statements for the year ended December 31, 2001, contain certain reclassifications, which have no effect on changes in net assets available for plan benefits, to conform to the current period presentation at December 31, 2002.

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Basis of Accounting** - The financial statements of the Plan are prepared under the accrual basis of accounting. Administrative and other expenses are recorded as incurred. Benefits are reported when paid.

**Basis of Presentation** - The financial statements have been prepared in compliance with the Department of Labor Rules and Regulations for reporting and disclosure under ERISA.

**Use of Estimates** - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of net assets available for benefits at the date of the financial statements and the reported amounts of additions to net assets and deductions from net assets during the reporting period. Actual results could differ from those estimates.

**Valuation of Investments** - Investments are included in the accompanying financial statements at fair value as determined by quoted market prices. Interest is recorded on the accrual basis and is included in the investment's value. Purchases and sales of securities are recorded on a trade date basis. Dividends are on the ex-dividend date.

(Note 2 continued on the following page)

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**Table of Contents**

7

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Notes to Financial Statements**  
**December 31, 2002 and 2001**

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**Risks and Uncertainties** - The Plan provides for various investment options in any combination of investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit. Due to the level of risk associated with certain investment securities and the level of uncertainty related to changes in the value of investment securities, it is at least reasonably possible that changes in risks in the near term would materially affect participant's account balances and the amounts reported in the Statements of Net Assets Available for benefits and the Statements of Charges in Net Assets Available for benefits.

**NOTE 3 - INVESTMENTS**

Investment accounts greater than 5 percent of the Plan net assets as of December 31, 2002 and 2001, are summarized as follows:

|                                       | 2002      | 2001      |
|---------------------------------------|-----------|-----------|
| Alliance Technology Fund              | \$489,146 | \$605,827 |
| Alliance Worldwide Privatization Fund | 292,721   |           |
| Alliance Global Small Cap Fund        | 206,568   |           |
| Alliance Premier Growth Fund          | 516,089   | 592,088   |
| Alliance Growth Fund                  | 374,218   | 408,236   |
| Alliance Growth & Income Fund         | 417,395   | 405,030   |
| Alliance Corporate Bond Portfolio     | 197,063   |           |
| AFD Exchange Reserves Fund            | 310,002   | 335,116   |
| Onyx Acceptance Corp. Common Stock    | 515,948   | 629,324   |

During 2002 and 2001, the Plan's investments (including gains and losses on investments bought and sold, as well as held during the year) depreciated in value by \$1,297,668 and \$369,080, respectively.

---

**Table of Contents**

8

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Notes to Financial Statements**  
**December 31, 2002 and 2001**

**NOTE 4 - NONPARTICIPANT-DIRECTED INVESTMENTS**

Information about the net assets and the significant components of changes in net assets related to the nonparticipant-directed investment is as follows:

|  | <u>December 31,<br/>2002</u> | <u>December 31,<br/>2001</u> |
|--|------------------------------|------------------------------|
| Investments, at fair value:                              |                              |                              |
| Onyx Acceptance Corporation                              |                              |                              |
| Common Stock   | \$ 360,407                   | \$ 437,807                   |
|  | <u>          </u>            | <u>          </u>            |
|  |                              | <u>December 31,<br/>2002</u> |
| Changes in net assets:                                   |                              |                              |
| Contributions  |                              | \$ 408,807                   |
| Net realized and unrealized (depreciation) in fair value |                              | (357,445)                    |
| Distributions  |                              | (128,762)                    |
|  |                              | <u>          </u>            |
|  |                              | \$ (77,400)                  |
|  |                              | <u>          </u>            |

**NOTE 5 - EMPLOYER STOCK**

Participants may invest their contributions into the Onyx Acceptance Stock Fund and are permitted to transfer funds from the Plan's other investment options into the Onyx Acceptance Stock Fund. Participants may not, however, transfer Company matching or discretionary contributions out of the Onyx Acceptance Stock Fund into any of the Plan's other funds. At December 31, 2002 and 2001, investments in Onyx Acceptance Corporation common stock comprised 14 percent and 19 percent, respectively, of total net assets available for benefits.

**Table of Contents**

**THE ONYX ACCEPTANCE CORPORATION  
401(k) SAVINGS PLAN**

**Notes to Financial Statements  
December 31, 2002 and 2001**

**NOTE 6 - PARTY-IN-INTEREST**

Certain Plan investments are managed by CNA Trust. CNA Trust is the trustee as defined by the Plan and, therefore, these transactions qualify as party-in-interest transactions. Fees paid by the Plan for the investment management services amounted to \$9,817 and \$7,765 for the years ended December 31, 2002 and 2001, respectively.

**NOTE 7 - PROHIBITED TRANSACTION**

In accordance with Department of Labor regulations, the Plan sponsor is required to remit employee contributions as soon as reasonable, not to exceed fifteen business days after the month in which the participant contribution was withheld by the sponsor. Untimely remittance may constitute a prohibited extension of credit. During the year ended December 31, 2002, there was one instance in which the Plan sponsor remitted employee contributions totaling \$12,598 late. The Plan subsequently rectified the situation by paying interest on the late remittances to the affected participants.

**NOTE 8 - PLAN TERMINATION**

Although the Company has not expressed any intent to do so, it has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, the net assets of the Plan will be allocated as prescribed by ERISA and its related regulations, so that each participant receives 100 percent of his or her account balance as of the date of the termination.

**NOTE 9 - TAX STATUS**

The trust established under the Plan to hold the Plan's assets is designed to qualify pursuant to Section 501(a) of the Internal Revenue Code, and, accordingly, the trust's net investment income is exempt from income taxes. The Plan has received a favorable determination letter of its tax-exempt status from the Internal Revenue Service by a letter dated May 24, 1991. Although the Plan has been amended since receiving the determination letter, the Plan Administrator and the Plan's tax counsel believe that the Plan is designed and is currently being operated in compliance with the applicable requirements of the Internal Revenue Code.

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**Table of Contents**

10

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Notes to Financial Statements**  
**December 31, 2002 and 2001**

**NOTE 10 - RECONCILIATION OF FINANCIAL STATEMENTS TO FORM 5500**

The following is a reconciliation of the net unrealized depreciation in the fair value of investments per the Form 5500 to the financial statements.

|  |               |
|--|---------------|
| Unrealized depreciation of investments per the 5500  | \$ (430,154)  |
| Net (loss) on sale of assets per the 5500  | (36,346)      |
| Net investment (loss) from the sale of registered investment companies per the 5500                    | (831,168)     |
|  | <hr/>         |
| Net depreciation in the fair value of investments per the financial statements as of December 31, 2002 | \$(1,297,668) |
|  | <hr/>         |



**Table of Contents**

Schedule 1

11

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Schedule of Assets Held for Investment Purposes at End of Year**  
**December 31, 2002**

EIN #33-0577635  
 PN #001

| (a) | (b)  | (c)  | (d)       | (e)                |
|-----|--|--|-----------|--------------------|
|     | Identity of issue, borrower,<br>lessor, or similar party | Description of investment including<br>maturity date, rate of interest,<br>collateral, par or maturity value | Cost      | Current<br>Value   |
| *   | CNA Trust  | Cash   | \$        | \$ 62,660          |
| *   | CNA Trust  | Alliance Technology Fund   |           | 489,146            |
| *   | CNA Trust  | Alliance Worldwide Privatization Fund  |           | 292,721            |
| *   | CNA Trust  | Alliance Global Small Cap Fund   |           | 206,568            |
| *   | CNA Trust  | Alliance Premier Growth Fund   |           | 516,089            |
| *   | CNA Trust  | Alliance Growth Fund   |           | 374,218            |
| *   | CNA Trust  | Alliance Growth & Income Fund  |           | 417,395            |
| *   | CNA Trust  | Alliance Corporate Bond Portfolio  |           | 197,063            |
| *   | CNA Trust  | AFD Exchange Reserves Fund   |           | 310,002            |
| **  | Onyx Acceptance Corporation                              | Common Stock   | \$841,643 | 515,948            |
| *   | Participant Loan   | Interest rates range from 5.25% to<br>10.5% and are collateralized by<br>participant account balances        |           | 169,128            |
|     |  |  |           | <u>\$3,550,938</u> |

\* A party-in-interest for which a statutory exemption exists.

\* Sponsor and employer and, therefore, a party-in-interest for which a statutory exemption exists.

**Table of Contents**

Schedule 1

12

**THE ONYX ACCEPTANCE CORPORATION**  
**401(k) SAVINGS PLAN**

**Schedule of Assets Held for Investment Purposes at End of Year**  
**December 31, 2002**

EIN #33-0577635  
 PN #001  
 Schedule G, Part III

| (a)                         | (b)   | (c)  | (d)            | (e)           | (f)          | (g)  | (h)           | (i)                    | (j)                                    |
|-----------------------------|---|--|----------------|---------------|--------------|--|---------------|------------------------|--|
| Identity of party involved  | Relationship to plan, employer or other party-in-interest | Description of transactions including maturity date, rate of interest, collateral, par or maturity value | Purchase price | Selling price | Lease rental | Expenses Incurred in connection with transaction | Cost of asset | Current value of asset | Net gain or (loss) on each transaction |
| Onyx Acceptance Corporation | Plan Sponsor  | Loan to employer in the form of late deposit of employee 401(k) deferrals                                | N/A            | N/A           | N/A          | N/A  | N/A           | \$ 44                  | N/A                                    |

**Table of Contents**

EXHIBIT INDEX

| <b>EXHIBIT</b> | <b>DESCRIPTION</b>                                     |
|----------------|--|
| 23.1           | Consent of Independent Accountants                     |
| 99.1           | Certification of Report by the Chief Executive Officer |
| 99.2           | Certification of Report by the Chief Financial Officer |