

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): **July 29, 2022**

Charles & Colvard, Ltd.

(Exact name of registrant as specified in its charter)

North Carolina
(State or other jurisdiction of
incorporation)

000-23329
(Commission File
Number)

56-1928817
(I.R.S. Employer
Identification No.)

170 Southport Drive
Morrisville, North Carolina
(Address of principal executive offices)

27560
(Zip Code)

(919) 468-0399
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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, no par value per share	CTHR	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR 230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR 240.12b-2).

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.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On July 29, 2022, Charles & Colvard, Ltd. (the “Company”), renewed a \$5,000,000 cash secured credit facility (as renewed, the “Credit Facility”) from JPMorgan Chase Bank, N.A. (“JPMC”), with an effective date of July 28, 2022. If not renewed, the Credit Facility would have expired by its terms on July 31, 2022. The Credit Facility may be used for general corporate and working capital purposes, including, subject to certain limitations set forth under the Credit Facility, for permitted acquisitions, additional indebtedness for borrowed money, installment obligations, and obligations under capital and operating leases. The Credit Facility will mature on July 31, 2023, and is secured by a deposit account held by JPMC in the amount of \$5,050,000.

The Credit Facility is evidenced by a credit agreement, (the “Credit Agreement”) executed on July 12, 2021, a Line of Credit Note (the “Note”) executed on July 29, 2022 (effective July 28, 2022) and other customary ancillary documents related thereto, executed on July 12, 2021 and July 29, 2022 (such documents executed on July 29, 2022 effective July 28, 2022). The Credit Agreement, Note, and ancillary documents contain customary covenants, representations, fees, as well as indemnity, expense reimbursement, and confidentiality provisions. The Credit Facility contains no financial covenants. JPMC is permitted to assign the Credit Facility. The Company’s obligations under the Credit Facility are guaranteed by the Company’s wholly-owned subsidiaries, Charles & Colvard Direct, LLC, charlesandcolvard.com, LLC, and moissaniteoutlet.com, LLC.

The Company has not requested any advances under the Credit Facility and there is currently no outstanding balance.

There are no mandatory prepayments or line reductions. The Company may elect to prepay advances in whole or in part at any time without penalty.

Amounts advanced under the Credit Facility will accrue interest at a variable rate equal to the sum of the SOFR rate plus a margin of 1.25% per annum and an unsecured to secured interest rate adjustment of 0.10% per annum. Interest is calculated monthly based on the actual days elapsed in a year of 360 days and payable monthly in arrears. Upon and during the continuance of a default under the Credit Facility, JPMC may increase the interest to an amount which is 3% in excess of the interest rate otherwise applicable.

Events of default under the Credit Facility include, without limitation, a change in control, a material adverse change in the business of the Company or in its ability to perform its obligations under the Credit Facility, and other circumstances that JPMC believes may impair the prospect of repayment. If an event of default occurs, JPMC is entitled to take enforcement actions, including accelerating amounts due under the Credit Facility and exercising setoff rights.

The foregoing description of the Credit Facility does not purport to be complete and is qualified in its entirety by reference to the Credit Agreement and Note, a copy of each of which is filed as Exhibits 10.1 and 10.2, respectively, to this Form 8-K and are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description of Document
<u>10.1</u>	<u>Credit Agreement, dated as of July 12, 2021, by and among Charles & Colvard, Ltd., and JPMorgan Chase Bank, N.A. (incorporated herein by reference to Exhibit 10.1 to our Current Report on Form 8-K, as filed with the SEC on July 13, 2021)</u>
<u>10.2</u>	<u>Line of Credit Note, dated as of July 28, 2022, by Charles & Colvard, Ltd. to JP Morgan Chase Bank, N.A.</u>
104	Cover Page Interactive Data File – the cover page XBRL tags are embedded within the Inline XBRL document

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Charles & Colvard, Ltd.

August 2, 2022

By: /s/ Clint J. Pete

Clint J. Pete

Chief Financial Officer



Line of Credit Note

\$5,000,000.00

Date: July 28, 2022

Promise to Pay. On or before July 31, 2023, for value received, Charles & Colvard, Ltd. (the "Borrower") promises to pay to JPMorgan Chase Bank, N.A., whose address is 2000 Regency Pkwy, Floor 04, Cary, NC 27518-8506 (the "Bank") or order, in lawful money of the United States of America, the sum of Five Million and 00/100 Dollars (\$5,000,000.00) or so much thereof as may be advanced and outstanding, plus interest on the unpaid principal balance computed on the basis of the actual number of days elapsed in a year of 360 days at the "Adjusted SOFR Rate" (the "Note Rate") and at the rate of 3.00% Per Annum above the Note Rate, at the Bank's option, upon the occurrence of any default under this Note, whether or not the Bank elects to accelerate the maturity of this Note, from the date such increased rate is imposed by the Bank.

Definitions. As used in this Note, the following terms have the following respective meanings:

"Adjusted SOFR Rate" means, with respect to a SOFR Rate advance for the relevant Interest Period, the sum of (a) the Applicable Margin, plus (b) the SOFR Rate applicable to such Interest Period, and plus (c) the Unsecured to Secured Rate Adjustment.

"Applicable Margin" means 1.25% Per Annum.

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to SOFR:

- (i) a public statement or publication of information by or on behalf of the SOFR Administrator announcing that such SOFR Administrator has ceased or will cease to provide SOFR, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor SOFR Administrator that will continue to provide SOFR; or
- (ii) a public statement or publication of information by the NYFRB, the Federal Reserve Board, or, as applicable, the regulatory supervisor for the SOFR Administrator, an insolvency official with jurisdiction over the SOFR Administrator, a resolution authority with jurisdiction over the SOFR Administrator or a court or an entity with similar insolvency or resolution authority over the SOFR Administrator, in each case, which states that the SOFR Administrator has ceased or will cease to provide SOFR permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide SOFR; or
- (iii) a public statement or publication of information by the Federal Reserve Board, the NYFRB, the SOFR Administrator or the regulatory supervisor for the SOFR Administrator (as applicable), announcing that SOFR is no longer, or as of a specified future date will no longer be, representative.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which commercial banks in New York City or Chicago are authorized or required by law to remain closed; provided that, when used in connection with a SOFR Rate advance, the term "Business Day" shall also exclude any day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Interest Period" means each consecutive one month period, the first of which shall commence on the date of this Note, ending on the day which corresponds numerically to such date one (1) month thereafter, provided, however, that if there is no such numerically corresponding day in such first succeeding month, such Interest Period shall end on the last Business Day of such first succeeding month. If an Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall end on the next succeeding Business Day, provided, however, that if said next succeeding Business Day falls in a new calendar month, such Interest Period shall end on the immediately preceding Business Day.

"NYFRB" means the Federal Reserve Bank of New York.

"Per Annum" means for a year deemed to be comprised of 360 days.

"**Prime Rate**" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Bank) or any similar release by the Federal Reserve Board (as determined by the Bank). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"**SOFR**" is defined in the "SOFR Rate" definition.

"**SOFR Administrator**" means the CME Group Benchmark Administration Limited (or a successor administrator of SOFR).

"**SOFR Administrator's Website**" means the SOFR Administrator's website, currently accessed through the website at <https://www.cmegroup.com>, or any successor source for SOFR identified as such by the SOFR Administrator from time to time.

"**SOFR Rate**" means with respect to any SOFR advance for any Interest Period, a rate per annum equal to the forward-looking term secured overnight financing rate ("**SOFR**") for a period equal in length to such Interest Period as published by the SOFR Administrator on the SOFR Administrator's Website, or on the appropriate page of such other information service that publishes such rate from time to time as shall be selected by the Bank in its reasonable discretion (in each case, the "**SOFR Screen Rate**") at approximately 5:00 a.m., Chicago time, two (2) Business Days prior to the commencement of such Interest Period; *provided that*, if any SOFR Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Note.

"**Unsecured to Secured Rate Adjustment**" means, with respect to any SOFR Rate advance, 0.10% Per Annum.

Benchmarks; No Liability. The interest rate on a SOFR Rate advance may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, the section captioned "Alternate Rate of Interest" below provides a mechanism for determining an alternative rate of interest. The Bank does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Note, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Bank and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Note or any alternative, successor or alternative rate (including any Alternate Rate) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Bank may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Note, and shall have no liability to the Borrower or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

Illegality/Temporary Unavailability. If:

- (i) any applicable domestic or foreign law, treaty, rule or regulation now or later in effect (whether or not it now applies to the Bank) or the interpretation or administration thereof by a governmental authority charged with such interpretation or administration, or compliance by the Bank with any guideline, request or directive of such an authority (whether or not having the force of law), shall make it unlawful or impossible for the Bank to maintain or fund the advances evidenced by this Note, or
- (ii) the Bank determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the SOFR Rate (including because the SOFR Screen Rate is not available or published on a current basis), for the applicable Interest Period; or
- (iii) the Bank determines the SOFR Rate will not adequately and fairly reflect the cost to the Bank of making or maintaining SOFR Rate advances for such Interest Period;

then, the Bank shall give notice thereof to the Borrower as promptly as practicable thereafter and, until the Bank notifies the Borrower that the circumstances giving rise to such notice no longer exist the entire outstanding balance of any advance shall be replaced with an advance bearing interest at the greater of (x) Prime Rate and (y) 2.50% (the "**Interim Rate**"), and subject to the terms and conditions of this Note and the other Related Documents, the Borrower may request advances upon this Note bearing interest at the Interim Rate.

Alternate Rate of Interest. If a Benchmark Transition Event occurs, Bank may, by notice to Borrower, amend this Note to establish an alternate rate of interest for SOFR that gives due consideration to the then-evolving or prevailing market convention for determining a rate of interest for commercial loans in US Dollars at such time (the "**Alternate Rate**"); Borrower acknowledges that the Alternate Rate may include a mathematical adjustment using any then-evolving or prevailing market convention or method for determining a spread adjustment for the replacement of SOFR (which may include, if SOFR already contains such a spread, adding that spread to the Alternate Rate). The Bank may further amend the Note by such notice to Borrower to make technical, administrative or operational changes (including, without limitation, changes to the definition of "Interim Rate", the definition of "Interest Period", timing and frequency of determining rates and making payments of interest) that the Bank decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of the Alternate Rate. The Alternate Rate, together with all such technical, administrative and operational changes as specified in any notice, shall become effective at the later of (i) the fifth Business Day after the Bank has provided notice (including without limitation for this purpose, by electronic means) to the Borrower (the "**Notice Date**") and (ii) a date specified by the Bank in the notice, without any further action or consent of the Borrower, so long as Bank has not received, by 5:00 pm Eastern time on the Notice Date, written notice of objection to the Alternate Rate from the Borrower. If, on the date SOFR actually becomes permanently unavailable pursuant to a Benchmark Transition Event, an Alternate Rate has not been established in this manner, advances will, until an Alternate Rate is so established, bear interest at the Interim Rate. In no event shall the Alternate Rate be less than zero.

In connection with the implementation of a rate replacement described in the paragraph above, Bank may from time to time, upon written notice to Borrower, make any further technical, administrative or operational changes to this Note (including changes to the definition of "Interim Rate", the definition of "Business Day", the timing and frequency of determining rates and making payments of interest, the timing of prepayment or conversion notices, the length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that Bank decides may be appropriate to reflect the adoption and implementation of such rate replacement and to permit the administration thereof by Bank.

All determinations by Bank under this section shall be conclusive and binding absent manifest error.

Interest/Usury. In no event shall the interest rate exceed the maximum rate allowed by law. Any interest payment that would for any reason be unlawful under applicable law shall be applied to principal.

Interest will be computed on the unpaid principal balance from the date of each borrowing.

Interest Payments. Until maturity, the Borrower will pay consecutive monthly installments of interest only commencing July 31, 2022.

The Borrower shall make all payments on this Note and the other Related Documents, without setoff, deduction, or counterclaim, to the Bank at the Bank's address above or at such other place as the Bank may designate in writing. If any payment of principal or interest on this Note shall become due on a day that is not a Business Day, the payment will be made on the next succeeding Business Day. Payments shall be allocated among principal, interest and fees at the discretion of the Bank unless otherwise agreed or required by applicable law. Acceptance by the Bank of any payment that is less than the payment due at that time shall not constitute a waiver of the Bank's right to receive payment in full at that time or any other time.

Authorization for Direct Payments (ACH Debits). To effectuate any payment due under this Note or under any other Related Documents, the Borrower hereby authorizes the Bank to initiate debit entries to Account Number

_____ at the Bank and to debit the same to such account. This authorization to initiate debit entries shall remain in full force and effect until the Bank has received written notification of its termination in such time and in such manner as to afford the Bank a reasonable opportunity to act on it. The Borrower represents that the Borrower is and will be the owner of all funds in such account. The Borrower acknowledges: (1) that such debit entries may cause an overdraft of such account which may result in the Bank's refusal to honor items drawn on such account until adequate deposits are made to such account; (2) that the Bank is under no duty or obligation to initiate any debit entry for any purpose; and (3) that if a debit is not made because the above-referenced account does not have a sufficient available balance, or otherwise, the payment may be late or past due.

Late Fee. Any principal or interest which is not paid within 10 days after its due date (whether as stated, by acceleration or otherwise) shall be subject to a late payment charge of five percent (5.00%) of the total payment due, in addition to the payment of interest, up to the maximum amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) per late charge. The Borrower agrees to pay and stipulates that five percent (5.00%) of the total payment due is a reasonable amount for a late payment charge. The Borrower shall pay the late payment charge upon demand by the Bank or, if billed, within the time specified.

Purpose of Loan. The Borrower acknowledges and agrees that this Note evidences a loan for a business, commercial, agricultural or similar commercial enterprise purpose, and that no advance shall be used for any personal, family or household purpose. The proceeds of the loan shall be used only for the Borrower's general corporate purposes.

Credit Facility. The Bank has approved a credit facility to the Borrower in a principal amount not to exceed the face amount of this Note. The credit facility is in the form of advances made from time to time by the Bank to the Borrower. This Note evidences the Borrower's obligation to repay those advances. The aggregate principal amount of debt evidenced by this Note is the amount reflected from time to time in the records of the Bank. Until the earliest to occur of maturity, any default, event of default, or any event that would constitute a default or event of default but for the giving of notice, the lapse of time or both, the Borrower may borrow, pay down and reborrow under this Note subject to the terms of the Related Documents.

Renewal and Extension. This Note is given in replacement, renewal and/or extension of, but not in extinguishment of the indebtedness evidenced by, that Line of Credit Note dated July 7, 2021 executed by the Borrower in the original principal amount of Five Million and 00/100 Dollars (\$5,000,000.00), including previous renewals or modifications thereof, if any (the "Prior Note" and together with all loan agreements, credit agreements, reimbursement agreements, security agreements, mortgages, deeds of trust, pledge agreements, assignments, guaranties, and any other instrument or document executed in connection with the Prior Note, the "Prior Related Documents"), and is not a novation thereof. All interest evidenced by the Prior Note shall continue to be due and payable until paid. The Borrower fully, finally, and forever releases and discharges the Bank and its successors, assigns, directors, officers, employees, agents, and representatives (each a "Bank Party") from any and all causes of action, claims, debts, demands, and liabilities, of whatever kind or nature, in law or equity, of the Borrower, whether now known or unknown to the Borrower (i) in respect of the Liabilities evidenced by the Prior Note and the Prior Related Documents, or of the actions or omissions of any Bank Party in any manner related to the Liabilities evidenced by the Prior Note or the Prior Related Documents and (ii) arising from events occurring prior to the date of this Note. If applicable, all Collateral continues to secure the payment of this Note and the Liabilities. The provisions of this Note are effective on the date that this Note has been executed by all of the signers and delivered to the Bank.

Miscellaneous. This Note binds the Borrower and its successors, and benefits the Bank, its successors and assigns. Any reference to the Bank includes any holder of this Note. This Note is subject to that certain Credit Agreement by and between the Borrower and the Bank, dated July 7, 2021, and all amendments, restatements and replacements thereof (the "Credit Agreement") to which reference is hereby made for a more complete statement of the terms and conditions under which the loan evidenced hereby is made and is to be repaid. The terms and provisions of the Credit Agreement are hereby incorporated and made a part hereof by this reference thereto with the same force and effect as if set forth at length herein. No reference to the Credit Agreement and no provisions of this Note or the Credit Agreement shall alter or impair the absolute and unconditional obligation of the Borrower to pay the principal and interest on this Note as herein prescribed. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement. If any one or more of the obligations of the Borrower under this Note or any provision hereof is held to be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining obligations of the Borrower and the remaining provisions shall not in any way be affected or impaired; and the invalidity, illegality or unenforceability in one jurisdiction shall not affect the validity, legality or enforceability of such obligations or provisions in any other jurisdiction. Time is of the essence under this Note and in the performance of every term, covenant and obligation contained herein.

Address: 170 Southport Dr
Morriesville, NC 27560

Borrower:

Charles & Colvard, Ltd.

By: /s/ Don O'Connell

Don O'Connell

Printed Name

President & CEO

Title

Date Signed: 7/29/2022