Benefitfocus,Inc.
Form 8-K
December 28, 2018

**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) December 20, 2018**

**BENEFITFOCUS, INC.**

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **001-36061** | **46-2346314** |
|---|---|---|
| **(State or other jurisdiction of incorporation)** | **(Commission File Number)** | **(IRS Employer Identification No.)** |

**100 Benefitfocus Way, Charleston, South Carolina** **29492**
**(Address of principal executive offices)** **(Zip Code)**
**Registrant s telephone number, including area code (843) 849-7476**

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

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 1.01. Entry into a Material Definitive Agreement.**

*Convertible Notes and the Indenture*

On December 20, 2018, Benefitfocus, Inc. (the Company ) priced its private offering of $200 million in aggregate principal amount of 1.25% Convertible Senior Notes due 2023 (the Initial Notes ). On December 27, 2018, the initial purchasers in such offering exercised their option to purchase an additional $40 million in aggregate principal amount of the Company s 1.25% Convertible Senior Notes due 2023 (the Option Notes , and together with the Initial Notes , the Notes ), bringing the total aggregate principal amount of the Notes to $240 million. On December 27, 2018 and December 28, 2018, the Company completed the private offering of the Initial Notes and the Option Notes, respectively. The Notes are senior unsecured obligations of the Company.

The net proceeds from this offering were approximately $233.6 million, after deducting the initial purchasers discounts and commissions and the estimated offering expenses payable by the Company. The Company used approximately $33 million of the net proceeds to pay the cost of the Capped Call Transactions (as defined below). The Company intends to use approximately $39.2 million of the net proceeds to pay off, but not terminate, its senior secured credit facility and the balance for potential acquisitions and other general corporate purposes, including sales and marketing expenses, research and development expenses and general and administrative expenses.

In connection with the issuance of the Notes, the Company entered into an Indenture, dated December 27, 2018 (the Indenture ), with U.S. Bank National Association, as trustee. The Indenture includes customary covenants and sets forth certain events of default after which the Notes may be declared immediately due and payable and sets forth certain types of bankruptcy or insolvency events of default involving the Company after which the Notes become automatically due and payable.

The Notes will mature on December 15, 2023, unless earlier converted, redeemed or repurchased in accordance with their terms. The Notes will bear interest from December 27, 2018 at a rate of 1.25% per year payable semi-annually in arrears on June 15 and December 15 of each year, beginning on June 15, 2019. The Notes will be convertible at the option of the holders at any time prior to the close of business on September 14, 2023, only under the following circumstances: (1) during any calendar quarter commencing after the calendar quarter ending on March 31, 2019 (and only during such calendar quarter), if the last reported sale price of the Company s common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (2) during the five business day period after any five consecutive trading day period (the Measurement Period ) in which the Trading Price (as defined in the Indenture) per $1,000 principal amount of Notes for each trading day of the Measurement Period was less than 98% of the product of the last reported sale price of the Company s common stock and the conversion rate in effect on each such trading day; (3) if the Company calls any or all of the Notes for redemption, at any time prior to the close of business on the scheduled trading day immediately preceding the redemption date; or (4) upon the occurrence of specified corporate events. On or after September 15, 2023 until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their Notes, in multiples of $1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

Upon conversion, the Company may satisfy its conversion obligation by paying or delivering, as the case may be, cash, shares of the Company s common stock or a combination of cash and shares of the Company s common stock, at the Company s election, in the manner and subject to the terms and conditions provided in the Indenture. The initial conversion rate for the Notes will be 18.8076 shares of

the Company s common stock per $1,000 principal amount of Notes, which is equivalent to an initial conversion price of approximately $53.17 per share of the Company s common stock. The initial conversion price represents a premium of approximately 30% to the $40.90 per share closing price of the Company s common stock on The Nasdaq Global Market on December 20, 2018. The conversion rate is subject to adjustment under certain circumstances in accordance with the terms of the Indenture. In connection with certain corporate events or if the Company issues a notice of redemption, it will, under certain circumstances, increase the conversion rate for holders who elect to convert their notes in connection with such corporate event or during the relevant redemption period.

The Company may not redeem the Notes prior to December 20, 2021. The Company may redeem for cash all or any portion of the Notes, at its option, on or after December 20, 2021 if the last reported sale price of its common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which it provides notice of redemption at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. No sinking fund is provided for the Notes.

If the Company undergoes a Fundamental Change (as defined in the Indenture), subject to certain conditions, holders may require the Company to repurchase for cash all or any portion of their Notes in principal amounts of $1,000 or an integral multiple thereof, at a fundamental change repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

The description of the Indenture contained herein is qualified in its entirety by reference to the text of the Indenture filed as Exhibit 4.1 to this Current Report on Form 8-K and which is incorporated herein by reference.

*Capped Call Transactions*

In connection with the offering of the Notes, on December 20, 2018, the Company entered into privately negotiated capped call transactions (the Capped Call Transactions ) with one or more of the initial purchasers or their respective affiliates and/or other financial institutions (the Option Counterparties ) pursuant to capped call confirmations in substantially the form filed as Exhibit 10.1 to this Current Report on Form 8-K and which is incorporated herein by reference. On December 27, 2018, the Company entered into additional Capped Call Transactions with the Option Counterparties in conjunction with the Initial Purchasers exercising their option to purchase the Option Notes. The Capped Call Transactions are expected generally to reduce the potential dilution to the Company s common stock upon any conversion of the Notes and/or offset any cash payments the Company is required to make in excess of the principal amount of converted Notes, as the case may be, with such reduction and/or offset subject to a cap based on the cap price. The cap price of the Capped Call Transactions will initially be $89.98 per share, which represents a premium of 120% over the last reported sale price of the Company s common stock of $40.90 per share on December 20, 2018 and is subject to certain adjustments under the terms of the Capped Call Transactions.

The foregoing description of the Capped Call Transactions contained herein is qualified in its entirety by reference to the text of the form of capped call confirmation relating to the Capped Call Transactions filed as Exhibit 10.1 to this Current Report on Form 8-K and which is incorporated herein by reference.

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

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 2.03.

**Item 3.02. Unregistered Sale of Equity Securities.**

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 3.02.

The Company offered and sold the Notes to the initial purchasers in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act of 1933 (the Securities Act ), and for initial resale by the initial purchasers to qualified institutional buyers pursuant to the exemption from registration provided by Rule 144A under the Securities Act. Neither the Notes nor the shares of the Company s common stock issuable upon conversion of the Notes, if any, have been registered under the Securities Act and these securities may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

| Exhibit No. | Description |
|---|---|
| 4.1 | Indenture, dated as of December 27, 2018, between Benefitfocus, Inc. and U.S. Bank National Association, as trustee. |
| 4.2 | Form of 1.25% Convertible Senior Notes due 2023 (included in Exhibit 4.1). |
| 10.1 | Form of Capped Call Confirmation. |

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.

**BENEFITFOCUS, INC.**

Date: December 28, 2018

/s/ Jonathon E. Dussault
Jonathon E. Dussault
Chief Financial Officer