

B. RILEY FINANCIAL, INC.

FORM 8-K (Current report filing)

Filed 12/18/17 for the Period Ending 12/18/17

Address	21255 BURBANK BLVD. SUITE 400 WOODLAND HILLS, CA, 91367
Telephone	818-884-3737
CIK	0001464790
Symbol	RILY
SIC Code	7389 - Services-Business Services, Not Elsewhere Classified
Industry	Business Support Services
Sector	Industrials
Fiscal Year	12/31

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 18, 2017

B. Riley Financial, Inc.

(Exact name of registrant as specified in its charter)

Delaware

001-37503

27-0223495

(State or other jurisdiction
of incorporation)

(Commission File Number)

(IRS Employer Identification No.)

21255 Burbank Boulevard, Suite 400
Woodland Hills, California

91367

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: (818) 884-3737

(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))

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 8.01. Other Events.

On December 18, 2017, B. Riley Financial, Inc. (the “Company”) issued an additional \$10,500,000 aggregate principal amount of the Company’s 7.25% Senior Notes due 2027 (the “Notes”) pursuant to an underwriting agreement with B. Riley FBR, Inc., as representative of the several underwriters listed on Schedule A thereto (collectively, the “Underwriters”). The issuance was pursuant to the Underwriters’ exercise of their entire overallotment option granted in the original offering of \$70,000,000 aggregate principal amount of Notes. The newly issued Notes have the identical terms as the original \$70,000,000 aggregate principal amount of Notes and are governed by the same supplemental indenture as described in the Company’s Current Report on Form 8-K filed with the Securities and Exchange Commission (the “Commission”) on December 13, 2017. The Notes were issued pursuant to the Company’s shelf registration statement on Form S-3 (Registration No. 333-221715) initially filed with the Commission on November 22, 2017, and declared effective by the Commission on November 29, 2017 (the “Registration Statement”).

Attached as Exhibit 5.1 to this Current Report and incorporated herein by reference is a copy of the opinion of Morrison & Foerster LLP relating to the validity of the Notes that may be sold in the offering (the “Legal Opinion”). The Legal Opinion is also filed with reference to, and is hereby incorporated by reference into, the Registration Statement.

On December 18, 2017, the Company issued a press release announcing the closing of the offering of \$10,500,000 million aggregate principal amount of the Notes. A copy of the press release is filed as Exhibit 99.1 to this report and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits .*

Exhibit No.	Description
5.1	Opinion of Morrison & Foerster LLP.
23.1	Consent of Morrison & Foerster LLP to the filing of Exhibit 5.1 herewith (included in Exhibit 5.1).
99.1	Press release, dated December 18, 2017.

SIGNATURES

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.

December 18, 2017

B. RILEY FINANCIAL, INC.

By: /s/ Phillip J. Ahn

Name: Phillip J. Ahn

Title: Chief Financial Officer &
Chief Operating Officer

MORRISON | FOERSTER

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MORRISON FOERSTER LLP

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SINGAPORE, TOKYO, WASHINGTON, D.C.

December 18, 2017

B. Riley Financial, Inc.
21255 Burbank Blvd., Suite 400
Woodland Hills, California 91367

Ladies and Gentlemen:

We have acted as counsel to B. Riley Financial, Inc., a Delaware corporation (the “Company”), in connection with the issuance and sale by the Company of \$10,500,000 aggregate principal amount of its 7.25% Senior Notes due 2027 (the “Notes”) in connection with the Underwriters’ (as defined below) exercise of the over-allotment option, pursuant to the terms of an Underwriting Agreement, dated December 6, 2017 (the “Underwriting Agreement”), by and among the Company and B. Riley FBR, Inc., as representative of the several underwriters named in Schedule A thereto (the “Underwriters”). The Notes are to be issued pursuant to the terms and conditions of, and in the form set forth in, an Indenture entered into by and between the Company and U.S. Bank National Association, as trustee (the “Trustee”), dated as of November 2, 2016 (the “Base Indenture”), as supplemented by the First Supplemental Indenture relating to the Notes, dated as of November 2, 2016 (the “First Supplemental Indenture”), as supplemented by the Second Supplemental Indenture, dated as of May 31, 2017 (the “Second Supplemental Indenture”), and as supplemented by the Third Supplemental Indenture to be dated as of December 13, 2017 (together with the Base Indenture, the First Supplemental Indenture and the Second Supplemental Indenture, the “Indenture”). This opinion is furnished to you in connection with the shelf registration statement on Form S-3 (Registration No. 333-221715), initially filed by the Company with the Securities and Exchange Commission (the “Commission”) on November 22, 2017, and declared effective by the Commission on November 29, 2017 (the “Registration Statement”), in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder (collectively, the “Act”), relating to the issuance and sale of the Notes.

In connection with this opinion, we have examined originals, copies or forms of: (i) the Registration Statement; (ii) the prospectus, dated November 29, 2017 (the “Base Prospectus”), which forms a part of the Registration Statement; (iii) the preliminary prospectus supplement, dated December 6, 2017, relating to the Notes (together with the Base Prospectus, the “Preliminary Prospectus”); (iv) the prospectus supplement, dated December 6, 2017, in the form filed with the Commission pursuant to Rule 424(b) under the Act (the Base Prospectus, together with Preliminary Prospectus and the documents incorporated and deemed to be incorporated by reference therein, herein collectively referred to as the “Prospectus”); and (v) the Indenture (such documents the “Documents”). In addition, we have examined such records, documents, certificates of public officials and of the Company, made such inquiries of officers of the Company, and considered such questions of law as we have deemed necessary for the purpose of rendering the opinions set forth herein.

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In connection with this opinion, we have assumed: (i) the authenticity of original documents and the genuineness of all signatures; (ii) the conformity to the originals of all documents submitted to us as copies; (iii) the truth, accuracy and completeness of the information, representations and warranties contained in the instruments, documents, certificates and records we have reviewed; (iv) that all Notes will be issued and sold in compliance with applicable U.S. federal and state securities laws and in the manner stated in the Registration Statement and the Prospectus; (v) that each party thereto (other than the Company) has the corporate or other power and authority to execute, deliver and perform such Documents; (vi) that each party thereto (other than the Company) has duly authorized, executed and delivered such Documents; (vii) that each Document is the legal, valid and binding obligation of such party (other than the Company) enforceable against such party in accordance with its terms; (viii) that the Indenture constitutes the legal, valid and binding obligations of the Trustee and has been duly authenticated by the Trustee and will be duly qualified under the Trust Indenture Act of 1939, as amended; and (ix) the legal capacity of all natural persons. As to any facts material to the opinions expressed herein that were not independently established or verified, we have relied upon oral or written statements and representations of officers and other representatives of the Company, including a certificate from officers of the Company with respect to certain factual matters.

The opinions hereinafter expressed are subject to the following further qualifications and exceptions:

- (1) We express no opinion as to the effect of bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors generally, including, without limitation, laws relating to fraudulent transfers or conveyances, preferences and equitable subordination.
 - (2) We express no opinion as to limitations imposed by general principles of equity upon the availability of equitable remedies or the enforcement of provisions of the Documents, and the effect of judicial decisions which have held that certain provisions are unenforceable where their enforcement would violate the implied covenant of good faith and fair dealing, or would be commercially unreasonable, or where a default under the Documents is not material.
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- (3) We express no opinion as to the effect of judicial decisions permitting the introduction of extrinsic evidence to supplement the terms or aid in the interpretation of the Documents.
- (4) We express no opinion as to the effect on the opinions expressed herein of (i) the compliance or non-compliance of any party to the Documents with any law, regulation or order applicable to it, or (ii) the legal or regulatory status or the nature of the business of any such party.
- (5) We express no opinion as to the enforceability of provisions of the Documents providing for indemnification or contribution, to the extent such indemnification or contribution is against public policy.
- (6) We express no opinion as to the enforceability of provisions of the Documents imposing or which are construed as effectively imposing a penalty.
- (7) We express no opinion as to the enforceability of any provision of the Documents which purports to establish evidentiary standards or to make determinations conclusive or powers absolute.
- (8) We express no opinion as to the enforceability of the waiver of stay or extension laws contained in Section 5.15 of the Base Indenture.
- (9) We express no opinion as to the enforceability of any choice of law provisions contained in the Documents or the enforceability of any provisions which purport to establish a particular court as the forum for adjudication of any controversy relating to the Documents or which purport to cause any party to waive or alter any right to a trial by jury or which waive objection to jurisdiction.

Further, we express no opinion as to the effect on the opinions expressed herein of (i) the compliance or non-compliance of any party to the Indenture and the Notes with any law, regulation or order applicable to it, (ii) the legal or regulatory status or the nature of the business of any such party, (iii) provisions of the Indenture under which the Company submits to the jurisdiction of one or more New York courts or federal courts located in the State of New York are subject to the application of the doctrine of *forum non conveniens* or a similar statutory principle or as to the subject matter jurisdiction of the federal courts located in the State of New York to adjudicate any dispute under the Indenture, (iv) provisions of the Indenture which purport to prohibit or restrict a transfer of rights under the Indenture or (v) provisions of the Indenture providing for rights of setoff.

Our opinion is based upon current statutes, rules, regulations, cases and official interpretive opinions, and it covers certain items that are not directly or definitively addressed by such authorities.

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Based upon and subject to the limitations and qualifications set forth herein, we are of the opinion that:

The Notes, when issued, executed and authenticated in accordance with the provisions of the Indenture and delivered against payment therefor in the manner contemplated by the Underwriting Agreement and the terms of the Registration Statement, will be legally issued and binding obligations of the Company pursuant to the terms of the Indenture, enforceable against the Company in accordance with their terms.

We express no opinion as to matters governed by any laws other than the substantive laws of the State of New York and the federal laws of the United States (without reference to choice of law rules), which are in effect on the date hereof.

We hereby consent to the filing of this opinion as exhibit 5.1 to the Company's Current Report on Form 8-K to be filed by the Company with the Commission on or about December 18, 2017, which will be incorporated by reference in the Registration Statement and any amendments thereto and to the reference to our firm under the caption "Legal Matters" in the Prospectus. In giving such consent, we do not hereby admit that we are acting within the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Morrison & Foerster LLP



Source: *B. Riley Financial, Inc.*

**B. Riley Financial Announces Closing of
Underwriters' Exercise of Over-Allotment Option**

LOS ANGELES—December 18, 2017 — B. Riley Financial, Inc. (**NASDAQ: RILY**) (the “Company”) today announced that the underwriters for the recently completed public offering of the Company’s 7.25% Senior Notes due 2027 (the “Notes”) exercised in full their option to purchase an additional \$10,500,000 principal amount of the Notes (the “Additional Notes”). The sale of the Additional Notes closed today, which increases the total principal amount of the Notes sold by the Company in this offering to \$80,500,000. B. Riley FBR, Inc., Incapital LLC, and Ladenburg Thalmann & Co. Inc. acted as book-running managers for this offering, and Boenning & Scattergood, Inc., Wedbush Securities Inc. and William Blair & Company, L.L.C. acted as co-managers for this offering. The Company and the Notes received an investment grade rating of “A-” from Egan-Jones Rating Company, an independent unaffiliated rating agency.

The offering resulted in net proceeds of approximately \$78.0 million after deducting underwriting discounts and commissions, but before expenses. The Company intends to use the net proceeds from this offering for general corporate purposes.

The Notes were offered under the Company's shelf registration statement on Form S-3, which was declared effective by the Securities and Exchange Commission. The offering of these Notes was made only by means of a prospectus supplement and accompanying base prospectus, which was filed with the Securities and Exchange Commission. This announcement shall not constitute an offer to sell or the solicitation of an offer to buy the Notes, nor shall there be any sale of the Notes in any jurisdiction in which such offer, solicitation or sale would not be permitted.

About B. Riley Financial, Inc.

B. Riley Financial, Inc. is a publicly traded, diversified financial services company which takes a collaborative approach to the capital raising and financial advisory needs of public and private companies and high net worth individuals. The Company also makes proprietary investments in other businesses where B. Riley Financial, Inc. is uniquely positioned to leverage its expertise and assets in order to maximize value. The Company operates through several wholly-owned subsidiaries, including B. Riley FBR, Inc., Wunderlich Securities, Inc., Great American Group, LLC (www.greatamerican.com), Great American Group Advisory and Valuation Services, LLC, and B. Riley Capital Management, LLC (which includes B. Riley Asset Management, B. Riley Wealth Management (www.brileywealth.com), and Great American Capital Partners (www.gacapitalpartners.com)). The Company also makes proprietary investments in other businesses, such as the acquisition of United Online, Inc. Since the acquisition of United Online, Inc. (www.untl.com) in July 2016, B. Riley Financial, Inc. also provides internet access services under the NetZero and Juno brands.

B. Riley Financial is headquartered in Los Angeles with offices in major financial markets throughout the United States and Europe. For more information on B. Riley Financial, visit www.brileyfin.com.



Forward-Looking Statements

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements include, without limitation, statements regarding our expectations, hopes or intentions regarding the future. These forward looking statements can often be identified by their use of words such as “will”, “predict”, “continue”, “forecast”, “expect”, “believe”, “anticipate”, “outlook”, “could”, “target”, “project”, “intend”, “plan”, “seek”, “estimate”, “should”, “may” and “assume”, as well as variations of such words and similar expressions referring to the future, and may include (without limitation) statements regarding the intended use of proceeds. Forward-looking statements involve certain risks and uncertainties, and actual results may differ materially from those discussed in each such statement. Factors that could cause actual results to differ include (without limitation) the Company’s plans regarding future uses of cash; and the Company’s financial performance. Additional factors are discussed under the heading “Risk Factors” in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2016, and in the Company’s other current and periodic reports filed from time to time with the Securities and Exchange Commission. All forward-looking statements in this document are made based on information available to the Company as of the date hereof, and the Company assumes no obligation to update any forward-looking statement.

Investor Contact :

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