

OPEN TEXT CORP

FORM 8-K (Current report filing)

Filed 12/22/16 for the Period Ending 12/19/16

Telephone	519-888-7111
CIK	0001002638
Symbol	OTEX
SIC Code	7373 - Computer Integrated Systems Design
Industry	Software
Sector	Technology
Fiscal Year	06/30

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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 19, 2016

Open Text Corporation
(Exact name of Registrant as specified in its charter)

Canada
(State or Other Jurisdiction
of Incorporation)

0-27544
(Commission
File Number)

98-0154400
(IRS Employer
Identification No.)

275 Frank Tompa Drive, Waterloo, Ontario, Canada N2L 0A1
(Address of principal executive offices)

(519) 888-7111
Registrant's telephone number, including area code

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 (see General Instruction A.2. below):

- 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))
-
-

Item 8.01. Other Events.**Share Split**

On December 21, 2016, Open Text Corporation (“OpenText”) announced that its board of directors had approved a 2-for-1 share split (the “Share Split”) of the outstanding common shares of OpenText (the “Common Shares”). The Share Split will be implemented by way of a share dividend whereby shareholders of record at close of business on Monday, January 9, 2017 (the “Record Date”) will receive on Tuesday, January 24, 2017 (the “Payment Date”) one Common Share for each Common Share held as of the Record Date.

The NASDAQ and the Toronto Stock Exchange have determined to implement due bill trading in connection with the Share Split. A due bill is an entitlement attached to listed securities undergoing a material corporation action, such as the Share Split. In this instance, anyone purchasing a Common Share during the period commencing at the opening of business two trading days prior to the Record Date (*i.e.* , Thursday, January 5, 2017) and ending on the Payment Date (*i.e.* , Tuesday, January 24, 2017), inclusive (the “due bill period”), will receive a payable right. Any trades that are executed during the due bill period will be flagged to ensure purchasers receive the entitlement to the additional Common Share issuable as a result of the Share Split. The Common Shares will commence trading on an ex-dividend basis on Wednesday, January 25, 2017. The due bill redemption date will be Friday, January 27, 2017.

For more details relating to the Share Split, see a copy of the Company’s press release filed as Exhibit 99.1 to this Form 8-K.

Previously Announced Equity Offering

As previously announced, on December 13, 2016, OpenText entered into an underwriting agreement by and among OpenText and Barclays Capital Inc., Citigroup Global Markets Canada Inc. and RBC Dominion Securities Inc., as Representatives of the several underwriters listed in Schedule I thereto (the “Representatives”), relating to the offering by OpenText of 9,250,000 Common Shares pursuant to OpenText’s Registration Statement on Form S-3 (File No. 333-195479).

On December 19, 2016, the Representatives notified OpenText that they had elected to exercise their over-allotment option to purchase an additional 655,302 shares (the “Option Shares”). The offering of the Option Shares closed on December 22, 2016. The number of Option Shares is not affected by the Share Split as the closing precedes the Record Date. OpenText and the underwriters have agreed that there will be no further exercise of the over-allotment option.

A copy of the legal opinion and consent of Blake, Cassels & Graydon LLP relating to the Option Shares is attached as Exhibit 5.1 hereto.

Item 9.01. Financial Statements and Exhibits.**(d) Exhibits**

- 5.1 Opinion of Blake, Cassels & Graydon LLP.
- 23.1 Consent of Blake, Cassels & Graydon LLP (included in Exhibit 5.1 hereto).
- 99.1 Press Release dated December 21, 2016.

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 22, 2016

OPEN TEXT CORPORATION

By: _____ / S / JOHN M. DOOLITTLE

John M. Doolittle
Chief Financial Officer

Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
5.1	Opinion of Blake, Cassels & Graydon LLP.
23.1	Consent of Blake, Cassels & Graydon LLP (included in Exhibit 5.1 hereto).
99.1	Press Release dated December 21, 2016.



Blake, Cassels & Graydon (U.S.) LLP
 Canadian Lawyers
 126 East 56th Street
 Suite 1700, Tower 5B
 New York NY 10022 U.S.A.
 Tel: 212-893-8200 Fax: 212-829-9500

December 22, 2016

Open Text Corporation
 275 Frank Tompa Drive
 Waterloo, ON N2L 0A1

RE: Open Text Corporation – Prospectus Supplement dated December 13, 2016 to Form S-3 Registration Statement

Dear Sirs/Mesdames:

We have acted as Canadian counsel to Open Text Corporation (the “**Company**”) in connection with the preparation and filing with the Securities and Exchange Commission (the “**Commission**”) under the *Securities Act of 1933*, as amended (the “**Securities Act**”) of the Company’s registration statement on Form S-3 (File No. 333-195479) dated April 24, 2014, as amended by the post-effective amendment No. 1 filed with the Commission on May 10, 2016 and as amended by the post-effective amendment No. 2 filed with the Commission on December 12, 2016 (excluding the documents incorporated by reference therein, the “**Registration Statement**”), and the supplement dated December 13, 2016 to the prospectus contained in the Registration Statement (the “**Prospectus Supplement**”). The Registration Statement relates to the unallocated offer and sale from time to time as set forth in the Registration Statement of common shares, preference shares, debt securities, depository shares, warrants, purchase contracts, units and subscription receipts of the Company. The Prospectus Supplement relates to the offering and issuance of 655,302 common shares in the capital of the Company by the Company (the “**Offered Shares**”) in connection with the funding of its acquisition of certain assets of the enterprise content division (the “**EMC Enterprise Content Division**”) of EMC Corporation, a Massachusetts Corporation (“**Dell-EMC**”), pursuant to a Master Acquisition Agreement dated September 12, 2016 among the Company, Dell-EMC, EMC International Company, a company organized under the laws of Ireland, and EMC (Benelux) B.V., a *besloten vennootschap* organized under the laws of the Netherlands.

In connection with the opinions hereinafter expressed, we have examined an original or copy of each of the Registration Statement and the Prospectus Supplement. We have also considered such questions of law, examined such statutes, regulations, public records, certificates of government officials, corporate documents, records, certificates and instruments and made such other investigations as we have considered necessary or appropriate as a basis for these opinions, including:

- (a) a certificate of the Corporate Secretary of the Company dated December 19, 2016 (the “**Secretary’s Certificate**”) with respect to:
 - (i) the currently effective articles and by-laws of the Company; and (ii) the resolutions of the board of directors of the Company (the “**Board**”) relevant to the issuance of the Offered Shares, the Registration Statement and the prospectus contained in the Registration Statement, and the Prospectus Supplement; and



- (b) a certificate of compliance dated December 21, 2016 issued with respect to the Company by Industry Canada (the “Certificate of Compliance”).

We are qualified to practice in the Province of Ontario, and our opinions expressed herein are limited to the provisions of the *Canada Business Corporations Act* (the “**CBCA**”), the Company’s governing corporate statute, and the regulations thereunder and reported judicial decisions interpreting these laws. For the purposes of this opinion letter, we understand that for the purposes of United States law with respect to a U.S. company, the terms and phrases listed below have the following meanings:

- (a) “validly issued” means that: (i) a company is validly existing under the laws of the jurisdiction in which it is incorporated, and the securities are duly authorized; (ii) the actions required by applicable state corporation law to approve the issuance of the securities have been taken; and (iii) the securities have been or will be issued in compliance with the requirements of that law, such company’s certificate or articles of incorporation and by-laws, and the resolutions approving the issuance of those securities;
- (b) “fully paid” means that the consideration received by the company satisfies, in both type and amount, the requirements of applicable state corporation law, such company’s certificate or articles of incorporation and by-laws, the resolutions approving the issuance, and any other applicable agreement;
- (c) “duly authorized” means that the company, under applicable law, its certificate or articles of incorporation and its by-laws, has the power to issue the shares and has taken all corporate actions necessary to create that power; and
- (d) “non-assessable” means that the securityholder is not liable, solely because of securityholder status, for additional assessments or calls on the security by the company or its creditors.

These terms and phrases have a comparable meaning under the CBCA.

For the purposes of the opinions expressed herein, we have assumed:

- (a) the genuineness of all signatures and the legal capacity of all individuals who have executed any of the documents that we have reviewed;
- (b) the authenticity and completeness of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as certified, conformed, photostatic or electronically transmitted copies thereof and the authenticity of the originals of such certified, conformed, photostatic or electronically transmitted copies;



- (c) that the factual information contained in each of the documents that we have reviewed, which we have not independently verified, is accurate as of the date hereof;
- (d) the factual information contained in the Secretary's Certificate is accurate as of the date hereof;
- (e) at or prior to the time of the delivery of any Offered Shares, the Registration Statement, including all necessary post-effective amendments, will remain effective under the Securities Act and such effectiveness will not have been terminated or rescinded; and
- (f) all Offered Shares will be offered and sold in compliance with applicable securities laws and in the manner stated in the Registration Statement, the prospectus contained therein, any necessary post-effective amendments to the Registration Statement, and the Prospectus Supplement.

Based and relying upon and subject to the foregoing, we are of the opinion that:

1. The Offered Shares have been duly authorized and validly issued and are outstanding as fully paid and non-assessable common shares in the capital of the Company.

We hereby consent to the filing of this opinion letter as an exhibit to a Current Report on Form 8-K to be filed by the Company on the date hereof and its incorporation by reference into the Registration Statement, and to the reference to our name under the heading "Validity of the Securities" in the prospectus contained in the Registration Statement, and under the headings "Enforceability of Civil Liabilities" and "Legal Matters" in the Prospectus Supplement. In giving this consent, we do not hereby agree that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations promulgated thereunder.

The opinions herein are given at the date hereof and we disclaim any obligation or undertaking to update these opinions or advise any person of any change in law or fact which may come to our attention after the date hereof. Subject to the qualifications set out above, this opinion letter is intended solely for use in connection with the offer and sale of the Offered Shares subject to the Registration Statement and the Prospectus Supplement and may not be relied upon for any other purpose without our express written consent.

Yours very truly,

/s/ Blake, Cassels & Graydon LLP

OPENTEXT ANNOUNCES 2-FOR-1 SHARE SPLIT

Waterloo, ON, December 21, 2016 – Open Text Corporation (NASDAQ: OTEX) (TSX: OTC) (“OpenText”) announced today that its board of directors has approved a 2-for-1 share split (the “Share Split”) of the outstanding common shares of OpenText (the “Common Shares”). The Share Split will be implemented by way of a share dividend whereby shareholders of record at close of business on Monday, January 9, 2017 (the “Record Date”) will receive on Tuesday, January 24, 2017 (the “Payment Date”) one Common Share for each Common Share held as of the Record Date. There were 130,845,146 Common Shares outstanding as of December 20, 2016. Adjusting for the Share Split, as of December 20, 2016, there would be 261,690,292 Common Shares outstanding.

The NASDAQ and the Toronto Stock Exchange have determined to implement due bill trading in connection with the Share Split. A due bill is an entitlement attached to listed securities undergoing a material corporation action, such as the Share Split. In this instance, anyone purchasing a Common Share during the period commencing at the opening of business two trading days prior to the Record Date (*i.e.* , Thursday, January 5, 2017) and ending on the Payment Date (*i.e.* , Tuesday, January 24, 2017), inclusive (the “due bill period”), will receive a payable right. Any trades that are executed during the due bill period will be flagged to ensure purchasers receive the entitlement to the additional Common Share issuable as a result of the Share Split. The Common Shares will commence trading on an ex-dividend basis on Wednesday, January 25, 2017. The due bill redemption date will be Friday, January 27, 2017.

OpenText is undertaking the Share Split to make the Common Shares more readily accessible to individual shareholders, and potentially improve the liquidity of the market for the Common Shares and broaden its shareholder base.

Shareholders do not need to take any action. OpenText will use the direct registration system (“DRS”) to electronically register the Common Shares issued pursuant to the Share Split, rather than issuing physical share certificates. Computershare Investors Services Inc., OpenText’s registrar and transfer agent (“Computershare”), will send out DRS advices to registered shareholders, indicating the number of additional Common Shares that they are receiving as a result of the Share Split. This will allow shareholders to hold their additional Common Shares in a “book entry” form without having a physical share certificate issued. In addition, Computershare will electronically issue the appropriate number of Common Shares to CDS Clearing and Depositary Services Inc. and The Depositary Trust Company for distribution to the non-registered shareholders of OpenText. Beneficial shareholders who hold their Common Shares in an account with their investment dealer or other intermediary will have their accounts automatically updated to reflect the Share Split in accordance with the applicable brokerage account providers’ usual procedures.

The stock dividend is not expected to constitute a taxable transaction for either Canadian tax purposes or U.S. federal income tax purposes. Shareholders are advised to contact their tax advisors for further information. The Share Split will not dilute shareholders’ equity. All share and per share data for future periods will reflect the Share Split.

About OpenText

OpenText is the largest independent software provider of Enterprise Information Management (EIM).

Certain statements in this press release, including statements regarding the Share Split, may contain forward-looking statements. These forward-looking statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, and created under the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, and applicable Canadian securities laws. All statements other than statements of historical facts are statements that could be deemed forward-looking statements. We have based those forward-looking statements on OpenText's current expectations and projections about future results.

Such forward looking statements involve known and unknown risks, uncertainties and other factors and assumptions that may cause the actual results, performance or achievements to differ materially. For additional information with respect to risks and other factors which could occur, see OpenText's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and other securities filings with the Securities and Exchange Commission and other securities regulators. Readers are cautioned not to place undue reliance upon any such forward-looking statements, which speak only as of the date made. Unless otherwise required by applicable securities laws, OpenText disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

OTEX-F

For more information, please contact:

Greg Secord
Vice President, Investor Relations
Open Text Corporation
San Francisco: 415-963-0825
gsecord@opentext.com

Copyright © 2016 OpenText. OpenText is a trademark or registered trademark of OpenText. The list of trademarks is not exhaustive of other trademarks. Registered trademarks, product names, company names, brands and service names mentioned herein are property of OpenText. All rights reserved.