

WISDOMTREE INVESTMENTS, INC.

FORM 8-K (Current report filing)

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Address	245 PARK AVENUE 35TH FLOOR NEW YORK, NY, 10167
Telephone	212-801-2080
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**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): November 13, 2017

WisdomTree Investments, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction of incorporation)

001-10932
(Commission
File Number)

13-3487784
(IRS Employer
Identification No.)

245 Park Avenue
35th Floor
New York, NY 10167
(Address of principal executive offices, including zip code)

(212) 801-2080
(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 (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))

Indicate by check mark whether the registrant is an emerging growth company as defined in 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

Share Sale Agreement

On November 13, 2017, WisdomTree Investments, Inc. (the “Company”) entered into a Share Sale Agreement with ETF Securities Limited (“ETF Securities”) and WisdomTree International Holdings Ltd, a wholly-owned subsidiary of the Company (“WisdomTree International Holdings” and together with the Company, “WisdomTree”), pursuant to which WisdomTree International Holdings agreed to acquire (the “Acquisition”) the European exchange-traded commodity, currency and short-and-leveraged business of ETF Securities (the “Acquired Business”) by purchasing the entire issued share capital of Electra Target Holdco Limited (the “Target”) into which ETF Securities will have transferred the Acquired Business prior to completion of the Acquisition.

Pursuant to the Share Sale Agreement, WisdomTree will acquire the Acquired Business for a purchase price consisting of (i) \$253 million in cash, (ii) 15,250,000 shares of the Company’s common stock (the “Common Shares”) and (iii) 14,750 shares of a new class of Series A Non-Voting Convertible Preferred Stock which is convertible into an aggregate of 14,750,000 shares of the Company’s common stock, subject to certain restrictions (the “Preferred Shares” and together with the Common Shares, the “Consideration Shares”), subject to customary adjustments for working capital (collectively, the “Purchase Price”).

WisdomTree has secured commitments for senior secured debt financing of \$250 million from Credit Suisse Securities (USA) LLC in support of the Acquisition, which will be comprised of a \$50 million revolving credit facility and a \$200 million term loan facility. Interest under the credit facilities will accrue at a rate per annum of up to LIBOR plus 2.00% (commencing at LIBOR plus 1.75%) or up to ABR plus 1.00% (commencing at ABR plus 0.75%), subject to step-downs based on WisdomTree’s ratio of debt to adjusted earnings before interest, taxes, depreciation and amortization (“EBITDA”). The term of the facilities will be three years from the date of completion of the Acquisition. The definitive credit agreement governing the facilities will include a maximum debt to EBITDA ratio. Entering into definitive debt financing agreements is subject to customary closing conditions, including, among others, completion of the Acquisition.

Completion of the Acquisition is subject to customary closing conditions, including, among others, obtaining regulatory approvals and the Company and ETF Securities entering into an Investor Rights Agreement as described below, pursuant to which, among other things, ETF Securities will be subject to lock-up, standstill and voting restrictions, and will receive certain registration rights. The Share Sale Agreement will terminate if the conditions to complete the Acquisition are not satisfied on or prior to May 13, 2018, subject to the parties agreeing to extend such date.

WisdomTree and ETF Securities have each made customary warranties in the Share Sale Agreement with respect to its ability to enter into and consummate the Acquisition. ETF Securities has made customary warranties in the Share Sale Agreement with respect to the Acquired Business. WisdomTree and ETF Securities have agreed under the Share Sale Agreement to make certain undertakings in seeking regulatory approvals and to maintain the confidentiality of certain information not otherwise required to be disclosed under applicable law. ETF Securities also has agreed to carry on the Acquired Business in the ordinary and usual course and not to take certain actions during the period between signing and completion or, for certain periods of time, solicit employees of the Acquired Business or compete with the Acquired Business. WisdomTree also has agreed to matters relating to the employment of a certain number of employees of the Acquired Business, maintaining its debt commitment in place and reserving and listing the Consideration Shares on the Nasdaq Global Select Market upon completion of the Acquisition. The Share Sale Agreement contains customary indemnification rights for transactions of this type, including with respect to breaches of warranties and other specified matters. The indemnification obligations of ETF Securities are subject to escrows, thresholds and caps with respect to breaches of certain warranties. In addition, WisdomTree has obtained a warranty and indemnity insurance policy related to certain risks associated with the warranties provided by ETF Securities.

Series A Non-Voting Convertible Preferred Stock

General . In connection with the Share Sale Agreement, the Company’s Board of Directors approved the designation of a new class of Series A Non-Voting Convertible Preferred Stock which is convertible into an aggregate of 14,750,000 shares of common stock, subject to certain restrictions (the “Preferred Shares”). The Preferred Shares, which are intended to provide ETF Securities with economic rights equivalent to the Common Shares, will be issued to ETF Securities subject to, and in accordance with, the Share Sale Agreement. The terms and conditions of the Preferred Shares are summarized below and will be set forth in the Company’s Certificate of Designations of Series A Non-Voting Convertible Preferred Stock (“Certificate of Designations”) to be filed with Delaware Secretary of State immediately prior to completion of the Acquisition.

Voting Rights, Transferability and Ranking . The Preferred Shares will have no voting rights, will not be transferrable and will have the same priority with regard to dividends, distributions and payments as the Company's common stock.

Limitation on Beneficial Ownership . The Company will not convert, and ETF Securities will not have the right to convert, any Preferred Shares to the extent that after giving effect to such conversion, ETF Securities (together with certain attribution parties) would beneficially own in excess of 9.99% of the shares of the Company's common stock outstanding immediately after giving effect to such conversion.

Exchange Cap . The Company will not issue any shares of common stock upon conversion of the Preferred Shares if the issuance would, together with up to 4,000,000 shares of common stock issued by the Company prior to December 31, 2018 (or March 31, 2019 if the completion date of the Acquisition is on or after June 15, 2018) (the "Triggering Event Date"), exceed the aggregate number of shares of common stock that the Company may issue without breaching its obligations under the rules of the Nasdaq Capital Market, unless the Company obtains stockholder approval for issuances of common stock in excess of such amount ("Nasdaq Approval"). Pursuant to the Investor Rights Agreement, the Company has agreed to seek Nasdaq Approval at its first regularly scheduled annual meeting of stockholders to be held following the Acquisition.

Redemption Rights

Upon a Failure to Obtain Nasdaq Approval . If the Company fails to obtain Nasdaq Approval by the Triggering Event Date, ETF Securities will have the right, at its option, to require the Company to redeem all of the Preferred Shares subject to Nasdaq Approval for a period ending on the earlier of (a) the second anniversary of the Triggering Event Date and (b) the date the Company obtains Nasdaq Approval. Any such redemption will be at a price per Preferred Share equal to the dollar volume-weighted average price for a share of common stock for the 30 trading day period ending on the Triggering Event Date. Such redemption payments will be made in 12 equal installments no later than 10 business days following the last day of each of the Company's 12 fiscal quarters beginning on the day following the date ETF Securities exercises such redemption right.

Other Redemption Rights . In the event that: (a) the number of shares of common stock authorized by the Company's certificate of incorporation is insufficient to permit the Company to convert all the Preferred Shares requested by ETF Securities to be converted; or (b) ETF Securities does not, upon completion of a change of control of the Company, receive the same amount per Preferred Share as it would have received had each outstanding Preferred Share been converted into common stock immediately prior to the change of control, ETF Securities will have the right, at its option, to require the Company to redeem all the Preferred Shares specified to be converted during the period of time specified in the Certificate of Designations. Any such redemption will be at a price per Preferred Share equal to the dollar volume-weighted average price for a share of common stock for the 30 trading day period ending on the date of such attempted conversion or change of control, as applicable. Such redemption payment will be made in one payment no later than 10 business days following the last day of the Company's first fiscal quarter that begins on a date following the date ETF Securities exercises such redemption right.

The Company will not be obligated to make any redemption payments to the extent such payments would be a breach of any covenant or obligation owed by the Company to any of its secured creditors or is otherwise prohibited by applicable law.

Investor Rights Agreement

Lock-Up . For a period of 451 days following completion of the Acquisition, without the Company's prior written approval, ETF Securities may not dispose of any shares of the Company's common stock or common stock equivalents; provided, however, that ETF Securities will not be prohibited from disposing up to: (i) one-third of the Consideration Shares from and after the date that is 91 days following completion of the Acquisition; and (ii) two-thirds of the Consideration Shares from and after the date that is 271 days following completion of the Acquisition.

Standstill . From and after completion of the Acquisition until the earliest to occur of: (a) the date the beneficial ownership of ETF Securities and certain of its affiliates collectively no longer represents at least five percent (5%) of the Company's outstanding common stock; (b) the third anniversary of the completion of the Acquisition; (c) the date a change of control of the Company is consummated; and (d) certain corporate changes as set forth in the Investor Rights Agreement, ETF Securities and certain of its affiliates will not engage in activities such as acting alone or in concert with others to seek to control the management, the board of directors or policies of the Company, including, directly or indirectly, soliciting proxies for stockholder proposals.

Voting Restrictions. From and after completion of the Acquisition until the earliest to occur of: (a) the 15 month anniversary of the completion of the Acquisition; (b) the date a change of control of the Company is consummated; and (c) certain corporate changes as set forth in the Investor Rights Agreement, ETF Securities will vote all the Company's voting securities as to which ETF Securities is entitled to vote in accordance with the recommendation of the Company's Board of Directors.

The foregoing description of the Share Sale Agreement, Certificate of Designations and Investor Rights Agreement does not purport to be complete and is qualified in its entirety by reference to the complete text of such documents. A copy of the Share Sale Agreement will be filed by the Company with the Securities and Exchange Commission ("SEC") as an exhibit to its Form 10-K for the year ending December 31, 2017. Copies of the Certificate of Designations and Investor Rights Agreement will be filed by the Company with the SEC as exhibits to its Form 8-K filed in connection with completion of the Acquisition. The Share Sale Agreement, Certificate of Designations and Investor Rights Agreement will be filed in order to provide investors and security holders with information regarding their terms. They are not intended to provide any other factual or financial information about the Company, ETF Securities or their respective subsidiaries and affiliates. The representations, warranties and covenants contained in the Share Sale Agreement were made only for purposes of that agreement and as of specific dates; were solely for the benefit of the parties to the Share Sale Agreement; may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures, and may have been made for the purposes of allocating contractual risk between the parties to the Share Sale Agreement instead of establishing these matters as facts; and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors should not rely on the representations, warranties and covenants, or any descriptions thereof, as characterizations of the actual state of facts or condition of the Company, ETF Securities, the Acquired Business or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Share Sale Agreement, which subsequent information may or may not be fully reflected in the Company's public disclosures.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 regarding the issuance of shares of the Company's common stock and Series A Non-Voting Convertible Preferred Stock is hereby incorporated by reference into this Item 3.02. The offer and sale of such securities pursuant to the Share Sale Agreement will be made only to ETF Securities, who is an "accredited investor" (as defined by Rule 501 under the Securities Act of 1933, as amended ("Securities Act")) in reliance upon exemptions from registration under the Securities Act afforded by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder and corresponding provisions of state securities laws.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits:

Exhibit 99.1 [Press Release, dated November 13, 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.

WisdomTree Investments, Inc.

By: /s/ Peter M. Ziembra

Peter M. Ziembra

Executive Vice President—Business and Legal Affairs,
Chief Legal Officer

Date: November 17, 2017



WisdomTree to Acquire \$18 Billion European Exchange-Traded Commodity, Currency and Short-and-Leveraged Business From ETF Securities

Acquisition of Largest European Commodities Platform Adds Profitability and Scale in Growing and Strategically Important European Market; Diversifies Product and Asset Base

Solidifies WisdomTree as Differentiated and Diversified Global ETP Provider Positioned to Grow and Generate Long-Term Shareholder Value

Combined Company will be Largest Global Independent ETP Provider

Transaction Expected to be Immediately and Significantly Accretive to Earnings

New York, NY – (GlobeNewswire) – November 13, 2017 – WisdomTree Investments, Inc. (NASDAQ: WETF), an exchange-traded fund (“ETF”) and exchange-traded product (“ETP”) sponsor and asset manager, announced today that it has entered into a definitive agreement to acquire ETF Securities’ European exchange-traded commodity, currency and short-and-leveraged business (the “Acquired Business”), which includes \$17.6 billion of assets under management (“AUM”) as of November 9, 2017. The acquisition will provide WisdomTree with immediate scale in Europe, an industry leading position in European-listed gold and commodity products, greater AUM diversification globally, and profitability at WisdomTree Europe and in its International Operating segment.

With the addition of the Acquired Business, WisdomTree’s assets under management would total approximately \$66 billion globally on a pro-forma basis, as of November 9, 2017. The acquisition will secure WisdomTree’s spot as the 9th largest ETP sponsor globally and elevate the company to the largest global independent ETP provider ¹ with significant scale and presence in the two largest ETP markets: Europe and the U.S.

Under the terms of the agreement, WisdomTree will exchange \$253 million of cash and stock consideration of 30 million WisdomTree shares for the Acquired Business. Based on Friday’s market close price, the total consideration is valued at \$611 million. Excluding one-time transaction and integration costs, WisdomTree expects that the acquisition will be immediately accretive to its earnings per share.

“We are very excited to meaningfully expand and enhance our presence and capabilities in the European market by adding ETF Securities’ market-leading commodity platform to WisdomTree’s differentiated European product offering,” said Jonathan Steinberg, WisdomTree CEO and President. “The acquisition will immediately add scale, profitability and diversification to our business in Europe, the second largest ETF market in the world and a growing and strategically important region for us and the entire industry. The addition of this complementary and competitively positioned commodity business is an important development in WisdomTree’s strategy to establish itself as a differentiated and diversified ETP provider that can thrive globally and generate long-term shareholder value.”

¹ As measured by AUM.



“We have long held Graham Tuckwell and the business he and his team have built in extremely high regard,” continued Mr. Steinberg. “Like WisdomTree, ETF Securities was started from scratch and has had to compete and win at the highest levels of asset management. Graham is one of the true pioneers of the ETF industry as the first to establish an exchange-traded gold exposure on a global basis as well as in Europe. Our shared entrepreneurial spirit should not be underrated in the development of this transaction or in the confidence we both have in our combined company moving forward.”

“Over the past 14 years, ETF Securities has built established market positions and a leading brand in the specialized ETP market,” said Graham Tuckwell, ETF Securities Chairman and Founder. “Our best in class commodity and currency ETP suite – including Europe’s first gold product – has a proven track record of innovation, and has allowed us to develop a highly attractive and diversified institutional, intermediary and retail client base. Our European ETP business and WisdomTree’s global business are enormously complementary and the combined business will undoubtedly be a well-diversified, highly innovative force in the industry and best positioned to serve investors’ evolving needs.”

Key Transaction Terms:

- Cash consideration is \$253 million, funded by \$200 million of newly issued debt plus \$53 million of cash on hand.
- Stock consideration consists of 15,250,000 shares of common stock and 14,750 shares of a new class of Series A non-voting preferred stock that is convertible into an aggregate of 14,750,000 shares of common stock, subject to certain restrictions. Voting rights associated with the stock consideration will be capped at 9.99% and will represent initial ownership of approximately 18% of WisdomTree’s outstanding common stock on an as-converted basis. ETF Securities will be subject to customary lockup, voting and standstill provisions on its shares.
- WisdomTree will adjust its quarterly dividend to \$0.03 per share, starting with the dividend scheduled for payment in the first quarter of 2018. This dividend level appropriately balances our new capital structure and allows for the pursuit of future growth opportunities while continuing to return capital to shareholders.

Subject to regulatory approval and other customary closing conditions, the transaction is expected to close in late Q1 of 2018.

Credit Suisse is acting as exclusive financial advisor to WisdomTree and as lead arranger on the debt financing. Goodwin Procter is serving as WisdomTree’s legal counsel.

Conference Call Details

WisdomTree will hold a conference call to discuss the acquisition of ETF Securities’ ETP business at 8am ET today, November 13, 2017. Those wishing to participate can access the call as follows:

US/CANADA Participant Toll-Free Dial-In Number: (877) 303-7209

INTERNATIONAL Participant Dial-In Number: (970) 315-0420



The corresponding presentation will be available at ir.wisdomtree.com. An audio replay will be available approximately one hour after the call. The audio replay can be accessed as follows:

US/CANADA Participant Toll-Free Dial-In Number: (855) 859-2056

INTERNATIONAL Participant Dial-In Number: (404) 537-3406

About WisdomTree

WisdomTree Investments, Inc., through its subsidiaries in the U.S., Europe, Japan and Canada (collectively, “WisdomTree”), is an exchange-traded fund (“ETF”) and exchange-traded product (“ETP”) sponsor and asset manager headquartered in New York. WisdomTree offers products covering equities, fixed income, currencies, commodities and alternative strategies. WisdomTree currently has approximately \$48.4 billion in assets under management globally. For more information, visit our Investor Relations [website](#).

WisdomTree® is the marketing name for WisdomTree Investments, Inc. and its subsidiaries worldwide.

ETF Securities – The intelligent alternative

ETF Securities is one of the world’s leading innovators of Exchange-Traded Products (ETPs) and provides specialist investment solutions across multiple asset classes to investors around the world, enabling them to intelligently build and diversify their portfolios. The company is the largest provider of commodity ETPs in Europe, having created the world’s first gold ETP in 2003. The company’s range of European commodity, currency and short & leveraged ETPs has a total AUM of US\$17.6 billion, as of November 9, 2017.

Cautionary Statement Regarding Forward-Looking Statements

This press release contains forward-looking statements that are based on our management’s beliefs and assumptions and on information currently available to our management. Although we believe that the expectations reflected in these forward-looking statements are reasonable, these statements relate to future events or our future financial performance, and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “may,” “will,” “should,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential,” “continue” or the negative of these terms or other comparable terminology. These statements are only predictions. You should not place undue reliance on forward-looking statements because they involve known and unknown risks, uncertainties and other factors, which are, in some cases, beyond our control and which could materially affect results. Factors that may cause actual results to differ materially from current expectations include, among other things, the risks described below. If one or more of these or other risks or uncertainties occur, or if our underlying assumptions prove to be incorrect, actual events or results may vary significantly from those implied or projected by the forward-looking statements. No forward-looking statement is a guarantee of future performance. You should read this press release completely and with the understanding that our actual future results may be materially different from any future results expressed or implied by these forward-looking statements.

In particular, forward-looking statements in this press release may include statements about:

- anticipated trends, conditions and investor sentiment in the global markets and ETPs;
- anticipated levels of inflows into and outflows out of our ETPs;
- our ability to deliver favorable rates of return to investors;

- our ability to develop new products and services;
- our ability to maintain current vendors or find new vendors to provide services to us at favorable costs;
- our ability to successfully expand our business into non-U.S. markets;
- competition in our business; and
- the effect of laws and regulations that apply to our business.

Our business is subject to many risks and uncertainties, including without limitation:

- Net outflows in our two largest ETFs – the WisdomTree Europe Hedged Equity Fund and the WisdomTree Japan Hedged Equity Fund – have had, and in the future could continue to have, a negative impact on our revenues.
- Declining prices of securities can adversely affect our business by reducing the market value of the assets we manage or causing customers to sell their fund shares and trigger redemptions.
- Fluctuations in the amount and mix of our AUM may negatively impact revenues and operating margins.
- We derive a substantial portion of our revenues from a limited number of products, and as a result, our operating results are particularly exposed to the performance of these products and our ability to maintain the AUM of these products, as well as investor sentiment toward investing in the funds’ strategies and market-specific and political and economic risk.
- Much of our AUM is held in our U.S. listed ETFs that invest in foreign securities and we therefore have substantial exposure to foreign market conditions and are subject to foreign currency exchange rate risks.
- Many of our ETPs have a limited track record, and poor investment performance could cause our revenues to decline.
- We depend on third parties to provide many critical services to operate our business and our ETPs. The failure of key vendors to adequately provide such services could materially affect our operating business and harm our customers.

Other factors, such as general economic conditions, including currency exchange rate fluctuations, also may have an effect on the results of our operations. For a more complete description of the risks noted above and other risks that could cause our actual results to differ from our current expectations, please see the section entitled “Risk Factors” in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2016.

The forward-looking statements in this press release represent our views as of the date of this press release. We anticipate that subsequent events and developments may cause our views to change. However, while we may elect to update these forward-looking statements at some point in the future, we have no current intention of doing so except to the extent required by applicable law. Therefore, these forward-looking statements do not represent our views as of any date other than the date of this press release.

WisdomTree Contact Information

Media Relations

WisdomTree Investments, Inc.

Jessica Zaloom

+1.917.267.3735

jzaloom@wisdomtree.com

Investor Relations

WisdomTree Investments, Inc.

Jason Weyeneth, CFA

+1.917.267.3858

jweyenth@wisdomtree.com