

AMERICAN SOFTWARE INC
Form S-8
September 08, 2017

As filed with the Securities and Exchange Commission on September 8, 2017

Registration No. 333-_____

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

American Software, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Georgia **58-1098795**
(State or Other Jurisdiction of Incorporation) **(I.R.S. Employer Identification No.)**
470 East Paces Ferry Road, N.E.

Atlanta, Georgia 30305

(Address and Zip Code of Principal Executive Offices)

AMERICAN SOFTWARE, INC. 2011 EQUITY COMPENSATION PLAN

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(Full title of the Plan)

Sam D. Chafetz, Esq.

Andrew Yonchak, Esq.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.

First Tennessee Building

165 Madison Avenue, Suite 2000

Memphis, Tennessee 38103

(901) 577-2148

(Name, Address, Including Zip Code and Telephone Number,

Including Area Code, of Agent for Service)

Copies to:

Vincent C. Klinges

American Software, Inc.

470 East Paces Ferry Road, N.E.

Atlanta, Georgia 30305

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company and emerging growth company in Rule 12b-2 of the Exchange Act. (Check one):

| | | | |
|-------------------------|-------------------|---|---------------------------|
| Large accelerated filer | Accelerated filer | Non-accelerated filer | Smaller reporting company |
| | | (Do not check if a smaller reporting company) | 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 financing accounting standards provided pursuant to Section 13(a) of the Exchange Act.

CALCULATION OF REGISTRATION FEE

| Title of | Amount | Proposed Maximum | Proposed Maximum | Amount of |
|-----------------|---------------|-------------------------|-------------------------|------------------|
|-----------------|---------------|-------------------------|-------------------------|------------------|

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| Securities to be Registered | to be Registered⁽¹⁾ | Offering Price Per Share⁽²⁾ | Aggregate Offering Price⁽³⁾ | Registration Fee |
|--|---------------------------------------|---|---|-------------------------|
| Class A Common Shares, Par Value \$.10 | \$1,000,000 ⁽⁴⁾ | \$11.02 | \$11,020,000 | \$1,277.22 |

1. Pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act), this registration statement on Form S-8 shall also cover an indeterminate number of shares of Class A Common Stock that may be offered or issued under the American Software, Inc. 2011 Equity Compensation Plan (as amended, the 2011 Plan), by reason of stock splits, stock dividends or similar transaction.
2. Based upon the average of the high (\$11.09) and low (\$10.95) prices of the Class A Common Shares reported on the Nasdaq Global Select Market on September 6, 2017, which date is within five business days prior to the filing of this registration statement on Form S-8.
3. Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and (h).
4. Represents an additional 1,000,000 shares of Class A Common Stock issuable under the 2011 Plan.

INTRODUCTION

This Registration Statement on Form S-8 is filed by American Software, Inc., a Georgia corporation (the Registrant), and relates to an additional 1,000,000 shares of Class A common stock, par value \$.10, of the Registrant issuable under the American Software, Inc. 2011 Equity Compensation Plan (as amended, the 2011 Plan).

STATEMENT PURSUANT TO GENERAL INSTRUCTION E

In accordance with General Instruction E to Form S-8, the contents of the Registration Statements filed by the Registrant with the Securities and Exchange Commission (File No. 333-1168943, 333-191664, 333-206584 and 333-213402) with respect to securities offered pursuant to the 2011 Plan are hereby incorporated by reference herein, except for Item 8 of Part II, which is revised as set forth below.

Item 8. Exhibits.

The exhibits listed in the Exhibit Index that immediately follows the signature page to this Registration Statement are incorporated by reference herein.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Atlanta, State of Georgia, on September 8, 2017.

AMERICAN SOFTWARE, INC.

By: /s/ James C. Edenfield

James C. Edenfield, Executive Chairman, Treasurer and

Director (Principal Executive Officer)

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints H. Allan Dow and Vincent C. Klinges, or either of them, his attorney-in-fact, in any and all capacities, to sign any amendments to this Registration Statement, and to file the same, with exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact, or his substitute, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

| Name | Capacity | Date |
|---------------------------|--|-------------------|
| /s/ James C. Edenfield | Executive Chairman, Treasurer and | September 8, 2017 |
| James C. Edenfield | Director (Principal Executive Officer) | |
| /s/ J. Michael Edenfield | Director | September 8, 2017 |
| J. Michael Edenfield | | |
| /s/ W. Dennis Hogue | Director | September 8, 2017 |
| W. Dennis Hogue | | |
| /s/ Matthew G. McKenna | Director | September 8, 2017 |
| Matthew G. McKenna | | |
| /s/ James B. Miller, Jr. | Director | September 8, 2017 |
| James B. Miller, Jr. | | |
| /s/ Thomas L. Newberry, V | Director | September 8, 2017 |

Thomas L. Newberry, V

/s/ Vincent C. Klinges

Chief Financial Officer (Principal Financial Officer)

September 8, 2017

Vincent C. Klinges

/s/ Bryan Sell

Controller (Principal Accounting Officer)

September 8, 2017

Bryan Sell

EXHIBIT INDEX

Exhibit

| No. | Description of Exhibits |
|------------|--|
| 4.1 | <u>American Software, Inc. 2011 Equity Compensation Plan, as amended (incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on July 27, 2017)</u> |
| 5.1* | <u>Opinion of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, regarding legality</u> |
| 23.1* | <u>Consent of KPMG LLP, independent registered public accounting firm</u> |
| 23.2* | <u>Consent of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC (included in Exhibit 5.1)</u> |
| 24.1* | <u>Power of attorney (included on signature page)</u> |

* Filed herewith