

KAR Auction Services, Inc.
Form 8-K
June 24, 2013

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): **June 24, 2013 (June 21, 2013)**

KAR Auction Services, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State of Incorporation)

001-34568
(Commission File Number)

20-8744739
(I.R.S. Employer Identification No.)

13085 Hamilton Crossing Boulevard

Carmel, Indiana 46032

(Address of principal executive offices) (Zip Code)

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(800) 923-3725

(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:

- 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))
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Item 1.01 Entry into a Material Definitive Agreement.

Automotive Finance Corporation (AFC) and AFC Funding Corporation (AFC Funding), subsidiaries of KAR Auction Services, Inc. (the Company), entered into the Fifth Amended and Restated Receivables Purchase Agreement, dated as of June 21, 2013, by and among AFC, AFC Funding, Fairway Finance Company, LLC (Fairway Finance), Saratoga Funding Corp., LLC (Saratoga Funding), Deutsche Bank AG, New York Branch (Deutsche Bank), BMO Harris Bank N.A. (BMO), Fifth Third Bank (Fifth Third), and BMO Capital Markets Corp. (as amended and restated, the Receivables Purchase Agreement), pursuant to which AFC Funding sells an undivided ownership interest in the receivables and related rights it purchases from AFC to Fairway Finance, Saratoga Funding, Deutsche Bank, BMO, and Fifth Third (collectively, the Purchasers). The Purchasers' investment in the receivables and related rights, together with a return thereon, is paid from collections of the finance receivables held by AFC Funding.

The finance receivables sold and a cash reserve serve as security for the obligations to the Purchasers. The amount of the cash reserve depends on circumstances which are set forth in the Receivables Purchase Agreement. After the occurrence of a termination event, as defined in the Receivables Purchase Agreement, the Purchasers may, and could, cause the stock of AFC Funding to be transferred to the agent under the Receivables Purchase Agreement for the benefit of the Purchasers, though as a practical matter the Purchasers would look to the liquidation of the receivables under the transaction documents as their primary remedy. Termination events, as defined in the Receivables Purchase Agreement, include, among other things, breaches of representations and warranties; failures to perform covenants and other obligations as seller or servicer; violations of financial covenants related to AFC, AFC Funding or the Company (including, among others, limits on the amount of debt AFC can incur, minimum levels of tangible net worth of AFC and AFC Funding, and certain financial covenants contained in the Company's senior secured credit agreement); defaults in payment of other indebtedness of the Company, AFC or AFC Funding; violation of certain covenants related to the performance of the receivables portfolio; the occurrence of a material adverse change in the collectibility of the receivables owned by AFC Funding or the business, operations, property or financial condition of AFC or AFC Funding; certain changes in control of AFC or AFC Funding; and certain bankruptcy events with respect to AFC, AFC Funding or the Company.

The following provides a brief description of the amendments effected by the Receivables Purchase Agreement that are material to the Company. Certain of the provisions described below are subject to an order from the Securities and Exchange Commission granting confidential treatment to certain of the information included in the Receivables Purchase Agreement.

- Deutsche Bank, Saratoga Funding, BMO and Fifth Third became parties to the Receivables Purchase Agreement as additional Purchasers; Monterey Funding LLC and Salisbury Receivables Company LLC ceased to be parties to the Receivables Purchase Agreement as purchasers; and Barclays Bank PLC ceased to be a party to the Receivables Purchase Agreement as a purchaser agent;
- The aggregate maximum commitment of the Purchasers was increased from \$650 million to \$800 million;
- The Scheduled Termination Date of the Receivables Purchase Agreement was extended from June 30, 2014 to June 30, 2016;
- The Utilization Fees payable by AFC Funding to the Purchasers were increased effective in July 2015;

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- Certain definitions in the Receivables Purchase Agreement related to eligible receivables and advance rates and concentration limitations related to asset classes and obligors were modified to provide more flexibility to AFC Funding and to permit additional receivables to be added to the receivables pool;
- Certain of the covenants and termination events in the Receivables Purchase Agreement that are tied to the performance of the finance receivables portfolio were modified, including the addition of a new event based on the rate of collections of the pool receivables that would trigger an increase in the amount of the required cash reserve and a more favorable modification of the termination event based on the same performance measure;
- New collateral types supporting eligible receivables were added to increase the types of receivables that can be included in the receivables pool; and
- A provision was added allowing each Purchaser to defer funding of its portion of any requested increase in the aggregate investment amount for up to 35 days from the date of the request.

Certain of the Purchasers and agents and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking, commercial banking and other services for the Company and its affiliates, for which they received or will receive customary fees and expenses.

The above description of the amendments effected by the Receivables Purchase Agreement is not complete and is qualified in its entirety by reference to the full text of the Receivables Purchase Agreement, a copy of which will be filed as an exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013.

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

The information set forth in Item 1 of this Current Report on Form 8-K is incorporated by reference in response to this item.

Forward-Looking Statements

Certain statements contained in this Report include forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and which are subject to certain risks, trends and uncertainties. In particular, statements made that are not historical facts may be forward-looking statements. Words such as should, may, will, anticipates, expects, intends, plans, believes, seeks, estimates, expressions identify forward-looking statements. Such statements are not guarantees of future performance and are subject to risks and uncertainties that could cause actual results to differ materially from the results projected, expressed or implied by these forward-looking statements. Factors that could cause or contribute to such differences include those matters disclosed in the Company's Securities and Exchange

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Commission filings. The Company does not undertake any obligation to update any forward-looking statements.

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.

Dated: June 24, 2013

KAR Auction Services, Inc.

/s/ Eric M. Loughmiller
Eric M. Loughmiller
Executive Vice President and Chief Financial Officer