NETFLIX INC
Form 8-K
May 03, 2017

**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): May 2, 2017**

**NETFLIX, INC.**

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **001-35727** | **77-0467272** |
|---|---|---|
| **(State or other jurisdiction of incorporation)** | **(Commission File Number)** | **(I.R.S. Employer Identification No.)** |

**100 Winchester Circle**

**Los Gatos, CA**

**95032**

**(Address of principal executive offices)**

**(Zip Code)**

**Registrant s telephone number including area code: (408) 540-3700**

**(Former name or 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))
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.**

*Indenture*

On May 2, 2017, Netflix, Inc. (the Company ) entered into an indenture (the Indenture ), between the Company and Wells Fargo Bank National Association, as trustee (the Trustee ), pursuant to which the Company issued 1,300,000,000 principal amount of its 3.625% Senior Notes due 2027 (the Notes ).

The Notes mature on May 15, 2027, and bear interest at a rate of 3.625% per annum. Interest on the Notes is payable semi-annually on May 15 and November 15 of each year, commencing on November 15, 2017.

The Company may redeem the Notes, in whole or in part, at any time prior to maturity at a price equal to 100% of the principal amount thereof plus a make-whole premium and accrued and unpaid interest, if any.

If the Company experiences specified change of control triggering events, the Company must offer to repurchase the Notes at a repurchase price equal to 101% of the principal amount of the Notes repurchased, plus accrued and unpaid interest, if any, to the applicable repurchase date.

The Indenture contains covenants that, among other things, restrict the ability of the Company and its domestic restricted subsidiaries to:

- create certain liens and enter into sale and lease-back transactions;
- create, assume, incur or guarantee certain indebtedness; and
- consolidate or merge with, or convey, transfer or lease all or substantially all of the Company and its subsidiaries assets, to another person.

These covenants are subject to a number of other limitations and exceptions set forth in the Indenture.

The Indenture provides for customary events of default, including, but not limited to, failure to pay principal and interest, failure to comply with covenants, agreements or conditions, acceleration of specified other debt of the Company and its significant subsidiaries and certain events of bankruptcy or insolvency involving the Company and its significant subsidiaries. In the case of an event of default arising from specified events of bankruptcy or insolvency, all outstanding Notes under the Indenture will become due and payable immediately without further action or notice. If any other event of default under the Indenture occurs or is continuing, the Trustee or holders of at least 25% in aggregate principal amount of the then outstanding Notes under the Indenture may declare all of such Notes to be due and payable immediately.

The description of the Notes and the Indenture contained in this Current Report on Form 8-K is qualified in its entirety by reference to the complete text of the Indenture and form of Note included in the Indenture, copies of which are filed as Exhibit 4.1 and Exhibit 4.2, respectively, and are incorporated herein by reference.

*Registration Rights Agreement*

In connection with the issuance of the Notes, the Company also entered into a registration rights agreement, dated May 2, 2017, with Morgan Stanley & Co. International plc, as representative of the several initial purchasers listed in Schedule 1 thereto, relating to the Notes (the Registration Rights Agreement ). Under the terms of the Registration Rights Agreement, if any of the Notes are not freely transferable by holders thereof (other than affiliates of the Company or holders that were affiliates of the Company within the preceding three months) pursuant to Rule 144 under the Securities Act of 1933, as amended, within 380 days after the date of original issuance of the Notes, the Company is required to use commercially reasonable efforts to file with the Securities and Exchange Commission (the SEC ) a registration statement relating to an offer to exchange such Notes for an issue of SEC-registered notes (the Exchange Notes ) with terms identical to such Notes (except that the Exchange Notes will not be subject to restrictions on transfer or to any increase in annual interest rate).

The description of the Registration Rights Agreement contained in this Current Report on Form 8-K is qualified in its entirety by reference to the complete text of the Registration Rights Agreement, a copy of which is filed as Exhibit 10.1 and incorporated herein by reference.

**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 1.01 above is incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

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|---|---|
| 4.1 | Indenture, dated as of May 2, 2017, by and between the Company and Wells Fargo Bank National Association, as Trustee. |
| 4.2 | Form of Note (included in Exhibit 4.1) |
| 10.1 | Registration Rights Agreement, dated as of May 2, 2017, by and between the Company and Morgan Stanley & Co. International plc, as representative of the Initial Purchasers listed in Schedule 1 thereto. |

**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.

NETFLIX, INC.

/s/ David Hyman
By: David Hyman
Title: General Counsel

Dated: May 3, 2017

**Index to Exhibits**

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