

Amtrust Financial Services, Inc.
Form 8-K
June 07, 2018

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 6, 2018

AmTrust Financial Services, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction

of incorporation)

001-33143
(Commission

File Number)

04-3106389
(IRS Employer

Identification No.)

59 Maiden Lane, 43rd Floor, New York, New York
(Address of principal executive offices)

10038
(Zip Code)

Registrant's telephone number, including area code (212) 220-7120

(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 240.133-4 (c))
Indicate by check mark whether the registrant is an emerging growth company 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.

Amendment to Merger Agreement

On June 6, 2018, AmTrust Financial Services, Inc. (the Company) entered into Amendment No. 1 (the Merger Agreement Amendment) to the Agreement and Plan of Merger (the Merger Agreement), dated March 1, 2018, by and among the Company, Evergreen Parent, L.P., a Delaware limited partnership (Parent) and Evergreen Merger Sub, Inc., a Delaware corporation (Merger Sub), to, among other things, increase the Merger Consideration, as defined in the Merger Agreement, from \$13.50 per share in cash, without interest and less any required withholding taxes, to \$14.75 per share in cash, without interest and less any required withholding taxes.

The Merger Agreement Amendment (i) also provides that Parent may refuse to close the merger contemplated by the Merger Agreement, or may terminate the Merger Agreement, if holders of more than five percent of the shares of common stock of the Company shall have demanded, and not withdrawn, such holders' right to appraisal in accordance with Section 262 of the DGCL and (ii) has increased the cap on reimbursement of Parent expenses to \$10 million in connection with certain terminations of the Merger Agreement.

Settlement and Support Agreement

In connection with the Merger Agreement Amendment, on June 6, 2018, the Company also entered into a Settlement and Support Agreement, dated June 6, 2018, among the Company, Parent and certain affiliates of Carl C. Icahn (the Icahn Group) pursuant to which the Icahn Group has agreed to support the transaction and waive appraisal rights and other claims with respect to the transaction.

The foregoing summaries of the Merger Agreement Amendment and the Support and Settlement Agreement are qualified in their entirety by the full text of such agreements, copies of which are filed as exhibits to this Current Report on Form 8-K and are incorporated herein by reference.

Item 8.01 Other Events.

On June 7, 2018, the Company issued a press release announcing the Merger Agreement Amendment. A copy of the press release is attached hereto as Exhibit 99.1.

Item 9.01 Exhibits.

(d) Exhibits.

| Exhibit No. | Description |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1 | <u>Amendment No. 1 to Agreement and Plan of Merger, dated June 6, 2018, among AmTrust Financial Services, Inc., Evergreen Parent, L.P. and Evergreen Merger Sub, Inc.</u> |
| 10.1 | <u>Settlement and Support Agreement, dated June 6, 2018, among AmTrust Financial Services, Inc., Evergreen Parent, L.P. and the other parties thereto.</u> |
| 99.1 | <u>Press release, dated June 7, 2018, issued by AmTrust Financial Services, Inc.</u> |

Forward Looking Statements

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This report contains certain forward-looking statements that are intended to be covered by the safe harbors created by the Private Securities Litigation Reform Act of 1995. When we use words such as anticipate, intend, plan, believe, estimate, expect, or similar expressions, we do so to identify forward-looking statements. Examples of forward-looking statements include the plans and objectives of management for future operations, including those relating to future growth of our business activities and availability of funds, and estimates of the impact of material weaknesses in our internal control over financial reporting, and are based on current expectations that involve

assumptions that are difficult or impossible to predict accurately and many of which are beyond our control. Actual results may differ materially from those expressed or implied in these statements as a result of significant risks and uncertainties, including, but not limited to, the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement, including as a result of any downgrade in the A.M. Best Financial Strength Rating of the Company's insurance subsidiaries below A, which risk may be heightened due to the fact that such ratings are currently under review with negative implications and that the Company has previously disclosed material weaknesses in its internal controls over financial reporting, the inability to obtain the requisite stockholder approval for the proposed merger or the failure to satisfy other conditions to completion of the proposed merger, risks that the proposed transaction disrupts current plans and operations, the ability to recognize the benefits of the merger, the amount of the costs, fees, expenses and charges related to the merger, non-receipt of expected payments from insureds or reinsurers, changes in interest rates, changes in tax laws, the effect of the performance of financial markets on our investment portfolio, the amounts, timing and prices of any share repurchases made by us under our share repurchase program, development of claims and the effect on loss reserves, accuracy in projecting loss reserves, the cost and availability of reinsurance coverage, the effects of emerging claim and coverage issues, changes in the demand for our products, our degree of success in integrating acquired businesses, the effect of general economic conditions, state and federal legislation, regulations and regulatory investigations into industry practices, our ability to timely and effectively remediate the material weakness in our internal control over financial reporting and implement effective internal control over financial reporting and disclosure controls and procedures in the future, access to public markets to raise debt or equity capital, risks associated with conducting business outside the United States, the impact of Brexit, developments relating to existing agreements, disruptions to our business relationships with Maiden Holdings, Ltd. or National General Holdings Corp., breaches in data security or other disruptions with our technology, any inability to keep pace with technological advances, heightened competition, changes in pricing environments, changes in asset valuations and the results of legal proceedings, including litigation relating to the merger. Additional information about these risks and uncertainties, as well as others that may cause actual results to differ materially from those projected, is contained in our filings with the SEC, including our Annual Report on Form 10-K and our quarterly reports on Form 10-Q. The projections and statements in this news release speak only as of the date of this report and we undertake no obligation to update or revise any forward-looking statement, whether as a result of new information, future developments or otherwise, except as may be required by law.

Additional Information and Where to Find It

In connection with the proposed transaction, the Company has filed with the Securities and Exchange Commission (the SEC) a proxy statement on Schedule 14A and may file other documents with the SEC regarding the proposed transaction. This report is not a substitute for the proxy statement or any other document that the Company may file with the SEC. INVESTORS IN AND SECURITY HOLDERS OF THE COMPANY ARE URGED TO READ THE PROXY STATEMENT AND ANY OTHER RELEVANT DOCUMENTS THAT ARE FILED OR WILL BE FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors and security holders may obtain free copies of the proxy statement and other documents filed with the SEC by the Company through the web site maintained by the SEC at www.sec.gov or by contacting the investor relations department of the Company or MacKenzie Partners, Inc., the Company's proxy solicitor.

Participants in the Solicitation

The Company and its directors and executive officers may be deemed to be participants in the solicitation of proxies in connection with the proposed transaction. Information regarding the Company's directors and executive officers, including a description of their direct interests, by security holdings or otherwise, is contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2017 as amended on Form 10-K/A filed with the SEC on April 23, 2018. A more complete description is available in the proxy statement on Schedule 14A filed with the

SEC on May 4, 2018. You may obtain free copies of these documents as described in the preceding paragraph.

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.

Date June 7, 2018

AmTrust Financial Services, Inc.
(Registrant)

/s/ Adam Karkowsky
Adam Karkowsky
EVP, Chief Financial Officer