

FRIEDMAN BILLINGS RAMSEY GROUP INC
Form 8-K
June 05, 2009

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 5, 2009

FRIEDMAN, BILLINGS, RAMSEY GROUP, INC.

(Exact name of Registrant as specified in its charter)

Virginia
(State or Other Jurisdiction of
Incorporation or Organization)

54-1873198
(I.R.S. Employer Identification No.)

1001 Nineteenth Street North

000-50230
(Commission File Number)

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Arlington, VA 22209

(Address of principal executive offices) (Zip code)

(703) 312-9500

(Registrant's telephone number including area code)

Not applicable

(Former name or former address, if changed from 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))

Item 1.01 Entry into a Material Definitive Agreement.

On June 1, 2009, the Board of Directors (the Board) of Friedman, Billings, Ramsey Group, Inc. d/b/a Arlington Asset Investment Corp., a Virginia corporation (the Company), adopted a rights agreement and declared a dividend of one preferred share purchase right (Right) for each outstanding share of the Company's Class A common stock, par value \$0.01 per share (Class A common stock), and Class B common stock, par value \$0.01 per share (Class B common stock). The dividend is payable to shareholders of record as of the close of business on June 5, 2009. The description and terms of the Rights are set forth in a Rights Agreement (the Rights Plan) dated June 5, 2009, by and between the Company and American Stock Transfer & Trust Company LLC, as Rights Agent. No shareholder approval is required for adoption of the Rights Agreement, however, the Company plans to submit the Rights Agreement to its shareholders for approval within the next 12 months.

The Board adopted the Rights Plan in an effort to protect against a possible limitation on the Company's ability to use its net operating loss carryforwards (NOLs), net capital loss carryforwards (NCLs) and built-in losses under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, which may be used to reduce potential future federal income tax obligations. The Company's ability to use its NOLs, NCLs and built-in losses would be limited if there was an ownership change under Section 382 of the Internal Revenue Code. This would occur if shareholders owning (or deemed under Section 382 to own) 5% or more of the Company's stock increase their collective ownership of the aggregate amount of outstanding shares of the Company by more than 50 percentage points over a defined period of time. The Rights Plan was adopted to reduce the likelihood of an ownership change occurring as defined by Section 382.

The Rights Plan is intended to act as a deterrent to any person or group acquiring 4.9% or more of the Company's outstanding Class A common stock (an Acquiring Person) without the approval of the Board. Shareholders who own 4.9% or more of the Company's outstanding Class A common stock as of the close of business on June 5, 2009 will not trigger the Rights Plan so long as they do not (i) acquire any additional shares of Class A common stock or (ii) fall under 4.9% ownership of Class A common stock and then re-acquire additional shares so that they own 4.9% or more of the Class A common stock. The Rights Plan does not exempt any future acquisitions of Class A common stock by such persons. Any Rights held by an Acquiring Person are void and may not be exercised. No Person shall be an Acquiring Person unless the Board shall have affirmatively determined, in its sole and absolute discretion, within ten (10) business days (or such later time as the Board may determine) after such person has otherwise met the requirements of becoming an Acquiring Person, that such person shall be an Acquiring Person.

The Rights. The Board authorized the issuance of one Right per each outstanding share of the Company's Class A common stock and Class B common stock payable to shareholders of record as of the close of business on June 5, 2009. Subject to the terms, provisions and conditions of the Rights Plan, if the Rights become exercisable, each Right would initially represent the right to purchase from the Company one ten-thousandth of a share of Series A Junior Preferred Stock for a purchase price of \$3.00, subject to adjustment in accordance with the terms of the Rights Plan (the Purchase Price). If issued, each fractional share of preferred stock would give the shareholder approximately the same dividend, voting and liquidation rights as does one share of the Company's Class A common stock. However, prior to exercise, a Right does not give its holder any rights as a shareholder of the Company, including without limitation any dividend, voting or liquidation rights.

Exercisability. The Rights will generally not be exercisable until the earlier of (i) 10 business days after a public announcement by the Company that a person or group has become an Acquiring Person and (ii) 10 business days after the commencement of a tender or exchange offer by a person or group for 4.9% or more of the Class A common stock.

The date that the Rights may first become exercisable is referred to as the Distribution Date. Until the Distribution Date, the Class A common stock and Class B common stock certificates will evidence the Rights and will contain a notation to that effect. Any transfer of shares of Class A common stock and/or Class B common stock prior to the Distribution Date will constitute a transfer of the associated Rights. After the Distribution Date, the Rights may be transferred other than in connection with the transfer of the underlying shares of Class A common stock or Class B common stock.

After the Distribution Date and following a determination by the Board that a person is an Acquiring Person, each holder of a Right, other than Rights beneficially owned by the Acquiring Person (which will thereupon become void), will thereafter have the right to receive upon exercise of a Right and payment of the Purchase Price, that number of shares of Class A common stock or Class B common stock, as the case may be, having a market value of two times the Purchase Price.

Exchange. After the Distribution Date and following a determination by the Board that a person is an Acquiring Person, the Board may exchange the Rights (other than Rights owned by such person or group which will have become void), in whole or in part, at an exchange ratio of one share of Class A common stock or Class B common stock, as the case may be, or a fractional share of Series A Preferred Stock (or of a share of a similar class or series of the Company's preferred stock having similar Rights, preferences and privileges) of equivalent value, per Right (subject to adjustment).

Expiration. The Rights and the Rights Plan will expire on the earliest of (i) June 4, 2019, (ii) the time at which the Rights are redeemed pursuant to the Rights Plan, (iii) the time at which the Rights are exchanged pursuant to the Rights Plan, (iv) the repeal of Sections 382 and 383 of the Code or any successor statute if the Board determines that the Rights Plan is no longer necessary for the preservation of the applicable tax benefits, (v) the beginning of a taxable year of the Company to which the Board determines that no applicable tax benefits may be carried forward and (vi) the close of business on June 4, 2010 if approval of the Rights Plan by the Company's shareholders has not been obtained.

Redemption. At any time prior to the time an Acquiring Person becomes such, the Board may redeem the Rights in whole, but not in part, at a price of \$0.01 per Right (the Redemption Price). The redemption of the Rights may be made effective at such time, on such basis and with such conditions as the Board in its sole discretion may establish. Immediately upon any redemption of the Rights, the right to exercise the Rights will terminate and the only right of the holders of Rights will be to receive the Redemption Price.

Anti-Dilution Provisions. The Board may adjust the Purchase Price of the preferred shares, the number of preferred shares issuable and the number of outstanding Rights to prevent dilution that may occur as a result of certain events, including among others, a stock dividend, a forward or reverse stock split or a reclassification of the preferred shares or Class A common stock or Class B common stock. No adjustments to the Purchase Price of less than 1% will be made.

Anti-Takeover Effects. While this was not the intent of the Board when adopting the Rights Plan, the Rights will have certain anti-takeover effects. The Rights will cause substantial dilution to any person or group that attempts to acquire the Company without the approval of the Board. As a result, the overall effect of the Rights may be to render more difficult or discourage any attempt to acquire the Company even if such acquisition may be favorable to the interests of the Company's shareholders. Because the Board can redeem the Rights, the Rights should not interfere with a merger or other business combination approved by the Board.

Amendments. Before the Distribution Date, the Board may amend or supplement the Rights Plan without the consent of the holders of the Rights. After the Distribution Date, the Board may amend or supplement the Rights Plan only to cure an ambiguity, to alter time period provisions, to correct inconsistent provisions, or to make any additional changes to the Rights Plan, but only to the extent that those changes do not impair or adversely affect, in any material respect, any Rights holder and do not result in the Rights again becoming redeemable, and no such amendment may cause the Rights again to become redeemable or cause this Rights Plan again to become amendable other than in accordance with the applicable timing of the Rights Plan.

This summary description of the Rights does not purport to be complete and is qualified in its entirety by reference to the Rights Agreement and the exhibits thereto, filed as Exhibit 4.1 to hereto and incorporated herein by reference.

Item 2.02 Results of Operations and Financial Condition.

The information appearing below in Item 7.01 of this Current Report on Form 8-K is incorporated herein by reference.

The information in Item 2.02 of this Current Report on Form 8-K, including Exhibit 99.1 furnished pursuant to Item 9.01, shall not be deemed filed for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities under that Section. Furthermore, the information in Item 2.02 of this Current Report on Form 8-K, including Exhibit 99.1 furnished pursuant to Item 9.01, shall not be deemed to be incorporated by reference into the filings of the Company under the Securities Act of 1933, as amended.

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth under Item 1.01 Entry into Material Definitive Agreement is incorporated herein by reference. The Rights Agreement, specifying the terms of the Rights, is attached hereto as Exhibit 4.1 and is incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the adoption of the Rights Agreement referenced in Item 1.01 above, the Board approved Articles of Amendment to the Company's Amended and Restated Articles of Incorporation creating a new series of Preferred Stock designated as Series A Junior Preferred Stock. The Articles of Amendment were filed with the State Corporation Commission of the Commonwealth of Virginia and became effective at 12:01 a.m. on June 5, 2009. The Articles of Amendment are attached hereto as Exhibit 3.1 and are incorporated herein by reference. The information set forth above under Item 1.01 is incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On June 5, 2009, the Company issued a press release announcing the adoption of the Rights Plan and other corporate changes, which is attached hereto as Exhibit 99.1 and incorporated herein by reference.

The information in Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1 furnished pursuant to Item 9.01, shall not be deemed filed for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities under that Section. Furthermore, the information in Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1 furnished pursuant to Item 9.01, shall not be deemed to be incorporated by reference into the filings of the Company under the Securities Act of 1933, as amended.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 3.1 Articles of Amendment, dated June 5, 2009, to the Company's Amended and Restated Articles of Incorporation creating a new series of Preferred Stock designated as Series A Junior Preferred Stock.
- 4.1 Rights Agreement, dated as of June 5, 2009, between the Company and American Stock Transfer & Trust Company LLC (which includes the form of Articles of Amendment as Exhibit A, the form of Rights Certificate as Exhibit B and the form of Summary of Rights to Purchase Preferred Stock as Exhibit C).
- 99.1 Press Release issued by the Company on June 5, 2009.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this Report to be signed on its behalf by the undersigned hereunto duly authorized.

FRIEDMAN, BILLINGS, RAMSEY GROUP, INC.

Date: June 5, 2009

By: /s/ Kurt R. Harrington
Name: Kurt R. Harrington
Title: Executive Vice President, Chief Financial Officer and Chief
Accounting Officer

EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|--|
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