

**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 1, 2023

BurgerFi International, Inc.

(Exact name of registrant as specified in its charter)

001-38417
(Commission
File Number)

Delaware
(State or Other Jurisdiction
of Incorporation)

82-2418815
(I.R.S. Employer
Identification No.)

200 West Cypress Creek Rd., Suite 220
Fort Lauderdale, FL
(Address of Principal Executive Offices)

33309
(Zip Code)

(954) 618-2000
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(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:

- 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))

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---|----------------------|--|
| Common stock, par value \$0.0001 per share | BFI | The Nasdaq Stock Market LLC |
| Redeemable warrants, each exercisable for one share of common stock at an exercise price of \$11.50 per share | BFIIW | The Nasdaq Stock Market LLC |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

On June 1, 2023, BurgerFi International, Inc. (the “Company”) entered into a Stock Purchase Agreement (the “Stock Purchase Agreement”) directly with CG2 Capital LLC (the “Investor”), a Georgia limited liability company, who agreed to purchase 2,868,853 shares of common stock, par value \$0.0001 per share, of the Company (the “Shares”), at a price of \$1.22 per share, in a registered direct offering. The Shares were offered pursuant to an effective shelf registration statement on Form S-3, as amended (Registration No. 333-268585), and a related prospectus supplement and accompanying base prospectus filed with the Securities and Exchange Commission. On June 1, 2023, the Company closed the transactions contemplated by the Stock Purchase Agreement. The Company received gross proceeds of \$3,500,000 before deducting estimated offering expenses. The Company plans to use the net proceeds from the offering for general corporate purposes.

The Stock Purchase Agreement provides that the Investor shall not transfer any shares of Company common stock beneficially owned or owned of record by the Investor pursuant to a registration statement filed in accordance with the Stock Purchase Agreement or in any other manner until the date that is twelve (12) months from the closing of the Investor’s acquisition of Company common stock pursuant to the Stock Purchase Agreement, subject to all requirements under the Securities Act of 1933, as amended, and the rules and regulations thereunder.

The Stock Purchase Agreement also provides that, subject to certain limitations, for so long as the Investor holds 10% or more of the Company’s issued and outstanding common stock, the Company is obligated to use commercially reasonable efforts to cause the Company’s Chairman of the Board to invite one non-voting observer designated by the Investor to the meetings of the Company’s Board of Directors.

The Stock Purchase Agreement also contains customary representations, warranties and covenants.

The foregoing does not purport to be a complete statement of the terms and conditions of the Stock Purchase Agreement and is qualified in its entirety by reference to the full text of the Stock Purchase Agreement, which will be included as an exhibit to the Company’s next Quarterly Report on Form 10-Q.

A copy of the legal opinion of the Company’s counsel, regarding the validity of the Shares offered and sold pursuant to the Stock Purchase Agreement and prospectus supplement, is filed herewith as Exhibit 5.1 and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit No. | Description |
|-------------|--|
| 5.1 | Opinion of Holland & Knight LLP. |
| 23.1 | Consent of Holland & Knight LLP (included in Exhibit 5.1). |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document). |

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.

Dated: June 2, 2023

BURGERFI INTERNATIONAL, INC.

By: /s/ Stefan K. Schnopp
Stefan K. Schnopp, Chief Legal Officer & Corporate
Secretary

Holland & Knight

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Holland & Knight LLP | www.hklaw.com

June 1, 2023
BurgerFi International, Inc.
200 West Cypress Creek Rd., Suite 220
Fort Lauderdale, FL 33309

Re: BurgerFi International, Inc. Registration Statement on Form S-3 (Registration No. 333-268585)

Ladies and Gentlemen:

We have acted as counsel to BurgerFi International, Inc., a Delaware corporation (the “Company”), in connection with the registration and issuance by the Company of 2,868,853 shares of the Company’s common stock, par value \$0.0001 (the “Shares”), in a registered direct offering pursuant to a Registration Statement on Form S-3, as amended (File No. 333-268585) (the “Registration Statement”), filed with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”), the related prospectus dated December 8, 2022 (the “Base Prospectus”) and the prospectus supplement dated June 1, 2023, filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations (the “Prospectus Supplement”). The Base Prospectus and the Prospectus Supplement are collectively referred to as the “Prospectus.” The Shares are to be sold by the Company as described in the Registration Statement and the Prospectus, pursuant to the Stock Purchase Agreement, dated June 1, 2023 (the “Stock Purchase Agreement”), between the Company and the institutional investor named in the Stock Purchase Agreement.

We have acted as your counsel in connection with the preparation of the Prospectus Supplement. We are familiar with the proceedings taken by the Board of Directors of the Company in connection with the authorization, issuance and sale of the Shares. We have examined all such documents as we have considered necessary in order to enable us to render this opinion, including, but not limited to, (i) the Registration Statement, (ii) the Base Prospectus, (iii) the Prospectus Supplement, (iv) the Stock Purchase Agreement, (v) the Company’s Amended and Restated Certificate of Incorporation, as amended, (vi) the Company’s Second Amended and Restated Bylaws, as amended, (vii) certain resolutions adopted by the Board of Directors of the Company (the “Directors’ Resolutions”), (viii) corporate records and instruments, and (iv) such laws and regulations as we have deemed necessary for the purposes of rendering the opinions set forth herein. In our examination, we have assumed the legal capacity of all natural persons, the authenticity of and conformity to originals of such documents that have been presented to us as photostatic copies, the accuracy, completeness and authenticity of certificates of public officials, the due execution and delivery of all documents (except that no such assumption is made as to the Company) where due execution and delivery are a prerequisite to the effectiveness thereof, and that the Shares will be issued against payment of valid consideration under applicable law. As to any facts material to the opinions expressed herein, which were not independently established or verified, we have relied upon statements and representations of officers of the Company.

Based upon the foregoing, we are of the opinion that the Shares have been duly authorized and, when issued and delivered by the Company against payment therefor in accordance with the Stock Purchase Agreement and the Directors' Resolutions, will be validly issued, fully paid and non-assessable.

The opinion herein is limited to the corporate laws of the State of Delaware, and we do not express any opinion herein concerning any other law. We express no opinion as to the applicability or effect of any federal or state securities laws, including the securities laws of the State of Delaware. To the extent that any matter as to which our opinion expressed herein would be governed by the laws of any jurisdiction other than the State of Delaware, we do not express any opinion on such matter.

We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that may change the opinion expressed herein after the date hereof.

We consent to the reference to our firm under the caption "Legal Matters" in the Prospectus Supplement included in the Registration Statement and to the filing of this opinion as an exhibit to a current report of the Company on Form 8-K which is incorporated by reference in the Registration Statement and the Prospectus. In giving such consent, we do not thereby admit that we are included within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations promulgated thereunder.

Very truly yours,

/s/ Holland & Knight LLP

HOLLAND & KNIGHT LLP