
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

ACV Auctions Inc.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

47-2415221
(I.R.S. Employer
Identification Number)

**640 Ellicott Street, #321
Buffalo, New York 14203
(800) 553-4070**
(Address of principal executive offices) (Zip code)

**ACV Auctions Inc. 2021 Equity Incentive Plan
ACV Auctions Inc. 2021 Employee Stock Purchase Plan**
(Full titles of the plans)

**George Chamoun
Chief Executive Officer
ACV Auctions Inc.
640 Ellicott Street, #321
Buffalo, New York 14203
(800) 553-4070**
(Name, address and telephone number, including area code, of agent for service)

Copies to:

**Nicole Brookshire
Alan Hamblen
Trey Reilly
Cooley LLP
55 Hudson Yards
New York, New York 10001
(212) 479-6000**

**William Zerella
Chief Financial Officer
ACV Auctions Inc.
640 Ellicott Street, #321
Buffalo, New York 14203
(800) 553-4070**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 pursuant to Section 7(a)(2)(B) of the Securities Act.

**REGISTRATION OF ADDITIONAL SHARES
PURSUANT TO GENERAL INSTRUCTION E**

Pursuant to General Instruction E of Form S-8, ACV Auctions Inc. (the “**Registrant**”) is filing this Registration Statement with the Securities and Exchange Commission (the “**Commission**”) to register (i) 7,804,098 additional shares of its Class A common stock under the 2021 Equity Incentive Plan (the “**2021 Plan**”), pursuant to the provisions of the 2021 Plan providing for an automatic increase in the number of shares Class A common stock reserved and available for issuance under the 2021 Plan on January 1, 2022, and (ii) 1,560,819 additional shares of its Class A common stock under the 2021 Employee Stock Purchase Plan (the “**2021 ESPP**”), pursuant to the provisions of the 2021 ESPP providing for an automatic increase in the number of shares of Class A common stock reserved and available for issuance under the 2021 ESPP on January 1, 2022. In accordance with the instructional note to Part I of Form S-8 as promulgated by the Commission, the information specified by Part I of the Form S-8 has been omitted from this Registration Statement.

PART II

ITEM 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents filed by the Registrant with the Commission are incorporated by reference into this Registration Statement:

- (a) The contents of the Registrant’s Registration Statement on Form S-8 (File No. [333-255309](#)), filed with the Commission on April 16, 2021.
- (b) The Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2021, filed with the Commission on February 23, 2022.
- (c) The description of the Registrant’s Class A common stock which is contained in a registration statement on [Form 8-A](#) filed on March 19, 2021 (File No. 001-40256) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), including any amendment or report filed for the purpose of updating such description.
- (d) All other reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 8. EXHIBITS

<u>Exhibit Number</u>	<u>Description</u>	<u>Incorporated by Reference</u>			<u>Filing Date</u>
		<u>Schedule Form</u>	<u>File Number</u>	<u>Exhibit</u>	
4.1	<u>Amended and Restated Certificate of Incorporation of the Registrant, as currently in effect.</u>	8-K	001-40256	3.1	March 26, 2021
4.2	<u>Amended and Restated Bylaws of the Registrant, as currently in effect.</u>	8-K	001-40256	3.2	March 26, 2021
4.3	<u>Form of Class A Common Stock Certificate of the Registrant.</u>	S-1/A	333-253617	4.1	March 15, 2021
5.1*	<u>Opinion of Cooley LLP.</u>				
23.1*	<u>Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.</u>				
23.2*	<u>Consent of Cooley LLP (included in Exhibit 5.1).</u>				
24.1*	<u>Power of Attorney (included on the signature page of this Form S-8).</u>				
99.1	<u>ACV Auctions Inc. 2021 Equity Incentive Plan, and forms of agreements thereunder.</u>	S-1/A	333-253617	10.3	March 15, 2021
99.2	<u>ACV Auctions Inc. 2021 Equity Incentive Plan.</u>	S-1/A	333-253617	10.4	March 15, 2021
107*	<u>Filing fee table.</u>				

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Buffalo, State of New York, on this 23rd day of February, 2022.

ACV AUCTIONS INC.

By: /s/ George Chamoun
Name: George Chamoun
Title: Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and George Chamoun and William Zerella, each of them, as his or her true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him or her and in their name, place or stead, in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ George Chamoun</u> George Chamoun	Chief Executive Officer and Director (Principal Executive Officer)	February 23, 2022
<u>/s/ William Zerella</u> William Zerella	Chief Financial Officer (Principal Financial and Accounting Officer)	February 23, 2022
<u>/s/ Kirsten Castillo</u> Kirsten Castillo	Director	February 23, 2022
<u>/s/ Robert P. Goodman</u> Robert P. Goodman	Director	February 23, 2022
<u>/s/ Brian Hirsch</u> Brian Hirsch	Director	February 23, 2022
<u>/s/ René F. Jones</u> René F. Jones	Director	February 23, 2022
<u>/s/ Eileen A. Kamerick</u> Eileen A. Kamerick	Director	February 23, 2022
<u>/s/ Brian Radecki</u> Brian Radecki	Director	February 23, 2022



Nicole C. Brookshire
+1 617 937 2357
nbrookshire@cooley.com

February 23, 2022

ACV Auctions Inc.
640 Ellicott Street, #321
Buffalo, New York 14203

Re: Registration on Form S-8

Ladies and Gentlemen:

We have acted as counsel to ACV Auctions Inc., a Delaware corporation (the "**Company**"), in connection with the filing of a Registration Statement on Form S-8 (the "**Registration Statement**") with the U.S. Securities and Exchange Commission, covering the offering of up to 9,364,917 shares (the "**Shares**") of the Company's Class A common stock, par value \$0.001 per share ("**Common Stock**") consisting of (a) 7,804,098 shares of Common Stock issuable pursuant to the Company's 2021 Equity Incentive Plan (the "**2021 EIP**") and (b) 1,560,819 shares of Common Stock issuable pursuant to the Company's 2021 Employee Stock Purchase Plan (together with the 2021 EIP, the "**Plans**").

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectuses, (b) the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each as currently in effect, (c) the Plans and (d) originals or copies certified to our satisfaction of such other records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof, the accuracy, completeness and authenticity of certificates of public officials and the due authorization, execution and delivery of all documents by all persons other than the Company where due execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plans, the Registration Statement and the related prospectuses, will be validly issued, fully paid, and nonassessable (except as to Shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).



ACV Auctions Inc.
February 23, 2022
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We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,

COOLEY LLP

By: /s/ Nicole C. Brookshire
Nicole C. Brookshire

Cooley LLP 500 Boylston Street Boston, MA 02116-3736
t: (617) 937-2300 f: (617) 937-2400 cooley.com

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (FormS-8) pertaining to the 2021 Equity Incentive Plan and 2021 Employee Stock Purchase Plan of ACV Auctions Inc. of our report dated February 23, 2022, with respect to the consolidated financial statements of ACV Auctions Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2021, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

New York, NY
February 23, 2022

Calculation of Filing Fee Tables

Form S-8

ACV Auctions Inc.

Table 1 – Newly Registered Securities								
	Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(1)	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Fees to be Paid	Equity	Class A Common Stock, par value \$0.001 per share, 2021 Equity Incentive Plan	Other ⁽²⁾	7,804,098 ⁽⁴⁾	\$11.045	\$86,196,262	.0000927	\$7,991
Fees to be Paid	Equity	Class A Common Stock, par value \$0.001 per share, 2021 Employee Stock Purchase Plan	Other ⁽³⁾	1,560,819 ⁽⁵⁾	\$9.39	\$14,656,090	.0000927	\$1,359
	Total Offering Amounts				—	\$100,852,353	—	\$9,350
	Total Fees Previously Paid				—	—	—	—
	Total Fee Offsets				—	—	—	—
	Net Fee Due				—	—	—	\$9,350

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “*Securities Act*”), this Registration Statement shall also cover any additional shares of the Registrant’s Class A common stock that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of the Registrant’s Class A common stock.
- (2) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Registrant’s Class A common stock as reported on the Nasdaq Global Select Market on February 16, 2022.
- (3) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Registrant’s Class A common stock as reported on the Nasdaq Global Select Market on February 16, 2022, multiplied by 85.0%, which is the percentage of the price per share applicable to purchases under the Registrant’s 2021 Employee Stock Purchase Plan (the “*2021 ESPP*”).
- (4) Represents an automatic annual increase equal to 5.0% of the total number of shares of the Registrant’s Class A common stock and Class B common stock outstanding on December 31 of the preceding year, which annual increase is provided by the Registrant’s 2021 Equity Incentive Plan.
- (5) Represents an automatic increase equal to 1.0% of the total number of shares of the Registrant’s Class A common stock and Class B common stock outstanding on December 31 of the preceding year, which annual increase is provided by the 2021 ESPP.