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

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

DAVE INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

86-1481509
(I.R.S. Employer
Identification No.)

Dave Inc.
1265 South Cochran Avenue
Los Angeles, CA 90019
(Address of Principal Executive Offices) (Zip Code)

Dave Inc. 2021 Equity Incentive Plan
(Full title of the plan)

Jason Wilk
Chief Executive Officer
Dave Inc.

1265 South Cochran Avenue
Los Angeles, CA 90019
(844) 857-3283

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Please send copies of all communications to:

Albert Vanderlaan, Esq.
Orrick, Herrington & Sutcliffe LLP
222 Berkeley St., Suite 2000
Boston, MA 02116
(617) 880-2210

John Ricci
General Counsel
1265 South Cochran Avenue
Los Angeles, CA 90019
(844) 857-3283

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 provided 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, Dave Inc. (the “Registrant”) is filing this Registration Statement with the Securities and Exchange Commission (the “Commission”) to register 44,940,630 additional shares of common stock under the Dave Inc. 2021 Equity Incentive Plan (the “Plan”) pursuant to an amendment and restatement of the Plan approved by the stockholders of the Registrant in a Special Meeting held December 13, 2022. The Registrant previously registered shares of its common stock for issuance under the 2021 Plan on March 16, 2022 ([Registration No. 333-263589](#)). This Registration Statement hereby incorporates by reference the contents of the Registrant’s registration statement referenced above.

Item 8. Exhibits.

The following exhibits are filed herewith:

| Exhibit Number | Exhibit Description | Incorporated by Reference | | | Filed Herewith |
|-------------------|--|---------------------------|-----------|---------------------------|-------------------|
| | | Form | File No. | Exhibit Filing Date | |
| 5.1 | Opinion of Orrick, Herrington & Sutcliffe LLP. | | | | X |
| 23.1 | Consent of Orrick, Herrington & Sutcliffe LLP (included in Exhibit 5.1). | | | | X |
| 23.2 | Consent of Moss Adams LLP | | | | X |
| 24.1 | Power of Attorney (included on the signature page of this Registration Statement). | | | | X |
| 99.1 | Dave Inc. 2021 Equity Incentive Plan, as amended and restated, and related forms of award agreements | 8-K | 001-40161 | 10.1 12/13/22 | |
| 107 | Filing Fee Table | | | | X |

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 Los Angeles, State of California, on December 13, 2022.

DAVE INC.

/s/ Jason Wilk

Jason Wilk
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Jason Wilk, Kyle Beilman and John Ricci, and each of them, as his or her true and lawful attorney-in-fact and agent with the full power of substitution, for him or her, in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments to this Registration Statement on Form S-8), and to file the same, with all exhibits thereto and other documents in connection therewith, with the 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 for 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 his or her substitutes, may lawfully do or cause to be done by virtue hereof.

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

| Name | Title | Date |
|---|--|-------------------|
| <u>/s/ Jason Wilk</u> Jason Wilk | Chief Executive Officer, Director and Chairperson (Principal Executive Officer) | December 13, 2022 |
| <u>/s/ Kyle Beilman</u> Kyle Beilman | Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer) | December 13, 2022 |
| <u>/s/ Teresa Aragones</u> Teresa Aragones | Director | December 13, 2022 |
| <u>/s/ Brendan Carroll</u> Brendan Carroll | Director | December 13, 2022 |
| <u>/s/ Andrea Mitchell</u> Andrea Mitchell | Director | December 13, 2022 |
| <u>/s/ Michael Pope</u> Michael Pope | Director | December 13, 2022 |
| <u>/s/ Dan Preston</u> Dan Preston | Director | December 13, 2022 |

December 13, 2022



Dave Inc.
1265 South Cochran Avenue
Los Angeles, CA 90019

Orrick, Herrington & Sutcliffe LLP
222 Berkeley St., Suite 2000
Boston, MA 02116
+1-617-880-2219
orrick.com

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel for Dave Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission (the "Commission") of the Company's registration statement on Form S-8 (the "Registration Statement"), under the Securities Act of 1933, as amended (the "Securities Act"), relating to the registration of 44,940,630 shares of the Company's Class A common stock, par value \$0.0001 per share (the "Shares") reserved for issuance under the Dave Inc. 2021 Amended and Restated Equity Incentive Plan (the "2021 Plan"). As your legal counsel, we have reviewed the actions proposed to be taken by you in connection with the issuance and sale of the Shares to be issued under the 2021 Plan.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Company's Second Amended and Restated Certificate of Incorporation, (ii) the Company's Amended and Restated Bylaws, (iii) the 2021 Plan, and (iv) such corporate records, agreements, documents and other instruments, and such certificates or comparable documents of public officials and of officers and representatives of the Company, and have made such inquiries of such officers and representatives, as we have deemed relevant and necessary or appropriate as a basis for the opinion set forth below.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making our examination of documents executed or to be executed, we have assumed that the parties thereto, other than the Company, had or will have the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts material to the opinions expressed herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials.

Based on the foregoing and subject to the limitations, qualifications and assumptions set forth herein, we are of the opinion that the Shares to be issued pursuant to the terms of the 2021 Plan have been duly authorized and, when issued, delivered and paid for in accordance with the terms of the 2021 Plan, will be validly issued, fully paid and non-assessable.

The opinion expressed herein is limited to the corporate laws of the State of Delaware and the federal laws of the United States of America, and we express no opinion as to the effect on the matters covered by this letter of the laws of any other jurisdictions.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not hereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ ORRICK, HERRINGTON & SUTCLIFFE LLP

ORRICK, HERRINGTON & SUTCLIFFE LLP

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 25, 2022 (except for the effects of the restatement described in Note 2 and the reverse recapitalization described in Note 20, as to which the date is August 22, 2022), relating to the consolidated financial statements of Dave, Inc. and Subsidiary as of December 31, 2021 and 2020, and for the years then ended, (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the restatement of the 2021 and 2020 consolidated financial statements), appearing in the Current Report on Form 8-K/A filed with the Securities and Exchange on August 22, 2022.

/s/ Moss Adams LLP

Los Angeles, California
December 13, 2022

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Dave Inc.
(Exact Name of Registrant as Specified in its Charter)

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 |
|------------------------|--|----------------------|----------------------|--|----------------------------------|----------------------|----------------------------|
| Equity | Class A Common Stock, \$0.0001 par value per share | 457(c) and 457(h) | 44,940,630 (2) | \$0.35(3) | \$15,729,221 | \$110.20 per million | \$1,733.36 |
| Total Offering Amounts | | | | | \$15,729,221 | | \$1,733.36 |
| Total Fee Offsets | | | | | | | — |
| Net Fee Due | | | | | | | \$1,733.36 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement on Form S-8 (the “Registration Statement”) shall also cover any additional shares of the Class A common stock, \$0.0001 par value per share (the “Class A Common Stock”), of Dave Inc. (the “Registrant”) that become issuable with respect to the securities identified in the above table, by reason of any stock dividend, stock splits, reverse stock splits, recapitalizations, reclassifications, mergers, split-ups, reorganizations, consolidations and other capital adjustments effected without receipt of consideration that increases the number of outstanding shares of Class A Common Stock.
- (2) Represents 44,940,630 additional shares of Common Stock reserved for issuance under the 2021 Equity Incentive Plan resulting from an amendment to the 2021 Equity Incentive Plan approved by the stockholders of the Registrant in a Special Meeting held December 13, 2022.
- (3) Estimated in accordance with Rules 457(c) and (h) of the Securities Act, solely for the purpose of calculating the registration fee. The proposed maximum offering price per share is equal to \$0.35, which was computed by averaging the high and low prices of a share of the Registrant’s Common Stock as reported on the Nasdaq Stock Market on December 9, 2022.