

BFC FINANCIAL CORP
Form 8-K
December 23, 2013

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): December 17, 2013

BFC FINANCIAL CORPORATION

(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction

of incorporation)

001-09071
(Commission

File Number)

59-2022148
(IRS Employer

Identification No.)

401 East Las Olas Boulevard, Suite 800, Fort Lauderdale, Florida

33301

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: 954-940-4900

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 (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 240.13e-4(c))

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

As previously disclosed, BFC Financial Corporation (the *Company*) holds a 54% equity interest in Woodbridge Holdings, LLC, which owns 100% of Bluegreen Corporation (*Bluegreen*). BBX Capital Corporation (*BBX Capital*), in which the Company holds an approximately 53% equity interest, holds the remaining 46% equity interest in Woodbridge.

On December 17, 2013, Bluegreen's timeshare notes receivable purchase facility with Branch Banking and Trust Company (the *Facility*) was amended to provide for maximum outstanding financings of \$80.0 million, on a revolving basis through December 17, 2014, secured by timeshare receivables at an advance rate of 70.0%, subject to the terms of the Facility, eligible collateral and terms and conditions believed to be customary for financing arrangements of this type. Prior to the amendment, the Facility provided for maximum outstanding financings of \$40.0 million, on a revolving basis through December 17, 2013, secured by timeshare receivables at an advance rate of 67.5%. In connection with the amendment, DZ Bank joined as a participant in the Facility, with all future financings to be funded 50% by Branch Banking and Trust Company and 50% by or through DZ Bank. The Facility will mature and all outstanding amounts will become due thirty-six months after the revolving advance period has expired (such thirty-six month period, the *Term-Out Period*), or earlier under certain circumstances set forth in the Facility. Interest on amounts outstanding under the Facility is tied to the LIBOR rate, in the case of amounts funded by Branch Banking and Trust Company, and a cost of funds rate or commercial paper rates, in the case of amounts funded by or through DZ Bank. The interest rate under the Facility equals the applicable index rate plus 3.5% prior to the commencement of the Term-Out Period and the applicable index rate plus 5.5% during the Term-Out Period. In each case, the index rate is subject to a floor of 0.375%. Prior to the amendment, the LIBOR rate was subject to a floor of 0.75%. Subject to the terms of the Facility, Bluegreen will receive the excess cash flows generated by the receivables sold (excess meaning after payments of customary fees, interest and principal under the Facility) until the commencement of the Term-Out Period, at which point all of the excess cash flow will be paid to the noteholders until the outstanding balance is reduced to zero. While ownership of the timeshare receivables included in the Facility is transferred and sold for legal purposes, the transfer of these timeshare receivables is accounted for as a secured borrowing for financial accounting purposes. The Facility is nonrecourse and is not guaranteed by Bluegreen, Woodbridge, BBX Capital or the Company.

The foregoing description of the amendment to the Facility is a summary only, does not purport to be complete and is qualified in its entirety by reference to the full text of the agreements and other instruments effecting the amendment, which are included as Exhibits 10.1 through 10.6 of this Current Report on Form 8-K and are incorporated herein by reference.

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

(a) On December 13, 2013, the Company entered into an agreement (the *Agreement*) with the holders (the *Preferred Shareholders*) of the Company's 5% Cumulative Preferred Stock (the *Preferred Stock*), pursuant to which the Company and the Preferred Shareholders agreed to the amendment of certain of the relative rights, preferences and limitations of the Preferred Stock which were previously designated by the Company's Board of Directors pursuant to Florida law and the Company's Amended and Restated Articles of Incorporation (the *Articles of Incorporation*). On December 19, 2013, the Company filed Articles of Amendment to its Articles of Incorporation (the *Articles of Amendment*) to effect the amendments contemplated by the Agreement. Prior to the filing of the Articles of Amendment, the Company was required to redeem 5,000 shares of the Preferred Stock for an aggregate redemption price of \$5,000,000 (\$1,000 per share) during each of the years ending December 31, 2016, 2017 and 2018, to the extent not previously redeemed pursuant to the Company's optional redemption right. Pursuant to the Articles of Amendment, the Company's mandatory redemption obligation with respect to the Preferred Stock for the years ending December 31, 2016, 2017 and 2018 was extended until the years ending

December 31, 2018, 2019 and 2020. In addition, the Articles of Amendment eliminated the right that the Preferred Shareholders previously had, upon a default by the Company on its dividend or redemption obligations with respect to the Preferred Stock, to receive from the Company certain shares of common stock of Bluegreen. Under the terms of the Agreement, the Company also agreed to make a \$5 million loan to the Preferred Shareholders. The loan is secured by 5,000 shares of the Preferred Stock, has a term of five years, accrues interest at a rate of 5% per annum and provides for payments of interest only on a quarterly basis during the term of the loan, with all outstanding amounts being due and payable at maturity.

The full text of the Articles of Amendment is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 3.1 Articles of Amendment to the Amended and Restated Articles of Incorporation of BFC Financial Corporation, effective December 19, 2013
- 10.1 Amended and Restated Purchase and Contribution Agreement, dated as of December 1, 2013, by and among Bluegreen Corporation and Bluegreen Timeshare Finance Corporation I
- 10.2 Amended and Restated Sale Agreement, dated as of December 1, 2013, by and among Bluegreen Timeshare Finance Corporation I and BXG Timeshare Trust I
- 10.3 Fifth Amended and Restated Indenture, dated as of December 1, 2013, among BXG Timeshare Trust I, Bluegreen Corporation, Vacation Trust, Inc., Concord Servicing Corporation, U.S. Bank National Association, Branch Banking and Trust Company and DZ Bank AG
- 10.4 Fifth Amended and Restated Note Funding Agreement, dated as of December 1, 2013, by and among BXG Timeshare Trust I, Bluegreen Corporation, Bluegreen Timeshare Finance Corporation I, the purchasers from time to time parties thereto, Branch Banking and Trust Company and DZ Bank AG
- 10.5 Amended and Restated Trust Agreement, dated as of December 17, 2013, by and among Bluegreen Timeshare Finance Corporation I, GSS Holdings, Inc., and Wilmington Trust Company
- 10.6 Sixth Amended and Restated Standard Definitions to the Transaction Documents filed as Exhibits 10.1 through 10.5 of this Current Report on Form 8-K

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.

BFC FINANCIAL CORPORATION

Date: December 23, 2013

By: /s/ John K. Grelle
John K. Grelle,
Executive Vice President and Chief Financial Officer

EXHIBIT INDEX

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10.4	Fifth Amended and Restated Note Funding Agreement, dated as of December 1, 2013, by and among BXG Timeshare Trust I, Bluegreen Corporation, Bluegreen Timeshare Finance Corporation I, the purchasers from time to time parties thereto, Branch Banking and Trust Company and DZ Bank AG
10.5	Amended and Restated Trust Agreement, dated as of December 17, 2013, by and among Bluegreen Timeshare Finance Corporation I, GSS Holdings, Inc., and Wilmington Trust Company
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