

SALESFORCE COM INC
Form S-3ASR
September 16, 2016

As filed with the Securities and Exchange Commission on September 16, 2016
Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933
salesforce.com, inc.
(Exact name of registrant as specified in its charter)

Delaware 94-3320693
(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

salesforce.com, inc.
The Landmark @ One Market, Suite 300
San Francisco, California 94105
Telephone Number (415) 901-7000
(Address, including zip code and telephone number, including area code, of registrant's principal executive offices)

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Chief Legal Officer and Chief of Corporate and Government Affairs
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San Francisco, California 94105
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Approximate date of commencement of proposed sale to the public:
From time to time, after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:
If any of the securities on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans,

check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common stock, par value \$0.001 per share	354,473	\$74.11	\$26,269,995	\$2,646

(1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of the Registrant's common stock that become issuable by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding shares of common stock.

(2) Estimated in accordance with Rule 457(c) solely for purposes of calculating the registration fee on the basis of the average of the high and low prices of Registrant's common stock as reported on the New York Stock Exchange on September 12, 2016.

PROSPECTUS
354,473 SHARES
Common Stock

The selling stockholders of salesforce.com, inc. (“Salesforce,” “we,” “us” or the “Company”) listed under the heading “Selling Stockholders” may offer and resell up to 354,473 shares of Salesforce common stock under this prospectus. The selling stockholders acquired these shares from us pursuant to an Agreement and Plan of Reorganization dated September 1, 2016 by and among the Company, Salesforce Holdings LLC, a Delaware limited liability company and a direct wholly owned subsidiary of the Company, Hawkeye Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Salesforce Holdings LLC, HeyWire, Inc., a Delaware corporation (“HeyWire”), and Kevin Dieterich, as indemnifying party representative thereunder, in connection with our acquisition of HeyWire. The selling stockholders (which term as used herein includes their respective donees and pledgees, transferees or other successors in interest) may sell these shares through public or private transactions at market prices prevailing at the time of sale or at negotiated prices. The timing and amount of any sale is within the sole discretion of the applicable selling stockholder, subject to certain restrictions. See “Plan of Distribution.”

We will not receive any proceeds from the sale of the shares by the selling stockholders.

Our common stock is listed on the New York Stock Exchange under the symbol “CRM.” On September 15, 2016, the last reported sale price for our common stock on the New York Stock Exchange was \$73.99 per share.

Investing in our common stock involves risks. See “Risk Factors” on page 3 of this prospectus, as well as those risk factors discussed in detail in Part I – Item 1A of our Annual Report on Form 10-K for the year ended January 31, 2016 and Part II – I item 1A in our Quarterly Report on Form 10-Q for the quarter ended July 31, 2016, as filed with the Securities and Exchange Commission (“SEC”).

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

This prospectus is dated September 16, 2016

If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the securities offered by this document are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer presented in this document does not extend to you. The information contained in this document speaks only as of the date of this document, unless the information specifically indicates that another date applies.

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THE COMPANY

Salesforce is a leading provider of enterprise cloud computing solutions, with a focus on customer relationship management, or CRM. We introduced our first CRM solution in February 2000, and we have since expanded our service offerings with new editions, solutions, features and platform capabilities.

Our mission is to help our customers transform themselves into customer-centric companies by empowering them to connect with their customers in entirely new ways. Our Customer Success Platform, including sales force automation, customer service and support, marketing automation, community management, analytics, application development, Internet of Things integration and our professional cloud services, provide the next-generation platform of enterprise applications, or apps, and services to enable customer success.

Our service offerings are intuitive and easy-to-use, can be deployed rapidly, customized easily and integrated with other platforms and enterprise apps. We deliver our solutions as a service via all the major Internet browsers and on leading mobile devices. We sell to businesses of all sizes and in almost every industry worldwide on a subscription basis, primarily through our direct sales efforts and also indirectly through partners. Through our platform and other developer tools, we also encourage third parties to develop additional functionality and new apps that run on our platform, which are sold separately from, or in conjunction with, our services.

We were incorporated in Delaware in February 1999. Our principal executive offices are located in San Francisco, California, and our principal website address is www.salesforce.com. Our office address is The Landmark @ One Market, Suite 300, San Francisco, California 94105. Information on or accessible through our Internet website is not a part of this prospectus.

When used in this prospectus, the terms “the Company,” “Salesforce,” “issuer,” “we,” “our,” and “us” refer to salesforce.com, and its consolidated subsidiaries, unless otherwise specified.

RISK FACTORS

Investing in our common stock involves risks. You should not purchase shares of our common stock unless you understand these investment risks. Please be aware that other risks may prove to be important in the future. New risks may emerge at any time, and we cannot predict such risks or estimate the extent to which they may affect our financial performance. Before purchasing any shares of our common stock, you should consider carefully the information in this prospectus and carefully read the risks described in the documents incorporated by reference in this prospectus, including the discussion under “Part I—Item 1A—Risk Factors” in our Annual Report on Form 10-K for the year ended January 31, 2016 and “Part II—Item 1A—Risk Factors” in our Quarterly Report on Form 10-Q for the quarter ended July 31, 2016, as such discussion may be amended or updated in other reports filed by us with the SEC.

USE OF PROCEEDS

We will not receive any proceeds from the sale of the common stock by the selling stockholders.

SELLING STOCKHOLDERS

Up to 354,473 shares of common stock are being offered by this prospectus, all of which are being offered for resale for the account of the selling stockholders. Unless otherwise noted below, the shares being offered were issued to the selling stockholders pursuant to an Agreement and Plan of Reorganization dated September 1, 2016 by and among the Company, HeyWire and certain other parties in connection with our acquisition of HeyWire. The selling stockholders may from time to time offer and sell pursuant to this prospectus any or all of the shares of our common stock being registered. We have agreed to pay all fees and expenses incident to the registration and listing of the shares of common stock owned by the selling stockholders.

The table below sets forth certain information known to us, based upon written representations from the selling stockholders, with respect to the beneficial ownership of our shares of common stock held by the selling stockholders as of September 15, 2016, the date of closing of our acquisition of HeyWire, except as described in the notes to such table. Because the selling stockholders may sell, transfer or otherwise dispose of all, some or none of the shares of our common stock covered by this prospectus, we cannot determine the number of such shares that will be sold, transferred or otherwise disposed of by the selling stockholders, or the amount or percentage of shares of our common stock that will be held by the selling stockholders upon termination of any particular offering. See "Plan of Distribution." For purposes of the table below, we assume that the selling stockholders will sell all their shares of common stock covered by this prospectus.

In the table below, the percentage of shares beneficially owned is based on approximately 685.0 million shares of our common stock outstanding as of July 31, 2016, determined in accordance with Rule 13d-3 under the Exchange Act of 1934, as amended. Under such rule, beneficial ownership includes any shares over which the selling stockholder has sole or shared voting power or investment power and also any shares that the selling stockholder has the right to acquire within 60 days of such date through the exercise of any options or other rights. Except as otherwise indicated, we believe that the selling stockholders have sole voting and investment power with respect to all shares of the common stock shown as beneficially owned by them. The beneficial ownership information presented in this table is not necessarily indicative of beneficial ownership for any other purpose.

Name of Selling Stockholder	Number of Shares of Common Stock Beneficially Owned Prior to Offering		Number of Shares of Common Stock Being Registered for Resale	Number of Shares of Common Stock Beneficially Owned After Offering	
	Number	Percent		Number	Percent
Entities associated with Gary M. Lauder (1)	354,473	*	354,473	—	*

* Less than 1%

(1) Consists of (1) 5,594 shares held by Lauder Partners LLC, (2) 294,718 shares held by The Gary M. Lauder Revocable Trust and (3) 54,161 shares being held in escrow (50% of such shares until March 15, 2018 and 50% of such shares until September 15, 2018) to fund any indemnification obligations to us related to the acquisition. Gary M. Lauder is the Managing Member and President of Lauder Partners LLC and trustee of The Gary M. Lauder Revocable Trust and may be deemed to have shared voting and dispositive power over the reported shares. Kevin

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Dieterich is the Treasurer of Lauder Partners, LLC and an authorized signatory of The Gary M. Lauder Revocable Trust and may be deemed to have shared voting and dispositive power over the reported shares. Lisa Somar is the Secretary of Lauder Partners, LLC and an authorized signatory of The Gary M. Lauder Revocable Trust and may be deemed to have shared voting and dispositive power over the reported shares. The address for these entities is c/o Kevin Dieterich, 767 Fifth Avenue, 40th Floor, New York, New York 10153.

DESCRIPTION OF CAPITAL STOCK

Our authorized capital stock consists of 1,600,000,000 shares of common stock, \$0.001 par value, and 5,000,000 shares of undesignated preferred stock, \$0.001 par value. The following description of our capital stock does not purport to be complete and is subject to, and qualified in its entirety by, our amended and restated certificate of incorporation and bylaws, which are exhibits to the registration statement of which this prospectus forms a part.

Common Stock

As of July 31, 2016, approximately 685.0 million shares of our common stock were outstanding.

Each share of our common stock entitles its holder to one vote on all matters to be voted upon by our stockholders. Subject to any preferences that may apply to any preferred stock that may at the time be outstanding, holders of our common stock will receive ratably any dividends our board of directors declares out of funds legally available for that purpose. If we liquidate, dissolve or wind up, the holders of common stock are entitled to share ratably in all assets remaining after payment of liabilities and any liquidation preference of any preferred stock that may at the time be outstanding. Our common stock has no preemptive rights, conversion rights, or other subscription rights or redemption or sinking fund provisions.

Preferred Stock

Our board of directors has the authority, without further action by our stockholders, to issue up to 5,000,000 shares of preferred stock in one or more series. Our board of directors may designate the rights, preferences, privileges and restrictions of the preferred stock, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preference, sinking fund terms, and number of shares constituting any series or the designation of any series. The issuance of preferred stock could have the effect of restricting dividends on our common stock, diluting the voting power of our common stock, impairing the liquidation rights of our common stock, or delaying or preventing a change in control. The ability to issue preferred stock could delay or impede a change in control.

Anti-Takeover Provisions

Some provisions of Delaware law, our amended and restated certificate of incorporation and our bylaws may have the effect of delaying, deferring or discouraging another party from acquiring control of us.

Delaware Law

We are subject to Section 203 of the Delaware General Corporation Law, which regulates, subject to some exceptions, acquisitions of publicly-held Delaware corporations. In general, Section 203 prohibits us from engaging in a “business combination” with an “interested stockholder” for a period of three years following the date the person becomes an interested stockholder, unless:

- our board of directors approved the business combination or the transaction in which the person became an interested stockholder prior to the date the person attained this status;
- upon consummation of the transaction that resulted in the person becoming an interested stockholder, the person owned at least 85 percent of our voting stock outstanding at the time the transaction commenced, excluding shares owned by persons who are directors and also officers and issued under employee stock plans under which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

- on or subsequent to the date the person became an interested stockholder, our board of directors approved the business combination and the stockholders other than the interested stockholder authorized the transaction at an annual or special meeting of stockholders by the affirmative vote of at least 66 ²/₃ percent of the outstanding stock not owned by the interested stockholder.

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Section 203 defines a “business combination” to include:

- any merger or consolidation involving us and the interested stockholder;
- any sale, transfer, pledge or other disposition involving the interested stockholder of 10 percent or more of our assets;
- in general, any transaction that results in the issuance or transfer by us of any of our stock to the interested stockholder;
- any transaction involving us that has the effect of increasing the proportionate share of our stock owned by the interested stockholders; and
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges, or other financial benefits provided by or through us.

In general, Section 203 defines an “interested stockholder” as any person who, together with the person’s affiliates and associates, owns, or within three years prior to the time of determination of interested stockholder status did own, 15 percent or more of a corporation’s voting stock.

Amended and Restated Certificate of Incorporation and Bylaw Provisions

Our amended and restated certificate of incorporation and bylaws provide that:

- no action can be taken by stockholders except at an annual or special meeting of the stockholders called in accordance with our bylaws, and stockholders may not act by written consent;
- the approval of holders of two-thirds of the shares entitled to vote at an election of directors is required to adopt, amend or repeal our bylaws or amend or repeal certain provisions of our certificate of incorporation;
- our board of directors is expressly authorized to make, alter or repeal our bylaws;
- stockholders may not call special meetings of the stockholders or fill vacancies on the board of directors;
- our board of directors is authorized to issue preferred stock without stockholder approval;
- any directors, or the entire board of directors, may only be removed by the affirmative vote of the holders of two-thirds of the shares entitled to vote at an election of directors; and
- we will indemnify officers and directors against losses that they may incur as a result of investigations and legal proceedings resulting from their services to us, which may include services in connection with takeover defense measures.

PLAN OF DISTRIBUTION

The selling stockholders may, from time to time, sell any or all of the shares of common stock beneficially owned by them and offered hereby.

The sales may be made on one or more exchanges or in the over-the-counter market or otherwise, at prices and at terms then prevailing or at prices related to the then current market price, or in negotiated transactions.

The selling stockholders may effect such transactions by selling the shares of common stock to or through broker-dealers. The shares of common stock may be sold through broker-dealers by one or more of, or a combination of, the following:

- a block trade in which the broker-dealer so engaged will attempt to sell the shares of common stock as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by such broker-dealer for its account;
- ordinary brokerage transactions and transactions in which the broker solicits purchasers; and
- in privately negotiated transactions.

The selling stockholders may also sell shares under Rule 144 under the Securities Act of 1933, as amended, if available, rather than under this prospectus.

The selling stockholders also may transfer the shares of common stock in other circumstances, in which case the transferees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

The selling stockholders and any broker-dealers or agents that are involved in selling the shares may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act.

The selling stockholders have informed us that, except as set forth below, none of them have any agreement or understanding, directly or indirectly, with any person to distribute the common stock. If any selling stockholder notifies us that a material arrangement has been entered into with a broker-dealer for the sale of shares through a block trade, special offering or secondary distribution or a purchase by a broker or dealer, we may be required to file a prospectus supplement pursuant to the applicable rules promulgated under the Securities Act of 1933. Certain selling stockholders who are entities rather than natural persons may distribute shares to their partners, shareholders or other owners in normal course, who may in turn sell the shares in the manner listed above.

There can be no assurance that any selling stockholder will sell any or all of the shares of common stock registered pursuant to the shelf registration statement, of which this prospectus forms a part.

We are required to pay all fees and expenses incident to the registration of the shares. We have agreed to indemnify the selling stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act, or the selling stockholders may be entitled to contribution. We may be indemnified by the selling stockholders against civil liabilities, including liabilities under the Securities Act that may arise from written information furnished to us by the selling stockholders specifically for use in this prospectus.

We may restrict or suspend offers and sales or other dispositions of the shares under the shelf registration statement, of which this prospectus forms a part, at any time from and after the effective date of the shelf registration statement, subject to certain terms and conditions. In the event of such restriction or suspension, the selling stockholders will not be able to offer or sell or otherwise dispose of the shares of common stock under the shelf registration statement.

Once sold under the shelf registration statement, of which this prospectus forms a part, the shares of common stock will be freely tradeable in the hands of persons other than our affiliates.

LEGAL MATTERS

The validity of the common stock will be passed upon for us by Gibson, Dunn & Crutcher LLP, San Francisco, California.

EXPERTS

The consolidated financial statements of salesforce.com, inc. appearing in salesforce.com, inc.'s Annual Report (Form 10-K) for the year ended January 31, 2016 (including the schedule appearing therein), as revised by the Current Report on Form 8-K filed on September 1, 2016, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon, included therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

The consolidated financial statements of Demandware, Inc. and subsidiaries, incorporated in this prospectus by reference from salesforce.com, inc.'s Form 8-K/A filed on September 1, 2016 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act. You may read and copy any reports, statements or other information on file at the SEC's public reference facility located at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information regarding its public facilities. Our SEC filings, including the complete registration statement of which this prospectus is a part, are available to the public from commercial document retrieval services and also available at the Internet website maintained by the SEC at <http://www.sec.gov>.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to "incorporate by reference" the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act subsequent to the date of this registration statement until the selling stockholders listed herein sell all of the shares of our common stock registered under this prospectus or the offering is otherwise terminated:

1. Our Annual Report on Form 10-K for the fiscal year ended January 31, 2016, filed with the SEC on March 7, 2016, as revised by the Current Report on Form 8-K filed on September 1, 2016;
2. The information specifically incorporated by reference into the Annual Report on Form 10-K for the fiscal year ended January 31, 2016 from our definitive proxy statement on Schedule 14A, filed with the SEC on April 21, 2016;
3. Our Quarterly Reports on Form 10-Q for the quarters ended April 30, 2016 and July 31, 2016, filed with the SEC on May 20, 2016 and September 1, 2016, respectively;
4. Our Current Reports on Form 8-K, filed with the SEC on February 2, 2016, March 21, 2016, March 22, 2016, April 20, 2016, June 1, 2016, June 3, 2016, July 11, 2016, as amended on September 1, 2016, and August 1, 2016;

5. The description of our common stock contained in our Registration Statement on Form 8-A filed with the SEC on June 21, 2004, including any amendment or report filed for the purpose of updating such description (No. 001-32224). We are only incorporating certain portions of our annual proxy statement for our 2016 annual meeting of stockholders as described above and are not incorporating by reference (i) any information furnished under items 2.02 or 7.01 (or corresponding information furnished under item 9.01 or included as an exhibit) in any past or future current report on Form 8-K or (ii) any Form S-D, that, in either case, we may file or furnish with the SEC, unless otherwise specified in such current report or in such form or in a particular prospectus supplement. The documents listed above or subsequently filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act in each year during which the offering made pursuant to this prospectus is in effect prior to the filing with the SEC of our Annual Report on Form 10-K covering such year shall cease to be incorporated by reference in this prospectus from and after the filing of such Annual Reports.

Any statement contained herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement