

**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) **January 20, 2023**

**BENEFITFOCUS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-36061**  
(Commission  
File Number)

**46-2346314**  
(IRS Employer  
Identification No.)

**100 Benefitfocus Way, Charleston, South Carolina 29492**  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code **(843) 849-7476**

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, \$0.001 Par Value	BNFT	Nasdaq Global Market

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

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 5.07 Submission of Matters to a Vote of Security Holders.**

A special meeting of stockholders (the “Special Meeting”) of Benefitfocus, Inc., a Delaware corporation (the “Company”), was held at the Company’s offices located at 215 Benefitfocus Way, Charleston, South Carolina 29492 on January 20, 2023 at 10:00 AM, Eastern Time. The Special Meeting was held in order to vote upon the proposals set forth in the definitive proxy statement of the Company filed with the Securities and Exchange Commission (the “SEC”) on December 19, 2022 (as amended and supplemented by the Company in its Current Report on Form 8-K, filed with the SEC on January 13, 2023, the “Proxy Statement”) relating to the merger transaction (the “Merger”) contemplated by the Agreement and Plan of Merger, dated as of November 1, 2022, as amended and restated by the Amended and Restated Agreement and Plan of Merger, dated as of December 19, 2022 (as may be further amended or modified from time to time in accordance with its terms, the “Merger Agreement”), by and among the Company, Voya Financial, Inc., a Delaware corporation (“Parent”), and Origami Squirrel Acquisition Corp, a Delaware corporation and wholly owned subsidiary of Parent.

As of the close of business on December 16, 2022, the record date for the Special Meeting, there were 34,478,535 shares of the Company’s Common Stock, par value \$0.001 per share (“Common Stock”), outstanding and 1,777,778 shares of the Company’s Series A Convertible Preferred Stock, par value \$0.001 per share (“Preferred Stock” and, together with Common Stock, “Capital Stock”), outstanding, convertible into 5,333,334 shares of Common Stock, representing a total of 39,811,869 shares of Common Stock eligible to vote at the Special Meeting (with the holders of Preferred Stock voting on an as-converted basis). A total of 29,408,121 shares of Common Stock (including shares of Common Stock underlying the Preferred Stock) were present in person or by proxy at the Special Meeting, representing 73.86% of the total voting power of the holders of Capital Stock voting as a single class (with the holders of Preferred Stock voting on an as-converted basis subject to a 19.9% beneficial ownership limitation), which constituted a quorum to conduct business at the Special Meeting. Each holder of Common Stock was entitled to one vote for each share of Common Stock held of record as of the record date for the Special Meeting, and each holder of Preferred Stock was entitled to one vote for each share of Common Stock underlying each share of Preferred Stock held of record as of the record date for the Special Meeting, which was equivalent to three votes per share of Preferred Stock.

The following are the voting results of the proposals considered and voted upon at the Special Meeting, each of which is described in the Proxy Statement:

**Proposal No. 1**

To adopt the Merger Agreement. The proposal was approved by the votes indicated below:

<b>Votes For</b>	<b>Votes Against</b>	<b>Votes Abstaining</b>	<b>Broker Non-Votes</b>
29,295,566	63,273	49,282	N/A

**Proposal No. 2**

To approve, by a non-binding advisory vote, certain compensation that will or may be paid by the Company to certain of its named executive officers that is based on or otherwise relates to the Merger. The proposal was approved by the votes indicated below:

<b>Votes For</b>	<b>Votes Against</b>	<b>Votes Abstaining</b>	<b>Broker Non-Votes</b>
26,044,676	606,817	2,756,628	N/A

**Item 8.01 Other Events**

On January 20, 2023, the Company issued a press release announcing the voting results from the Special Meeting. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

<u>Exhibit No.</u>	<u>Description</u>
99.1	<a href="#">Press Release, dated January 20, 2023.</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

**SIGNATURE**

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.

BENEFITFOCUS, INC.

Date: January 20, 2023

By: /s/ Alpana Wegner

Name: Alpana Wegner

Title: Chief Financial Officer

January 20, 2023

## **Benefitfocus Shareholders Approve Merger with Voya Financial**

CHARLESTON, S.C., January 20, 2023 (GLOBE NEWSWIRE) – Benefitfocus, Inc. (NASDAQ: BNFT) announced that at a special meeting today, Benefitfocus’s stockholders approved the previously announced merger agreement related to the proposed acquisition of Benefitfocus by Voya Financial, Inc. Subject to the terms and conditions of the merger agreement, at the effective time of the merger, each share of Benefitfocus common stock will be cancelled and converted into the right to receive \$10.50 in cash.

The transaction remains subject to certain closing conditions and is expected to close on January 24, 2023.

### **About Benefitfocus**

Benefitfocus is a cloud-based benefits administration technology company committed to helping organizations, and the people they serve, get the most out of their health care and benefit programs. Through exceptional service and innovative SaaS solutions, we aim to be the safest set of hands for our customers helping to simplify the complexity of benefits administration while delivering an experience that engages people and unlocks the potential for better health and improved outcomes. Our mission is simple: to improve lives with benefits.

### **Cautionary Statement Regarding Forward-Looking Statements**

Certain statements in this communication may constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, each as amended. Forward-looking statements are often identified by the use of words such as, but not limited to, “anticipate,” “believe,” “can,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “might,” “will,” “plan,” “project,” “seek,” “should,” “target,” “would,” and similar expressions or variations intended to identify forward-looking statements. These statements are based on the beliefs and assumptions of our management based on information currently available to management.

Such forward-looking statements are subject to risks, uncertainties and other important factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include the following: (i) conditions to the completion of the proposed transaction might not be satisfied on the terms expected or on the anticipated schedule; (ii) the occurrence of any event, change or other circumstance that could give rise to the termination of the Agreement and Plan of Merger, dated as of November 1, 2022, as amended and restated by the Amended and Restated Merger Agreement, dated as of December 19, 2022 (the “Amended and Restated Merger Agreement”), between Benefitfocus, Inc., Voya Financial, Inc. and Origami Squirrel Acquisition Corp, to the proposed transaction; (iii) the effect of the announcement or pendency of the proposed transaction on Benefitfocus’s customers, suppliers, business relationships, operating results and business generally; (iv) the risk that the proposed transaction disrupts Benefitfocus’s current plans and operations and the potential difficulties in Benefitfocus’s employee retention as a result of the proposed transaction; (v) the risk related to diverting management’s attention from our ongoing business operations; (vi) potential litigation that may be

instituted against Benefitfocus or its directors or officers related to the proposed transaction or the Amended and Restated Merger Agreement between the parties to the proposed transaction; (vii) the amount of the costs, fees, expenses and other charges related to the proposed transaction; (viii) the risk that the proposed transaction will not be consummated in a timely manner; and (ix) such other factors as are set forth in Benefitfocus's periodic public filings with the SEC, including but not limited to those described under the headings "Risk Factors" and "Forward Looking Statements" in its Form 10-K, as amended for the fiscal year ended December 31, 2021 and in its other filings made with the SEC from time to time, which are available via the SEC's website at [www.sec.gov](http://www.sec.gov).

Benefitfocus's forward-looking statements speak only as of the date of this communication or as of the date they are made. Benefitfocus disclaims any intent or obligation to update any "forward looking statement" made in this communication to reflect changed assumptions, the occurrence of unanticipated events or changes to future operating results over time.

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Source: Benefitfocus, Inc.