Performant Financial Corp
Form S-1/A
January 28, 2013
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As filed with the Securities and Exchange Commission on January 28, 2013

Registration No. 333-186110

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No.1

to

Form S-1

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

PERFORMANT FINANCIAL CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**7389**	**20-0484934**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

333 North Canyons Parkway

Livermore, California 94551

(925) 960-4800

(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)

Lisa Im

Chief Executive Officer

333 North Canyons Parkway

Livermore, California 94551

(925) 960-4800

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

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, 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 post-effective amendment filed pursuant to Rule 462(d) 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. ¨

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 x (Do not check if a smaller reporting company)	Smaller reporting company ¨

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The information in this preliminary prospectus is not complete and may be changed. The selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and the selling stockholders are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS (Subject to Completion)

Issued January 28, 2013

7,000,000 Shares

COMMON STOCK

The selling stockholders are offering 7,000,000 shares of common stock. We will not receive any proceeds from the sale of shares by the selling stockholders.

Our common stock is listed on The NASDAQ Global Select Market under the symbol PFMT. On January 25, 2013, the last sale of our common stock as reported on The NASDAQ Global Select Market was $11.34 per share.

Investing in our common stock involves risks. See Risk Factors beginning on page 13.

PRICE $ A SHARE

	Price to Public	***Underwriting Discounts and Commissions***	***Proceeds to Selling Stockholders***
Per Share	*$*	*$*	*$*
Total	*$*	*$*	*$*

The selling stockholders identified in this prospectus have granted the underwriters an option for a period of 30 days to purchase, on the same terms and conditions as set forth above, up to an additional 1,050,000 shares of our common stock. We will not receive any of the proceeds from the sale of shares by these selling stockholders if the underwriters exercise their option to purchase additional shares of common stock.

The Securities and Exchange Commission and state securities regulators have not approved or disapproved these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares of common stock to purchasers on , 2013.

GOLDMAN, SACHS & CO. *MORGAN STANLEY*

WELLS FARGO SECURITIES *CREDIT SUISSE*

WILLIAM BLAIR

, 2013

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You should rely only on the information contained in this prospectus and any free writing prospectus we may specifically authorize to be delivered or made available to you. We have not, and the selling stockholders and the underwriters have not, authorized anyone to provide you with additional or different information. The information contained in this prospectus or any free writing prospectus is accurate only as of its date, regardless of its time of delivery or of any sale of shares of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

This prospectus is an offer to sell only the shares offered hereby but only under circumstances and in jurisdictions where it is lawful to do so.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus and does not contain all of the information you should consider before investing in our common stock. You should read this entire prospectus carefully, including our consolidated financial statements and the related notes and the information set forth under the headings Risk Factors and Management s Discussion and Analysis of Financial Condition and Results of Operations, in each case included elsewhere in this prospectus. Unless expressly indicated or the context otherwise requires, in this prospectus, Performant, we, us, our, and the Company refer to Performant Financial Corporation and, where appropriate, its subsidiaries.

Overview

We provide technology-enabled recovery and related analytics services in the United States. Our services help identify and recover delinquent or defaulted assets and improper payments for both government and private clients in a broad range of markets. Our clients typically operate in complex and regulated environments and outsource their recovery needs in order to reduce losses on billions of dollars of defaulted student loans, improper healthcare payments and delinquent state tax and federal treasury receivables. We generally provide our services on an outsourced basis, where we handle many or all aspects of our clients recovery processes.

We believe we have a leading position in our markets based on our proprietary technology-enabled services platform, long-standing client relationships and the large volume of funds we have recovered for our clients. In 2011, we provided recovery services on approximately $8.7 billion of combined student loans and other delinquent federal and state receivables and recovered approximately $189 million in improper Medicare payments. Our clients include 12 of the 32 public sector participants in the student loan industry and these relationships average more than 10 years in length, including a 22-year relationship with the U.S. Department of Education. In the healthcare market, we are currently one of four prime Medicare Recovery Audit Contractors, or RACs, in the United States for the Centers for Medicare and Medicaid Services, or CMS.

We utilize our technology platform to efficiently provide recovery and analytics services in the markets we serve. We have continuously developed and refined our technology platform for almost two decades by using our extensive domain and data processing expertise. We believe our technology platform allows us to achieve higher workforce productivity versus more traditional labor-intensive outsourcing business models, as we generated in excess of $130,000 of revenues per employee during 2011, based on the average number of employees during the year. In addition, we believe that our platform is easily adaptable to new markets and processes. For example, we utilized the same basic platform previously used primarily for student loan recovery activities to enter the healthcare market.

Our revenue model is generally success-based as we earn fees based on a percentage of the aggregate amount of funds that we enable our clients to recover. Our services do not require any significant upfront investments by our clients and we offer our clients the opportunity to recover significant funds otherwise lost. Furthermore, our business model does not require significant capital expenditures for us and we do not purchase loans or obligations. We believe we benefit from a significant degree of revenue visibility due to reasonably predictable recovery outcomes in a substantial portion of our business. For the year ended December 31, 2011, we generated approximately $163.0 million in revenues, $12.4 million in net income, $57.8 million in adjusted EBITDA and $25.0 million in adjusted net income. For the nine months ended September 30, 2012, we generated approximately $154.1 million in revenues, $17.0 million in net income, $52.2 million in adjusted EBITDA and $23.5 million in adjusted net income, and our total debt was $150.5 million at September 30, 2012. See Adjusted EBITDA and Adjusted Net Income below for a definition of adjusted EBITDA and adjusted net income and reconciliations of adjusted EBITDA and adjusted net income to net income determined in accordance with generally accepted accounting principles.

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Industry Overview

We operate in markets characterized by strong growth, a complex regulatory environment and a significant amount of delinquent, defaulted or improperly paid assets.

Student Lending

According to the Department of Education, total government-supported student loan originations were estimated to be approximately $115 billion in the year ended September 30, 2012, and the aggregate dollar amount of these loans has grown at a compound annual growth rate of 11% from 2002 through 2012. The cohort default rate, which is the measure utilized by the Department of Education to track the percentage of government-supported loan borrowers that enter repayment in a certain year ended September 30 and default by the end of the next year ended September 30, has risen from approximately 5% in 2006 to approximately 9% in 2010, the last year for which data is available.

Healthcare

According to CMS, U.S. healthcare spending reached $2.7 trillion in 2011 and is forecast to grow at a 6% annual rate through 2021. CMS indicates that government-related healthcare spending for 2011 totaled approximately $1.2 trillion. This government-related spending included approximately $554 billion of payments under Medicare, of which $43 billion, or 8%, was estimated to be improper. Medicare improper payments generally involve incorrect coding, procedures performed which were not medically necessary, incomplete documentation or claims submitted based on outdated fee schedules, among other issues.

Other Markets

We believe that the demand for recovery of delinquent state taxes will grow as state governments struggle with revenue generation and face significant budget deficits. According to the Center on Budget and Policy Priorities, an independent think tank, 43 U.S. states faced budget shortfalls totaling $107 billion in the year ended September 30, 2012, with at least 31 states anticipating deficits for fiscal year 2013. The federal agency market consists of government debt subrogated to the Department of the Treasury. For the year ended September 30, 2011, federal agency recoveries in this market totaled more than $6.2 billion, a significant portion of which were made by private firms on behalf of the Department of Financial Management Service, a bureau of the Department of the Treasury.

Our Platform

Our technology-enabled services platform is based on over two decades of experience in recovering large amounts of funds on behalf of our clients across several markets. The components of our platform include our data management expertise, analytics capabilities and technology-based workflow processes. Our platform integrates these components to allow us to achieve optimized outcomes for our clients in the form of increased efficiency and productivity and high recovery rates. We believe our platform and workflow processes are also intuitive and easy to use for our recovery and claims specialists and allow us to increase our employee retention and productivity.

Our Competitive Strengths

We believe that our business is difficult to replicate, as it incorporates a combination of several important and differentiated elements, including:

- ***Scalable and flexible technology-enabled services platform.*** We have built a proprietary technology platform that is highly flexible, intuitive and easy to use for our recovery and claims specialists. Our platform is easily configurable and deployable across multiple markets and processes.

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Advanced, technology-enabled workflow processes. Our technology-enabled workflow processes, developed over many years of operational experience in recovery services, disaggregate otherwise complex recovery processes into a series of simple, efficient and consistent steps that are easily configurable and applicable to different types of recovery-related applications.

Enhanced data and analytics capabilities. Our data and analytics capabilities allow us to achieve strong recovery rates for our clients. We have collected recovery-related data for over two decades, which we combine with large volumes of client and third-party data to effectively analyze our clients delinquent or defaulted assets and improper payments. We have also developed a number of analytics tools that we use to score our clients recovery inventory, determine the optimal recovery process and allocation of resources, and achieve higher levels of recovery results for our clients.

Long-standing client relationships. We believe our long-standing focus on achieving superior recovery performance for our clients and the significant value our clients derive from this focus have helped us achieve long-tenured client relationships, strong contract retention and better access to new clients and future growth opportunities.

Extensive domain expertise in complex and regulated markets. We have extensive experience and domain expertise in providing recovery services for government and private institutions that generally operate in complex and regulated markets. We have demonstrated our ability to develop domain expertise in new markets such as healthcare and state tax and federal Treasury receivables.

Proven and experienced management team. Our management team has significant industry experience and has successfully grown our revenue base and service offerings beyond the original student loan market into healthcare and delinquent state tax and private financial institutions receivables.

Our Growth Strategy

Key elements of our growth strategy include the following:

Expand our student loan recovery volume. We have long-standing relationships with some of the largest participants in the government-supported student loan market, and we believe there are significant opportunities within this growing market to increase the volume of student loans placed with us by existing and new clients.

Expand our recovery services in the healthcare market. As healthcare spending grows, we expect the need for recovery services to increase in the public and private healthcare markets. We intend to expand our recovery services for existing clients, such as CMS, and offer analytics services to potential clients in the private healthcare market.

Pursue strategic alliances and acquisitions. We intend to selectively consider opportunities to grow through strategic alliances or acquisitions that are complementary to our business.

Recent Developments (Unaudited)

Three-months and year ended December 31, 2012

Our consolidated financial statements for the three-months and year ended December 31, 2012 are not yet available. Our expectations with respect to our unaudited results for the period discussed below are based upon management estimates. The preliminary financial results presented below are subject to the completion of our financial closing procedures and any adjustments that may result from the completion of the audit of our 2012 consolidated financial statements. Accordingly, these results may change and those changes may be material. This summary is not meant to be a comprehensive statement of our unaudited financial results for these periods and our actual results may differ from these estimates. For additional information regarding the various risks and uncertainties inherent in estimates of this type, see Information Regarding

Forward-Looking Statements, elsewhere in this prospectus.

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We are providing the following preliminary estimates of our financial results and operating metrics for the three-months ended December 31, 2012:

GAAP

Revenues are expected to be between $53.5 million and $56.5 million, representing a sequential quarterly increase of approximately 3.0% at the midpoint of the range. The estimated increase is the result of increased revenues from the student lending and healthcare markets. Revenues from the student lending market are estimated to be between $33.9 million and $34.6 million, representing a sequential quarterly increase of approximately 3.8% at the midpoint of the range. Revenues from the healthcare market are estimated to be between $14.2 million and $16.0 million, representing a sequential quarterly increase of approximately 11.7% at the midpoint of the range, reflecting higher claim recovery volumes from CMS under our RAC contract. Revenues from other markets are estimated to be between $5.4 million and $5.9 million.

Net income is estimated to be between $5.5 million and $6.8 million, representing a sequential quarterly decrease of approximately 3.2% at the midpoint of the range, due to increased operating expenses consistent with the growth of our recovery activities under our RAC contract and expenses we have incurred to process Periodic Interim Payment providers, or PIP, claims under our RAC contract where we have not been able to recognize related revenues but expect to in the future. We have also incurred additional expenses associated with being a public company.

Non-GAAP

Adjusted EBITDA is expected to be between $16.1 million and $18.1 million, representing a sequential quarterly decrease of approximately 6.4% at the midpoint of the range is primarily due to the increase in operating expenses as described above.

Adjusted net income is estimated to be between $6.7 million and $8.0 million, representing a sequential quarterly decrease of approximately 9.8% at the midpoint of the range is primarily due to the increase in our operating expenses as described above.

Operating Metrics

Student Loan Placement Volume is estimated to be between $1.9 billion and $2.2 billion and Placement Revenue as a Percentage of Placement Volume is estimated to be between 1.50% and 1.70%.

Healthcare Net Claim Recovery Volume is estimated to be between $125.0 million and $140.0 million and Claim Recovery Fee Rate is estimated to be approximately 11.3%.

We are providing the following preliminary estimates of our financial results and operating metrics for the year ended December 31, 2012:

GAAP

Revenues are expected to be between $207.6 million and $210.6 million, representing a sequential annual increase of approximately 28.3% at the midpoint of the range. The estimated increase is due to greater audit and recovery activities from the student lending and healthcare markets. Revenues from the student lending market are estimated to be between $132.1 million and $132.8 million, representing an annual increase of approximately 8.3% at the midpoint of the range. Revenues from the healthcare market are estimated to be between $53.3 million and $55.1 million, representing an annual increase of approximately 151.5% at the midpoint of the range, reflecting higher claim recovery volumes from CMS under our RAC contract. Revenues from other markets are estimated to be between $22.2 million and $22.7 million.

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Net income is estimated to be between $22.5 million and $23.8 million, representing a sequential annual estimated increase of approximately 87.2% at the midpoint of the range, due to greater audit and recovery activities from the student lending and healthcare markets.

Non-GAAP

Adjusted EBITDA is expected to be between $68.3 million and $70.3 million, representing a sequential annual estimated increase of approximately 20.0% at the midpoint of the range, primarily due to the increase in our estimated net income as described above.

Adjusted net income is estimated to be between $30.2 million and $31.5 million, representing an estimated increase of approximately 23.5% at the midpoint of the range, primarily due to the increase in our estimated net income as described above.

Operating Metrics

Student Loan Placement Volume is estimated to be between $5.5 billion and $5.8 billion and Placement Revenue as a Percentage of Placement Volume is estimated to be between 2.25% and 2.40%.

Healthcare Net Claim Recovery Volume is estimated to be between $470.0 million and $485.0 million and Claim Recovery Fee Rate is estimated to be approximately 11.3%.

See Summary Consolidated Financial Data Adjusted EBITDA and Adjusted Net Income for a definition of adjusted EBITDA and adjusted net income, the reasons for providing these financial measures and the limitations of these measures, which do not reflect all items of income and expense as reported under GAAP. Also, see below for reconciliations of the estimated and actual adjusted EBITDA and adjusted net income amounts set forth above to estimated or actual net income determined in accordance with GAAP.

Operating Metrics

See Management s Discussion and Analysis of Financial Condition and Results of Operations Operating Metrics for the definition of the operating metrics used above and the purposes for which management uses these metrics.

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The following tables present a reconciliation of estimated adjusted EBITDA and estimated adjusted net income for the three-months and the year ended December 31, 2012, to estimated net income for these periods and adjusted EBITDA and adjusted net income for the three months ended September 30, 2012 and the year ended December 31, 2011, to actual net income for these periods:

	Three Months Ended		Year Ended	
	September 30, 2012	December 31, 2012	December 31, 2011	December 31, 2012
	(in thousands)			
Reconciliation of Adjusted EBITDA:				
Net income	$ 6,383	$ 5,525 to 6,830	$ 12,372	$ 22,503 to 23,808
Provision for income taxes	4,601	4,257 to 4,951	7,516	15,955 to 16,649
Interest expense	3,175	3,087	13,530	12,416
Interest income	(2)		(125)	(64)
Debt extinguishment costs(1)				3,679
Depreciation and amortization	2,445	2,501	7,766	9,503
Impairment of trade name(2)			13,400	
Non-core operating expenses(3)			2,548	47
Advisory fee(4)	932		634	2,640
Stock based compensation	734	731	120	1,614
Adjusted EBITDA	$ 18,268	$ 16,100 to 18,100	$ 57,761	$ 68,292 to 70,291

	Three Months Ended		Year Ended	
	September 30, 2012	December 31, 2012	December 31, 2011	December 31, 2012
	(in thousands)			
Reconciliation of Adjusted Net Income:				
Net income	$ 6,383	$ 5,525 to 6,830	$ 12,372	$ 22,503 to 23,808
Debt extinguishment costs(1)				3,679
Impairment of trade name(2)			13,400	
Non core operating expenses(3)			2,548	47
Advisory fee(4)	931		634	2,640
Stock based compensation	734	731	120	1,614
Amortization of intangibles(5)	932	933	3,043	3,674
Deferred financing amortization costs(6)	344	296	1,254	1,161
Tax adjustments(7)	(1,177)	(784)	(8,400)	(5,126)
Adjusted net income	$ 8,147	$ 6,701 to 8,006	$ 24,971	$ 30,191 to 31,496

(1) Represents debt extinguishment costs comprised of approximately $3.3 million of fees paid to lenders in connection with our new credit facility and approximately $0.3 million of unamortized debt issuance costs in connection with our old credit facility.
(2) Represents impairment expenses to write off the carrying amount of the trade name intangible asset due to the plan to retire the Diversified Collection Services, Inc. trade name.
(3) Represents professional fees and settlement costs related to strategic corporate development activities and a $1.2 million legal settlement in 2011.
(4) Represents expenses incurred under an advisory services agreement with Parthenon Capital Partners, which was terminated in April 2012. See Note 11 Related Party Transactions.
(5) Represents amortization of capitalized expenses related to the acquisition of Performant by an affiliate of Parthenon Capital Partners in 2004 and an acquisition in the first quarter of 2012 to enhance our analytics capabilities.
(6) Represents amortization of capitalized financing costs related to debt offerings conducted in 2009, 2010 and 2012.
(7) Represents tax adjustments assuming a marginal tax rate of 40%.

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Risks Associated With Our Business

Our business is subject to numerous risks and uncertainties including those highlighted in the section titled Risk Factors immediately following the prospectus summary. Some of these risks include, among others, that:

- Revenues generated from our five largest clients represented 74% of our revenues for the year ended December 31, 2011, and any termination of or deterioration in our relationship with any of these clients would result in a decline in our revenues;

- Many of our contracts with our clients for the recovery of student loans and other receivables are subject to periodic renewal or re-bidding processes, are not exclusive and do not commit our clients to provide specified volumes of business and, as a consequence, there is no assurance that we will be able to maintain our revenues and operating results;

- We face significant competition in all of the markets in which we operate and an inability to compete effectively in the future could harm our relationships with our clients, which would impact our ability to maintain our revenues and operating results;