

U.S. 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 12, 2011



American Capital Agency Corp.
(Exact name of registrant as specified in its charter)

DELAWARE
(State or other jurisdiction
of incorporation)

001-34057
(Commission
File Number)

26-1701984
(I.R.S. Employer
Identification No.)

2 Bethesda Metro Center, 14th Floor Bethesda, MD 20814
(Address of principal executive offices, zip code)

Registrant's telephone number, including area code: **(301) 968-9300**

(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:

- Written communications pursuant to Rule 425 under the Securities Act
- Soliciting material pursuant to Rule 14a-12(b) under the Exchange Act
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act

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

The Board of Directors (the "Board") of American Capital Agency Corp. (the "Company") amended Section 3.1 of the Second Amended and Restated Bylaws of the Company, effective December 12, 2011 (the "Bylaw Amendment"), to

implement majority voting for the election of directors in uncontested elections. In contested elections where the number of nominees exceeds the number of directors to be elected, the vote standard will continue to be a plurality of votes cast. The foregoing summary of the Bylaw Amendment does not purport to be complete and is qualified in its entirety by reference to the complete text of the Bylaw Amendment, a copy of which is filed herewith as Exhibit 3.1 and incorporated herein by reference.

Item 8.01 Other Events.

In connection with the Bylaw Amendment, the Board also adopted a director resignation policy (the "Resignation Policy") on December 12, 2011. Under the Resignation Policy, an incumbent director must tender his or her resignation to the Board if the director does not receive the required majority vote in an uncontested election. The Compensation and Corporate Governance Committee of the Board will then make a recommendation to the full Board to accept or reject the resignation. The Board will publicly disclose its decision within 90 days after receipt of the tendered resignation.

On December 12, 2011, the Board also made a clarifying amendment to each of the outstanding Restricted Stock Agreements (the "RSAs") entered into between Messrs. Couch, Davis, Dobbs and Harvey and the Company pursuant to the American Capital Agency Corp. Equity Incentive Plan for Independent Directors. Under the respective RSAs, each director's unvested shares immediately vest upon termination of his service to the Company for any reason, except in the event that the director terminates his service (other than due to his death or disability) or the director is removed for cause. In such instances, the director must forfeit his unvested shares. In connection with the adoption of the Resignation Policy, the Board amended the RSAs to clarify that a resignation submitted pursuant to the Resignation Policy does not constitute a termination of service by the director. As a result, a termination under the Resignation Policy is treated in the same manner as a director's failure to be re-elected to office. The foregoing summary of the amendment to the RSAs does not purport to be complete and is qualified in its entirety by reference to the complete text of the revised form RSA, a copy of which is filed herewith as Exhibit 10.1 and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No. Description

- | | |
|------|---------------------------------------------------------------------------------------------------------------------|
| 3.1 | Amendment No. 1 to Second Amended and Restated Bylaws of American Capital Agency Corp., effective December 12, 2011 |
| 10.1 | Form of Restricted Stock Agreement for independent directors |

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.

**AMERICAN CAPITAL AGENCY
CORP.**

Dated: December 16, 2011

By: /s/ SAMUEL A. FLAX

Samuel A. Flax
Executive Vice President and Secretary

Amendment No. 1 to Second Amended and Restated Bylaws**of****American Capital Agency Corp.**

(adopted and effective as of December 12, 2011)

Section 3.1 is deleted in its entirety and replaced with the following:

"Section 3.1 Number and Election of Directors. The Board of Directors shall consist of not less than one nor more than fifteen members, the exact number of which shall initially be fixed by the Incorporator and thereafter from time to time by a majority vote of the members of the Board of Directors then in office, provided that no amendment to the Bylaws decreasing the number of directors shall have the effect of shortening the term of any incumbent director and provided that the number of directors shall not be increased by fifty percent (50%) or more in any twelve-month period without the approval of at least sixty-six percent (66%) of the members of the Board of Directors then in office. Except as provided in Section 3.3 hereof, directors shall be elected by a majority of the votes cast at the Annual Meetings of Stockholders and each director so elected shall hold office until the next Annual Meeting of Stockholders and until such director's successor is duly elected and qualified, or until such director's earlier death, resignation or removal; provided that if the number of nominees exceeds the number of directors to be elected, each director shall be elected by the vote of a plurality of the votes cast. For purposes of this Section, a majority of the votes cast means that the number of votes cast "for" a director nominee must exceed the votes cast "against" that nominee. Directors need not be stockholders."

AMERICAN CAPITAL AGENCY CORP.

EQUITY INCENTIVE PLAN FOR INDEPENDENT DIRECTORS

RESTRICTED STOCK AGREEMENT

This Restricted Stock Agreement (this "Agreement") is executed and delivered as of _____, 20__ (the "Effective Date") by and between American Capital Agency Corp., a Delaware corporation (the "Company") and _____, a director of the Company (the "Grantee"). The Grantee and the Company hereby agree as follows:

1. Grant. Pursuant to the American Capital Agency Corp. Equity Incentive Plan for Independent Directors (the "Plan"), the Company hereby grants to the Grantee _____ shares of the Company's common stock, \$0.01 par value (the "Shares").

2. Restrictions. Subject to Section 3 hereof, the Shares may not be sold, assigned, transferred, pledged, hypothecated or otherwise disposed of and shall be subject to the risk of forfeiture described in Section 4 hereof (the "Restrictions") from the Effective Date until (i) _____ with respect to one-third of the Shares, (ii) _____ with respect to an additional one-third of the Shares, and (iii) _____ with respect to the remaining one-third of the Shares.

3. Lapse of Restrictions.

(a) Unless the Restrictions shall have been terminated pursuant to clauses (b), (c) or (d) of this Section 3, the Restrictions shall lapse with respect to one-third of the Shares on _____.

(b) In the event of the Grantee's death or disability, the Restrictions shall lapse with respect to all Shares subject to the Restrictions on the date of the Grantee's death or the occurrence of the Grantee's disability.

(c) In the event that the Grantee's service as a director of the Company is terminated other than for any of the reasons set forth in Section 4 hereof, the Restrictions shall lapse with respect to all Shares subject to the Restrictions on the date of such termination.

(d) Upon a Change of Control (as defined in the Plan), the Restrictions shall lapse with respect to all Shares subject to the Restrictions on the date of the Change of Control.

4. Forfeiture Events. If (a) the Grantee terminates his service as a director of the Company, except for a termination due to the Grantee's death or disability or pursuant to the Company's Director Resignation Policy, or (b) the Grantee's service as a director is terminated pursuant to a Removal for Cause (as defined in the Plan), all Shares subject to the Restrictions as of the date of any such termination shall be forfeited on such date.

5. Certain Tax Matters.

(a) Tax Consequences. The Grantee acknowledges that it shall recognize ordinary income at the times the Restrictions lapse with respect to the Shares in an amount equal to the fair market value of the Shares on each such date and the Company shall be required to collect all applicable withholding taxes with respect to such income. The obligations of the Company under the Plan are conditioned on the Grantee making arrangements for the payment of any such taxes. Notwithstanding anything herein to the contrary, the release of the Shares from the Restrictions shall be conditioned upon the Grantee making adequate provision for federal, state or other tax withholding obligations, if any, which arise upon such release (unless the Section 83(b) election described in Section 5(b) hereof has been filed), whether by withholding, direct payment to the Company, or otherwise.

(b) Section 83(b) Election. The Grantee acknowledges that he has been informed that he may file with the Internal Revenue Service within 30 days of the Effective Date an election, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended (the "Code"), to be taxed currently on the fair market value of the Shares on the Effective Date. The Grantee acknowledges that it is the Grantee's sole responsibility to file timely the election under Section 83(b) of the Code, even if the Grantee requests the Company or its representative to make this filing on the Grantee's behalf.

(c) No Tax Advice. By signing this Agreement, the Grantee represents that he has reviewed with his own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement and that he is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. The Grantee understands and agrees that he (and not the Company) shall be responsible for any tax liability that may arise as a result of the transactions contemplated by this Agreement.

6. Restrictive Legend. The Shares subject to the Restrictions shall be held in a restricted account with the following legend:

THE SHARES HELD IN THIS ACCOUNT ARE SUBJECT TO CERTAIN RESTRICTIONS UPON TRANSFER SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE COMPANY.

The Grantee shall be entitled to have such legend removed from such certificate upon the lapse of the Restrictions on the Shares.

7. Entire Agreement; Plan Controls. This Agreement and the Plan contain the entire understanding and agreement of the parties concerning the subject matter hereof, and supersede all earlier negotiations and understandings, written or oral, between the parties with respect thereto. This Agreement is made under and subject to the provisions of the Plan, and all of the provisions of the Plan are hereby incorporated by reference into this Agreement. In the event of any conflict between the provisions of this Agreement and the provisions of the Plan, the provisions of the Plan shall govern. By signing this Agreement, the Grantee confirms that he has received a copy of the Plan and has had an opportunity to review the contents thereof.

8. Miscellaneous.

(a) Notices. Any notice required or permitted under this Agreement shall be deemed given when delivered personally, or when deposited in a United States Post Office, postage prepaid, addressed, as appropriate, to the Grantee either at his address herein below set forth or such other address as he may designate in writing to the Company, or to the Company to the attention of the Secretary, at the Company's address or such other address as the Company may designate in writing to the Grantee.

(b) Failure to Enforce Not a Waiver. The failure of the Company or the Grantee to enforce at any time any provision of this Agreement shall in no way be construed to be a waiver of such provision or of any other provision hereof.

(c) Governing Law. This Agreement shall be governed by and construed according to the laws of the State of Delaware without giving effect to the choice of law principles thereof.

(d) Amendments. This Agreement may be amended or modified at any time by an instrument in writing signed by the parties.

(e) Agreement Not a Contract of Employment. Neither this Agreement nor any other action taken in connection herewith shall constitute or be evidence of any agreement or understanding, express or implied, that the Grantee is an employee of the Company or any subsidiary of the Company.

(f) Captions. The captions and headings of the sections and subsections of this Agreement are included for convenience only and are not to be considered in construing or interpreting this Agreement.

(g) Counterparts. This Agreement may be executed in counterparts, each of which when signed by the Company or the Grantee will be deemed an original and all of which together will be deemed the same agreement.

(h) Assignment. The Company may assign its rights and delegate its duties under this Agreement. If any such assignment or delegation requires consent of any state securities authorities, the parties agree to cooperate in requesting such consent. This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer herein set forth, be binding upon the Grantee, his heirs, executors, administrators, successors and assigns.

(i) Severability. This Agreement will be severable, and the invalidity or unenforceability of any term or provision hereof will not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Furthermore, in lieu of any invalid or unenforceable term or provision, the parties intend that there be added as a part of this Agreement a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by a duly authorized representative and the Grantee has hereunto set his hand as of the Effective Date.

AMERICAN CAPITAL AGENCY CORP.

By: _____

Name:

Title:

GRANTEE

Name: