

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

FATHOM HOLDINGS INC.

(Exact name of registrant as specified in its charter)

North Carolina
(State or other jurisdiction of
incorporation or organization)

6531
(Primary Standard Industrial
Classification Code Number)

82-1518164
(I.R.S. Employer
Identification Number)

211 New Edition Court, Suite 211
Cary, North Carolina, 27511
888-455-6040

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

Joshua Harley
Chief Executive Officer
211 New Edition Court, Suite 211
Cary, North Carolina, 27511
888-455-6040

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

Please send copies of all communications to:

Donald R. Reynolds
Andrew J. Gibbons
Lorna A. Knick
Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, North Carolina 27607
(919) 781-4000

M. Ali Panjwani, Esq.
Pryor Cashman LLP
7 Times Square
New York, New York 10036
(212) 421-4100

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

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, as amended (the "Securities Act"), 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, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. **333-235972**

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, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities To Be Registered | Proposed Maximum Aggregate Offering Price ⁽²⁾⁽³⁾ | Amount of Registration Fee ⁽⁴⁾ |
|---|--|--|
| Common Stock, no par value per share ⁽¹⁾ | \$9,997,000 | \$1,297.61 |
| TOTAL | \$9,997,000 | \$1,297.61 |

- (1) Represents only the additional dollar amount of shares being registered. Does not include the securities, the offer and sale of which the Registrant previously registered on a Registration Statement on Form S-1 (File No. 333-235972), as amended (the "Prior Registration Statement"). Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended, and includes shares of common stock that the underwriters have an option to purchase from the Registrant.
- (2) The Registrant previously registered securities on the Prior Registration Statement, which was declared effective by the Securities and Exchange Commission on July 30, 2020. In accordance with Rule 462(b) under the Securities Act of 1933, as amended, an additional amount of securities having a maximum aggregate offering price of \$9,997,000 are hereby registered.
- (3) In accordance with Rule 416(a), the Registrant is also registering an indeterminate number of additional shares of common stock that shall be issuable pursuant to Rule 416 to prevent dilution resulting from share splits, share dividends or similar transactions.
- (4) Calculated pursuant to Rule 457(o) based on an estimate of the maximum aggregate offering price.

This Registration Statement shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

EXPLANATORY NOTE AND INCORPORATION BY REFERENCE

Pursuant to Rule 462(b) under the Securities Act of 1933, as amended (“Securities Act”), Fathom Holdings Inc. (“Registrant”) is filing this Registration Statement on Form S-1 (the “Registration Statement”) with the Securities and Exchange Commission (“Commission”). This Registration Statement relates to the public offering of securities contemplated by the Registration Statement on Form S-1, as amended (File No. 333-235972) (the “Prior Registration Statement”), which the Registrant originally filed with the Commission on [January 17, 2020](#), and subsequently amended on [June 15, 2020](#), [June 16, 2020](#), [July 1, 2020](#), [July 16, 2020](#), [July 24, 2020](#) and [July 29, 2020](#), and which the Commission declared effective on July 30, 2020.

The Registrant is filing this Registration Statement for the sole purpose of increasing the aggregate maximum offering price by \$9,997,000. The additional amount being registered for issuance and sale is in an amount that together represents no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement as calculated pursuant to Securities Act Rules Compliance and Disclosure Interpretation 627.01. The information set forth in the Prior Registration Statement, including all amendments and exhibits thereto, are incorporated by reference herein.

The required opinion and consents are listed on the Exhibit Index attached hereto and filed herewith.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

| <u>Exhibit No.</u> | <u>Description of Exhibit</u> |
|--------------------|---|
| <u>5.1</u> | <u>Opinion of Wyrick Robbins Yates & Ponton LLP.*</u> |
| <u>23.1</u> | <u>Consent of BDO USA, LLP.*</u> |
| <u>23.2</u> | <u>Consent of Wyrick Robbins Yates & Ponton LLP (included in Exhibit 5.1).*</u> |
| <u>24.1</u> | <u>Power of Attorney. †</u> |
| * | Filed herewith. |
| † | Incorporated by reference to the Registrant's Registration Statement on Form S-1 (File No. 333-235972). |

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Cary, State of North Carolina, on July 30, 2020.

FATHOM HOLDINGS INC.

By: /s/ Joshua Harley
Name: Joshua Harley
Title: Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|--|---|---------------|
| <u>/s/ Joshua Harley</u> Joshua Harley | Chief Executive Officer, Director (Principal Executive Officer) | July 30, 2020 |
| <u>/s/ Marco Fregenal</u> Marco Fregenal | President and Chief Financial Officer, Director (Principal Financial Officer and Principal Accounting Officer) | July 30, 2020 |
| * <u>Chris Bennett</u> | Director | July 30, 2020 |
| * <u>Jeffrey H. Coats</u> | Director | July 30, 2020 |
| * <u>David C. Hood</u> | Director | July 30, 2020 |
| * <u>Glenn Sampson</u> | Director | July 30, 2020 |
| * <u>Jennifer B. Venable</u> | Director | July 30, 2020 |
| *By: <u>/s/ Marco Fregenal</u> Marco Fregenal, As Attorney-in-Fact | | |



Wyrick Robbins Yates & Ponton LLP
ATTORNEYS AT LAW
4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607
PO Drawer 17803, Raleigh, NC 27619
P: 919.781.4000 F: 919.781.4865 www.wyrick.com

July 30, 2020

Fathom Holdings Inc.
211 New Edition Court, Suite 211
Cary, North Carolina, 27511

Re: Registration Statement on Form S-1

Ladies and Gentlemen:

We refer to the Registration Statement on Form S-1 filed by Fathom Holdings Inc., a North Carolina corporation (the "Company"), with the Securities and Exchange Commission (the "Commission") on the date hereof pursuant to Rule 462(b) (the "Additional Registration Statement") under the Securities Act of 1933, as amended (the "Act"). The Additional Registration Statement relates to the registration under the Act of \$9,997,000 of common stock, no par value per share (the "Additional Securities"), of the Company. The Additional Registration Statement incorporates by reference the Registration Statement on Form S-1, File No. 333-235972, filed by the Company with the Commission under the Act, as amended to the date hereof (as so amended, the "Original Registration Statement"). This opinion letter is in addition to our opinion letter that was filed as Exhibit 5.1 to the Original Registration Statement. The Additional Securities are to be sold by the Company pursuant to an underwriting agreement among the Company and the Underwriters named therein, the form of which has been filed as Exhibit 1.1 to the Original Registration Statement (the "Underwriting Agreement").

This opinion is being furnished in accordance with the requirements of Item 16 of Form S-1 and Item 601(b)(5)(i) of Regulation S-K.

In connection with the foregoing, we have relied upon, among other things, our examination of such documents, records of the Company and certificates of its officers and public officials as we deemed necessary for purposes of the opinions expressed below. In our examination of documents for purposes of this opinion, we have assumed, and express no opinion as to, the authenticity and completeness of all documents submitted to us as originals, the conformity to originals and completeness of all documents submitted to us as copies, the legal capacity of all persons or entities executing the same, the lack of any undisclosed termination, modification, waiver or amendment to any document reviewed by us, and the due authorization, execution and delivery of all documents by shareholders where due authorization, execution and delivery are prerequisites to the effectiveness thereof.

Some of the Additional Securities will be uncertificated as of the closing of the offering described in the Original Registration Statement.

This opinion is limited to the laws of the State of North Carolina and no opinion is expressed as to the laws of any other jurisdiction. This opinion does not extend to compliance with federal or state securities laws relating to the offer or sale of the Additional Securities.

In connection with our opinions expressed below, we have assumed that, at or prior to the time of the issuance and the delivery of any Additional Securities, the Additional Registration Statement will have been declared effective under the Act, and the Additional Securities will have been registered under the Act pursuant to the Additional Registration Statement and that such registration will not have been modified or rescinded, that no stop order suspending the effectiveness of the Additional Registration Statement or any post-effective amendment thereto shall have been issued in connection with the Additional Registration Statement, and that there will not have occurred any change in law affecting the validity of the issuance of the Additional Securities.

Based upon the foregoing, it is our opinion that up to \$9,997,000 of the Company's Additional Securities to be issued and sold by the Company pursuant to the Additional Registration Statement, when issued, sold and delivered in the manner and for the consideration stated in the Original Registration Statement and the prospectus included therein (the "Prospectus"), and in accordance with the resolutions adopted by the Company's Board of Directors (the "Board") and adopted by the Pricing Committee of the Board, will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion as an exhibit to the Additional Registration Statement and to the reference of this firm under the caption "Legal Matters" in the Prospectus and included in or made a part of the Additional Registration Statement. In giving this consent, we do not hereby admit that this firm is within the category of persons whose consent is required under Section 7 of the Act or the rules and regulations promulgated thereunder by the Commission.

This opinion is intended for use in connection with the issuance and sale of the Additional Securities subject to the Additional Registration Statement and is not to be relied upon for any other purpose. This opinion is rendered as of the date first written above and based solely on our understanding of facts in existence as of such date after the aforementioned examination. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention whether or not such occurrence would affect or modify any of the opinions expressed herein.

Very truly yours,

/s/ Wyrick Robbins Yates & Ponton LLP

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in this Registration Statement on Form S-1 filed pursuant to Rule 462(b) of the Securities Act of 1933 of the reference to our firm under the caption "Experts" and to the incorporation by reference of our report dated June 15, 2020, (except for the paragraphs discussing the reverse stock split in Note 13, as to which the date is July 13, 2020), relating to the consolidated financial statements of Fathom Holdings Inc. (formerly known as Fathom Holdings, LLC) (the "Company") included in Amendment No. 6 to the Registration Statement (Form S-1 No. 333-235972) and related Prospectus of the Company for the registration of its common stock.

/s/ BDO USA, LLP

Raleigh, North Carolina
July 30, 2020
