

Facebook Inc  
Form S-8  
October 06, 2014

As filed with the Securities and Exchange Commission on October 6, 2014  
Registration No. 333-

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

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FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

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Facebook, Inc.  
(Exact Name of Registrant as Specified in Its Charter)

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Delaware  
(State or Other Jurisdiction  
of Incorporation or Organization)

20-1665019  
(I.R.S. Employer  
Identification No.)

Facebook, Inc.  
1601 Willow Road  
Menlo Park, California 94025  
(650) 543-4800

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)  
Non-Plan Restricted Stock Unit Awards  
(Full Title of the Plan)

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David M. Wehner  
Chief Financial Officer  
Facebook, Inc.  
1601 Willow Road  
Menlo Park, California 94025  
(650) 543-4800

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

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Copies to:

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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 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

Smaller reporting company

(Do not check if a smaller reporting company)

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## CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount To Be Registered (1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Class A common stock, \$0.000006 par value per share —Non-Plan Restricted Stock Unit Awards	37,475,271 (2)	\$76.56 (3)	\$2,869,106,748	\$333,391
<b>TOTAL</b>	<b>37,475,271</b>		<b>\$2,869,106,748</b>	<b>\$333,391</b>

Pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of the Registrant's Class A common stock that become issuable under the Non-Plan (1) Restricted Stock Unit Awards by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant's receipt of consideration that results in an increase in the number of the outstanding shares of the Registrant's Class A common stock.

(2) Represents shares of Class A common stock issuable upon settlement of Non-Plan Restricted Stock Unit Awards.

Estimated in accordance with Rules 457(c) and (h) solely for the purpose of calculating the registration fee based

(3) on the average of the high and low prices of the Registrant's Class A common stock as reported on the Nasdaq Global Select Market on October 2, 2014.

**PART I**

**Information Required in the Section 10(a) Prospectus**

The information called for by Part I of Form S-8 is omitted from this Registration Statement in accordance with Rule 428 of the Securities Act of 1933, as amended (the "Securities Act"), and the instructions to Form S-8. In accordance with the rules and regulations of the Securities and Exchange Commission (the "Commission") and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424.

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## PART II

### Information Required in the Registration Statement

#### Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Commission pursuant to the Securities Act, and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are incorporated herein by reference:

- (a) the Registrant's Annual Report on Form 10-K for the year ended December 31, 2013, filed with the Commission on January 31, 2014, including portions of the Registrant's proxy statement from the Registrant's 2014 Annual Meeting of Stockholders held on May 22, 2014 to the extent incorporated by reference into the Registrant's Annual Report on Form 10-K;
- (b) all other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant's Annual Report referred to in (a) above; and
- (c) the description of the Registrant's Class A common stock contained in the Registrant's Registration Statement on Form 8-A (Registration No. 001-35551) filed with the Commission on May 14, 2012, including any amendments or reports filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the filing of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered hereby have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing such documents, except as to specific sections of such documents as set forth therein. Unless expressly incorporated into this Registration Statement, a report furnished on Form 8-K prior or subsequent to the filing of this Registration Statement shall not be deemed incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement.

#### Item 4. Description of Securities.

Not applicable.

#### Item 5. Interests of Named Experts and Counsel.

As of the date of this Registration Statement, attorneys of Fenwick & West LLP beneficially own an aggregate of approximately 11,000 shares of the Registrant's capital stock.

#### Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers under certain circumstances and subject to certain limitations. The terms of Section 145 of the Delaware General Corporation Law are sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement of expenses incurred, arising under the Securities Act.

As permitted by the Delaware General Corporation Law, the Registrant's restated certificate of incorporation contains provisions that eliminate the personal liability of its directors for monetary damages for any breach of fiduciary duties as a director, except liability for the following:

- any breach of the director's duty of loyalty to the Registrant or its stockholders;

- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under Section 174 of the Delaware General Corporation Law (regarding unlawful dividends and stock purchases); or
- any transaction from which the director derived an improper personal benefit.

As permitted by the Delaware General Corporation Law, the Registrant's restated bylaws provide that:

- the Registrant is required to indemnify its directors and executive officers to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions;
- the Registrant may indemnify its other employees and agents as set forth in the Delaware General Corporation Law;
- the Registrant is required to advance expenses, as incurred, to its directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions; and
- the rights conferred in the bylaws are not exclusive.

The Registrant has entered, and intends to continue to enter, into separate indemnification agreements with its directors and executive officers to provide these directors and executive officers additional contractual assurances regarding the scope of the indemnification set forth in the Registrant's restated certificate of incorporation and restated bylaws and to provide additional procedural protections. The indemnification provisions in the Registrant's restated certificate of incorporation, restated bylaws and the indemnification agreements entered into or to be entered into between the Registrant and each of its directors and executive officers may be sufficiently broad to permit indemnification of the Registrant's directors and executive officers for liabilities arising under the Securities Act.

The Registrant currently carries liability insurance for its directors and officers.

See also the undertakings set out in response to Item 9 hereof.

Item 7. Exemption from Registration Claimed.  
Not applicable.

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Item 8. Exhibits.

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith	
		Form	File No.	Exhibit Filing Date		
4.1	Restated Certificate of Incorporation of the Registrant.	10-Q	001-35551	3.1	July 31, 2012	
4.2	Amended and Restated Bylaws of the Registrant.	10-Q	001-35551	3.2	July 31, 2012	
4.3	Form of Registrant's Class A common stock certificate.	S-1	333-179287	4.1	February 8, 2012	
5.1	Opinion of Fenwick & West LLP.					X
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.					X
23.2	Consent of Fenwick & West LLP (contained in Exhibit 5.1).					X
24.1	Power of Attorney (included on the signature page of this Registration Statement).					X
99.1	Form of Non-Plan Restricted Stock Unit Award Notice and Award Agreement.					X

Item 9. Undertakings

A. The undersigned Registrant hereby undertakes:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

2. That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

B. The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

C. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Menlo Park, State of California, on this 6th day of October 2014.

FACEBOOK, INC.

By: /s/ DAVID M. WEHNER

David M. Wehner  
Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned officers and directors of the Registrant do hereby constitute and appoint David M. Wehner, Chief Financial Officer, and Colin S. Stretch, Vice President, General Counsel, and Secretary, and each of them, the lawful attorneys-in-fact and agents with full power and authority to do any and all acts and things and to execute any and all instruments that said attorneys and agents, and any one of them, determine may be necessary or advisable or required to enable said corporation to comply with the Securities Act of 1933, as amended, and any rules or regulations or requirements of the Securities and Exchange Commission in connection with this Registration Statement. Without limiting the generality of the foregoing power and authority, the powers granted include the power and authority to sign the names of the undersigned officers and directors in the capacities indicated below to this Registration Statement, to any and all amendments, both pre-effective and post-effective, and supplements to this Registration Statement, and to any and all instruments or documents filed as part of or in conjunction with this Registration Statement or amendments or supplements thereof, and each of the undersigned hereby ratifies and confirms that all said attorneys and agents, or any one of them, shall do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, each of the undersigned has executed this Power of Attorney as of the date indicated. 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.

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Signature	Title	Date
/S/ MARK ZUCKERBERG Mark Zuckerberg	Chairman and Chief Executive Officer (Principal Executive Officer)	October 6, 2014
/S/ DAVID M. WEHNER David M. Wehner	Chief Financial Officer (Principal Financial Officer)	October 6, 2014
/S/ JAS ATHWAL Jas Athwal	Chief Accounting Officer (Principal Accounting Officer)	October 6, 2014
Marc L. Andreessen	Director	
/S/ ERSKINE B. BOWLES Erskine B. Bowles	Director	October 3, 2014
/S/ SUSAN D. DESMOND-HELLMAN Susan D. Desmond-Hellman	Director	October 3, 2014
/S/ DONALD E. GRAHAM Donald E. Graham	Director	October 4, 2014
Reed Hastings	Director	
/S/ SHERYL K. SANDBERG Sheryl K. Sandberg	Director	October 6, 2014
/S/ PETER A. THIEL Peter A. Thiel	Director	October 3, 2014

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