

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): August 18, 2023

AULT ALLIANCE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

001-12711
(Commission File Number)

94-1721931
(I.R.S. Employer Identification No.)

11411 Southern Highlands Parkway, Suite 240, Las Vegas, NV 89141
(Address of principal executive offices) (Zip Code)

(949) 444-5464
(Registrant's telephone number, including area code)

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 | AULT | NYSEAmerican |
| 13.00% Series D Cumulative Redeemable Perpetual Preferred Stock, par value \$0.001 per share | AULT PRD | NYSEAmerican |

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 5.03 AMENDMENTS TO ARTICLES OF INCORPORATION OR BYLAWS; CHANGE IN FISCAL YEAR

On August 17, 2023, Ault Alliance, Inc., a Delaware corporation (the “Company”), filed Certificates of Elimination (collectively, the “Certificates of Elimination”) with the Secretary of State of the State of Delaware with respect to the Company’s Series E convertible redeemable preferred stock (“Series E Preferred Stock”), Series F convertible redeemable preferred stock (“Series F Preferred Stock”) and Series G convertible redeemable preferred stock (“Series G Preferred Stock”, and together with the Series E Preferred Stock and the Series F Preferred Stock, the “Preferred Stock”) which, effective upon filing, eliminated from the Company’s Certificate of Incorporation, as amended, all matters set forth in the Certificates of Designations for the Preferred Stock. Copies of the Certificates of Elimination for the Series E Preferred Stock, Series F Preferred Stock and Series G Preferred Stock are attached as Exhibits 3.1, 3.2 and 3.3, respectively, to this report and are incorporated herein by reference.

ITEM 7.01 REGULATION FD DISCLOSURE

On August 18, 2023, the Company issued a press release announcing a cash dividend to holders of the Series D Preferred Stock of \$0.2708333 per share. The record date for this dividend is August 31, 2023, and the payment date is September 11, 2023. A copy of the press release is furnished herewith as **Exhibit 99.1** and is incorporated by reference herein.

In accordance with General Instruction B.2 of Form 8-K, the information under this item shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, except as shall be expressly set forth by specific reference in such a filing. This report will not be deemed an admission as to the materiality of any information required to be disclosed solely to satisfy the requirements of Regulation FD.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits:

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
| 3.1 | Certificate of Elimination of the Series E convertible redeemable preferred stock of Ault Alliance, Inc. |
| 3.2 | Certificate of Elimination of the Series F convertible redeemable preferred stock of Ault Alliance, Inc. |
| 3.3 | Certificate of Elimination of the Series G convertible redeemable preferred stock of Ault Alliance, Inc. |
| 99.1 | Press Release issued on August 18, 2023. |
| 101 | Pursuant to Rule 406 of Regulation S-T, the cover page is formatted in Inline XBRL (Inline eXtensible Business Reporting Language). |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document and included in Exhibit 101). |

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.

AULT ALLIANCE, INC.

Dated: August 18, 2023

/s/ Henry Nisser
Henry Nisser
President and General Counsel

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DESIGNATION OF "AULT ALLIANCE, INC.", FILED IN THIS OFFICE ON THE SEVENTEENTH DAY OF AUGUST, A.D. 2023, AT 2:47 O`CLOCK P.M.



6551776 8100
SR# 20233279427

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 203992776
Date: 08-17-23



State of Delaware
Secretary of State
Division of Corporations
Delivered 02:47 PM 08/17/2023
FILED 02:47 PM 08/17/2023
SR 20233279427 - File Number 6551776

**CERTIFICATE OF ELIMINATION
OF THE
CERTIFICATE OF DESIGNATIONS
OF
PREFERRED STOCK
OF
AULT ALLIANCE, INC.**

**Pursuant to Section 151(g)
of the General Corporation Law
of the State of Delaware**

Ault Alliance, Inc., formerly known as BitNile Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Corporation**"), in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "**DGCL**"), hereby certifies as follows:

FIRST: Pursuant to the authority to the Board of Directors of the Corporation (the "**Board**") by Section 151 of the DGCL, the Board, by resolution duly adopted, authorized the issuance of, and established the voting powers, designation, preferences and relative, participating and other rights, and the qualifications, limitations and restrictions of shares of Series E Preferred Stock, par value \$0.001 per share (the "**Series E Preferred Stock**"), as evidenced by the Certificate of Designation with respect to such Series E Preferred Stock filed with the Secretary of State of the State of Delaware on March 28, 2023.

SECOND: Pursuant to the Certificate of Designation and Preferences (the "**Certificate of Designations**") governing such Series E Preferred Stock, there were 83,000 shares of Series E Preferred Stock issued and outstanding that have since been returned to the Corporation for cancellation.

THIRD: Pursuant to a unanimous written consent of the Board dated August 15, 2023, the Board duly adopted the following resolutions approving the proposed elimination of the Series E Preferred Stock as follows:

WHEREAS, the Certificate of Incorporation, as amended, of the Corporation provides for a class of its authorized stock known as preferred stock, comprised of 25,000,000 shares, \$0.001 par value per share, issuable from time to time in one or more classes;

WHEREAS, the Corporation previously authorized, designated and issued 83,000 shares of Series E Convertible Preferred Stock (the "**Previous Class**"), on March 28, 2023, pursuant to the Certificate of Designations therefor;

NOW, THEREFORE IT IS RESOLVED, the Corporation hereby eliminates the Certificate of Designations originally filed with the State of Delaware on March 28, 2023, related to the Previous Class, and be it further;

RESOLVED, that the Corporation's Executive Chairman, its Chief Executive Officer and its President (each, an "**Authorized Person**") be, and each of them individually is, authorized to execute the foregoing documents and/or instruments in connection with the elimination of the Certificate of Designations on behalf of the Corporation, together with such amendments and changes thereto as such Authorized Person in his sole discretion shall approve, and together with any other documents and/or instruments executed in connection therewith, his signature thereon to be conclusive evidence of such approval; and be it further

RESOLVED, that in addition to and without limiting the foregoing, each Authorized Person and the Corporation's attorney, be and hereby is authorized to take, or cause to be taken, such further action, and to execute and deliver, or cause to be delivered, for and in the name and on behalf of the Corporation, all such instruments and documents as he may deem appropriate in order to effect the purpose or intent of the foregoing resolutions (as conclusively evidenced by the taking of such action or the execution and delivery of such instruments, as the case may be) and all action heretofore taken by such officer in connection with the subject of the foregoing recitals and resolutions be, and it hereby is, approved, ratified and confirmed in all respects as the act and deed of the Corporation; and be it further

RESOLVED, that all prior actions taken by the Corporation and/or its officers for and/or on behalf of the Corporation be, and each such action hereby is, approved, ratified and confirmed; and be it further

RESOLVED, that this unanimous written consent may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and may be delivered to the Corporation by facsimile or by an e-mail which contains a portable document format (.pdf) file of an executed signature page; and be it further

FOURTH: In accordance with Section 151(g) of the DGCL, the shares that were designated as Series E Preferred Stock are hereby returned to the status of authorized but unissued shares of the Preferred Stock of the Corporation, without designation as to series.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be signed by its duly authorized officer on the 17th day of August 2023.

AULT ALLIANCE, INC.

By: /s/ Henry Nisser

Name: Henry Nisser

Title: President



Delaware

The First State

Page 1

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A handwritten signature in black ink, appearing to read "JWB", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

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SR# 20233279561

Authentication: 203992785
Date: 08-17-23

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**CERTIFICATE OF ELIMINATION
OF THE
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OF
PREFERRED STOCK
OF
AULT ALLIANCE, INC.**

State of Delaware
Secretary of State
Division of Corporations
Delivered 02:47 PM 08/17/2023
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**Pursuant to Section 151(g)
of the General Corporation Law
of the State of Delaware**

Ault Alliance, Inc., formerly known as BitNile Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Corporation**"), in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "**DGCL**"), hereby certifies as follows:

FIRST: Pursuant to the authority to the Board of Directors of the Corporation (the "**Board**") by Section 151 of the DGCL, the Board, by resolution duly adopted, authorized the issuance of, and established the voting powers, designation, preferences and relative, participating and other rights, and the qualifications, limitations and restrictions of shares of Series F Preferred Stock, par value \$0.001 per share (the "**Series F Preferred Stock**"), as evidenced by the Certificate of Designation with respect to such Series F Preferred Stock filed with the Secretary of State of the State of Delaware on March 28, 2023.

SECOND: Pursuant to the Certificate of Designation and Preferences (the "**Certificate of Designations**") governing such Series F Preferred Stock, there were 1,000 shares of Series F Preferred Stock issued and outstanding that have since been returned to the Corporation for cancellation.

THIRD: Pursuant to a unanimous written consent of the Board dated August 15, 2023, the Board duly adopted the following resolutions approving the proposed elimination of the Series F Preferred Stock as follows:

WHEREAS, the Certificate of Incorporation, as amended, of the Corporation provides for a class of its authorized stock known as preferred stock, comprised of 25,000,000 shares, \$0.001 par value per share, issuable from time to time in one or more classes;

WHEREAS, the Corporation previously authorized, designated and issued 1,000 shares of Series F Convertible Preferred Stock (the "**Previous Class**"), on March 28, 2023, pursuant to the Certificate of Designations therefor;

NOW, THEREFORE IT IS RESOLVED, the Corporation hereby eliminates the Certificate of Designations originally filed with the State of Delaware on March 28, 2023, related to the Previous Class, and be it further;

RESOLVED, that the Corporation's Executive Chairman, its Chief Executive Officer and its President (each, an "**Authorized Person**") be, and each of them individually is, authorized to execute the foregoing documents and/or instruments in connection with the elimination of the Certificate of Designations on behalf of the Corporation, together with such amendments and changes thereto as such Authorized Person in his sole discretion shall approve, and together with any other documents and/or instruments executed in connection therewith, his signature thereon to be conclusive evidence of such approval; and be it further

RESOLVED, that in addition to and without limiting the foregoing, each Authorized Person and the Corporation's attorney, be and hereby is authorized to take, or cause to be taken, such further action, and to execute and deliver, or cause to be delivered, for and in the name and on behalf of the Corporation, all such instruments and documents as he may deem appropriate in order to effect the purpose or intent of the foregoing resolutions (as conclusively evidenced by the taking of such action or the execution and delivery of such instruments, as the case may be) and all action heretofore taken by such officer in connection with the subject of the foregoing recitals and resolutions be, and it hereby is, approved, ratified and confirmed in all respects as the act and deed of the Corporation; and be it further

RESOLVED, that all prior actions taken by the Corporation and/or its officers for and/or on behalf of the Corporation be, and each such action hereby is, approved, ratified and confirmed; and be it further

RESOLVED, that this unanimous written consent may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and may be delivered to the Corporation by facsimile or by an e-mail which contains a portable document format (.pdf) file of an executed signature page; and be it further

FOURTH: In accordance with Section 151(g) of the DGCL, the shares that were designated as Series F Preferred Stock are hereby returned to the status of authorized but unissued shares of the Preferred Stock of the Corporation, without designation as to series.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be signed by its duly authorized officer on the 17th day of August 2023.

AULT ALLIANCE, INC.

By: /s/ Henry Nisser

Name: Henry Nisser

Title: President



Delaware

The First State

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6551776 8100
SR# 20233279562

Authentication: 203992796
Date: 08-17-23

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State of Delaware
Secretary of State
Division of Corporations
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FIRST: Pursuant to the authority to the Board of Directors of the Corporation (the "**Board**") by Section 151 of the DGCL, the Board, by resolution duly adopted, authorized the issuance of, and established the voting powers, designation, preferences and relative, participating and other rights, and the qualifications, limitations and restrictions of shares of Series G Preferred Stock, par value \$0.001 per share (the "**Series G Preferred Stock**"), as evidenced by the Certificate of Designation with respect to such Series G Preferred Stock filed with the Secretary of State of the State of Delaware on March 28, 2023.

SECOND: Pursuant to the Certificate of Designation and Preferences (the "**Certificate of Designations**") governing such Series G Preferred Stock, there were 16,000 shares of Series G Preferred Stock issued and outstanding that have since been returned to the Corporation for cancellation.

THIRD: Pursuant to a unanimous written consent of the Board dated August 15, 2023, the Board duly adopted the following resolutions approving the proposed elimination of the Series G Preferred Stock as follows:

WHEREAS, the Certificate of Incorporation, as amended, of the Corporation provides for a class of its authorized stock known as preferred stock, comprised of 25,000,000 shares, \$0.001 par value per share, issuable from time to time in one or more classes;

WHEREAS, the Corporation previously authorized, designated and issued 16,000 shares of Series G Convertible Preferred Stock (the "**Previous Class**"), on March 28, 2023, pursuant to the Certificate of Designations therefor;

NOW, THEREFORE IT IS RESOLVED, the Corporation hereby eliminates the Certificate of Designations originally filed with the State of Delaware on March 28, 2023, related to the Previous Class, and be it further;

RESOLVED, that the Corporation's Executive Chairman, its Chief Executive Officer and its President (each, an "**Authorized Person**") be, and each of them individually is, authorized to execute the foregoing documents and/or instruments in connection with the elimination of the Certificate of Designations on behalf of the Corporation, together with such amendments and changes thereto as such Authorized Person in his sole discretion shall approve, and together with any other documents and/or instruments executed in connection therewith, his signature thereon to be conclusive evidence of such approval; and be it further

RESOLVED, that in addition to and without limiting the foregoing, each Authorized Person and the Corporation's attorney, be and hereby is authorized to take, or cause to be taken, such further action, and to execute and deliver, or cause to be delivered, for and in the name and on behalf of the Corporation, all such instruments and documents as he may deem appropriate in order to effect the purpose or intent of the foregoing resolutions (as conclusively evidenced by the taking of such action or the execution and delivery of such instruments, as the case may be) and all action heretofore taken by such officer in connection with the subject of the foregoing recitals and resolutions be, and it hereby is, approved, ratified and confirmed in all respects as the act and deed of the Corporation; and be it further

RESOLVED, that all prior actions taken by the Corporation and/or its officers for and/or on behalf of the Corporation be, and each such action hereby is, approved, ratified and confirmed; and be it further

RESOLVED, that this unanimous written consent may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and may be delivered to the Corporation by facsimile or by an e-mail which contains a portable document format (.pdf) file of an executed signature page; and be it further

FOURTH: In accordance with Section 151(g) of the DGCL, the shares that were designated as Series G Preferred Stock are hereby returned to the status of authorized but unissued shares of the Preferred Stock of the Corporation, without designation as to series.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be signed by its duly authorized officer on the 17th day of August 2023.

AULT ALLIANCE, INC.

By: /s/ Henry Nisser

Name: Henry Nisser

Title: President





Ault Alliance Declares Monthly Cash Dividend of \$0.2708333 Per Share of 13.00% Series D Cumulative Redeemable Perpetual Preferred Stock

LAS VEGAS--(BUSINESS WIRE) – August 18, 2023 -- Ault Alliance, Inc. (NYSE American: AULT), a diversified holding company (“**Ault Alliance**,” or the “**Company**”), today announced that its Board of Directors has declared a monthly cash dividend of \$0.2708333 per share of the Company’s outstanding 13.00% Series D Cumulative Redeemable Perpetual Preferred Stock. The record date for this dividend is August 31, 2023, and the payment date is September 11, 2023.

Link to NYSE quote for the Company’s 13.00% Series D Cumulative Redeemable Perpetual Preferred Stock: <https://www.nyse.com/quote/XASE:AULTpD>

For more information on Ault Alliance and its subsidiaries, Ault Alliance recommends that stockholders, investors, and any other interested parties read Ault Alliance’s public filings and press releases available under the Investor Relations section at www.Ault.com or available at www.sec.gov.

About Ault Alliance, Inc.

Ault Alliance, Inc. is a diversified holding company pursuing growth by acquiring undervalued businesses and disruptive technologies with a global impact. Through its wholly and majority-owned subsidiaries and strategic investments, Ault Alliance owns and operates a data center at which it mines Bitcoin and offers colocation and hosting services for the emerging artificial intelligence ecosystems and other industries, and provides mission-critical products that support a diverse range of industries, including metaverse platform, oil exploration, crane services, defense/aerospace, industrial, automotive, medical/biopharma, consumer electronics, hotel operations and textiles. In addition, Ault Alliance extends credit to select entrepreneurial businesses through a licensed lending subsidiary. Ault Alliance’s headquarters are located at 11411 Southern Highlands Parkway, Suite 240, Las Vegas, NV 89141; www.Ault.com.

Forward-Looking Statements

This press release contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as “believes,” “plans,” “anticipates,” “projects,” “estimates,” “expects,” “intends,” “strategy,” “future,” “opportunity,” “may,” “will,” “should,” “could,” “potential,” or similar expressions. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties.

Forward-looking statements speak only as of the date they are made, and the Company undertakes no obligation to update any of them publicly in light of new information or future events. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors. More information, including potential risk factors, that could affect the Company’s business and financial results are included in the Company’s filings with the U.S. Securities and Exchange Commission, including, but not limited to, the Company’s Forms 10-K, 10-Q and 8-K. All filings are available at www.sec.gov and on the Company’s website at www.Ault.com.

Ault Alliance Investor Contact:

IR@Ault.com or 1-888-753-2235
