

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

FORM S-8

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

TMC the metals company Inc.

(Exact name of registrant as specified in its charter)

British Columbia, Canada
(State or other jurisdiction of
incorporation or organization)

Not Applicable
(I.R.S. Employer
Identification No.)

**595 Howe Street, 10th Floor
Vancouver, British Columbia
V6C 2T5
(574) 252-9333**

(Address, including Zip Code, of Principal Executive Offices)

2021 Incentive Equity Plan
(Full Title of the Plans)

**Cogency Global Inc.
122 East 42nd Street, 18th Floor
New York, New York 10168
Telephone: (800) 221-0102**

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

Copies to:
Michael L. Fantozzi, Esq.
Daniel T. Kajunski, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Telephone: (617) 542-6000

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. ☐

EXPLANATORY NOTE

This Registration Statement registers additional securities of the same class as other securities for which the registration statements filed on Form S-8 (SEC File Nos. 333-261221 and 333-265319) of TMC the metals company Inc. (the “Registrant”) are effective. The additional securities are 10,672,485 additional Common Shares of the Registrant reserved for issuance under the 2021 Incentive Equity Plan as a result of the automatic increase in the number of shares reserved under this plan on January 1, 2023. The information contained in the Registrant’s registration statements on Form S-8 (SEC File Nos. 333-261221 and 333-265319) is hereby incorporated by reference pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8.	Exhibits.				
Exhibit Number	Exhibit Description	Filed Herewith	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/Reg. Number
4.1	Notice of Articles of TMC the metals company Inc.		Form 8-K (Exhibit 3.1)	9/15/2021	001-39281
4.2	Articles of TMC the metals company Inc.		Form 8-K (Exhibit 3.2)	9/15/2021	001-39281
4.3	TMC the metals company Inc. Common Share Certificate		Form 8-K (Exhibit 4.1)	9/15/2021	001-39281
5.1	Opinion of Fasken Martineau DuMoulin LLP	X			
23.1	Consent of Ernst & Young LLP independent registered public accounting firm of TMC the metals company Inc.	X			
23.2	Consent of Fasken Martineau DuMoulin LLP (included in Exhibit 5.1)	X			
24.1	Power of Attorney (included on the signature page hereof)	X			
99.1+	TMC the metals company Inc. 2021 Incentive Equity Plan		Form 8-K (Exhibit 10.23.1)	9/15/2021	001-39281
99.2+	Form of Stock Option Agreement under TMC the metals company Inc. 2021 Incentive Equity Plan		Form 8-K (Exhibit 10.23.2)	9/15/2021	001-39281
99.3+	Form of Restricted Stock Unit Agreement under TMC the metals company Inc. 2021 Incentive Equity Plan		Form S-8 (Exhibit 99.3)	11/19/2021	333-261221
107	Filing Fee Table	X			

+ Denotes management contract or compensatory plan or arrangement

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized in New York, New York on March 27, 2023.

TMC THE METALS COMPANY INC.

By: /s/ Craig Shesky
Craig Shesky
Chief Financial Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints each of Gerard Barron and Craig Shesky, acting alone or together with another attorney-in-fact, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in his or her name, place and stead, in any and all capacities, to sign any or all further amendments (including post-effective amendments) to this registration statement (and any additional registration statement related hereto permitted by Rule 462(b) promulgated under the Securities Act (and all further amendments, including post-effective amendments, thereto)), and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

Signature	Title	Date
<u>/s/ Gerard Barron</u> Gerard Barron	Chief Executive Officer and Chairman (Principal Executive Officer)	March 27, 2023
<u>/s/ Craig Shesky</u> Craig Shesky	Chief Financial Officer (Principal Financial and Accounting Officer)	March 27, 2023
<u>Andrew C. Greig</u>	Director	
<u>/s/ Andrew Hall</u> Andrew Hall	Director	March 27, 2023
<u>/s/ Andrei Karkar</u> Andrei Karkar	Director	March 27, 2023
<u>/s/ Sheila Khama</u> Sheila Khama	Director	March 27, 2023
<u>/s/ Christian Madsbjerg</u> Christian Madsbjerg	Director	March 27, 2023
<u>/s/ Kathleen McAllister</u> Kathleen McAllister	Director	March 27, 2023
<u>/s/ Amelia Kinahoi Siamomua</u> Amelia Kinahoi Siamomua	Director	March 27, 2023

FASKEN

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
Patent and Trade-mark Agents

550 Burrard Street, Suite 2900
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fasken.com

March 27, 2023
File No.: 328015.00001

TMC the metals company Inc.
595 Howe Street, 10th Floor
Vancouver, British Columbia
V6C 2T5

Dear Sirs/Mesdames:

Re: TMC the metals company Inc. – Registration Statement on Form S-8

We have acted as Canadian counsel to TMC the metals company Inc., a corporation continued under the laws of the Province of British Columbia (the “**Corporation**”), in connection with the filing of a registration statement on Form S-8 (as may be amended, the “**Registration Statement**”), with the Securities and Exchange Commission (the “**Commission**”) under the Securities Act of 1933, as amended (the “**Act**”). The Registration Statement relates to registering the issuance of an additional aggregate of 10,672,485 common shares without par value in the capital of the Corporation (the “**2023 IEP Shares**”) issuable upon exercise of the awards (the “**2023 IEP Awards**”) outstanding under and in accordance with the terms of the 2021 Incentive Equity Plan of the Corporation (the “**IEP**”).

A. Documents Reviewed and Reliance

As Canadian counsel to the Corporation, we have examined original executed or electronically delivered copies, which have been certified or otherwise identified to our satisfaction, of:

1. the IEP; and
2. the Registration Statement.

We have also made such investigations and examined originals or copies, certified or otherwise identified to our satisfaction, of such certificates of public officials and of such other certificates, documents and records as we considered necessary or relevant for purposes of the opinions expressed below, including:

1. a certificate of good standing dated March 27, 2023 issued pursuant to the *Business Corporations Act* (British Columbia) relating to the Corporation; and
 2. a certificate signed by the Chief Financial Officer of the Corporation dated as of the date hereof addressed to our firm, containing certain additional corporate information of a factual nature and attaching the constating documents of the Corporation, including the certificate of continuation, notice of articles and articles of the Corporation (the “**Constating Documents**”), and the resolutions of the directors of the Corporation authorizing and approving the issuance of the 2023 IEP Shares (the “**Officer’s Certificate**”).
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As to various questions of fact material to the opinions provided herein, we have relied upon the Officer's Certificate.

B. Laws Addressed

We are qualified to practice law in the Province of British Columbia and our opinion herein is restricted to the laws of the Province of British Columbia and the federal laws of Canada applicable therein. We assume no obligation to update these opinions to take into account any changes in such laws or facts after the date hereof.

C. Assumptions

For the purposes of the opinions expressed herein, we have assumed, without independent investigation, the following:

1. with respect to all documents examined by us, the genuineness of all signatures, the authenticity, completeness and accuracy of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as certified, conformed, telecopied, PDF or photocopied copies of originals and the legal capacity of individuals signing any documents;
2. the completeness, accuracy and currency of the indices and filing systems maintained at the public offices where we have searched or made relevant inquiries and of other documents and certificates supplied by public officials;
3. that the Officer's Certificate continues to be accurate on the date hereof;
4. that the minute books and corporate records of the Corporation made available to us are the original minute books and records of the Corporation and contain all of the articles and constating documents of the Corporation and any amendments thereto and all of the respective minutes, or copies thereof, of all proceedings of the shareholders and directors;
5. each of the the IEP and 2023 IEP Awards constitutes a legal, valid and binding obligation of the Corporation and the other parties thereto, enforceable against each of the parties thereto in accordance with its terms and the execution and delivery thereof was duly authorized by the parties thereto; and
6. that if any obligation under any document is required to be performed in a jurisdiction outside of the Province of British Columbia, the performance of that obligation will not be illegal under the laws of that jurisdiction.

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D. Reliance

For the purposes of expressing the opinions set forth herein, in connection with certain factual matters pertaining to this opinion, we have relied exclusively and without independent investigation upon the Officer's Certificate.

E. Opinions

Based upon and relying on the foregoing and the qualifications hereinafter expressed, we are of the opinion that the 2023 IEP Shares when issued in accordance with the terms of the IEP will be validly issued, fully paid and non-assessable common shares in the capital of the Corporation.

F. Qualifications

Whenever our opinion refers to securities of the Corporation, whether issued or to be issued, as being "fully-paid and non-assessable", such phrase means that the holders of such securities will not, after the issuance to them of such securities, be liable to pay further amounts to the Corporation in respect of the issue price payable for such securities, and no opinion is expressed as to the adequacy of any consideration received by the Corporation therefor or as to the actual receipt by the Corporation of any consideration for the issuance of such securities.

For greater certainty, a specific assumption, limitation or qualification in this opinion is not to be interpreted to restrict the generality of any other assumption, limitation or qualification expressed in general terms in this opinion that includes the subject matter of the specific assumption, limitation or qualification.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 or Section 11 of the Act or the rules and regulations of the Commission promulgated thereunder.

The opinions herein are given as at the date hereof and we disclaim any obligation or undertaking to advise any person of any change in law or fact that may come to our attention after the date hereof. Our opinions do not take into account any proposed rules, policies or legislative changes that may come into force following the date hereof.

Yours truly,

/s/ Fasken Martineau DuMoulin LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 pertaining to the 2021 Incentive Equity Plan of our report dated March 27, 2023 with respect to the consolidated financial statements of TMC the metals company Inc., included in its Annual Report (Form 10-K) for the year ended December 31, 2022 filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP
Chartered Professional Accountants
Vancouver, Canada
March 27, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)

TMC the metal company Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered (1)	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common shares without par value	457(c) and 457(h)	10,672,485(2)	\$ 0.82(3)	\$ 8,751,437.70	\$ 0.00011020	\$ 964.41
Total Offering Amounts					\$ 8,751,437.70		\$ 964.41
Total Fee Offsets							—
Net Fee Due							\$ 964.41

- (1) Represents common shares, without par value (“Common Shares”) that may be issued under the TMC the metals company Inc. 2021 Incentive Equity Plan (the “Plan”). Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement shall also cover any additional Common Shares that become issuable under the Plan as a result of any stock dividend, stock split, recapitalization or similar transaction effected without the Registrant’s receipt of consideration which would increase the number of outstanding Common Shares.
- (2) Represents the number of additional Common Shares reserved for issuance under the Plan as a result of the automatic increase in the number of shares reserved under the Plan on January 1, 2023.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) promulgated under the Securities Act on the basis of the average of the high and the low price of Registrant’s Common Shares as reported on the Nasdaq Stock Market LLC on March 20, 2023.