

Section 1: 8-K (8-K)

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
WASHINGTON, DC 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) **September 17, 2019**

ARES CAPITAL CORPORATION

(Exact Name of Registrant as Specified in Charter)

Maryland
(State or Other Jurisdiction
of Incorporation)

814-00663
(Commission
File Number)

33-1089684
(IRS Employer
Identification No.)

245 Park Avenue, 44th Floor, New York, NY
(Address of Principal Executive Offices)

10167
(Zip Code)

Registrant's telephone number, including area code **(212) 750-7300**

N/A
(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 (*see* General Instruction A.2. below):

- 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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$.001 per share	ARCC	NASDAQ

Indicate by check mark whether the registrant is an emerging growth company as defined in 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 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On September 17, 2019, Ares Capital Corporation (the “Company”) issued an additional \$250 million aggregate principal amount of its 4.200% notes due 2024 (the “New 2024 Notes”). The New 2024 Notes were issued as additional notes under the Indenture, dated October 21, 2010 (the “Base Indenture”), between the Company and U.S. Bank National Association (the “Trustee”), as supplemented by the Tenth Supplemental Indenture, dated June 10, 2019 (the “Tenth Supplemental Indenture,” and together with the Base Indenture, the “Indenture”), pursuant to which, on June 10, 2019, the Company issued \$650 million aggregate principal amount of its 4.200% notes due 2024 (the “Existing 2024 Notes”). The New 2024 Notes are being treated as a single series with the Existing 2024 Notes under the Indenture and have the same terms as the Existing 2024 Notes. The New 2024 Notes have the same CUSIP number and are fungible and rank equally with the Existing 2024 Notes.

The New 2024 Notes were issued at a premium of 102.200% of their principal amount, resulting in estimated net proceeds, after estimated offering expenses, of approximately \$252.8 million. Aggregate estimated offering expenses in connection with the offering of the New 2024 Notes, including the underwriting discount of \$1.5 million, were approximately \$2.7 million. The Company expects to use the net proceeds of this offering to repay certain outstanding indebtedness under its debt facilities. The Company may reborrow under its debt facilities for general corporate purposes, which include investing in portfolio companies in accordance with its investment objective.

The New 2024 Notes will mature on June 10, 2024 and may be redeemed in whole or in part at the Company’s option at any time at the redemption prices set forth in the Tenth Supplemental Indenture. The New 2024 Notes bear interest at a rate of 4.200% per year payable semiannually on June 10 and December 10 of each year, commencing on December 10, 2019. The New 2024 Notes are direct senior unsecured obligations of the Company.

The New 2024 Notes were offered and sold pursuant to the Registration Statement on Form N-2 (File No. 333-230351), the preliminary prospectus supplement filed with the Securities and Exchange Commission (the “SEC”) on September 10, 2019 and the pricing term sheet filed with the SEC on September 10, 2019. The transaction closed on September 17, 2019.

The foregoing description of the New 2024 Notes does not purport to be complete and is qualified in its entirety by reference to the full text of the Tenth Supplemental Indenture and the accompanying Form of 4.200% Notes due 2024, filed as Exhibits 4.1 and 4.2, respectively, to the Company’s [Current Report on Form 8-K filed with the SEC on June 10, 2019](#) and incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

Exhibit Number	Description
5.1	Opinion of Venable LLP
5.2	Opinion of Kirkland & Ellis LLP
23.1	Consent of Venable LLP (contained in the opinion filed as Exhibit 5.1 hereto)
23.2	Consent of Kirkland & Ellis LLP (contained in the opinion filed as Exhibit 5.2 hereto)

SIGNATURES

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.

ARES CAPITAL CORPORATION

Date: September 17, 2019

By: /s/ Penni F. Roll
Name: Penni F. Roll
Title: Chief Financial Officer

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Section 2: EX-5.1 (EX-5.1)

Exhibit 5.1



750 E. PRATT STREET SUITE 900 BALTIMORE, MD 21202
T 410.244.7400 F 410.244.7742 www.Venable.com

September 17, 2019

Ares Capital Corporation
245 Park Avenue, 44th Floor
New York, New York 10167

Re: Registration Statement on Form N-2 (File No. 333-230351)

Ladies and Gentlemen:

We have served as Maryland counsel to Ares Capital Corporation, a Maryland corporation (the "Company"), and a business development company under the Investment Company Act of 1940, as amended (the "1940 Act"), in connection with certain matters of Maryland law arising out of the registration by the Company of \$250,000,000 aggregate principal amount of the Company's 4.200% Notes due 2024 (the "Notes"), covered by the above-referenced Registration Statement, and all amendments thereto (the "Registration Statement"), filed by the Company with the United States Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "1933 Act").

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (hereinafter collectively referred to as the "Documents"):

1. The Registration Statement;
 2. The Prospectus, dated May 29, 2019, as supplemented by the Prospectus Supplement, dated September 10, 2019, filed by the Company with the Commission pursuant to Rule 497 of the General Rules and Regulations promulgated under the 1933 Act;
 3. The charter of the Company, certified by the State Department of Assessments and Taxation of Maryland (the "SDAT");
 4. The Third Amended and Restated Bylaws of the Company, certified as of the date hereof by an officer of the Company;
 5. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;
-

6. Resolutions adopted by the Board of Directors of the Company, or by a duly authorized committee thereof, relating to, among other matters, the authorization of the issuance of the Notes and the execution, delivery and performance by the Company of the Note Documents (as defined herein), certified as of the date hereof by an officer of the Company;
7. The Base Indenture, dated as of October 21, 2010 (the “Base Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”);
8. The Fifth Supplemental Indenture, dated as of November 21, 2014 (the “Fifth Supplemental Indenture”), between the Company and the Trustee;
9. The Sixth Supplemental Indenture, dated as of September 19, 2016 (the “Sixth Supplemental Indenture”), between the Company and the Trustee;
10. The Seventh Supplemental Indenture, dated as of August 10, 2017 (the “Seventh Supplemental Indenture”), between the Company and the Trustee;
11. The Eight Supplemental Indenture, dated as of January 11, 2018 (the “Eighth Supplemental Indenture”), between the Company and the Trustee;
12. The Ninth Supplemental Indenture, dated as of March 8, 2019 (the “Ninth Supplemental Indenture”), between the Company and the Trustee;
13. The Tenth Supplemental Indenture, dated as of June 10, 2019 (the “Tenth Supplemental Indenture” and, together with the Base Indenture, the Fifth Supplemental Indenture, the Sixth Supplemental Indenture, the Seventh Supplemental Indenture, the Eighth Supplemental Indenture and the Ninth Supplemental Indenture, the “Indenture”), between the Company and the Trustee;
14. The global note representing the Notes (the “Global Note” and, together with the Indenture, the “Note Documents”);
15. A certificate executed by an officer of the Company, dated as of the date hereof; and
16. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or any other person, is legally competent to do so.
2. Each individual executing any of the Documents on behalf of a party (other than the Company) is duly authorized to do so.
3. Each of the parties (other than the Company) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such party's obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.
4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

1. The Company is a corporation duly incorporated and existing under and by virtue of the laws of the State of Maryland and is in good standing with the SDAT.
2. The execution and delivery by the Company of, and the performance by the Company of its obligations under, the Note Documents have been duly authorized by all necessary corporate action on the part of the Company. The Notes have been duly authorized for issuance by the Company.
3. The Note Documents have been duly executed and delivered by the Company.

The foregoing opinion is limited to the laws of the State of Maryland and we do not express any opinion herein concerning federal law or the laws of any other state. We express

no opinion as to compliance with federal or state securities laws, including the securities laws of the State of Maryland, or the 1940 Act. We note that the Note Documents are governed by the laws of the State of New York. To the extent that any matter as to which our opinion is expressed herein would be governed by the laws of any jurisdiction other than the State of Maryland, we do not express any opinion on such matter. The opinion expressed herein is subject to the effect of judicial decisions which may permit the introduction of parol evidence to modify the terms or the interpretation of agreements.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof.

This opinion is being furnished to you for submission to the Commission as an exhibit to the Company's Current Report on Form 8-K relating to the issuance of the Notes (the "Current Report"). Kirkland & Ellis LLP, counsel to the Company, may rely on this opinion in connection with any opinions to be delivered by it in connection with the Notes. We hereby consent to the filing of this opinion as an exhibit to the Current Report and the said incorporation by reference and to the use of the name of our firm therein. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the 1933 Act.

Very truly yours,

/s/ Venable LLP

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Section 3: EX-5.2 (EX-5.2)

Exhibit 5.2

KIRKLAND & ELLIS LLP AND AFFILIATED PARTNERSHIPS

333 South Hope Street
Los Angeles, CA 90071
United States

+1 213 680 8400

www.kirkland.com

September 17, 2019

Facsimile:
+1 213 680 8500

Ares Capital Corporation
245 Park Avenue, 44th Floor
New York, New York 10167

Re: Ares Capital Corporation 4.200% Notes due 2024

Ladies and Gentlemen:

We are issuing this opinion letter in our capacity as special counsel to Ares Capital Corporation, a Maryland corporation (the "Company"), in connection with the issuance of \$250,000,000 aggregate principal amount of 4.200% notes due 2024 (the "Notes") pursuant to the registration statement on Form N-2 (File No. 333-230351) (the "Registration Statement"), filed with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and the final prospectus supplement, dated September 10, 2019 (including the base prospectus filed therewith, the "Prospectus Supplement"), filed with the Commission on May 29, 2019 pursuant to Rule 497 under the Securities Act.

The Notes are to be issued pursuant to the provisions of the Indenture, dated October 21, 2010 (the "Existing Indenture"), between the Company and U.S. Bank National Association, as trustee (the "Trustee"), as supplemented by the Tenth Supplemental Indenture, dated June 10, 2019, between the Company and the Trustee (the "Tenth Supplemental Indenture," and, together with the Existing Indenture, the "4.200% Notes Indenture").

As such counsel, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the Registration Statement, (ii) the Prospectus Supplement, (iii) the 4.200% Notes Indenture, (iv) a specimen form of the Notes, (v) the purchase agreement related to the Notes, dated June 5, 2019, among the Company, the several underwriters party thereto and the other parties named therein, and (vi) such corporate records of the Company, certificates of public officials, officers of the Company and other persons, and such other documents, agreements and instruments

as we have deemed necessary as a basis for the opinions hereinafter expressed.

For purposes of this opinion, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies and the authenticity of the originals of all such documents submitted to us as copies. We have also assumed the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered, the authority of such persons signing on behalf of the parties thereto, and the due authorization, execution and delivery of all documents by the parties thereto. As to any facts material to the opinions expressed herein that we have not independently established or verified, we have relied upon statements and representations of officers and other representatives of the Company, public officials and others.

Our opinion expressed below is subject to the qualifications that we express no opinion as to the applicability of, compliance with, or effect of (i) any bankruptcy, insolvency, reorganization, fraudulent transfer, fraudulent conveyance, moratorium or other similar law affecting the enforcement of creditors' rights generally, (ii) general principals of equity (regardless of whether enforcement is considered in a proceeding in equity or at law), concepts of

Beijing Boston Chicago Dallas Hong Kong Houston London Munich New York Palo Alto Paris San Francisco Shanghai Washington, D.C.

materiality, reasonableness, good faith and fair dealing, and the discretion of the court before which a proceeding is brought and (iii) public policy considerations that may limit the rights of parties to obtain certain remedies.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth below, we are of the opinion that when (i) the 4.200% Indenture has been duly authorized, executed and delivered by each of the Company and the Trustee, (ii) the final terms of the Notes are duly established and authorized for issuance by all necessary corporate action on the part of the Company, (iii) the Notes have been duly executed by the Company and authenticated by the Trustee in accordance with the provisions of the 4.200% Indenture, delivered to and paid for by the purchasers thereof pursuant to the documents governing their issuance and sale and (iv) the terms of the Notes as established comply with the requirements of the Investment Company Act of 1940, as amended, the Notes will be validly issued and binding obligations of the Company, enforceable against the Company in accordance with the terms thereof and will be entitled to the benefits of the 4.200% Indenture.

We hereby consent to the filing of this opinion as an exhibit to a Current Report on Form 8-K relating to the issuance of the Notes. We also consent to the reference to our firm under the heading "Legal Matters" in the Registration Statement and the Prospectus Supplement. In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Our advice on every legal issue addressed in this letter is based exclusively on the internal law of the State of New York and represents our opinion as to how that issue would be resolved were it to be considered by the highest court in the jurisdiction which enacted such law. The manner in which any particular issue relating to the opinions would be treated in any actual court case would depend in part on facts and circumstances particular to the case and would also depend on how the court involved chose to exercise the wide discretionary authority generally available to it. None of the opinions or other advice contained in this letter considers or covers the laws of any other jurisdiction, including any foreign or state securities (or "blue sky") laws or regulations or the effect of any such non-covered laws on the opinions stated herein.

This opinion is limited to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein. This opinion speaks only as of the date hereof and we assume no obligation to revise or supplement this opinion.

We have also assumed that the execution and delivery of the 4.200% Indenture and the Notes and the performance by the Company of its obligations thereunder do not and will not violate, conflict with or constitute a default under any agreement or instrument to which the Company is bound.

Very truly yours,

/s/ Kirkland & Ellis LLP

KIRKLAND & ELLIS LLP

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