

India Globalization Capital, Inc.
Form 8-K
October 13, 2009

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):
October 13, 2009

INDIA GLOBALIZATION CAPITAL, INC.
(Exact name of registrant as specified in its charter)

Maryland	001-32830	20-2760393
(State of other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

4336 Montgomery Ave. Bethesda, Maryland 20814
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (301) 983-0998

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))
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Item Entry into a Material Definitive Agreement.
1.01.

ATM Agency Agreement

On October 13, 2009, India Globalization Capital, Inc. (the “Company”) entered into an ATM Agency Agreement (the “Agreement”) with Enclave Capital LLC (“Enclave”). Pursuant to the terms of the Agreement, the Company may offer and sell shares of common stock, par value \$0.0001 per share (the “Shares”) having aggregate gross proceeds of up to \$4 million from time to time through Enclave, as its sales agent. Sales of the Shares, if any, would be made by means of ordinary brokers’ transactions on the NYSE Amex at market prices, privately negotiated transactions, crosses or block transactions and such other transactions as may be agreed between the Company and Enclave, including a combination of any of these transactions. Enclave will receive from the Company a commission equal to 3% of the gross sales price per share of the Shares sold through it as sales agent under the Agreement.

The Shares are registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to the Company’s shelf registration statement (the “Registration Statement”) on Form S-3 (File No. 333-160993), which became effective on September 10, 2009.

The Agreement is filed as Exhibit 10.1 to this Current Report on Form 8-K, and the description of the Agreement is qualified in its entirety by reference to such exhibit. For a more detailed description of the Agreement, see the disclosure under the caption “Plan of Distribution” contained in the Company’s prospectus supplement dated October 13, 2009 to the prospectus dated September 16, 2009, which has been filed with the Securities and Exchange Commission (the “SEC”) pursuant to Rule 424(b) under the Securities Act, which disclosure is hereby incorporated by reference. The Agreement is also filed with reference to, and is hereby incorporated by reference into, the Registration Statement.

It is anticipated that Enclave will provide various investment banking, financial advisory and other services to us and our affiliates for which services it may receive customary fees.

A copy of the opinion of Seyfarth Shaw LLP, relating to the legality of the Shares, is filed as Exhibit 5.1 to this Current Report and is filed with reference to, and is hereby incorporated by reference into, the Registration Statement.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits

The Exhibits included as part of this Current Report are listed in the attached Exhibit Index.

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 thereunto duly authorized.

India Globalization Capital, Inc.

Date: October 13, 2009

By: /s/ Ram Mukunda
Ram Mukunda
Chief Executive Officer and President

Exhibit Index

5.1 Opinion of Seyfarth Shaw LLP.

23.1 Consent of Seyfarth Shaw LLP (contained in Exhibit 5.1).

10.1 ATM Agency Agreement, dated as of October 13 2009, by and between India Globalization Capital, Inc. and Enclave Capital LLC
