

As filed with the Securities and Exchange Commission on March 24, 2023

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

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

**SMILEDIRECTCLUB, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**83-4505317**

(I.R.S. Employer Identification Number)

**414 Union Street  
Nashville, Tennessee 37219**

(Address of Principal Executive Offices, including Zip Code)

**SmileDirectClub, Inc. 2019 Omnibus Incentive Plan**  
(Full title of the plan)

**Susan Greenspon Rammelt**  
**Chief Legal Officer, EVP Business Affairs and Secretary**  
**SmileDirectClub, Inc.**  
**414 Union Street**  
**Nashville, TN 37219**

(Name and address of agent for service)

**800-848-7566**

(Telephone number, including area code, of agent for service)

*with a copy to:*  
**Jason M. Hille**  
**Foley & Lardner LLP**  
**777 East Wisconsin Avenue**  
**Milwaukee, Wisconsin 53202**  
**(414) 271-2400**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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

Accelerated filer

Non-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.

## STATEMENT PURSUANT TO GENERAL INSTRUCTION E TO FORM S-8

This Registration Statement on Form S-8 (this “Registration Statement”) registers additional shares of Class A Common Stock, par value \$0.0001 per share, of SmileDirectClub, Inc. (the “Registrant”) available for grant and issuance by Registrant under its 2019 Omnibus Incentive Plan (the “Omnibus Plan”).

The number of shares reserved for issuance under the Omnibus Plan is subject to an automatic increase on the first day of each fiscal year, commencing on January 1, 2020 and ending on (and including) January 1, 2029, in an amount equal to 5% of the total number of shares of Class A Common Stock outstanding on the last day of the calendar month prior to the date of such automatic increase (the “Omnibus Plan Evergreen Provision”). Notwithstanding the foregoing, the Registrant’s Board of Directors may act prior to the first day of a given fiscal year to provide that there will be no increase in the number of shares of Class A Common Stock available for issuance under the Omnibus Plan for such fiscal year or that the increase in the number of shares available for issuance under the Omnibus Plan for such year will be a lesser number of shares than would otherwise occur pursuant to the preceding sentence. In addition to the Omnibus Plan Evergreen Provision, shares of Class A Common Stock that are offered pursuant to awards granted under the Omnibus Plan may become available again for additional grants of awards if certain events occur, such as the forfeiture of the original award due to a failure to vest (the “Omnibus Plan Share Recycling Provision”).

This Registration Statement registers an additional 35,000,000 shares of Class A Common Stock that have become or will become available for grant and issuance under the Omnibus Plan pursuant to the Omnibus Plan Evergreen Provision or the Omnibus Plan Share Recycling Provision. The contents of the Registration Statements on Form S-8 relating to the Omnibus Plan previously filed by the Registrant with the Securities and Exchange Commission (the “Commission”) on September 16, 2019 (File No. 333-233773) and June 1, 2022 (File No. 333-265334) are incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8.

**PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 8 Exhibits**

Exhibit Index

<u>Exhibit No.</u>	<u>Exhibit Description</u>
<u>4.1</u>	<u>Amended and Restated Certificate of Incorporation of SmileDirectClub, Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed by the Registrant on September 17, 2019 (File No. 001-39037)).</u>
<u>4.2</u>	<u>Amended and Restated By-laws of SmileDirectClub, Inc. (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed by the Registrant on September 17, 2019 (File No. 001-39037)).</u>
<u>4.3</u>	<u>SmileDirectClub, Inc. 2019 Omnibus Incentive Plan (incorporated by reference to Exhibit 4.1 to the Registration Statement on Form S-8 filed by the Registrant on September 16, 2019 (File No. 333-233773)).</u>
<u>5</u>	<u>Opinion of Foley &amp; Lardner LLP.</u>
<u>23.1</u>	<u>Consent of Foley &amp; Lardner LLP (included in Exhibit 5).</u>
<u>23.2</u>	<u>Consent of Ernst &amp; Young LLP.</u>
<u>24</u>	<u>Power of Attorney (included on the signature page of this Form S-8).</u>
<u>107</u>	<u>Filing Fee Table.</u>

## 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 Nashville, State of Tennessee, on this 24th day of March, 2023.

### SMILEDIRECTCLUB, INC.

By: /s/ David B. Katzman

David B. Katzman  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints David B. Katzman and Susan Greenspon Rammelt, and each of them, as his or her true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him or her and in their name, place or stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, 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 connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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.

SIGNATURE	TITLE	DATE
<u>/s/ David B. Katzman</u> David B. Katzman	Chief Executive Officer and Director (Principal Executive Officer)	March 24, 2023
<u>/s/ Troy Crawford</u> Troy Crawford	Chief Financial Officer (Principal Financial and Accounting Officer)	March 24, 2023
<u>/s/ Steven Katzman</u> Steven Katzman	Chief Operating Officer and Director	March 24, 2023
<u>/s/ Jordan Katzman</u> Jordan Katzman	Director	March 24, 2023
<u>/s/ Alexander Fenkell</u> Alexander Fenkell	Director	March 24, 2023
<u>/s/ Susan Greenspon Rammelt</u> Susan Greenspon Rammelt	Chief Legal Officer, Secretary, and Director	March 24, 2023
<u>/s/ Alex Dimitrief</u> Alex Dimitrief	Director	March 24, 2023
<u>/s/ Edward W. Ward, III</u> Edward W. Ward, III	Director	March 24, 2023
<u>/s/ Richard F. Wallman</u> Richard F. Wallman	Director	March 24, 2023
<u>/s/ Linda Marie Williams</u> Linda Marie Williams	Director	March 24, 2023

**Calculation of Filing Fee Tables**  
**FORM S-8**  
**REGISTRATION STATEMENT**  
**UNDER**  
**THE SECURITIES ACT OF 1933**

**SMILEDIRECTCLUB, INC.**  
(Exact name of Registrant as specified in its charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered <sup>(1)</sup>	Proposed Maximum Offering Price Per Unit <sup>(2)</sup>	Maximum Aggregate Offering Price <sup>(2)</sup>	Fee Rate	Amount of Registration Fee
Equity	Class A Common Stock, par value \$0.0001 per share, reserved for issuance pursuant to the SmileDirectClub, Inc. 2019 Omnibus Incentive Plan	Other <sup>(2)</sup>	35,000,000 <sup>(1)</sup>	\$0.4105 <sup>(2)</sup>	\$14,367,500 <sup>(2)</sup>	0.0001102	\$1,583.30
<b>Total Offering Amounts</b>				-	\$14,367,500	-	\$1,583.30
<b>Total Fees Previously Paid</b>				-	-	-	-
<b>Total Fee Offsets</b>				-	-	-	-
<b>Net Fee Due</b>				-	-	-	\$1,583.30

- (1) Represents shares of Class A Common Stock of SmileDirectClub, Inc. (the “Registrant”). Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “Securities Act”), the amount to be registered includes any additional shares of the Registrant’s Class A Common Stock that become issuable under the SmileDirectClub, Inc. 2019 Omnibus Incentive Plan by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of the Registrant’s Class A Common Stock, as applicable.
- (2) Estimated in accordance with Rule 457(c) and Rule 457(h) solely for the purpose of calculating the registration fee based on a per share price of \$.4105, the average of the high and low price of the Class A Common Stock on March 20, 2023, as reported on the NASDAQ Global Select Market.

March 24, 2023

SmileDirectClub, Inc.  
414 Union Street  
Nashville, Tennessee

Re: SmileDirectClub, Inc. Registration on Form S-8

Ladies and Gentlemen:

We have served as counsel to SmileDirectClub, Inc., a Delaware corporation (the “Company”), in connection with the preparation of a Registration Statement on Form S-8 (together with all exhibits thereto, the “Registration Statement”) to be filed by the Company with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”). The Registration Statement relates to an offering by the Company of up to a total of (1) 35,000,000 additional shares of the Company’s Class A common stock, par value \$0.0001 per share (the “Shares”), that may be issued pursuant to the Company’s 2019 Omnibus Incentive Plan (the “Omnibus Plan”).

In connection with our representation, we have examined (1) the Amended and Restated Certificate of Incorporation of the Company, (2) the Amended and Restated By-Laws of the Company, (3) the Registration Statement, (4) the Omnibus Plan and (5) such other corporate records, certificates, documents and other instruments as in our opinion are necessary or appropriate in connection with expressing the opinions set forth below.

Based upon and pursuant to the foregoing, we are of the opinion that, as of the date hereof, the Shares, when issued by the Company pursuant to the terms and conditions of the Omnibus Plan and as contemplated by the Registration Statement, assuming in each case that the individual issuances, grants or awards under the Plan are duly authorized by all necessary corporation action and duly issued, granted or awarded and exercised in accordance with the requirements of law and the Omnibus Plan, the issue and sale of the Shares will have been duly authorized by all necessary corporation action of the Company, and the Shares will be validly issued, fully paid and nonassessable.

We consent to the use of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not admit that we are “experts” within the meaning of Section 11 of the Securities Act or within the category of persons whose consent is required by Section 7 of the Securities Act.

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BOSTON  
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JACKSONVILLE  
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MADISON

MEXICO CITY  
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SACRAMENTO  
SALT LAKE CITY  
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SAN FRANCISCO  
SILICON VALLEY

TALLAHASSEE  
TAMPA  
WASHINGTON, D.C.  
BRUSSELS  
TOKYO



FOLEY & LARDNER LLP

March 24, 2023  
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Sincerely,

/s/ Foley & Lardner LLP

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the 2019 Omnibus Incentive Plan of SmileDirectClub, Inc. of our reports dated February 28, 2023, with respect to the consolidated financial statements of SmileDirectClub, Inc. and the effectiveness of internal control over financial reporting of SmileDirectClub, 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

Nashville, Tennessee  
March 24, 2023