

**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): **June 1, 2023**

SmileDirectClub, Inc.
(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-39037
(Commission
File Number)

83-4505317
(IRS Employer
Identification No.)

414 Union Street
Nashville, Tennessee
(Address of Principal Executive Offices)

37219
(Zip Code)

(800) 848-7566
(Registrant's telephone number, including area code)

Not applicable
(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:

- 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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Securities registered pursuant to Section 12(b) of the Exchange Act:

Title of Each Class	Trading Symbol (s)	Name of Each Exchange on Which Registered
Class A common stock, par value \$.0001 per share	SDC	The NASDAQ Stock Market LLC

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.

As described under Item 5.07 below, SmileDirectClub, Inc. (the "Company") held its 2023 Annual Meeting of Stockholders (the "Annual Meeting") on June 1, 2023. At the Annual Meeting, upon the recommendation of the Board of Directors of the Company, the Company's stockholders approved an amendment to the Company's Amended and Restated Certificate of Incorporation to provide for exculpation of certain officers to the fullest extent permitted by the Delaware General Corporation Law. The Certificate of Amendment, which integrates this amendment to the Certificate of Incorporation approved by the Company's stockholders at the Annual Meeting, became effective upon filing with the Secretary of State of the State of Delaware on June 1, 2023.

The foregoing is qualified in its entirety by reference to the Certificate of Amendment of the Amended and Restated Certificate of Incorporation, which is filed herewith as Exhibit 3.1 and incorporated herein by reference.

Item 5.07. Submission of Matters to a Vote of Security Holders

At the Annual Meeting, the stockholders of the Company voted on four proposals as described below.

1. The Company's stockholders elected three Class I directors, who comprise all of the directors of such class, each to serve until the 2026 Annual Meeting of Stockholders or until his or her successor has been duly elected and qualified, subject to earlier resignation or removal. Each nominee for director was elected by a vote of the stockholders as follows.

Director Nominee	Votes For	Votes Withheld	Broker Non-Votes
David Katzman	2,656,722,364	6,107,255	56,626,104
Susan Greenspon Rammelt	2,657,397,256	5,432,363	56,626,104
Edward W. Ward. III	2,657,870,371	4,959,248	56,626,104

2. The Company's stockholders ratified the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2023, by a vote of the stockholders as follows:

Votes For	Votes Against	Abstentions
2,684,029,212	2,344,409	33,082,102

3. The Company's stockholders voted, on a non-binding, advisory basis, to approve the Company's named executive officer compensation, as disclosed in the Company's 2023 Proxy Statement, by a vote of the stockholders as follows:

Votes For	Votes Against	Abstentions	Broker Non-Votes
2,658,039,312	4,232,936	557,371	56,626,104

4. The Company's stockholders voted to approve an amendment to the Company's amended and restated certificate of incorporation to reflect new Delaware law provisions regarding officer exculpation, as disclosed in the Company's 2023 Proxy Statement, by a vote of the stockholders as follows:

Votes For	Votes Against	Abstentions	Broker Non-Votes
2,660,064,175	2,434,909	330,535	56,626,104

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
3.1	Certificate of Amendment of the Amended and Restated Certificate of Incorporation
104	Cover Page Interactive Data File (formatted as Inline XBRL and included as 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.

SMILEDIRECTCLUB, INC.

Date: June 1, 2023

By: /s/ Troy Crawford
Troy Crawford
Chief Financial Officer

**CERTIFICATE OF AMENDMENT
TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SMILEDIRECTCLUB, INC.**

SmileDirectClub, Inc. (the "**Corporation**"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "**DGCL**"), does hereby certify as follows:

1. The name of the Corporation is SmileDirectClub, Inc. The original Certificate of Incorporation of the Corporation was filed with the office of the Secretary of State of the State of Delaware on April 11, 2019. The Amended and Restated Certificate of Incorporation of the Corporation was filed with the office of the Secretary of State of the State of Delaware on September 17, 2019 (as amended, the "**Certificate of Incorporation**").
2. This Certificate of Amendment was duly adopted by the Board of Directors and the stockholders of the Corporation in accordance with Sections 228 and 242 of the DGCL.
3. Effective as of the date of its filing with the Secretary of State of the State of Delaware, Section 8.3 is hereby added to the Certificate of Incorporation of the Corporation, which shall read in its entirety as follows:

Section 8.3 - Limitation on Liability of Officers

No officer shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as an officer; provided, however, that to the extent required by the provisions of Section 102(b)(7) of the DGCL or any successor statute, or any other laws of the State of Delaware, this provision shall not eliminate or limit the liability of an officer (i) for any breach of the officers' duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the officer derived an improper personal benefit, or (iv) for any action by or in the right of the Corporation. If the DGCL is amended after the date of this Amended and Restated Certificate of Incorporation to authorize the further elimination or limitation of the liability of officers, then the liability of an officer of the Corporation, in addition to the limitation on personal liability provided in this Amended and Restated Certificate of Incorporation, shall be limited to the fullest extent permitted by the DGCL, as so amended. Any repeal or modification of this Section 8.3 shall not adversely affect any limitation on the personal liability or any right or protection of an officer of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

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[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Incorporation to be signed by David Katzman, its Chief Executive Officer, this 1st date of June, 2023.

SMILEDIRECTCLUB, INC.

By: David Katzman /s/

Name: Katzman David

Title: Executive Officer Chief

