

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

Rocky Mountain Chocolate Factory, Inc.

Form: 8-K

Date Filed: 2018-11-15

Corporate Issuer CIK: 1616262

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): November 14, 2018



Rocky Mountain Chocolate Factory, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36865
(Commission
File Number)

47-1535633
(IRS Employer
Identification No.)

265 Turner Drive
Durango, Colorado 81303
(Address, including zip code, of principal executive offices)

Registrant's telephone number, including area code: (970) 259-0554

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))

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 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing .

On November 14, 2018, Rocky Mountain Chocolate Factory, Inc. (the “Company”) received correspondence from the Nasdaq Stock Market, Inc. (“Nasdaq”) noting that the Company is no longer in compliance with Nasdaq’s audit committee composition requirements as set forth in Listing Rule 5605(c)(2)(A), which requires the Company’s Audit Committee to be composed of at least three independent directors (the “Notice”). The Notice is the result of the passing of Mr. Lee N. Mortenson, a member of the Company’s Board of Directors (the “Board”) and the Audit Committee, on October 5, 2018. The passing of Mr. Mortenson has left the Audit Committee with only two independent directors.

The Notice also stated, among other things, that, pursuant to Listing Rule 5605(c)(4), the Company is entitled to a cure period to regain compliance with Listing Rule 5605(c)(2)(A), which cure period will expire upon the earlier to occur of either the date of the Company’s next annual shareholders’ meeting or October 5, 2019. The Board is actively working to fill the vacancy left by Mr. Mortenson’s passing, and the Company expects to be compliant with the audit committee composition requirements under Listing Rule 5605(c)(2)(A) by or before the end of the cure period.

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 thereunto duly authorized.

ROCKY MOUNTAIN CHOCOLATE FACTORY,
INC.

Date: November 15, 2018

By: /s/ Bryan J. Merryman

Bryan J. Merryman, Chief Operating
Officer, Chief Financial Officer,
Treasurer and Director