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): January 24, 2025

Better Choice Company Inc.
(Exact name of Registrant as Specified in its Charter)

Delaware	**001-40477**	**83-4284557**
(State or other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

12400 Race Track Road
Tampa, Florida 33626
(Address of Principal Executive Offices) (Zip Code)

(Registrant's Telephone Number, Including Area Code): **(212) 896-1254**

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:

☐ 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:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.001 par value share	BTTR	NYSE American

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 1.01 Entry into a Material Definitive Agreement

Amendment to Arrangement Agreement

On January 24, 2025, Better Choice Company Inc., a Delaware corporation (the "Company"), entered into Amendment No. 2 (the "Agreement Amendment") to its previously announced Arrangement Agreement (the "Arrangement Agreement") with SRx Health Solutions Inc., a corporation organized under the laws of the Province of Ontario ("SRx"), 1000994476 Ontario Inc., an indirect wholly-owned subsidiary of the Company and a corporation existing under the laws of the Province of Ontario ("AcquireCo"), and 1000994085 Ontario Inc., a direct wholly-owned subsidiary of the Company and corporation existing under the laws of the Province of Ontario ("CallCo") and Amendment No. 1 (the "Plan Amendment" and together with the Agreement Amendment, the "Amendment") to the Plan of Arrangement (the "Plan") attached as a schedule to the Arrangement Agreement. The parties had previously amended the Arrangement Agreement on December 6, 2024 by entering into the previously announced Amendment No. 1 to Arrangement Agreement. Pursuant to the Arrangement Agreement and the Plan, the Company will acquire SRx in an all-stock transaction pursuant to a statutory arrangement under Canadian law (the "Arrangement"). As a result of the Arrangement, all of the property, rights, interests and obligations of SRx shall become the property, rights, interests and obligations of the entity formed by the amalgamation of SRx and AcquireCo ("Amalco"), and Amalco will be an indirect wholly-owned subsidiary of the Company. Pursuant to the Agreement Amendment, the Arrangement Agreement was amended to (1) change the Outside Date (as such term is defined in the Arrangement Agreement) from January 31, 2025 to February 28, 2025; and (2) remove a reference to the Effective Date and replace it with a reference to the Record Date, in order to properly identify the

Company stockholders who will receive equity interests in the Spin-Out SPV (as such term is defined in the Arrangement Agreement) in connection with the Spin-Out (as such term is defined in the Arrangement Agreement). Pursuant to the Plan Amendment, the Plan was amended to; (1) to revise the definition of "Exchange Ratio" by decreasing the equity value attributable to SRx for purposes of the Arrangement from $80 million to $77 million; and (2) to clarify the treatment of SRx shares held by Better Choice as of the Effective Time (as such term is defined in the Plan).

The transaction, including the terms of the Amendment, has been unanimously approved by the boards of directors of the Company and SRx. The consummation of the transaction is subject to customary closing conditions, including requisite approvals of the stockholders of the Company and SRx and the Ontario Superior Court of Justice (Commercial List), among other required regulatory approvals, and the absence of a material adverse effect with respect to the Company or SRx.

The Arrangement Agreement has been included to provide investors and security holders with information regarding its terms. It is not intended to provide any other factual information about the Company, SRx or their respective subsidiaries and affiliates. The Arrangement Agreement contains representations and warranties by the Company and SRx made solely for the benefit of the parties. The assertions embodied in those representations and warranties are subject to qualifications and limitations agreed to by the respective parties in negotiating the terms of the Arrangement Agreement, including information in confidential disclosure letters delivered by each party in connection with the signing of the Arrangement Agreement. Moreover, certain representations and warranties in the Arrangement Agreement were made as of a specified date, may be subject to a contractual standard of materiality different from what might be viewed as material to investors, or may have been used for the purpose of allocating risk between the Company and SRx, rather than establishing matters as facts. Accordingly, the representations and warranties in the Arrangement Agreement should not be relied on by any persons as characterizations of the actual state of facts about the Company or SRx at the time they were made or otherwise. In addition, information concerning the subject matter of the representations and warranties may change after the date of the Arrangement Agreement, which subsequent information may or may not be fully reflected in the Company's or SRx's public disclosures.

The foregoing descriptions of the Arrangement Agreement and the Amendment are not complete and are subject to and qualified in their entirety by reference to the full text of the Arrangement Agreement and the Amendment which are filed as Exhibit 10.1 and Exhibit 10.2, respectively, hereto, and the terms of which are incorporated herein by reference.

Forward-Looking Statements

This current report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are intended to be covered by the "safe harbor" created by those sections. All statements in this current report that are not based on historical fact are "forward looking statements." These statements may be identified by words such as "estimates," "anticipates," "projects," "plans," "strategy," "goal," or "planned," "seeks," "may," "might", "will," "expects," "intends," "believes," "should," and similar expressions, or the negative versions thereof, and which also may be identified by their context. All statements that address operating performance or events or developments the Company expects or anticipates will occur in the future, such as stated objectives or goals, refinement of strategy, attempts to secure additional financing, exploring possible business alternatives, or that are not otherwise historical facts, are forward-looking statements. While management has based any forward-looking statements included in this current report on its current expectations, the information on which such expectations were based may change. Forward-looking statements involve inherent risks and uncertainties which could cause actual results to differ materially from those in the forward-looking statements as a result of various factors, including risks associated with the Company's ability to obtain additional capital in the future, the proposed transaction with SRx, general economic factors, competition in the industry and other factors that could cause actual results to be materially different from those described herein as anticipated, believed, estimated or expected. Additional risks and uncertainties are described in or implied by the Risk Factors and Management's Discussion and Analysis of Financial Condition and Results of Operations sections of the Company's 2023 Annual Report on Form 10-K, filed on April 12, 2024 and other reports filed from time to time with the Securities and Exchange Commission ("SEC"). The Company urges you to consider those risks and uncertainties in evaluating its forward-looking statements. Readers are cautioned to not place undue reliance upon any such forward-looking statements, which speak only as of the date made. Except as otherwise required by the federal securities laws, the Company disclaims any obligation or undertaking to publicly release any updates or revisions to any forward-looking statement contained herein (or elsewhere) to reflect any change in its expectations with regard thereto, or any change in events, conditions, or circumstances on which any such statement is based.

Additional Information and Where to Find It

On December 26, 2024, the Company filed a preliminary proxy statement in respect of a special meeting of its stockholders to seek approval of the transaction, which filing was amended on January 6, 2025. The Company intends to file a definitive proxy statement for the special meeting on or about January 27, 2025. The record date for stockholders entitled to vote at the special meeting was set as January 21, 2025 and the date of such special meeting is anticipated to be February 19, 2025. The proxy statement will be mailed to the Company's stockholders. The Company urges investors, stockholders and other interested persons to read, when available, the proxy statement, as well as other documents filed with the SEC, because these documents will contain important information about the proposed transaction. Such persons can also read the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023, for a description of the security holdings of its officers and directors and their respective interests as security holders in the consummation of the transactions described herein. The Company's definitive proxy statement will be mailed to stockholders of the Company as of a record date to be established for voting on the transactions described in this report. The Company's stockholders will also be able to obtain a copy of such documents, without charge, by directing a request to: Carolina Martinez, Chief Financial Officer of Better Choice Company Inc., 12400 Race Track Road, Tampa, FL 33626; e-mail: nmartinez@bttrco.com. These documents, once available, can also be obtained, without charge, at the SEC's web site (http://www.sec.gov).

Participants in Solicitation

The Company and its respective directors, executive officers and other members of their management and employees, under SEC rules, may be deemed to be participants in the solicitation of proxies of the Company's stockholders in connection with the proposed transaction. Investors and security holders may obtain more detailed information regarding the names, affiliations and interests of the Company's directors in its Annual Report on Form 10-K for the fiscal year ended December 31, 2023, which was filed with the SEC on April 12, 2024. Information regarding the persons who may, under SEC rules, be deemed participants in the solicitation of proxies to the Company's stockholders in connection with the proposed transaction will be set forth in the proxy statement for the proposed business combination when available. Information concerning the interests of the Company's participants in the solicitation, which may, in some cases, be different than those of the Company's equity holders generally, will be set forth in the proxy statement relating to the proposed business combination when it becomes available.

Item 9.01 Financial Statements and Exhibits

10.1	Amendment No. 2 to Arrangement Agreement and Amendment No. 1 to Plan of Arrangement
10.2	Arrangement Agreement dated September 3, 2024 (incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed by the Company with the SEC on September 9, 2024)
104	Cover Page Interactive Data file (embedded within the Inline XBRL document)

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.

Better Choice Company Inc.

By: */s/ Carolina Martinez*
Name: Carolina Martinez
Title: Chief Financial Officer

January 27, 2025

AMENDMENT NO. 2 TO ARRANGEMENT AGREEMENT

AND

AMENDMENT NO. 1 TO PLAN OF ARRANGEMENT

This **AMENDMENT NO. 2 TO ARRANGEMENT AGREEMENT AND AMENDMENT NO. 1 TO PLAN OF ARRANGEMENT** (this "**Amendment**") entered into as of January 24, 2025 by and among BETTER CHOICE COMPANY INC., a corporation existing under the laws of the State of Delaware **("Parent")**, 1000994476 ONTARIO INC., a corporation existing under the laws of the Province of Ontario **("AcquireCo")**, 1000994085 ONTARIO INC., a corporation existing under the laws of the Province of Ontario **("CallCo")**, and SRX HEALTH SOLUTIONS INC., a corporation existing under the laws of the Province of Ontario ("**SRx**"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Arrangement Agreement (as defined below).

WHEREAS, Parent, AcquireCo, CallCo and SRx have entered into that certain Arrangement Agreement dated September 3, 2024 (as such agreement was amended pursuant to that certain Amendment No. 1 to Arrangement Agreement dated December 6, 2024, the "**Arrangement Agreement**"), pursuant to which, among other things, Parent will, indirectly through AcquireCo, acquire all of the SRx Shares in exchange for the Consideration, by way of a statutory plan of arrangement attached as Schedule A to the Arrangement Agreement (the "**Plan of Arrangement**"), which is to be completed under the provisions of the OBCA on and subject to the terms and conditions contained in the Arrangement Agreement; and

WHEREAS, the Parties now desire to further amend the Arrangement Agreement and the Plan of Arrangement as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound hereby agree as follows:

1. Section 1.1 of the Arrangement Agreement is hereby amended by deleting the definition of Outside Date in its entirety and replacing it with the following:

> "**Outside Date** means February 28, 2025 or such later date as may be agreed to in writing by the Parties; *provided, however*, that such initial February 28, 2025 date may be extended (a) by either Parent or SRx upon written notice to the other Party for up to thirty (30) days from such date or (b) upon mutual written agreement of Parent and SRx to such date as mutually agreed upon."

2. Section 5.6 of the Arrangement Agreement is hereby amended by deleting such section in its entirety and replacing it with the following:

"5.6 **Spin-Out**

Parent shall take the following actions prior to the Effective Time:

(a) cause seventeen percent (17%) of the issued and outstanding capital stock of Parent's wholly-owned subsidiary, Halo, Purely For Pets, Inc., a Delaware corporation, to be contributed to a new wholly-owned special purpose subsidiary of Parent (the "**Spin-Out SPV**"), which Spin-Out SPV shall be established for the sole purpose of holding and transacting the capital stock of Halo, taxed as a U.S. corporation, governed by Parent's Board of Directors prior to the Effective Time and by Michael Young following the Effective Time, and have such other rights and restrictions mutually acceptable to the Parties, acting reasonably; and

(b) immediately prior to the Effective Time on the Effective Date (the "**Spin-Out**"):(i) cause the equity interests in the Spin-Out SPV to be distributed as a dividend to the Parent Shareholders of record on the record date of the Parent Meeting; and (ii) enter into a support agreement with the Spin-Out SPV on terms and conditions mutually agreed to by the parties, acting reasonably, pursuant to which Parent shall pay, or reimburse Spin-Out SPV for, all costs and expenses incurred by Spin-Out SPV or Michael Young, in connection with the on-going existence, administration and maintenance of Spin-Out SPV, including, without, limitation, all taxes payable by Spin-Out SPV and all expenses related to taxes, tax filings, accounting and legal expenses."

3. Section 1.1 of the Plan of Arrangement is hereby amended by deleting the reference to "US$80,000,000" from the definition of "Exchange Ratio" and replacing it with "US$77,000,000."

4. Section 2.2 (d) of the Plan of Arrangement is hereby amended by deleting such section in its entirety and replacing it with the following:

"(d) contemporaneously with the steps in Section 2.2(e) and Section 2.2(f), each issued and outstanding SRx Share (other than Exchangeable Elected Shares and SRx Shares held by the Parent or an affiliate of Parent or Dissenting Shareholders) held by a SRx Shareholder shall be transferred by the holder thereof, without any further act or formality on its part, free and clear of all Encumbrances, to Acquireco in exchange for Parent Share Consideration in accordance with the election or deemed election of such SRx Shareholder pursuant to Section 2.3, and each issued and outstanding SRx Share held by Parent or an affiliate of Parent shall be transferred by the holder thereof, without any further act or formality on its part, free and clear of all Encumbrances, to Acquireco for no consideration;"

5. Section 2.3 (c) of the Plan of Arrangement is hereby amended by deleting such section in its entirety and replacing it with the following:

"(c) any SRx Shareholder (other Parent or an affiliate of Parent) who does not deposit with the Depositary a duly completed Letter of Transmittal and Election Form prior to the Election Deadline, or otherwise fails to comply with the requirements of Section 2.3(b) and the Letter of Transmittal and Election Form in respect of any such SRx Shareholder's SRx Shares (including SRx Shareholders who duly exercise Dissent Rights but are ultimately not entitled, for any reason, to be paid fair value for their SRx Shares in respect of which they have exercised Dissent Rights), shall be deemed to have elected to receive the Parent Share Consideration"

6. Upon and after the effectiveness of this Amendment, each reference in: (i) the Arrangement Agreement to "this Agreement," "hereunder," "hereof," or words of like import referring to the Arrangement Agreement; (ii) the Plan of Arrangement to "this Plan," "hereunder," "hereof," or words of like import referring to the Plan of Arrangement; (iii) any document related to the Arrangement Agreement to the "Arrangement Agreement", "thereunder", "thereunder" or words of like import referring to the Arrangement Agreement; and (iv) any document related to the Plan of Arrangement to the "Plan of Arrangement", "thereunder", "thereunder" or words of like import referring to the Plan of Arrangement, in each case shall mean and be a reference to the Arrangement Agreement or Plan of Arrangement as modified hereby. Except as modified in this Amendment, the Arrangement Agreement and the Plan of Arrangement are and shall continue to be in full force and effect and is hereby, in all respects, ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not, except as previously provided herein, operate as a waiver of any right, power or remedy of any party under the Arrangement Agreement or the Plan of Arrangement, nor, except as expressly provided herein, constitute a waiver or amendment of any provision of the Arrangement Agreement or the Plan of Arrangement.

7. This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument. Such counterparts shall together constitute one and the same document. The Parties agree that facsimile, PDF, JPEG, DocuSign, and/or other electronically transmitted or scanned signatures shall be treated as original signatures for all purposes.

8. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS IN FORCE IN THE PROVINCE OF ONTARIO (EXCLUDING ANY RULE OR PRINCIPLE OF THE CONFLICT OF LAWS WHICH MIGHT REFER SUCH INTERPRETATION TO THE LAWS OF ANOTHER JURISDICTION) AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above by their respective officers thereunto duly authorized.

BETTER CHOICE COMPANY INC.

Signed by:
By: Kent Cunningham
Name: Kent Cunningham
Title: Chief Executive Officer

1000994476 ONTARIO INC.

Signed by:
By:
Name: Michael Young
Title: President

1000994085 ONTARIO INC.

Signed by:
By:
Name: Michael Young
Title: President

SRX HEALTH SOLUTIONS INC.

DocuSigned by:
By:
Name: Adesh Vora
Title: President & Chief Executive Officer

Signed by:
By:
Name: Davender Sohi
Title: Chief Financial Officer