

BAXTER INTERNATIONAL INC

Form S-8

May 17, 2007

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As filed with the Securities and Exchange Commission on May 17, 2007

Registration No. 333-_____

**SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933
BAXTER INTERNATIONAL INC.
(Exact name of registrant as specified in its charter)**

Delaware (State or other jurisdiction of incorporation or organization) **36-0781620** (I.R.S. Employer Identification No.)

**One Baxter Parkway, Deerfield, Illinois 60015
(847) 948-2000**
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Baxter International Inc. 2007 Incentive Plan
(Full title of the plan)
David P. Scharf
Associate General Counsel and Corporate Secretary
Baxter International Inc.
One Baxter Parkway
Deerfield, Illinois 60015
(847) 948-2000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common Stock, \$1 par value per share, including Preferred Stock Purchase Rights	25,000,000 shares	\$57.55	\$1,438,750,000	\$44,169.63

(1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall

also cover additional shares of the Registrant's Common Stock which become issuable by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of the outstanding shares of the Registrant's Common Stock.

- (2) Estimated pursuant to Rule 457(c) under the Securities Act solely for purposes of determining the registration fee on the basis of the average of the high (\$57.92) and low (\$57.17) prices for the Registrant's Common Stock as reported on the New York Stock Exchange on May 15, 2007.

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PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by Baxter International Inc. (the Company or the Registrant) with the Securities and Exchange Commission (the Commission) pursuant to the Securities Act and the Securities Exchange Act of 1934, as amended (the Exchange Act), are hereby incorporated by reference in this Registration Statement:

(a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2006, filed with the Commission on February 27, 2007;

(b) The Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2007, filed with the Commission on May 4, 2007;

(c) The Registrant's Current Reports on Form 8-K filed with the Commission on March 13, 2007, March 16, 2007 and May 2, 2007;

(d) The description of the Registrant's Common Stock, \$1 par value per share, contained in the registration statement filed with the Commission under Section 12 of the Exchange Act and any other amendment or report filed for the purpose of updating such description; and

(e) The description of the Registrant's Series B Junior Participating Preferred Stock Purchase Rights (currently traded with the Registrant's Common Stock) contained in Amendment No. 1 to the Registrant's Form 8-A filed with the Commission on May 30, 2002 and any other amendment or report filed for the purpose of updating such description.

In addition, all documents subsequently filed with the Commission by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered herein have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing such document.

Item 4. Description of Securities.

Not applicable.

Item 5. Interest of Named Experts and Counsel.

The validity of the shares of the Registrant's Common Stock registered hereby will be passed upon for the Company by David P. Scharf, Associate General Counsel and Corporate Secretary of the Company. Mr. Scharf owns shares of, and options on, the Registrant's Common Stock, both directly and as a participant in various stock and employee benefit plans.

Item 6. Indemnification of Directors and Officers.

Section 145 of the General Corporation Law of the State of Delaware, as amended, provides that under certain circumstances a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of the

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corporation or is or was serving at its request in such capacity in another corporation or business association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The statute provides that indemnification pursuant to its provisions is not exclusive of other rights of indemnification to which a person may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. Article NINTH of the Registrant's Amended and Restated Certificate of Incorporation provides that the Registrant shall indemnify its and its subsidiaries' directors and officers against certain liabilities that may arise as a result of such service to the fullest extent permitted by the General Corporation Law of the State of Delaware.

The Registrant is also empowered by Section 102(b)(7) of the General Corporation Law of the State of Delaware to include a provision in its certificate of incorporation to limit under certain circumstances a director's liability to it or its stockholders for monetary damages for breaches of fiduciary duty as a director. Article EIGHTH of the Registrant's Amended and Restated Certificate of Incorporation states that to the fullest extent permitted by the General Corporation Law of Delaware as the same exists or may hereafter be amended, directors of the Registrant shall not be liable to it or its stockholders for monetary damages for breach of fiduciary duty as a director. Under currently applicable Delaware law, directors will remain liable for damages for (i) a breach of their duty of loyalty to the Registrant and its stockholders; (ii) acts or omissions not in good faith; (iii) their intentional misconduct or knowing violation of law; (iv) unlawful dividend payments, stock repurchases or redemptions; and (v) any transaction from which the director derived an improper personal benefit.

The Registrant maintains insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of the policies, against certain expenses in connection with the defense of actions, suits or proceedings, and certain liabilities which might be imposed as a result of such actions, suits or proceedings, to which they are parties by reason of being or having been such directors or officers which could include liabilities under the Securities Act or the Exchange Act.

The Registrant has entered into indemnification agreements with its officers and directors, which its stockholders have approved or ratified. These agreements provide for full indemnification, including indemnification for judgments or settlements against an officer or director in favor of the Registrant, with certain exceptions. This indemnity could apply to liabilities under the Securities Act in certain circumstances.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

A list of exhibits included as part of this Registration Statement is set forth in the Index to Exhibits which is incorporated herein by reference.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement; and

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(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement; provided, however, that paragraphs (1)(i) and (1)(ii) above do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iv) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to section 13(a) or section 15(d) of the Exchange Act that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions of the Registrant's certificate of incorporation, bylaws or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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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 Deerfield, State of Illinois, on May 17, 2007.

**BAXTER INTERNATIONAL INC.
(Registrant)**

By: /s/ Robert L. Parkinson, Jr.
Robert L. Parkinson, Jr.
Chairman and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, the Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Robert L. Parkinson, Jr. Robert L. Parkinson, Jr.	Chairman of the Board of Directors and Chief Executive Officer (principal executive officer)	May 17, 2007
/s/ Robert M. Davis Robert M. Davis	Corporate Vice President and Chief Financial Officer (principal financial officer)	May 17, 2007
/s/ Michael J. Baughman Michael J. Baughman	Corporate Vice President and Controller (principal accounting officer)	May 17, 2007
* Walter E. Boomer	Director	May 17, 2007
* Blake E. Devitt	Director	May 17, 2007
* John D. Forsyth	Director	May 17, 2007
* Gail D. Fosler	Director	May 17, 2007
* James R. Gavin III, M.D., Ph.D.	Director	May 17, 2007

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*	Director	May 17, 2007
Peter S. Hellman		
*	Director	May 17, 2007
Joseph B. Martin, M.D., Ph.D.		
*	Director	May 17, 2007
Carole J. Shapazian		

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Signature	Title	Date
* Thomas T. Stallkamp	Director	May 17, 2007
* K. J. Storm	Director	May 17, 2007
* Albert P. L. Stroucken	Director	May 17, 2007

* David P. Scharf, by signing his name hereto, does sign this Registration Statement on behalf of the persons indicated above pursuant to powers of attorney duly executed by such persons that are filed herewith as Exhibit 24.1.
By: /s/ David P. Scharf, Attorney-in-Fact
David P. Scharf, Attorney-in-Fact

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Exhibit Number	Description of Document
4.1	Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 1-4448), filed on May 18, 2006).
4.2	Bylaws of the Registrant, as amended October 3, 2006 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed on October 4, 2006).
4.3	Baxter International Inc. 2007 Incentive Plan (incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement (File No. 1-4448), filed on March 20, 2007).
5.1	Opinion of David P. Scharf.
15.1	Acknowledgement of PricewaterhouseCoopers LLP.
23.1	Consent of David P. Scharf (included as part of Exhibit 5.1).
23.2	Consent of PricewaterhouseCoopers LLP.
24.1	Powers of Attorney.