

BAXTER INTERNATIONAL INC  
Form POS AM  
June 09, 2005

As filed with the Securities and Exchange Commission on June 9, 2005

Registration Nos. 333-101122

333-106041

---

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

---

**Post-Effective Amendment No. 1**

*to*

**Form S-3**

**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)

One Baxter Parkway  
Deerfield, Illinois 60015  
(847) 948-2000

36-0781620  
(I.R.S. Employer  
Identification Number)

Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

(Address, Including Zip Code, and Telephone Number,

Including Area Code, of Registrant's Principal Executive Offices)

---

**Robert M. Davis**

**Corporate Vice President and Treasurer**

**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)

---

**Susan R. Lichtenstein, Esq.**

**Corporate Vice President,**

**General Counsel and Secretary**

**Baxter International Inc.**

**One Baxter Parkway**

**Deerfield, Illinois 60015**

**(847) 948-2000**

**(Counsel for the Registrant)**

**Stephen W. Hamilton, Esq.**

**Skadden, Arps, Slate, Meagher & Flom LLP**

**1440 New York Avenue, N.W.**

**Washington, DC 20005**

**(202) 371-7000**

**(Counsel for the Registrant)**

---

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. " \_\_\_\_\_

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. " \_\_\_\_\_

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. " \_\_\_\_\_

\_\_\_\_\_

---

**CALCULATION OF REGISTRATION FEE**


---

Title of Each Class of Securities to Be Registered	Amount to Be Registered (1)(2)	Proposed Maximum Offering Price Per Unit (3)	Proposed Maximum Aggregate Offering Price (1)(3)	Amount of Registration Fee (2)(4)
Common Stock, par value \$1.00 (5)				
Preferred Stock				
Stock or Debt Warrants				
Convertible Preferred Stock				
Convertible Debt Securities				
Equity Purchase Contracts				
Equity Purchase Units				
Debt Securities				
<b>Total</b>	\$1,000,000,000	N/A	\$ 1,000,000,000	\$ 92,000

---

- (1) Registered hereunder are such indeterminate amount of Common Stock, \$1 par value, Preferred Stock, Convertible Preferred Stock, Stock or Debt Warrants, Convertible Debt Securities, Equity Purchase Contracts, Equity Purchase Units and Debt Securities, as may, from time to time, be issued at indeterminate prices, with an aggregate initial offering price not to exceed \$1,000,000,000 or the equivalent thereof in one or more foreign currencies, foreign currency units or composite currencies. Securities registered hereunder may be sold separately, together or as units with other securities registered hereunder. This total amount includes such indeterminate amount of securities as may, from time to time, be issued: (i) at indeterminate prices or (ii) upon conversion or exchange of securities registered hereunder, to the extent any such securities are, by their terms, convertible into or exchangeable for other securities.
- (2) Pursuant to Rule 429 under the Securities Act of 1933, the prospectus included in this Registration Statement also relates to \$69,739,000 aggregate initial offering price of the Registrant's securities that were previously registered pursuant to Registration Statement No. 333-101122 and have not yet been issued and sold. Such amount is carried forward into the prospectus included in this Registration Statement.
- (3) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) under the Securities Act. Proposed maximum offering price per unit is not specified as to each class of securities pursuant to General Instruction II.D. to Form S-3 and Rule 457(o) under the Securities Act.
- (4) Previously paid in connection with the initial filing of this Form S-3 on June 12, 2003. With respect to the \$69,739,000 aggregate initial offering price of securities previously registered and carried forward into the prospectus included with this Registration Statement pursuant to Rule 429 under the Securities Act, the Registrant has previously paid the related filing fees. In connection with this Registration Statement, the Registrant is paying a fee based solely on the additional securities being registered and having an aggregate initial offering price of \$1,000,000,000.
- (5) Each share of common stock includes an associated right to purchase preferred stock which trades with the common stock. The value, if any, attributable to the rights is reflected in the market price of the common stock.

---

**Pursuant to Rule 429 under the Securities Act of 1933, the prospectus included in this Registration Statement and any supplements to such prospectus also relate to the remaining \$69,739,000 aggregate initial offering price of the Registrant's securities that were previously registered under the Securities Act of 1933 pursuant to Registration Statement No. 333-101122 and have not yet been issued and sold. Such amount is carried forward into the prospectus included in this Registration Statement.**

---

**Explanatory Note**

This Post-Effective Amendment No. 1 is being filed for the purpose of correcting inadvertent mistakes in the Registrant's initial Registration Statement on Form S-3 (File No. 333-106041) (the 2003 Shelf) and Pre-Effective Amendment Nos. 1 and 2 thereto, relating to the amount of registered but unissued securities carried forward into this 2003 Shelf from the Registrant's Registration Statement on Form S-3 (File No. 333-101122) (the 2002 Shelf) pursuant to Rule 429 under the Securities Act of 1933. The initial Form S-3 and Pre-Effective Amendment Nos. 1 and 2 should have stated that \$69,739,000 (rather than \$70,000,000) of securities registered under the 2002 Shelf remain unissued and unsold and that such amount is being carried forward into this 2003 Shelf and included in the prospectus herein. Accordingly, this 2003 Shelf relates to the \$1,069,739,000 aggregate amount of securities that may be offered and sold hereunder.

In addition to correcting the aggregate amount of securities covered by the prospectus and re-dating the prospectus, certain information in the following sections of the prospectus has been updated: Where You Can Find More Information, About the Company, Legal Matters and Independent Registered Public Accounting Firm. Other than these changes, the prospectus included herein remains unchanged from the base prospectus included in the 2003 Shelf Registration Statement and declared effective on September 16, 2003.

---

PROSPECTUS

**Baxter International Inc.**

**Up to \$1,069,739,000 of**

**Common Stock, \$1 Par Value**

**Preferred Stock**

**Convertible Preferred Stock**

**Warrants to Purchase Common Stock or Debt Securities**

**Convertible Debt Securities**

**Equity Purchase Contracts**

**Equity Purchase Units**

**Debt Securities**

---

Baxter International Inc. may offer from time to time up to \$1,069,739,000 of any combination of the securities described in this prospectus. The terms of each such offering will be determined when an agreement to sell is made. Securities we may sell include:

common stock

convertible debt securities

stock or debt warrants

equity purchase contracts

preferred stock

convertible preferred stock

debt securities

equity purchase units

Unless the context otherwise requires, the terms Company, we, us, and our in this prospectus refer to Baxter International Inc., a Delaware corporation, together with its subsidiaries. Unless the context otherwise indicates, common stock refers to the common stock, \$1 par value per

## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

share, of Baxter International Inc. and the associated Series B junior participating preferred stock purchase rights (currently traded with our common stock). Any or all of the above securities are referred to as "offered securities" in this prospectus.

We will provide specific terms of the offered securities to be sold in supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest. A supplement may also change or update information contained in this prospectus. We will not use this prospectus to confirm sales of any of our securities unless it is attached to a prospectus supplement. Unless we state otherwise in a prospectus supplement, we will not list any of these securities on any securities exchange.

**Neither the Securities and Exchange Commission nor any state securities commission has determined whether this prospectus is truthful or complete. They have not made, nor will they make, any determination as to whether anyone should buy these securities. Any representation to the contrary is a criminal offense.**

---

The date of this prospectus is June 9, 2005

## **RISK FACTORS**

Before purchasing these securities, you should carefully consider the following risk factors as well as the other information contained in this prospectus, any prospectus supplement, any accompanying prospectus and the information incorporated by reference in order to evaluate an investment in these securities.

You assume the risk that the market value of our common stock may decline.

You assume the risk that the market value of our common stock may decline, and that the decline could be substantial.

We may issue additional shares of common stock and thereby materially and adversely affect the price of our common stock.

We are not restricted from issuing additional common stock. If we issue additional shares of our common stock, it may materially and adversely affect the per share market price of our common stock. In addition, if we issue additional shares of our common stock, existing holders of our common stock may experience dilution, and that dilution may be substantial.

We are a holding company with no significant business operations of our own, and our ability to meet our obligations is dependent upon payments from our subsidiaries.

We are a holding company and conduct all of our business operations through our subsidiaries. Our ability to meet our obligation to pay you interest on any debt security we offer, or to make dividend payments on our common stock, will be dependent on the earnings of our respective subsidiaries and the payment of those earnings to us, in the form of dividends, loans or advances and through repayment of loans or advances from us. In addition, any payment of dividends, loans or advances by those subsidiaries could be subject to statutory or contractual restrictions. Our subsidiaries have no obligation to pay any amounts on any of the offered securities.

You assume the risk that our actual results may not conform to our projections.

You assume the risk that our actual results may vary from our projections, affecting the market value of any or all of the securities offered under this prospectus. For more information on this topic, see the section captioned "Caution Regarding Forward-Looking Statements" immediately below.

## **CAUTION REGARDING FORWARD-LOOKING STATEMENTS**

Statements throughout this prospectus, and any prospectus supplement, that are not historical facts, (including material incorporated herein by reference) are forward-looking statements. These statements are based on our current expectations and involve numerous risks and uncertainties.



## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

Some of these risks and uncertainties are factors that affect all international businesses, while some are specific to us and the health care arenas in which we operate.

Many factors could affect our actual results, causing our results to differ, and possibly differ materially, from those expressed in any such forward-looking statements. These factors include, but are not limited to interest rates; technological advances in the medical field; economic conditions; demand and market acceptance risks for new and existing products, technologies and health-care services; the impact of competitive products and pricing; manufacturing capacity; availability of acceptable raw materials and component supply; new plant start-ups; global regulatory, trade and tax policies; regulatory, legal or other developments relating to our Series A, AF and AX dialyzers; the ability to obtain adequate insurance coverage at reasonable costs; continued price competition; product development risks, including technological difficulties; ability to enforce patents; patents of

third parties preventing or restricting our manufacture, sale or use of affected products or technology; actions of regulatory bodies and other government authorities; reimbursement policies of government agencies and private payers; commercialization factors; results of product testing; unexpected quality or safety concerns, whether or not justified, leading to product launch delays, recalls, withdrawals, or declining sales; and other factors described in our other filings with the Securities and Exchange Commission.

Additionally, as discussed in the Legal Proceedings section of our most recently-filed Quarterly Report on Form 10-Q, upon the resolution of certain legal matters, we may incur charges in excess of our presently established reserves. Any such charge could have a material adverse effect on our results of operations or cash flows in the period in which it is recorded.

Currency fluctuations are also a significant variable for global companies, especially fluctuations in local currencies where hedging opportunities are unreasonably expensive or unavailable. If the U.S. Dollar strengthens against most foreign currencies, our growth rates in our sales and net earnings could be negatively impacted.

### **Insurance Coverage**

In view of business conditions in the insurance industry, our liability insurance coverage, including product liability insurance, with respect to insured occurrences after April 30, 2003, is significantly less than the coverage available for insured occurrences prior to that date. These reductions in insurance coverage available to us reflect current trends in the liability insurance area generally, and are not unique to us. We will continue to pursue higher coverage levels and lower self-insured retentions in the future, when available. It is possible that our net income and cash flows could be adversely affected in the future as a result of any losses sustained in the future.

We believe that our expectations with respect to forward-looking statements are based upon reasonable assumptions within the bounds of our knowledge of our businesses and operations, but there can be no assurance that our actual results or performance will conform to any future results or performance expressed or implied by such forward-looking statements.

### **NOTICE TO INVESTORS**

**You should rely only on the information contained, or incorporated by reference, in this prospectus. We have not authorized anyone to provide you with different or additional information. You should not assume that the information contained in this prospectus is accurate as of any date other than the date on the front of this prospectus.**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (the SEC) utilizing a universal shelf registration process for a delayed, or continuous, or intermittent offering process. Under this shelf registration process, we may issue and sell, from time to time, the offered securities in one or more offerings.

This prospectus provides you with a general description of the securities which may be offered by us. Each time we sell securities, we are required to provide you with a prospectus and a prospectus supplement containing specific information about us and the terms of that particular offering. That prospectus supplement may include additional risk factors or other special considerations applicable to those offered securities. Any prospectus supplement may also add, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement, you should rely on the information in that prospectus supplement. You should read

Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

both this prospectus and the applicable prospectus supplement together with additional information described under [Where You Can Find More Information](#).

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. You may obtain further information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Our SEC filings are also available to the public over the Internet at the SEC's Web site at <http://www.sec.gov>. Our SEC filings are also available at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

We incorporate by reference in this prospectus the following documents filed by us with the SEC:

our most recent Annual Report on Form 10-K for the year ended December 31, 2004, filed with the SEC on March 16, 2005;

our Quarterly Reports on Form 10-Q/A for the quarters ended March 31, 2004, June 30, 2004 and September 30, 2004, filed with the SEC on March 31, 2005; and our Quarterly Report on Form 10-Q for the quarter ended March 31, 2005, filed with the SEC on May 6, 2005;

our Current Reports on Form 8-K, filed with the SEC on January 10, 2005; February 25, 2005; March 14, 2005 (Item 4.02 only); March 21, 2005; and March 31, 2005;

the description of our common stock, which is registered under Section 12 of the Exchange Act, contained in our Registration Statement on Form 8, filed with the SEC on June 26, 1986, including any subsequent amendment or any report filed for the purpose of updating such description;

the description of our series B junior participating preferred stock purchase rights, which is registered under Section 12 of the Exchange Act, contained in our Registration Statement on Form 8-A, filed with the SEC on February 23, 1999; and

the amended description of our series B junior participating preferred stock purchase rights contained in our Registration Statement on Form 8-A/A, filed with the SEC on May 30, 2001, including any subsequent amendment or any report filed for the purpose of updating such description.

Any statement made in a document incorporated by reference or deemed incorporated herein by reference is deemed to be modified or superseded for purposes of this prospectus if a statement contained in this prospectus or in any other subsequently filed document which also is incorporated or deemed incorporated by reference herein modifies or supersedes that statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We also incorporate by reference all documents filed pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act after the date of this prospectus until we or the underwriters sell all of the offered securities.

Statements made in this prospectus or in any document incorporated by reference in this prospectus as to the contents of any contract or other document referred to herein or therein are not necessarily complete, and in each instance reference is made to the copy of such contract or other document filed as an exhibit to the documents incorporated by reference, each such statement being qualified in all material respects by such reference.

## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

You may request a copy of these filings at no cost, by writing or calling us at the following address: Corporate Secretary, Baxter International Inc., One Baxter Parkway, Deerfield, Illinois 60015, (847) 948-2000.

### **ABOUT THE COMPANY**

#### **Baxter International Inc. and our Subsidiaries**

We were incorporated under Delaware law in 1931. Throughout the rest of this section, except as otherwise indicated in information incorporated by reference, we or our means Baxter International Inc., taken together

with its subsidiaries as a consolidated enterprise. We engage in the worldwide development, manufacture and distribution of a diversified line of products, systems and services used primarily in the healthcare field. We manufacture products in 28 countries and sell them in over 100 countries. Healthcare is concerned with the preservation of health and the diagnosis, cure, mitigation and treatment of disease and body defects and deficiencies. Our products are used by hospitals, clinical and medical research laboratories, blood and blood dialysis centers, rehabilitation centers, nursing homes, doctors' offices and by patients at home under physician supervision.

We operate as a global medical products and services company with expertise in medical devices, pharmaceuticals and biotechnology to assist health-care professionals and their patients with the treatment of complex medical conditions, including hemophilia, immune disorders, infectious diseases, cancer, kidney disease, trauma and other conditions. Continuing operations are comprised of three segments: Medication Delivery, which provides a range of intravenous solutions and specialty products that are used in combination for fluid replenishment, nutrition therapy, pain management, antibiotic therapy and chemotherapy; BioScience, which develops biopharmaceuticals, biosurgery products, vaccines and blood collection, processing and storage products and technologies for transfusion therapies; and Renal, which develops products and provides services to treat end-stage kidney disease.

### USE OF PROCEEDS

Except as otherwise set forth in any Prospectus Supplement relating to the Offered Securities, we will use the net proceeds from the sale of the Offered Securities for working capital, to repay our existing debt, to settle certain forward purchase agreements related to our common stock, for our capital expenditures and for general corporate purposes.

We will include a more detailed description of the use of proceeds from any specific offering of securities in the prospectus supplement relating to the offering.

### COMMON STOCK

#### **In General**

This description of our common stock is a summary. You should keep in mind, however, that it is our certificate of incorporation and our bylaws, and not this summary, which defines any rights you may acquire as a securityholder. There may be other provisions in these documents which are also important to you. You should read these documents for a full description of the terms of our capital stock. Our certificate of incorporation and our bylaws are incorporated by reference as exhibits to the registration statement that includes this prospectus. See [Where You Can Find More Information](#) for information on how to obtain copies of these documents.

Subject to any preferential rights of any preferred stock created by our board of directors, as a holder of our common stock you are entitled to such dividends as our board of directors may declare from time to time out of funds that we can legally use to pay dividends. The holders of common stock possess exclusive voting rights, except to the extent our board of directors specifies voting power for any preferred stock that, in the future, may be issued.

As a holder of our common stock, you are entitled to one vote for each share of common stock and do not have any right to cumulate votes in the election of directors. In the event of our liquidation, dissolution or winding-up, you will be entitled to receive on a proportionate basis any assets

## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

remaining after provision for payment of creditors and after payment of any liquidation preferences to holders of preferred stock. Our common stock is listed on the New York Stock Exchange under the symbol BAX .

## **Rights Plan**

In November 1998, our board of directors declared a dividend distribution of one right for each outstanding share of common stock. In February 2001, our board of directors declared a two-for-one stock split in the form of a 100% stock distribution to holders of our common stock.

As a result of the stock split, our rights plan was adjusted as of the end of May 2001, so that each share of our common stock is now accompanied by one-half of one right. Each full right entitles the holder to purchase from the Company one one-hundredth of a share of series B junior participating preferred stock at a price of \$275 per one one-hundredth of a share, subject to adjustment. Initially, the rights are attached to all certificates representing our common stock and no separate rights certificates have been issued. The rights will separate from our common stock upon the earlier of:

ten business days following the public announcement that a person or group has acquired or obtained the right to acquire beneficial ownership of 15% or more of the outstanding shares of our common stock; or

ten business days following the commencement of a tender or an exchange offer that would result in a person or group owning 15% or more of the outstanding shares of our common stock;

unless the person or group has offered to acquire all of the outstanding shares of our common stock and our independent directors have determined that such offer is in the best interests of the Company and its stockholders. The rights are not exercisable until one of the two events listed above has occurred and will expire on March 23, 2009.

Upon the happening of one of the events listed above, each right (other than rights held by the acquiring person) will be exercisable for our common stock having a value equal to two times the exercise price of the right. If the Company is acquired or sells 50% or more of its assets, then each right will be exercisable for common stock in the surviving or transferee corporation having a value equal to two times the exercise price of the right.

At any time up to ten days after the happening of one of the events listed above, Baxter may redeem the rights at a price of \$.01 per right.

## **Other Charter and Bylaw Provisions**

In addition, our restated certificate of incorporation (the charter) may have anti-takeover effects. Our charter provides, among other things, for a classified board of directors divided into three classes and stockholder action only at a stockholders meeting and not by written consent. In addition, our bylaws provide, among other things, that stockholders wishing to nominate a director at an annual meeting or at a special meeting called for the purpose of electing directors must comply with strict advance written notice provisions. Our bylaws also provide that special meetings of stockholders may be called only by the chairman of our board of directors, or certain of our officers, or by resolution of our directors.

## **PREFERRED STOCK**



## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

We will describe the particular terms of any series of preferred stock in the prospectus supplement relating to the offering of any such offered securities.

We will fix or designate the rights, preferences, privileges and restrictions, including any dividend rights, voting rights (if any), terms of redemption, retirement and sinking fund provisions (if any) and liquidation preferences (if any), of any series of preferred stock through a certificate of designation adopted by our board of directors or a duly authorized committee of our board of directors. We will describe the terms, if any, on which shares of any series of preferred stock are redeemable, convertible or exchangeable into common stock in the

prospectus supplement relating to the offering. The redemption, conversion or exchange may be mandatory, at your option, or at our option. The applicable prospectus supplement will describe the manner in which the shares of common stock that you will receive as a holder of preferred stock would be converted or exchanged or redeemed.

### **CONVERTIBLE PREFERRED STOCK**

We will describe the particular terms of any series of convertible preferred stock in the prospectus supplement relating to the offering of any such offered securities.

We will fix or designate the conversion rights, preferences, privileges and restrictions, including any dividend rights, voting rights (if any), terms of redemption, retirement and sinking fund provisions (if any) and liquidation preferences (if any), of any series of convertible preferred stock through a certificate of designation adopted by our board of directors or a duly authorized committee of our board of directors. We will describe the terms, if any, on which shares of any series of preferred stock are convertible or exchangeable into our debt securities or common stock in the prospectus supplement relating to the offering. The conversion, redemption or exchange may be mandatory, at your option, or at our option. The applicable prospectus supplement will describe the manner in which the shares of common stock that you will receive as a holder of convertible preferred stock would be converted or exchanged or redeemed.

### **STOCK AND DEBT WARRANTS**

We may issue warrants, including warrants to purchase debt securities, preferred stock, common stock or other securities issued by us. We may issue warrants independently or together with any other securities, and they may be attached to or separate from those securities. We will issue the warrants under warrant agreements between us and a bank or trust company, as warrant agent, that we will describe in the prospectus supplement relating to any warrants that we offer.

We will also describe in the applicable prospectus supplement the amount of securities called for by the warrants, any amount of warrants outstanding, and any provisions for a change in the exercise price or the expiration date of the warrants and the kind, frequency and timing of any notice to be given. Prior to the exercise of your warrants, you will not have any of the rights of holders of the preferred stock or common stock purchasable upon any such exercise and will not be entitled to dividend payments, if any, or voting rights of the preferred stock or common stock purchasable upon the exercise.

#### **Exercise of Warrants**

We will describe in the prospectus supplement relating to the warrants the principal amount or the number of shares of our securities that you may purchase for cash upon exercise of a warrant, and the exercise price. Exercise a warrant may occur, as described in the applicable prospectus supplement relating to the warrants, at any time up to the close of business on the expiration date stated in the prospectus supplement. Unexercised warrants will become void after the close of business on the expiration date, or any later expiration date that we determine.

We will forward the securities deliverable upon the exercise of any warrant reasonably promptly after receipt of payment and the properly completed and executed warrant certificate at the corporate trust office of the warrant agent or other office stated in the applicable prospectus supplement. If you exercise less than all of the warrants represented by the warrant certificate, we will issue you a new warrant certificate for the

remaining warrants.

## **CONVERTIBLE DEBT SECURITIES**

We will describe the particular terms of any series of convertible debentures or other convertible debt issuable by us, in the prospectus supplement relating to any such offered securities.

We will fix or designate the rights, preferences, privileges and restrictions, including conversion rights, interest rate and other rights, including terms of redemption, retirement and sinking fund provisions (if any) and liquidation preferences, if any, of any series of convertible debt through an instrument adopted by our board of directors or a duly authorized committee of our board of directors. We will describe the terms, if any, on which such instruments are convertible or exchangeable into common stock in the prospectus supplement relating to the applicable offering. The conversion or exchange may be mandatory, at your option, or at our option. The applicable prospectus supplement will describe the manner in which the shares of common stock that you will receive as a holder of the convertible debt would be converted or exchanged or redeemed.

## **EQUITY PURCHASE CONTRACTS AND EQUITY PURCHASE UNITS**

We may issue any form of equity purchase contracts, including contracts obligating you to purchase from us, and for us to sell to you, a specific number of shares of common stock or preferred stock, or other equity, at a future date or dates. The price per share of preferred stock or common stock or other equity may be fixed at the time the equity purchase contracts are issued or may be determined by reference to a specific formula described in the equity purchase contracts. We may issue any such equity purchase contract separately or as a part of units consisting of an equity purchase contract and our debt securities. The equity purchase contracts may require us to make periodic payments to you or vice versa and the payments may be unsecured or pre-funded on some basis. The equity purchase contracts may require you to secure your obligations in a specified manner. We will more fully describe in any applicable prospectus supplement the terms and conditions, rights and obligations of any such equity purchase contracts or equity purchase units.

## **DEBT SECURITIES**

The debt securities will be our unsecured and unsubordinated obligations issued in one or more series and will rank equally with each other and with all of our other unsecured and unsubordinated indebtedness. The debt securities will be issued under an indenture to be entered into between us and Bank One Trust Company, N.A., as trustee. The terms of any series of debt securities will be those specified in the indenture, as amended or supplemented from time to time, and in the certificates evidencing that series of debt securities.

The following summary of selected provisions of the indenture and the debt securities is not complete, and the summary of selected terms of a particular series of debt securities included in the applicable prospectus supplement also will not be complete. You should review the indenture and the form of certificate evidencing the applicable debt securities, each of which have been or will be filed as exhibits to the registration statement of which this prospectus is a part or as exhibits to documents which have been or will be incorporated by reference in this prospectus. To obtain a copy of the indenture or the form of certificate for the debt securities, see [Where You Can Find More Information](#) in this prospectus. The following summary and the summary in the applicable prospectus supplement are qualified in their entirety by reference to all of the provisions of the indenture and the certificates evidencing the debt securities. The provisions of the indenture and the debt certificates, including defined terms, are incorporated by reference in this prospectus. Terms used in this section have the meanings assigned to those terms in the indenture. When we refer to *we*, *us* or *our* in this section or when we otherwise refer to ourselves in this section, we mean Baxter International Inc., excluding, unless otherwise expressly stated or the context otherwise requires, our subsidiaries.

## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

The following description of debt securities describes general terms and provisions of the series of debt securities to which any prospectus supplement may relate. When we offer to sell a series of debt securities, we

will describe the specific terms of the series in the applicable prospectus supplement. If any particular terms of the debt securities described in a prospectus supplement differ from any of the terms described in this prospectus, the terms described in the applicable prospectus supplement will supersede the terms described in this prospectus.

## General

The debt securities may be issued from time to time in one or more series. We can issue an unlimited amount of debt securities under the indenture. The indenture provides that we may issue debt securities of any series in an amount up to the aggregate principal amount which is authorized from time to time by us. Please read the applicable prospectus supplement relating to the series of debt securities being offered for specific terms including, where applicable:

the title of the series of debt securities;

any limit on the aggregate principal amount of debt securities of the series;

the price or prices at which we will issue debt securities of the series;

the date or dates on which we will pay the principal of and premium, if any, on debt securities of the series, or the method or methods, if any, that will be used to determine those dates;

the rate or rates, which may be fixed or variable, at which debt securities of the series will bear interest, if any, or the method or methods, if any, that will be used to determine those rates;

the basis used to calculate interest, if any, on the debt securities of the series if other than a 360-day year of twelve 30-day months;

the date or dates, if any, from which interest on the debt securities of the series will accrue, or the method or methods, if any, that will be used to determine those dates;

the dates on which the interest, if any, on the debt securities of the series will commence accruing and will be payable and the record dates for the payment of interest;

the place or places where amounts due on the debt securities of the series will be payable and where the debt securities of the series may be surrendered for registration of transfer and exchange;

the terms and conditions, if any, upon which we may, at our option, redeem debt securities of the series;

the terms and conditions, if any, upon which we will repurchase debt securities of the series at the option of the holders of debt securities of the series;

the terms of any sinking fund or analogous provision;

## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

if other than United States dollars, the currency to be used to purchase the debt securities of the series and the currency to be used for payments on debt securities of the series, and the ability or the ability of the holders of debt securities of the series, if any, to have payments made in any other currency;

any addition to, or modification or deletion of, any covenant or event of default with respect to debt securities of the series;

whether the debt securities of the series are to be issuable in registered or bearer form or both and, if in bearer form, whether we will issue any debt securities of the series in temporary or permanent global form and, if so, the identity of the depositary for the global debt security;

whether and under what circumstances we will pay any additional amounts in respect of certain taxes, assessments or other governmental charges imposed on holders of the series of debt securities who are United States Aliens ( additional amounts ) and, if so, whether we will have the option to redeem the series of debt securities rather than pay any additional amounts;

the person to whom any interest on any registered securities of the series of debt securities will be payable, if different than the person in whose name a registered security is registered at the close of business on the regular record date for that payment;

the manner in which, or the person to whom, any interest on any bearer security of the series of debt securities will be payable, if different than upon presentation and surrender of the coupons relating to the bearer security;

the extent to which, or the manner in which, any interest payable on a temporary global debt security will be paid, if other than in the manner provided in the indenture;

the portion of the principal amount of the series of debt securities which will be payable upon acceleration if other than the full principal amount;

the authorized denominations in which the series of debt securities will be issued, if other than denominations of \$1,000 and any integral multiple of \$1,000, in the case of registered securities, or \$5,000, in the case of bearer securities;

if the amount of payments on the series of debt securities may be determined with reference to an index, formula or other method or methods ( indexed securities ) and the manner used to determine those amounts; and

any other terms of debt securities of the series.

As used in this prospectus and any prospectus supplement relating to the offering of debt securities, references to the principal of and premium, if any, and interest, if any, on the series of debt securities include the payment of additional amounts, if any, required by the series of debt securities in that context.

Debt securities may be issued as original issue discount securities to be sold at a substantial discount below their principal amount. In the event of an acceleration of the maturity of any original issue discount security, the amount payable to the holder upon acceleration will be determined in the manner described in the applicable prospectus supplement. Material federal income tax and other considerations applicable to original issue discount securities will be described in the applicable prospectus supplement.

If the purchase price of any debt securities is payable in a foreign currency or currency unit or if the principal of, or premium, if any, or interest, if any, on any of the debt securities is payable in a foreign currency or currency unit, the specific terms of those debt securities and the applicable foreign currency or currency unit will be specified in the prospectus supplement relating to those debt securities.

The terms of the debt securities of any series may differ from the terms of the debt securities of any other series, and the terms of particular debt securities within any series may differ from each other. If expressly provided in the applicable prospectus supplement, we may, without the consent of the holders of the debt securities of any series, reopen an existing series of debt securities and issue additional debt securities of that series or establish additional or different terms of that series.

#### **Registration, transfer, payment and paying agent**



## Edgar Filing: BAXTER INTERNATIONAL INC - Form POS AM

Unless otherwise indicated in the applicable prospectus supplement, each series of debt securities will be issued in registered form only, without coupons. The indenture, however, provides that we may also issue debt securities in bearer form only, or in both registered and bearer form. Bearer securities may not be offered, sold, resold or delivered in connection with their original issuance in the United States or to any United States person, as defined below, other than offices located outside the United States of specified United States financial institutions. United States person means any citizen or resident of the United States, any corporation, partnership or other entity created or organized in or under the laws of the United States, any estate the income of which is subject to United States federal income taxation regardless of its source, or any trust whose

administration is subject to the primary supervision of a United States court and which has one or more United States fiduciaries who have the authority to control all substantial decisions of the trust. United States means the United States of America, including the states thereof and the District of Columbia, its territories, its possessions and other areas subject to its jurisdiction. Purchasers of bearer securities will be subject to certification procedures and may be affected by limitations under United States tax laws. The applicable procedures and limitations will be described in the prospectus supplement relating to the offering of the bearer securities.

Unless otherwise indicated in the applicable prospectus supplement, the debt securities will be payable and may be surrendered for registration of transfer or exchange and, if applicable, for conversion into or exchange for other types of securities, at an office or agency maintained by the trustee in the Borough of Manhattan, The City of New York. However, we, at our option, may make payments of interest on any registered security by check mailed to the address of the person entitled to receive that payment or by wire transfer to an account maintained by the payee with a bank located in the United States. No service charge will be made for any registration of transfer or exchange, redemption or repayment of debt securities, or for any conversion or exchange of debt securities for other types of securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with that transaction.

Unless otherwise indicated in the applicable prospectus supplement, payment of principal, premium, if any, and interest, if any, on bearer securities will be made, subject to any applicable laws and regulations, at an office or agency outside the United States. Unless otherwise indicated in the applicable prospectus supplement, payment of interest due on bearer securities on any interest payment date will be made only against surrender of the coupon relating to that interest payment date. Unless otherwise indicated in the applicable prospectus supplement, no payment of principal, premium, if any, or interest, if any, with respect to any bearer security will be made at any office or agency in the United States or by check mailed to any address in the United States or by wire transfer to an account maintained with a bank located in the United States. However, if any bearer securities are payable in United States dollars, payments on those bearer securities may be made at the corporate trust office of the trustee or at any office or agency designated by us in the Borough of Manhattan, The City of New York, if, but only if, payment of the full amount due on the bearer securities for principal, premium, if any, or interest, if any, at all offices outside of the United States maintained for that purpose by us is illegal or effectively precluded by exchange controls or similar restrictions.

Unless otherwise indicated in the applicable prospectus supplement, we will not be required to:

issue, register the transfer of or exchange debt securities of any series during a period beginning at the opening of business 15 days before any selection of debt securities of that series having the same terms to be redeemed and ending at the close of business on the day of that selection;

register the transfer of or exchange any registered security, or portion of any registered security, selected for redemption, except the unredeemed portion of any registered security being redeemed in part;

exchange any bearer security selected for redemption, except to exchange a bearer security for a registered security of that series having the same terms that is simultaneously surrendered for redemption; or

issue, register the transfer of or exchange a debt security which has been surrendered for repayment at the option of the holder, except the portion, if any, of the debt security not to be repaid.

### **Book-entry debt securities**

The debt securities of a series may be issued in whole or in part in the form of one or more global debt securities. Global debt securities will be deposited with, or on behalf of, a depository identified in the applicable prospectus supplement relating to the series. Global debt securities may be issued in either registered or bearer form and in either temporary or permanent form. Unless and until it is exchanged in whole or in part for



individual certificates evidencing debt securities, a global debt security may not be transferred except as a whole by the depository to its nominee or by the nominee to the depository, or by the depository or its nominee to a successor depository or to a nominee of the successor depository.

We anticipate that global debt securities will be deposited with, or on behalf of, The Depository Trust Company ( DTC ), New York, New York, and that global debt securities will be registered in the name of DTC 's nominee, Cede & Co. We also anticipate that the following provisions will apply to the depository arrangements with respect to global debt securities. Additional or differing terms of the depository arrangements will be described in the applicable prospectus supplement.

DTC has advised us that it is:

- a limited-purpose trust company organized under the New York Banking Law;
- a banking organization within the meaning of the New York Banking Law;
- a member of the Federal Reserve System;
- a clearing corporation within the meaning of the New York Uniform Commercial Code; and
- a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act.

DTC holds securities that its participants deposit with DTC. DTC also facilitates the settlement among its participants of securities transactions, including transfers and pledges, in deposited securities through electronic computerized book-entry changes in participants' accounts, which eliminates the need for physical movement of securities certificates. Direct participants include securities brokers and dealers, banks, trust companies, clearing corporations and other organizations. DTC is owned by a number of its direct participants and by the New York Stock Exchange, Inc., the American Stock Exchange, LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others, sometimes referred to in this prospectus as indirect participants, that clear transactions through or maintain a custodial relationship with a direct participant either directly or indirectly. Indirect participants include securities brokers and dealers, banks and trust companies. The rules applicable to DTC and its participants are on file with the SEC.

Purchases of debt securities within the DTC system must be made by or through direct participants, which will receive a credit for the debt securities on DTC 's records. The ownership interest of the actual purchaser or beneficial owner of a debt security is, in turn, recorded on the direct and indirect participants' records. Beneficial owners will not receive written confirmation from DTC of their purchases, but beneficial owners are expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the direct or indirect participants through which they purchased the debt securities. Transfers of ownership interests in debt securities are to be accomplished by entries made on the books of participants acting on behalf of beneficial owners. Beneficial owners will not receive certificates representing their ownership interests in the debt securities, except under the limited circumstances described below.

To facilitate subsequent transfers, all debt securities deposited by direct participants with DTC will be registered in the name of DTC 's nominee, Cede & Co. The deposit of debt securities with DTC and their registration in the name of Cede & Co. will not change the beneficial ownership of the debt securities. DTC has no knowledge of the actual beneficial owners of the debt securities. DTC 's records reflect only the identity of the direct participants to whose accounts the debt securities are credited. Those participants may or may not be the beneficial owners. The direct and indirect participants are responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants and by direct and indirect participants to beneficial owners will be governed by arrangements among them, subject to any legal requirements in effect from time to time.

Redemption notices will be sent to DTC or its nominee. If less than all of the debt securities of a series are being redeemed, DTC's practice is to determine by lot the amount of the interest of each direct participant in the debt securities to be redeemed.

In any case where a vote may be required with respect to the debt securities of any series, neither DTC nor Cede & Co. will give consents for or vote the global debt securities. Under its usual procedures, DTC will mail an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns the consenting or voting rights of Cede & Co. to those direct participants to whose accounts the debt securities are credited on the record date identified in a listing attached to the omnibus proxy.

Principal and premium, if any, and interest, if any, on the global debt securities will be paid to Cede & Co., as nominee of DTC. DTC's practice is to credit direct participants' accounts on the relevant payment date unless DTC has reason to believe that it will not receive payments on the payment date. Payments by direct and indirect participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the account of customers in bearer form or registered in street name. Those payments will be the responsibility of participants and not of DTC or us, subject to any legal requirements in effect from time to time. Payment of principal, premium, if any, and interest, if any, to Cede & Co. is our responsibility, disbursement of payments to direct participants is the responsibility of DTC, and disbursement of payments to the beneficial owners is the responsibility of direct and indirect participants.

Except under the limited circumstances described in this prospectus, beneficial owners of interests in a global debt security will not be entitled to have debt securities registered in their names and will not receive physical delivery of debt securities. Accordingly, each beneficial owner must rely on the procedures of DTC to exercise any rights under the debt securities and the indenture.

The laws of some jurisdictions may require that some purchasers of securities take physical delivery of securities in definitive form. These laws may impair the ability to transfer or pledge beneficial interests in global debt securities.

DTC is under no obligation to provide its services as depository for the debt securities of any series and may discontinue providing its services at any time by giving reasonable notice to us or the trustee. Neither we nor the trustee will have any responsibility for the performance by DTC or its participants or indirect participants under the rules and procedures governing DTC. As noted above, beneficial owners of debt securities generally will not receive certificates representing their ownership interests in the debt securities. However, if

DTC notifies us that it is unwilling or unable to continue as a depository for the global debt securities of any series or if DTC ceases to be a clearing agency registered under the Securities Exchange Act and a successor depository for the debt securities of the series is not appointed within 90 days of the notification or of our becoming aware of DTC's ceasing to be so registered, as the case may be,

we determine, in our sole discretion, not to have the debt securities of any series represented by one or more global debt securities, or

an event of default under the indenture has occurred and is continuing with respect to the debt securities of any series,

we will prepare and deliver to the trustee certificates for the debt securities of that series, which will deliver the certificates in exchange for beneficial interests in the global debt securities. Any beneficial interest in a global debt security that is exchangeable under the circumstances described in the preceding sentence will be exchangeable for debt securities in definitive certificated form registered in the names that DTC will direct. It is expected that these directions will be based upon directions received by DTC from its participants with respect to ownership of beneficial interests in the global debt securities.



**Outstanding debt securities**

In determining whether the holders of the requisite principal amount of outstanding debt securities have given any request, demand, authorization, direction, notice, consent or waiver under the indenture:

the principal amount of an original issue discount security that will be deemed to be outstanding for these purposes will be that portion of the principal amount of the original issue discount security that could be declared to be due and payable upon a declaration of acceleration of the original issue discount security as of the date of the determination;