

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

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

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**Post-Effective Amendment No. 1**

*to*

**Form S-3**

**REGISTRATION STATEMENT**

*UNDER*

*THE SECURITIES ACT OF 1933*

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**Baxter International Inc.**

(Exact Name of Registrant as Specified in Its Charter)

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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)

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(Address, Including Zip Code, and Telephone Number,

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

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**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)

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**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)**

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**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.

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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. " \_\_\_\_\_

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**CALCULATION OF REGISTRATION FEE**


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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

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- (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.

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**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.**

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**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.

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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**

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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

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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.**

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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.



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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

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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 F