

Zoetis Inc.
Form S-8
August 01, 2018

As filed with the Securities and Exchange Commission on August 1, 2018

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Zoetis Inc.

(Exact Name of Registrant as Specified in Its Charter)

10 Sylvan Way

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

Parsippany, New Jersey 07054
(Address of Principal Executive
Offices Including
Zip Code)

46-0696167
(I.R.S. Employer
Identification No.)

Abaxis, Inc. 2014 Equity Incentive Plan, as amended

(Full title of the Plans)

Copies to:

**Juan Ramón Alaix
Chief Executive Officer
Zoetis Inc.
10 Sylvan Way**

Andrew R. Brownstein, Esq.

**Igor Kirman, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019**

Parsippany, New Jersey 07054

(Name and Address of Agent for Service)

(973) 822-7000

(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if smaller reporting company)

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered⁽¹⁾⁽²⁾ | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|---|--|--|-----------------------------------|
| Common Stock, \$0.01 par value per share: - Outstanding restricted stock units under the Abaxis, Inc. 2014 Equity Incentive Plan, as amended | 662,000 | \$84.81 ⁽³⁾ | \$56,144,220.00 ⁽³⁾ | \$6,989.96 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the Abaxis, Inc. 2014 Equity Incentive Plan, as amended (the "2014 Plan") by reason of an event such as any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding shares of Common Stock.
- (2) Represents the maximum number of shares of the Registrant's Common Stock issuable in connection with restricted stock units awarded under the 2014 Plan that were assumed by the Registrant on July 31, 2018, upon the closing of the acquisition of Abaxis, Inc.
- (3) Estimated in accordance with Rule 457(c) and (h) of the Securities Act based on the average of the high and low prices of the Registrant's Common Stock as reported on the New York Stock Exchange on July 30, 2018, of \$84.81.

ZOETIS INC.

REGISTRATION STATEMENT ON FORM S-8

This Registration Statement on Form S-8 is being filed by Zoetis Inc. (the **Company** or the **Registrant**) to register 662,000 shares of the Company's common stock, par value \$0.01 per share (the **Common Stock**), pursuant to the Company's assumption of the Abaxis, Inc. 2014 Equity Incentive Plan, as amended (the **2014 Plan**) and outstanding awards thereunder.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.

The documents containing the information specified in this Item 1 will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the Securities Act. In accordance with the rules and regulations of the Securities and Exchange Commission (the **Commission**) and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act.

Item 2. Registrant Information and Employee Plan Annual Information.

The documents containing the information specified in this Item 2 will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the Securities Act. In accordance with the rules and regulations of the Commission and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such documents, together with the documents incorporated by reference herein pursuant to Item 3 of Part II of this Registration Statement on Form S-8, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act, and are available upon written request to: Corporate Secretary, Zoetis Inc., 10 Sylvan Way, Parsippany, NJ 07054, (973) 822-7000.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Company incorporates by reference the documents listed below and any future filings made with the Commission under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, as amended (the **Exchange Act**), subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold (such documents, and the documents listed below, being hereinafter referred to as **Incorporated Documents**).

1. The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2017, filed with the Commission on February 15, 2018;

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2. The Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018, filed with the Commission on May 2, 2018;

3. The Company's Current Reports on Form 8-K filed with the Commission on May 15, 2018, May 16, 2018, July 6, 2018, July 31, 2018 and July 31, 2018; and

4. The description of the Company's Common Stock contained in the Company's Registration Statement on Form S-1 filed with the Commission on August 13, 2012, as amended, including any amendment or report filed for the purpose of updating such description (No. 333-183254).

The Company is only incorporating certain portions of its definitive proxy statement on Schedule 14A for its 2018 annual meeting of stockholders as described above and is not incorporating by reference (i) any information furnished under items 2.02 or 7.01 (or corresponding information furnished under item 9.01 or included as an exhibit) in any past or future current report on Form 8-K or (ii) any Form SD, that, in either case, the Company may file or furnish with the SEC, unless otherwise specified in such current report or in such form. The documents listed above or subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act in each year during which the offering made by this Registration Statement is in effect prior to the filing with the Commission of the Company's Annual Report on Form 10-K covering such year shall cease to be Incorporated Documents or be incorporated by reference in this Registration Statement from and after the filing of such Annual Reports.

Any statement contained herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed Incorporated Document modifies or supersedes such statement. Any statement contained in an Incorporated Document shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed Incorporated Document modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 102(b) of the Delaware General Corporation Law authorizes a corporation to provide in its Certificate of Incorporation that a director of the corporation shall not be personally liable to a corporation or its stockholders for monetary damages for breach or alleged breach of the director's duty of care. While this statute does not change the director's duty of care, it enables corporations to limit available relief to equitable remedies such as injunction or rescission. The statute has no effect on a director's duty of loyalty or liability for acts or omissions not in good faith or involving intentional misconduct or knowing violations of law, illegal payment of dividends or stock redemptions or repurchases, or for any transaction from which the director derives an improper personal benefit. As permitted by the statute, the Company has adopted provisions in its Certificate of Incorporation which eliminate to the fullest extent permissible under Delaware law the personal liability of its directors to the Company and its stockholders for monetary damages for breach or alleged breach of their duty of care.

Section 145 of the General Corporation Law of the State of Delaware allows for the indemnification of officers, directors, employees and agents of a corporation. The Bylaws of the Company provide for indemnification of its directors, officers, employees and agents to the full extent permitted by Delaware law, including those circumstances in which indemnification would otherwise be discretionary under Delaware law. The Company's Bylaws also

empower the Company to enter into indemnification agreements with its directors and officers and require it to purchase insurance to the extent reasonably available on behalf of any person whom it is required or permitted to indemnify. The Company has entered into agreements with its directors and its executive officers that require the Company to indemnify such persons to the fullest extent permitted under Delaware law against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred (including expenses of a derivative action) in connection with any proceeding, whether actual or threatened, to which any such person may be made a party by reason of the fact that such person is or was a director or an executive officer of the Company or any of its affiliated enterprises. The indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. The Company intends to enter into indemnification agreements with any new directors and executive officers in the future.

Section 145 of the General Corporation Law of the State of Delaware provides for indemnification in terms sufficiently broad to indemnify such individuals, under certain circumstances, for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

See exhibits listed under the Exhibit Index below which are hereby incorporated by reference.

Item 9. Undertakings.

1. The undersigned Registrant hereby undertakes:

(a) 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 the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and
- (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)(a)(i) and (1)(a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement;

(b) 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; and

(c) 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.

2. 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 the 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.

3. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company 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 Company of expenses incurred or paid by a director, officer or controlling person of the Company 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 Company 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.

EXHIBIT INDEX

| Exhibit No. | Exhibit |
|--------------------|---|
| 4.1 | <u>Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to Zoetis Inc. s Quarterly Report on Form 10-Q filed on November 10, 2014 (File No. 001-35797)).</u> |
| 4.2 | <u>By-laws of the Registrant, amended and restated as of February 19, 2016 (incorporated by reference to Exhibit 3.2 to Zoetis Inc. s 2015 Annual Report on Form 10-K filed on February 24, 2016 (File No. 001-35797)).</u> |
| 4.3 | <u>Abaxis, Inc. 2014 Equity Incentive Plan, as amended.</u> |
| 5.1 | <u>Opinion of Wachtell, Lipton, Rosen & Katz.</u> |
| 15.1 | <u>Awareness Letter of KPMG LLP, Independent Registered Public Accounting Firm.</u> |
| 23.1 | <u>Consent of Wachtell, Lipton, Rosen & Katz (contained in Exhibit 5.1).</u> |
| 23.2 | <u>Consent of KPMG LLP, Independent Registered Public Accounting Firm.</u> |
| 24.1 | <u>Power of Attorney (contained on signature page).</u> |

SIGNATURES

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 Parsippany, State of New Jersey, on August 1, 2018.

Zoetis Inc.

By: */s/ Juan Ramón Alaix*
 Juan Ramón Alaix
 Chief Executive Officer and Director

Each person whose signature appears below hereby constitutes and appoints Juan Ramón Alaix, Heidi C. Chen and Katherine H. Walden and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) and supplements to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, and hereby grants to such attorneys-in-fact and agents, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

| Name | Title | Date |
|---|--|----------------|
| <i>/s/ Juan Ramón Alaix</i> Juan Ramón Alaix | Chief Executive Officer and Director (Principal Executive Officer) | August 1, 2018 |
| <i>/s/ Glenn David</i> Glenn David | Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer) | August 1, 2018 |
| <i>/s/ Michael B. McCallister</i> Michael B. McCallister | Chairman and Director | August 1, 2018 |
| <i>/s/ Paul M. Bisaro</i> Paul M. Bisaro | Director | August 1, 2018 |
| <i>/s/ Frank A. D Amelio</i> Frank A. D Amelio | Director | August 1, 2018 |
| <i>/s/ Sanjay Khosla</i> Sanjay Khosla | Director | August 1, 2018 |

/s/ Gregory Norden
Gregory Norden

Director

August 1, 2018

| | | |
|--|----------|----------------|
| /s/ Louise M. Parent Louise M. Parent | Director | August 1, 2018 |
| /s/ Willie M. Reed Willie M. Reed | Director | August 1, 2018 |
| /s/ Linda Rhodes Linda Rhodes | Director | August 1, 2018 |
| /s/ Robert W. Scully Robert W. Scully | Director | August 1, 2018 |
| /s/ William C. Steere, Jr. William C. Steere, Jr. | Director | August 1, 2018 |