GALLAGHER ARTHUR J & CO
Form S-8
May 01, 2002

As filed with the Securities and Exchange Commission on May 1, 2002

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
Under
The Securities Act of 1933

ARTHUR J. GALLAGHER & CO.
(Exact name of registrant as specified in its charter)

Delaware	36-2151613
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

Two Pierce Place, Itasca, Illinois 60143-3141, (630) 773-3800
(Address, including zip code and telephone number, including area code, of registrant's principal executive offices)

ARTHUR J. GALLAGHER & CO.
1988 NONQUALIFIED STOCK OPTION PLAN
ARTHUR J. GALLAGHER & CO.
1989 NON-EMPLOYEE DIRECTORS' STOCK OPTION PLAN
(Full title of the plans)

JOHN C. ROSENGREN, ESQ.
Vice President and General Counsel
Arthur J. Gallagher & Co.
Two Pierce Place
Itasca, Illinois 60143-3141
(630) 773-3800
(Name, address, including zip code and telephone number, including area code, of agent for service)

Please Send Copies of All Communications to:
KURT W. FLORIAN, JR., ESQ.
Katten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, Illinois 60661-3693
(312) 902-5200

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value $1.00 per share.....	3,300,000(a)	$35.00(b)	$115,500,000	$10,626.00

(a) Includes such indeterminant number of shares as may be issuable by reason of the operation of the anti-dilution provisions of the Plans.
(b) Estimated in accordance with Rule 457(c) solely for the purpose of computing the registration fee on the basis of the average of the high and low prices quoted for the Registrant's Common Stock, as reported on the consolidated transaction reporting system for securities listed on the New York Stock Exchange on April 29, 2002.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this registration statement, and the information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents and information listed below:

(1) Our Annual Report on Form 10-K for the fiscal year ended December 31, 2001, filed on March 22, 2002.

(2) The description of our common stock contained in Form 8-A (registration no. 0-13480), which incorporates by reference our registration statement on Form S-1 (registration no. 2-89195), and the description of common share purchase rights currently attached to the common stock contained in Form 8-A (registration no. 0-13480) filed with the SEC on May 12, 1987 and in Current Report on Form 8-K (registration no. 0-13480) filed with the SEC on May 18, 1987.

In addition, this registration statement incorporates by reference any future filings we will make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 from the date of the initial filing of the registration statement until the termination of the offering. Information in this registration statement supersedes related information in the documents listed above and information in subsequently filed documents supersedes related information in both this registration statement and the incorporated documents.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

For the purpose of this offering, our General Counsel, John C. Rosengren, Esq., is providing an opinion on the validity of the shares. Mr. Rosengren holds options to purchase 72,200 shares.

Item 6. Indemnification of Directors and Officers.

Article Seventh of our By-laws and Article Thirteenth of our Restated Certificate of Incorporation provide for indemnification of each of our directors, officers, employees or agents to the fullest extent permitted by the Delaware General Corporation Law.

Article Seventh of our By-laws provides that we shall indemnify any person in connection with any action, suit, or proceeding brought or threatened by reason of the fact that he or she is or was one of our directors, officers, employees or agents, or is or was serving at our request as a director, officer, employee or agent of another enterprise, against all costs actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Similar indemnity is permitted to be

provided to such persons in connection with an action or suit by us or in our right, and provided further that such person shall not have been adjudged liable for negligence or misconduct in the performance of his or her duty to us, unless, in view of all the circumstances of the case, the court in which the action or suit was brought determines that such person despite the adjudication of liability is fairly and reasonably entitled to indemnity for such expenses.

Article Thirteenth of our Restated Certificate of Incorporation eliminates the liability of our directors for monetary damages for breach of fiduciary duty as a director except where a director breaches his or her duty of loyalty to us and our stockholders, fails to act in good faith or engages in intentional misconduct or a knowing violation of law, authorizes the payment of a dividend or stock repurchase which is illegal under Section 174 of the Delaware General Corporation Laws or obtains an improper personal benefit.

We also maintain and pay premiums on a directors' and officers' liability insurance policy and have entered into an indemnity agreement with each of our directors and officers. The provisions of the indemnity agreement alter or clarify the statutory indemnity in the following respects: (1) indemnity will be explicitly provided for settlements in derivative actions; (2) prompt payment of litigation expenses will be provided in advance of indemnification; (3) prompt indemnification of advances of expenses will be provided unless a determination is made that the director or officer has not met the required standard; (4) the director or officer will be permitted to petition a court to determine whether his actions meet the standards required; and (5) partial indemnification will be permitted in the event that the director or officer is not entitled to full indemnification. In

addition, the indemnity agreement specifically includes indemnification with respect to actions, suits or proceedings brought under and/or predicated upon the Securities Act of 1933 and/or the Securities Exchange Act of 1934.

The preceding summary is qualified in its entirety by our Restated Certificate of Incorporation, By-laws and the indemnity agreement.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Refer to "Index to Exhibits" on Page II-5 of this registration statement.

Item 9. Undertakings.

We hereby undertake as follows:

(1) To file, during any period in which any 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 of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the 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) may be reflected in the form of a prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

(4) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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.

(5) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Arthur J. Gallagher & Co. certifies that it has reasonable grounds to believe that it meets all 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 Itasca and State of Illinois, on the 30th day of April, 2002.

ARTHUR J. GALLGHER & CO.

/S/ J. PATRICK GALLAGHER, JR.
By_____
J. Patrick Gallagher, Jr.
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-8 has been signed below on April 30, 2002 by the following persons in the capacities indicated.

Signature	Title
/S/ ROBERT E. GALLAGHER* Robert E. Gallagher	Chairman and Director
/S/ J. PATRICK GALLAGHER, JR. J. Patrick Gallagher, Jr.	President and Director (Chief Executive Officer)
/S/ MICHAEL J. CLOHERTY Michael J. Cloherty	Executive Vice President and Director (Chief Financial Officer)
/S/ RICHARD C. CARY	Controller (Chief Accounting

---------- Richard C. Cary	Officer)
/S/ JAMES J. BRANIFF III* James J. Braniff III	Director
/S/ T. KIMBALL BROOKER* T. Kimball Brooker	Director
/S/ GARY P. COUGHLAN* Gary P. Coughlan	Director
/S/ JAMES W. DURKIN, JR.* James W. Durkin, Jr.	Director
/S/ ILENE S. GORDON* Ilene S. Gordon	Director
/S/ DAVID E. MCGURN, JR.* David E. McGurn, Jr.	Director
/S/ RICHARD J. MCKENNA* Richard J. McKenna	Director
/S/ ROBERT RIPP* Robert Ripp	Director
/S/ JAMES R. WIMMER* James R. Wimmer	Director

*By: /S/ JOHN C. ROSENGREN
John C. Rosengren
Attorney-in-Fact

INDEX TO EXHIBITS

Exhibit Number	Description
*5.0	Opinion of John C. Rosengren, our Vice President and General Counsel, including consent.
*23.1	Consent of Ernst & Young LLP, as independent auditors.
23.2	Consent of John C. Rosengren, our Vice President and General Counsel, included in Exhibit

*24.0 Powers of Attorney.

---

* Filed herewith.