

KKR & CO. INC.

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 03/29/19

Address	9 WEST 57TH STREET, SUITE 4200 NEW YORK, NY, 10019
Telephone	212-750-8300
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Industry	Investment Management & Fund Operators
Sector	Financials
Fiscal Year	12/31

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

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

KKR & Co. Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

26-0426107

(I.R.S. Employer Identification Number)

**9 West 57th Street, Suite 4200
New York, NY 10019
(212) 750-8300**

(Address, including zip code, and telephone number, including area code, of principal executive offices)

KKR & Co. Inc. 2019 Equity Incentive Plan
(Full Title of the Plan)

**David J. Sorkin, Esq.
General Counsel
KKR & Co. Inc.**

**9 West 57th Street, Suite 4200
New York, NY 10019
(212) 750-8300**

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

With a copy to:

**Joseph H. Kaufman, Esq.
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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(1)	Amount to be registered(1)	Proposed maximum offering price per share(2)	Proposed maximum aggregate offering price(2)	Amount of registration fee(2)
Class A common stock, \$0.01 par value per share	125,090,771	\$ 23.96	\$2,997,174,873.16	\$ 363,257.59

- (1) Covers shares of Class A common stock of KKR & Co. Inc. (the “Company”) approved for issuance under the KKR & Co. Inc. 2019 Equity Incentive Plan (the “2019 Plan”) and, pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement also covers an indeterminate number of additional shares of Class A common stock of KKR & Co. Inc. as may be issued with respect to such shares by way of a stock dividend, stock split or similar transaction.
- (2) Represents the proposed maximum aggregate offering price, estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) under the Securities Act, and based on the market value of Class A common stock of KKR & Co. Inc. The proposed maximum aggregate offering price is the product of (i) \$23.96 , the average of the high and low prices for shares of Class A common stock reported on the New York Stock Exchange on March 22, 2019 and (ii) the number of shares of Class A common stock being registered pursuant to this registration statement.

PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The information specified in Items 1 and 2 of Part I of the Form S-8 is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act and the introductory note to Part I of the Form S-8. The documents containing the information specified in Part I will be delivered to the participants in the Plan covered by this Registration Statement as required by Rule 428(b)(1).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the Commission by the Company pursuant the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are hereby incorporated by reference in this Registration Statement:

- (a) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed on February 15, 2019;
- (b) the Company's Current Report on Form 8-K, filed on February 1, 2019 (SEC Accession No. 0001140361-19-002294) ; and
- (c) the description of the Company's Class A common stock in the Company's Registration Statement on Form 8-A12B/A related to the Class A common stock, filed on July 2, 2018 pursuant to Section 12(b) of the Exchange Act and the portion of the Company's Current Report on Form 8-K filed on July 2, 2018, incorporated therein by reference.

All documents that the Company subsequently files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement indicating that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless expressly stated otherwise therein).

Any statement contained in a document incorporated or deemed to be incorporated by reference herein 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 document that is or is deemed to be incorporated by reference herein 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.

The validity of the Class A common stock will be passed upon for us by Simpson Thacher & Bartlett LLP, New York, New York. Certain partners of Simpson Thacher & Bartlett LLP, members of their families and related persons have an interest representing less than 1% of the capital commitments of investment funds managed by an affiliate of the Company.

Item 6. Indemnification of Directors and Officers.

The Company is incorporated under the laws of Delaware.

Section 145 of the Delaware General Corporation Law (the “DGCL”) provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person is made a party by reason of the fact that the person is or was a director, officer, employee or agent of the corporation (other than an action by or in the right of the corporation—a “derivative action”), if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person’s conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys’ fees) incurred in connection with the defense or settlement of such action, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation’s bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

Under the Company’s certificate of incorporation, in most circumstances the Company will indemnify the following persons, to the fullest extent permitted by law, from and against all losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, settlements or other amounts: (a) KKR Management LLC (“KML”) and any successor or permitted assign that owns the Class B common stock of the Company at the applicable time (the “Class B Stockholder”); (b) KML in its capacity as the former general partner of KKR & Co. L.P. (the “Former Managing Partner”); (c) any person who is or was an affiliate of the Class B Stockholder or the Former Managing Partner; (d) any person who is or was a member, partner, Tax Matters Partner (as defined in the U.S. Internal Revenue Code of 1986, as amended (the “Code”), and in effect prior to 2018), Partnership Representative (as defined in the Code), officer, director, employee, agent, fiduciary or trustee of the Company or its subsidiaries, any KKR Group Partnership (as defined in the Company’s certificate of incorporation), the Class B Stockholder or any Former Managing Partner or any affiliate of the Company or its subsidiaries, the Class B Stockholder or the Former Managing Partner; (e) any person who is or was serving at the request of the Company or any Former Managing Partner or any affiliate of the Company or any Former Managing Partner as an officer, director, employee, member, partner, Tax Matters Partner, Partnership Representative, agent, fiduciary or trustee of another person (provided that a person shall not be an indemnitee by reason of providing, on a fee-for-services basis or similar arms-length compensatory basis, agency, advisory, consulting, trustee, fiduciary or custodial services); or (f) any person designated by the Company as an indemnitee. Currently, Section 102(b)(7) of the DGCL requires that liability be imposed for the following:

- any breach of the director’s duty of loyalty to the corporation or its stockholders;
- any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; and
- any transaction from which the director derived an improper personal benefit.

The Company has agreed to provide this indemnification unless there has been a final and non-appealable judgment by a court of competent jurisdiction determining that these persons acted in bad faith or engaged in fraud or willful misconduct. The Company has also agreed to provide this indemnification for criminal proceedings. Any indemnification under these provisions will only be out of the Company’s assets. Unless it otherwise agrees, the Class B Stockholder will not be liable for, or have any obligation to contribute or loan any monies or property to the Company to enable the Company to effectuate, indemnification. The indemnification of the persons described above shall be secondary to any indemnification such person is entitled from another person or the relevant KKR fund to the extent applicable. The Company may purchase insurance against liabilities asserted against and expenses incurred by persons in connection with its activities, regardless of whether the Company would have the power to indemnify the person against liabilities under the Company’s certificate of incorporation.

In addition, the Company has entered into indemnification agreements with KML and each of the Company’s directors. Each indemnification agreement provides that the indemnitee, subject to the limitations set forth in each indemnification agreement, will be indemnified and held harmless by the Company on an after-tax basis from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, settlements or other amounts arising from any and all threatened, pending or completed claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, in which the indemnitee may be involved, or is threatened to be involved, as a party or otherwise, by reason of its status as an indemnitee or by reason of any action alleged to have been taken or omitted in such capacity, whether arising from alleged acts or omissions to act occurring on, before or after the date of such indemnification agreement. Each indemnification agreement provides that the indemnitee shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by an arbitral tribunal or court of competent jurisdiction determining that, in respect of the matter for which the indemnitee is seeking indemnification pursuant to the indemnification agreement, the indemnitee acted in bad faith or engaged in fraud or willful misconduct.

The Company currently maintains liability insurance for its directors and officers. Such insurance would be available to the Company's directors and officers in accordance with its terms.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed as part of this Registration Statement:

Exhibit Number	Description of Document
4.1	Certificate of Conversion of KKR & Co. L.P. (incorporated by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q filed on May 8, 2018)
4.2	Certificate of Incorporation of KKR & Co. Inc. (incorporated by reference to Exhibit 3.2 to the Quarterly Report on Form 10-Q filed on May 8, 2018)
4.3	Bylaws of KKR & Co. Inc. (incorporated by reference to Exhibit 3.3 to the Quarterly Report on Form 10-Q filed on May 8, 2018)
4.4	KKR & Co. Inc. 2019 Equity Incentive Plan (incorporated herein by reference to Appendix A to the Company's definitive proxy statement filed on December 14, 2018)
5.1*	Opinion of Simpson Thacher & Bartlett LLP
23.1*	Consent of Deloitte & Touche LLP
23.2	Consent of Simpson Thacher & Bartlett LLP (included as part of Exhibit 5.1)
24.1	Power of Attorney (included in the signature pages to this Registration Statement)

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of 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) 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 20 percent 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;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to 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.

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

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 New York, New York on March 29, 2019.

KKR & CO. INC.

By: /s/ William J. Janetschek

Name: William J. Janetschek

Title: Chief Financial Officer

Know all men by these presents, that each person whose signature appears below hereby constitutes and appoints Henry R. Kravis, George R. Roberts, Joseph Y. Bae, Scott C. Nuttall, William J. Janetschek, David J. Sorkin and Christopher B. Lee and each of them, any of whom may act without the joinder of the other, the individual's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the person and in his or her name, place and stead, in any and all capacities, to sign this Registration Statement and any or all amendments or supplements to this Registration Statement, including post-effective amendments, and to file the same, with all exhibits thereto, and all other documents in connection therewith with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact as agents or any of them, or their 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 below by the following persons in the capacities indicated on March 29, 2019.

<u>Signature</u>	<u>Title</u>
<u>/s/ Henry R. Kravis</u> Henry R. Kravis	Co-Chairman and Co-Chief Executive Officer (principal executive officer)
<u>/s/ George R. Roberts</u> George R. Roberts	Co-Chairman and Co-Chief Executive Officer (principal executive officer)
<u>/s/ Joseph Y. Bae</u> Joseph Y. Bae	Director, Co-President and Co-Chief Operating Officer
<u>/s/ Scott C. Nuttall</u> Scott C. Nuttall	Director, Co-President and Co-Chief Operating Officer
<u>/s/ Mary N. Dillon</u> Mary N. Dillon	Director
<u>/s/ David C. Drummond</u> David C. Drummond	Director
<u>/s/ Joseph A. Grundfest</u> Joseph A. Grundfest	Director
<u>/s/ John B. Hess</u> John B. Hess	Director
<u>/s/ Xavier B. Niel</u> Xavier B. Niel	Director
<u>/s/ Patricia F. Russo</u> Patricia F. Russo	Director
<u>/s/ Thomas M. Schoewe</u> Thomas M. Schoewe	Director
<u>/s/ Robert W. Scully</u> Robert W. Scully	Director
<u>/s/ William J. Janetschek</u> William J. Janetschek	Chief Financial Officer (principal financial and accounting officer)

SIMPSON THACHER & BARTLETT LLP
425 LEXINGTON AVENUE
NEW YORK, NY 10017-3954

TELEPHONE: +1-212-455-2000
FACSIMILE +1-212-455-2502

March 29, 2019

KKR & Co. Inc.
9 West 57th Street
Suite 4200
New York, New York 10019

Ladies and Gentlemen:

We have acted as counsel to KKR & Co. Inc., a Delaware corporation (the “Company”), in connection with the Registration Statement on Form S-8 (the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended, relating to the issuance by the Company of an aggregate of up to 125,090,771 shares of Class A Common Stock, par value \$0.01 per share, of the Company (the “Shares”) pursuant to the KKR & Co. Inc. 2019 Equity Incentive Plan (the “Plan”).

We have examined the Registration Statement and the Plan, which has been filed with the Commission as an exhibit to the Registration Statement. In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and have made such other investigations as we have deemed relevant and necessary in connection with the opinions hereinafter set forth.

In rendering the opinion set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that when the Shares are issued and delivered in accordance with the Plan, the Shares will be validly issued, fully paid and nonassessable.

We do not express any opinion herein concerning any law other than the Delaware General Corporation Law.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement and to the use of our name under the caption “Interests of Named Experts and Counsel” contained in the Registration Statement.

Very truly yours,

/s/ Simpson Thacher & Bartlett LLP

SIMPSON THACHER & BARTLETT LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report relating to the consolidated financial statements of KKR & Co. Inc. and subsidiaries (the “Company”) and the effectiveness of the Company’s internal control over financial reporting dated February 15, 2019, appearing in the Annual Report on Form 10-K of the Company for the year ended December 31, 2018.

/s/ Deloitte & Touche LLP
New York, New York
March 29, 2019
