

FIDELITY NATIONAL FINANCIAL INC /DE/

Form S-8

February 20, 2002

Table of Contents

As Filed With the Securities and Exchange Commission on February 20, 2002

Registration No.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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

FIDELITY NATIONAL FINANCIAL, INC.

(Exact name of registrant as specified in its charter)

Delaware

86-0498599

*(State or other jurisdiction of
incorporation or organization)*

(I.R.S. Employer Identification No.)

17911 Von Karman Avenue, Suite 300, Irvine, CA 92614

(Address of Principal Executive Offices) (Zip Code)

**The Fidelity National Financial Group
401(k) Profit Sharing Plan**
(Full title of the plans)

Peter T. Sadowski, Esq.
Executive Vice President and General Counsel
Fidelity National Financial, Inc.
17911 Von Karman Avenue, Suite 300, Irvine, CA 92614

(Name and address of agent for service)
(949) 622-5000

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

Copies to:
C. Craig Carlson, Esq.
Stradling Yocca Carlson & Rauth, a Professional Corporation
660 Newport Center Drive, Suite 1600, Newport Beach, California 92660
(949) 725-4000

Table of Contents**CALCULATION OF REGISTRATION FEE**

Title of Securities To Be Registered	Amount To Be Registered ^{(1),(2)}	Proposed Maximum Offering Price Per Share ⁽³⁾	Proposed Maximum Aggregate Offering Price ⁽³⁾	Amount of Registration Fee
Common Stock, \$.0001 par value	344,580 shares	\$ 24.375	\$ 8,399,137.50	\$ 772.72

(1) The amount of securities being registered is based on the estimated aggregate amount of funds which will be invested in the common stock fund of the employee benefit plan described herein during the next five years.

(2) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, this registration statement also registers an indeterminate amount of plan interests to be offered or sold pursuant to the employee benefit plan described herein. (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) of Regulation C, on the basis of the price of securities of the same class, using the average of the high and low prices reported by The New York Stock Exchange for the Common Stock on February 12, 2002, which

was \$24.375
per share.

TABLE OF CONTENTS

PART I

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

Item 4. Description of Securities.

Item 5. Interests of Named Experts and Counsel.

Item 6. Indemnification of Directors and Officers.

Item 7. Exemption from Registration Claimed.

Item 8. Exhibits.

Item 9. Undertakings.

SIGNATURES

EXHIBIT INDEX

EXHIBIT 4.1

EXHIBIT 23.1

Table of Contents

PART I

In accordance with the rules and regulations of the Securities and Exchange Commission, the documents containing the information called for by Part I of Form S-8 will be sent or given to individuals who participate in the Fidelity National Financial, Inc. 401(k) Profit Sharing Plan, and are not being filed with or included in this Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by Fidelity National Financial, Inc. (the Registrant or the Company) with the Securities and Exchange Commission (the Commission) pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act), are incorporated by reference in this registration statement:

- (a) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000;
- (b) the Company's Quarterly Reports on Form 10-Q for the quarterly periods ended September 30, June 30, 2001 and March 31, 2001;
- (c) the Company's Current Reports on Form 8-K, as filed on August 24, 2001, August 13, 2001, January 17, 2001 and January 16, 2001;
- (d) the Company's Proxy Statement as filed on June 19, 2001;
- and (e) the description of the Registrant's common stock, par value \$.0001 per share (the Common Stock), contained in

the Registrant's
Registration
Statement filed
under
Section 12 of
the Exchange
Act, including
any
amendment or
report filed for
the purpose of
updating such
description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all of such securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents, except as to any portion of any future annual or quarterly report to stockholders or document that is not deemed filed under such provisions. For the purposes of this Registration Statement, any statement in a document incorporated by reference shall be deemed to be modified or superseded to the extent that a statement contained in this Registration Statement modifies or supersedes a statement in such document. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

The contents of the Registrant's Registration Statements on Form S-8 (Registration Nos. 333-68690, 333-52744, 333-61111, 33-61983, 33-64836, 33-45709, 33-15008, and 33-15027) are incorporated herein by reference.

Table of Contents

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant's Certificate of Incorporation limits, to the maximum extent permitted by Delaware law, the personal liability of directors for monetary damages for breach of their fiduciary duties as a director. The Registrant's Bylaws provide that the Registrant shall indemnify its officers and directors and may indemnify its employees and other agents to the fullest extent permitted by Delaware Law.

Section 145 of the DGCL provides that a corporation may indemnify any person made a party to an action (other than an action by or in the right of the corporation) by reason of the fact that he or she was a director, officer, employee or agent of the corporation or was serving at the request of the corporation against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action (other than an action by or in the right of the corporation), has no reasonable cause to believe his or her conduct was unlawful.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

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

Number	Description
4.1	The Fidelity National Financial Group 401(k) Profit Sharing Plan
23.1	Consent of KPMG LLP, independent auditors
24.1	Power of Attorney (included on the signature page)

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 of 1933;

Table of Contents

(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; and

(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) of this section do not apply if the information required to be included in a post-effective amendment by these paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference 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.

(b) The undersigned Registrant hereby undertakes 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 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.

(c) 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 Securities and Exchange Commission 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.

Table of Contents

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 Santa Barbara, State of California, on the 14th day of February, 2002.

FIDELITY NATIONAL FINANCIAL, INC

By: */s/ William P. Foley, II*

William P. Foley, II
Chairman of the Board and Chief
Executive Officer

POWER OF ATTORNEY

We, the undersigned directors and officers of Fidelity National Financial, Inc., do hereby make, constitute and appoint William P. Foley, II and Alan L. Stinson, and each of them acting individually, our true and lawful attorneys-in-fact and agents, with power to act without any other and with full power of substitution, to do any and all acts and things in our name and behalf in our capacities as directors and officers, to sign any and all amendments (including post-effective amendments) to this Registration Statement, or any related Registration Statement that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and to file the same, with exhibits thereto, and 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 or 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 each of said attorneys-in-fact and agents, or his 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 date indicated.

Signature	Title	Date
<hr/> <i>/s/ William P. Foley, II</i> <hr/>		
William P. Foley, II Chairman of the Board and Chief Executive Officer (Principal Executive Officer) February 14, 2002	<i>/s/ Alan L. Stinson</i>	
<hr/> Alan L. Stinson Executive Vice President, Chief Financial Officer (Principal Financial and Accounting Officer) February 14, 2002		

Table of Contents

Signature	Title	Date
<i>/s/ Frank P. Willey</i>	Director	February 14, 2002
Frank P. Willey		
<i>/s/ William A. Imparato</i>	Director	February 14, 2002
William A. Imparato		
<i>/s/ Donald M. Koll</i>	Director	February 14, 2002
Donald M. Koll		
<i>/s/ Daniel D. Lane</i>	Director	February 14, 2002
Daniel D. (Ron) Lane		
<i>/s/ General William Lyon</i>	Director	February 14, 2002
General William Lyon		
<i>/s/ Philip G. Heasley</i>	Director	February 14, 2002
Philip G. Heasley		
<i>/s/ J. Thomas Talbot</i>	Director	February 14, 2002
J. Thomas Talbot		
<i>/s/ Cary H. Thompson</i>	Director	February 14, 2002
Cary H. Thompson		
<i>/s/ John J. Burns</i>	Director	February 14, 2002
John J. Burns, Jr.		

Table of Contents

Signature	Title	Date
<hr/> <i>/s/ Richard P. Toft</i> <hr/>	Director	February 14, 2002
Richard P. Toft		
<hr/> <i>/s/ John Farrell, Jr.</i> <hr/>	Director	February 14, 2002
John Farrell, Jr.		
	6	

Table of Contents

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