

QIAGEN NV
Form S-8
August 10, 2005

As filed with the Securities and Exchange Commission on August 10, 2005

REGISTRATION NO. 333 -

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

FORM S-8
REGISTRATION STATEMENT

under the
SECURITIES ACT OF 1933

QIAGEN N.V.

(Exact Name of Registrant as Specified in Its Charter)

THE NETHERLANDS
(State or Other Jurisdiction of

Incorporation or Organization)

NOT APPLICABLE
(I.R.S. Employer

Identification No.)

Spoorstraat 50
5911 KJ Venlo
The Netherlands
+31-77-320-8400

(Address, Including Zip Code, of Principal Executive Offices)

QIAGEN N.V. AMENDED AND RESTATED 2005 STOCK PLAN

(Full Titles of the Plans)

Roland Sackers

Chief Financial Officer and Deputy Managing Director

QIAGEN Sciences

19300 Germantown Rd.

Germantown, MD 20874

(240) 686-7700

(Name, Address and Telephone Number, Including Area Code, of Agent For Service)

Jonathan L. Kravetz, Esquire

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

One Financial Center

Boston, Massachusetts 02111

(617) 542-6000

CALCULATION OF REGISTRATION FEE

| | | Proposed | Proposed | |
|---|---------------------------------|---------------------------------|--------------------------------------|-------------------------|
| | | Maximum | Maximum | |
| | Amount to be | Offering Price | Aggregate | Amount of |
| Title of Securities to be Registered | Registered⁽¹⁾ | Per Share ⁽²⁾ | Offering Price ⁽²⁾ | Registration Fee |
| Common Shares, par value EUR 0.01 per share | 1,939,257 shares | \$13.535 | \$26,247,843.495 | \$3,089.37 |

(1) The number of common shares, par value EUR 0.01 per share (Common Shares), stated above consists of the aggregate number of shares which may be sold upon the exercise of options or issuance of stock awards which may hereafter be granted under the QIAGEN N.V.

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Amended and Restated 2005 Stock Plan (the "Stock Plan"). The maximum number of shares which may be sold upon the exercise of such options or issuance of stock awards granted under the Stock Plan is subject to adjustment in accordance with certain anti-dilution and other provisions of the Stock Plan. Accordingly, pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement covers, in addition to the number of shares stated above, an indeterminate number of shares which may be subject to grant or otherwise issuable after the operation of any such anti-dilution and other provisions.

- (2) This calculation is made solely for the purpose of determining the registration fee pursuant to the provisions of Rule 457(c) and (h) under the Securities Act, calculated on the basis of the average of the high and low sale prices per Common Share on the Nasdaq National Market System as of a date (August 4, 2005) within five business days prior to filing this Registration Statement.
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EXPLANATORY NOTE

In accordance with the instructional Note to Part I of Form S-8 as promulgated by the Securities and Exchange Commission, the information specified by Part I of Form S-8 has been omitted from this Registration Statement on Form S-8 for offers of Common Shares pursuant to the Stock Plan.

The Registrant has registered 23,968,000 shares (reflects a two-for one stock split effective on or about July 16, 1999, a 2,000,000 share increase effective June 16, 2000, a four-for-one stock split effective on or about July 14, 2000 and a 5,000,000 share increase on or about June 11, 2003) under its 1996 Employee, Director and Consultant Stock Option Plan on Form S-8 filed with the Commission on July 1, 1997 (File No. 333-07166), Form S-8 filed with the Commission on August 7, 2000 (File No. 333-12372) and Form S-8 filed with the Commission on July 30, 2003 (File No. 333-107491). In conjunction with the amendment and restatement of the 1996 Employee, Director and Consultant Stock Option Plan as the Amended and Restated 2005 Stock Plan, the Registrant is registering an additional 1,939,257 shares under the Stock Plan.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Certain Documents by Reference.

The following documents filed by the Registrant with the Commission are incorporated herein by reference:

(a) Our Annual Report on Form 20-F for the fiscal year ended December 31, 2004 filed on April 19, 2005.

(b) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), since December 31, 2004.

(c) The description of the Common Shares contained in the Registrant's Registration Statement on Form 8-A filed under the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All reports and other documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, after the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, including all annual reports on Form 20-F and any Form 6-K which the Registrant files with the Commission wherein such Form 6-K is expressly incorporated by reference into this prospectus, shall be deemed to be incorporated by reference herein and to be part hereof from the date of filing of such reports and documents.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Certain legal matters in connection with the issuance of the Common Shares registered under this Registration Statement will be passed upon for the Registrant by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Boston, Massachusetts, our U.S. counsel. Attorneys at Mintz Levin own an aggregate of approximately 14,000 Common Shares. The validity of the issuance of the Common Shares registered under this Registration Statement has been passed upon for us by De Brauw Blackstone Westbroek N.V., Amsterdam, The Netherlands.

Item 6. Indemnification of Directors and Officers.

Incorporated by reference from the Registrant's Registration Statement on Form F-1, No. 333-4922.

Item 7. Exemption from Registration Claimed.

Not applicable.

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Item 8. Exhibits.

- (4.1) Articles of Association of the Registrant as confirmed by notarial deed as of July 14, 2005 (English translation).
- (4.2) Form of Certificate representing Common Shares (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form F-1, No. 333-4922, effective June 27, 1996).
- (5) Opinion of De Brauw Blackstone Westbroek N.V. regarding the legality of the Common Shares being registered.
- (23.1) Consent of De Brauw Blackstone Westbroek N.V. (included in opinion of counsel filed as Exhibit 5).
- (23.2) Consent of Ernst & Young LLP.
- (24) Power of Attorney to file future amendments (set forth on the signature page of this Registration Statement).
- (99.1) QIAGEN N.V. Amended and Restated 2005 Stock Plan.

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;

(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, represents 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% 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) do not apply if the Registration Statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a

post-effective amendment by those 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 this 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 this 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.

SIGNATURES

The Registrant. 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 Venlo, The Netherlands on August 10, 2005.

QIAGEN N.V.

By /s/ Peer M. Schatz

Peer M. Schatz
 Managing Director and
 Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Mr. Peer M. Schatz, Dr. Joachim Schorr and Mr. Bernd Uder, and each of them singly, his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them singly, for him and in his name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8 of QIAGEN N.V., and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting to the 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 or about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that the attorneys-in-fact and agents or any of each of them or their substitute 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.

| <u>Signatures</u> | <u>Title</u> | <u>Date</u> |
|---|--|-----------------|
| <u>/s/ Peer M. Schatz</u> Peer M. Schatz | Managing Director, Chief Executive Officer (principal executive officer) | August 10, 2005 |
| <u>/s/ Joachim Schorr</u> Dr. Joachim Schorr | Managing Director | August 10, 2005 |
| <u>/s/ Bernd Uder</u> Bernd Uder | Managing Director | August 10, 2005 |
| <u>/s/ Roland Sackers</u> Roland Sackers | Deputy Managing Director, Chief Financial Officer (principal financial officer) | August 10, 2005 |

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|---|---|-----------------|
| <u>/s/ Detlev H. Riesner</u> Prof. Dr. Detlev H. Riesner | Chairman of the Board, Supervisory Director | August 10, 2005 |
| <u>/s/ Metin Colpan</u> Dr. Metin Colpan | Supervisory Director | August 10, 2005 |
| <u>/s/ Franz A. Wirtz</u> Dr. Franz A. Wirtz | Supervisory Director | August 10, 2005 |
| <u>/s/ Jochen Walter</u> Jochen Walter | Supervisory Director | August 10, 2005 |
| <u>/s/ Erik Hornnaess</u> Erik Hornnaess | Supervisory Director | August 10, 2005 |
| <u>/s/ Manfred Karobath</u> Prof. Dr. Manfred Karobath | Supervisory Director | August 10, 2005 |
| <u>/s/ Heinrich Hornef</u> Dr. Heinrich Hornef | Vice Chairman of the Board, Supervisory Director | August 10, 2005 |

QIAGEN N.V.

**INDEX TO EXHIBITS FILED WITH
FORM S-8 REGISTRATION STATEMENT**

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