

BHP BILLITON LTD  
Form S-8  
July 17, 2009

As filed with the Securities and Exchange Commission on July 17, 2009

Registration No. 333-

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

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

**BHP Billiton Limited**

(Exact Name of Registrant as Specified in Its Charter)

Victoria, Australia  
(State or Other Jurisdiction of  
Incorporation or Organization)

Not Applicable  
(I.R.S. Employer  
Identification No.)

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**180 Lonsdale Street**

**Melbourne, Victoria 3000, Australia**

**Tel. No.: 011-61-3-9609-3333**

**(Address of Principal Executive Offices) (Zip Code)**

**The BHP Billiton Ltd Executive Incentive Plan**

**Group Short Term Incentive Plan**

**(Full Title of the Plan)**

**Earl K. Moore**

**1360 Post Oak Boulevard**

**Suite 150**

**Houston, Texas 77056**

**(Name and Address of Agent For Service)**

**713-961-8414**

**(Telephone Number, Including Area Code, of Agent for Service)**

*Copies to:*

**Mark J. Leemen**

**Skadden, Arps, Slate, Meagher & Flom**

**Level 13, 131 Macquarie Street**

**Sydney, New South Wales 2000,**

**Australia**

**Tel. No.:011-61-2-9253-6000**

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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 a smaller reporting company) Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered	Amount to be Registered	Proposed	Proposed	Amount of Registration Fee
		Maximum Offering Price Per Share <sup>(1)</sup>	Maximum Aggregate Offering Price	
Ordinary Shares	5,000,000	\$25.14	\$125,740,075	\$7,016.29

(1) Pursuant to Rule 457(h), the average of the high and low prices of the Ordinary Shares as reported on the Australian Stock Exchange Limited on July 13, 2009 translated into United States dollars at the rate of A\$1.00 = US\$0.7745.

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS**

**Item 1. Plan Information.\***

**Item 2. Registrant Information and Employee Plan Annual Information.\***

\* The documents containing the information specified in Part I will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the U.S. Securities Act of 1933 (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. These documents and the documents incorporated by reference in this registration statement pursuant to Item 3 of Part II of this registration statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

This registration statement incorporates by reference the documents listed below that the registrant has previously filed with the Commission. They contain important information about the registrant and its financial condition:

the Annual Report on Form 20-F of BHP Billiton Limited and BHP Billiton Plc for the fiscal year ended June 30, 2008;

all other reports filed by the registrant pursuant to Section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934, as amended (the Exchange Act) since June 30, 2008; and

the description of the registrant's ordinary shares contained in its registration statement on Form 20-F filed pursuant to Section 12 of the Exchange Act and any amendment or report filed with the Commission for the purpose of updating the description.

All reports and other documents filed by the registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, on or after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents.

**Item 4. Description of Securities**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers**

Except as set forth below, there is no provision in any contract, arrangement or statute under which any director or officer of BHP Billiton Limited is insured or indemnified in any manner against any liability which he/she may incur in this capacity as such.

**Constitution**

The Constitution of BHP Billiton Limited requires BHP Billiton Limited to indemnify, to the extent permitted by law, its directors, secretaries and executive officers against liabilities incurred in or arising out of the conduct of the business of BHP Billiton Limited or the discharge of duties.

In accordance with this requirement, BHP Billiton Limited has entered into Deeds of Indemnity, Access and Insurance (Deeds of Indemnity) with each of its Directors.

BHP Billiton has a policy that it will, as a general rule, support and hold harmless and employee who, while acting in good faith, incurs personal liability to others as a result of working for BHP Billiton. In addition, where a person chairs a Customer Sector Group Risk and Audit Committee, and that person is not already indemnified as an officer or a Director, a policy is in place to indemnify that chairperson in the same manner as BHP Billiton's officers are indemnified. This policy has been approved by the BHP Billiton board of directors.

BHP Billiton has insured against amounts that it may be liable to pay to directors, company secretaries or certain employees pursuant to the Constitution of BHP Billiton Limited or that BHP Billiton otherwise agrees to pay by way of indemnity. BHP Billiton has paid premiums for this Directors and Officers insurance. The insurance policy also insures directors, company secretaries and some employees against certain liabilities (including legal costs) they may incur in carrying out their duties for BHP Billiton.

There are certain provisions of the Australian Corporations Act that restrict BHP Billiton Limited from indemnifying directors, secretaries and executive officers in certain circumstances. These are described below.

### **Australian Corporations Act**

Section 199A(1) of the Corporations Act 2001 (Commonwealth) (the Corporations Act ) provides that a company or a related body corporate must not exempt a person from a liability to the company incurred as an officer of the company.

Section 199A(2) of the Corporations Act provides that a company or a related body corporate must not indemnify a person against any of the following liabilities incurred as an officer of the company:

a liability owed to the company or a related body corporate;

a liability for a pecuniary penalty order or compensation order under specified provisions of the Corporations Act; or

a liability that is owed to someone other than the company or a related body corporate and did not arise out of conduct in good faith. Section 199A(2) does not apply to a liability for legal costs.

Section 199A(3) provides that a company or a related body corporate must not indemnify a person against legal costs incurred in defending an action for a liability incurred as an officer of the company if the costs are incurred:

in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under Section 199A(2); or

in defending or resisting criminal proceedings in which the person is found guilty; or

in defending or resisting proceedings brought by the Australian Securities and Investments Commission (ASIC) or a liquidator for a court order if the grounds for making the order are found by the court to have been established (this does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or

in connection with proceedings for relief to the person under the Corporations Act in which the court denies the relief.

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Section 199B of the Corporations Act provides that a company or a related body corporate must not pay, or agree to pay, a premium for a contract insuring a person who is or has been an officer of the company against a liability (other than one for legal costs) arising out of:

conduct involving a wilful breach of duty in relation to the company; or

a contravention of the officer's duties under the Corporations Act not to improperly use their position or make improper use of information obtained as an officer.

For the purpose of Sections 199A and 199B, an officer of a company includes:

a director or secretary;

a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company;

a person who has the capacity to significantly affect the company's financial standing; and

a person in accordance with whose instructions or wishes the directors of the company are accustomed to act.

**Insurance**

The directors and officers of BHP Billiton Limited and its duly authorized United States representative are insured against certain liabilities, including certain insured liabilities under United States securities laws, which they may incur in their capacity as such under a liability insurance policy carried by the BHP Billiton Group.

**Item 7. Exemption From Registration Claimed**

Not applicable.

**Item 8. Exhibits.**

The documents listed hereunder are filed as exhibits hereto.

**Exhibit Exhibit**

<b>Number</b>	<b>Description</b>
4	Constitution of BHP Billiton Limited, incorporated by reference to Exhibit 1.1 of BHP Billiton Limited's Annual Report on Form 20-F for the financial year ended June 30, 2008.
23	Consent of KPMG and KPMG Audit Plc
24	Power of Attorney (included in the signature page of the Registration Statement)

**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) 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 into this 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 Section 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 the City of Melbourne, Australia, on July 17, 2009.

BHP BILLITON LIMITED

By: /s/ JANE McALOON  
**Name:** Jane McAloon  
**Title:** Company Secretary

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below severally constitutes and appoints each Director (other than, in the case of the Directors, himself or herself), Nigel Chadwick, Jane McAloon and Fiona Smith, and each of them severally, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to sign any Registration Statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act of 1933 and all post-effective amendments thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the 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 or she might or could do in person, hereby ratifying and confirming all that such attorneys-in-fact and agents or any of them, or her 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 on behalf of the registrant and in the capacities indicated below on July 17, 2009:

<b>Signature</b>	<b>Title</b>
/s/ DON R. ARGUS <b>Don R. Argus</b>	Chairman
/s/ MARIUS KLOPPERS <b>Marius Kloppers</b>	Director and Principal Executive Officer
/s/ PAUL ANDERSON <b>Paul Anderson</b>	Director
/s/ ALAN BOECKMANN <b>Alan Boeckmann</b>	Director
/s/ JOHN BUCHANAN <b>John Buchanan</b>	Director
/s/ CARLOS CORDEIRO <b>Carlos Cordeiro</b>	Director
/s/ DAVID CRAWFORD <b>David Crawford</b>	Director
/s/ GAIL DE PLANQUE <b>Gail de Planque</b>	Director

<b>Signature</b>	<b>Title</b>
/s/ DAVID JENKINS <b>David Jenkins</b>	Director
/s/ DAVID MORGAN <b>David Morgan</b>	Director
/s/ JACQUES NASSER <b>Jacques Nasser</b>	Director
/s/ KEITH RUMBLE <b>Keith Rumble</b>	Director
/s/ JOHN SCHUBERT <b>John Schubert</b>	Director
/s/ WAYNE MURDY <b>Wayne Murdy</b>	Director
/s/ ALEX VANSELOW <b>Alexandre Vanselow</b>	Principal Financial Officer
/s/ NIGEL CHADWICK <b>Nigel Chadwick</b>	Principal Accounting Officer/Controller
/s/ EARL K. MOORE <b>Earl K. Moore</b>	Authorized Representative in the United States

**EXHIBIT INDEX**

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- |    |   |
|----|---|
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