

SABA SOFTWARE INC
Form S-8
August 18, 2006

As filed with the Securities and Exchange Commission on August 18, 2006

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8
REGISTRATION STATEMENT

UNDER
THE SECURITIES ACT OF 1933

SABA SOFTWARE, INC.

(Exact name of the Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

94-3267638
(I.R.S. employer
identification no.)

2400 Bridge Parkway
Redwood Shores, California 94065
(Address of principal executive offices)

Saba Software, Inc. 2000 Stock Incentive Plan
(Full title of the plans)

Peter E. Williams III

Chief Financial Officer

Saba Software, Inc.

2400 Bridge Parkway

Redwood Shores, California 94065

(650) 696-3840

(Name, address and telephone number of agent for service)

Copy to:

Paul Chip Lion III, Esq.

Morrison & Foerster LLP

755 Page Mill Road

Palo Alto, CA 94304-1018

(650) 813-5600

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities To Be Registered | Amount To Be Registered (1) | Proposed Maximum Offering Price Per Share (2) | Proposed Maximum Aggregate Offering Price (2) | Amount of Registration Fee |
|---|--|--|--|---------------------------------------|
| Common Stock, \$0.001 par value | 1,420,797 (3) | \$5.29 | \$7,516,017 | \$805.00 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this registration statement includes an indeterminate number of additional shares which may be offered and issued to prevent dilution from stock splits, stock dividends or similar transactions as provided in the referenced plans.
 - (2) Estimated solely for purposes of calculating the registration fee. Pursuant to Rule 457(h) and Rule 457(c) of the Securities Act of 1933, as amended, the proposed maximum offering price per share and the proposed maximum aggregate offering price have been determined on the basis of the average of the high and low prices per share of registrant's Common Stock as reported on the Nasdaq National Market on August 14, 2006.
 - (3) Represents shares reserved effective June 1, 2006 under the terms of Registrant's 2000 Stock Incentive Plan. Shares issuable under the 2000 Stock Incentive Plan were initially registered on a registration statement on Form S-8 filed with the Securities and Exchange Commission on April 6, 2000 (Registration No. 333-34170).
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PART I

INFORMATION REQUIRED IN THE

SECTION 10(a) PROSPECTUS

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Pursuant to General Instruction E to Form S-8 under the Securities Act of 1933, as amended, this registration statement is filed to register 1,420,797 additional shares of the registrant's common stock, par value \$0.001 per share, reserved for issuance under the terms of the Saba Software, Inc. 2000 Stock Incentive Plan, as amended and restated. The contents of the Registration Statement on Form S-8 filed by the registrant with the Securities and Exchange Commission on August 5, 2003 (File No. 333-107679), the contents of the Registration Statement on Form S-8 filed by the registrant with the Securities and Exchange Commission on July 19, 2002 (File No. 333-96809), the contents of the Registration Statement on Form S-8 filed by the registrant with the Securities and Exchange Commission on April 6, 2000 (File No. 333-34168) and the contents of the Registration Statement on Form S-8 filed by the registrant on April 6, 2000 (File No. 333-34170) are hereby incorporated by reference in this registration statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. *Incorporation of Documents by Reference.*

The following documents filed by Saba Software, Inc. (the Registrant) with the Commission are incorporated by reference herein:

1. The Registrant's Annual Report on Form 10-K for the fiscal year ended May 31, 2006, filed pursuant to Section 13 of the Securities Exchange Act of 1934, as amended (the Exchange Act).
2. The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A filed with the Commission on April 5, 2000.
3. All other reports filed by Registrant pursuant to Section 13(a) or 15(d) of the Exchange Act, since the end of the fiscal year covered by the Annual Report described in 1. above.

All documents filed by the Registrant 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 which indicates that all securities offered hereby have been sold or which deregisters all 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.

Any statement contained in a document 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 which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 8. Exhibits.

| Exhibit Number | Document |
|---------------------------|---|
| 5.1 | Opinion of Morrison & Foerster LLP |
| 23.1 | Consent of Morrison & Foerster LLP (contained in Exhibit 5.1) |
| 23.2 | Consent of Independent Registered Public Accounting Firm |
| 24.1 | Power of Attorney (see Signature Page) |

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant, Saba Software, Inc., 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 Redwood Shores, State of California, on August 18, 2006.

SABA SOFTWARE, INC.

By: /s/ Peter E. Williams III
Peter E. Williams III

Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints, severally and not jointly, Bobby Yazdani and Peter E. Williams III, with full power to act alone, as his true and lawful attorney-in-fact, with the power of substitution, for and in such person's 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 file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact full power and authority to do and perform each and every act and thing requisite and necessary to be done as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each said attorney-in-fact may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

| SIGNATURE | CAPACITY | DATE |
|------------------------------|---|-----------------|
| /s/ BOBBY YAZDANI | Chief Executive Officer and Chairman of the Board | August 18, 2006 |
| Bobby Yazdani | (Principal Executive Officer) | |
| /s/ PETER E. WILLIAMS III | Chief Financial Officer | August 18, 2006 |
| Peter E. Williams III | (Principal Financial and Accounting Officer) | |
| /s/ DOUGLAS M. FERGUSON | Director | August 18, 2006 |
| Douglas M. Ferguson | | |
| /s/ JOE E. KIANI | Director | August 18, 2006 |
| Joe E. Kiani | | |
| /s/ LAWRENCE D. LENIHAN, JR. | Director | August 18, 2006 |
| Lawrence D. Lenihan, Jr. | | |
| /s/ LEON NAVICKAS | Director | August 18, 2006 |
| Leon Navickas | | |
| /s/ CLIFTON T. WEATHERFORD | Director | August 18, 2006 |

Clifton T. Weatherford

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