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DUSA PHARMACEUTICALS INC  
Form S-8 POS  
September 05, 2001

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As filed with the Securities and Exchange Commission on September 5, 2001

Registration Nos.: 333-92259 and 333-57890

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SECURITIES AND EXCHANGE COMMISSION

POST-EFFECTIVE AMENDMENT NO. 1  
TO  
FORM S-8  
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

DUSA PHARMACEUTICALS, INC.  
(Exact name of registrant as specified in its charter)

NEW JERSEY  
(State or other jurisdiction  
of incorporation or organization)

22-3103129  
(I.R.S. Employer  
Identification No.)

25 UPTON DRIVE  
WILMINGTON, MASSACHUSETTS 01887  
(978) 657-7500  
(Address, including ZIP code, and telephone number,  
including area code, of registrant's principal executive offices)

DUSA PHARMACEUTICALS, INC. 1996 OMNIBUS PLAN, AS AMENDED  
(Full title of the plans)

NANETTE W. MANTELL, ESQ.  
REED SMITH LLP  
PRINCETON FORRESTAL VILLAGE  
136 MAIN STREET - SUITE 250  
PRINCETON, NEW JERSEY 08540  
(609) 514-8541  
(Name, address, including ZIP code, and telephone number, including area code,  
of agent for service)

COPIES TO:  
DR. D. GEOFFREY SHULMAN, PRESIDENT  
DUSA PHARMACEUTICALS, INC.  
25 UPTON DRIVE  
WILMINGTON, MASSACHUSETTS 01887  
(978) 657-7500

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CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities<br>to be Registered<br>-----         | Amount<br>to be<br>Registered(1)<br>----- | Proposed Maximum<br>Offering Price Per<br>Share<br>----- | Propos<br>Aggreg<br>P<br>----- |
|--|---|--|--------------------------------|
| 1996 Omnibus Plan, as Amended -<br>Shares of common stock no par value | 656,054                                   | \$10.98 (2)  | \$7,20                         |

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(options reserved for future grants)

TOTAL REGISTRATION FEE .....

(1) Together with an indeterminate number of additional shares which may be issued pursuant to the 1996 Omnibus Plan, as amended, as a result of stock splits, stock dividends or similar transactions in accordance with Rule 416.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h)(1) of the Securities Act of 1933, as amended, based upon the average of the high and low price as reported on The NASDAQ National Market on August 31, 2001.

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## INTRODUCTORY STATEMENT

This registration statement relates to shares of DUSA common stock, no par value, eligible for issuance under the DUSA Pharmaceuticals, Inc. 1996 Omnibus Plan, as amended. The Plan was previously reported in a registration statement on Form S-8 filed with the Securities and Exchange Commission on December 7, 1999, file number 333-92259 and additional shares were registered in a registration statement on Form S-8 filed with the Securities and Exchange Commission on March 29, 2001 file number 333-57890. This registration statement is being filed to register an additional 656,054 shares of DUSA common stock that may be issued pursuant to the Plan as a result of an amendment to the Plan that increases the number of shares that may be issued under the Plan from 15% of DUSA's outstanding shares of common stock to 20% of the outstanding shares of common stock to a maximum of 2,753,328 shares of common stock.

In accordance with the provisions of General Instruction E of Form S-8, DUSA hereby incorporates by reference the contents of DUSA's currently effective registration statements on Form S-8, file number 333-92259 and 333-57890, filed with the Securities and Exchange Commission on December 7, 1999 and March 29, 2001, respectively.

## PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

### Item 8. EXHIBITS

(a) All exhibits filed with or incorporated by reference in DUSA's Registration Statement on Form S-8 (Registration Statement No: 333-92259) are incorporated by reference into and shall be deemed a part of, this registration statement, except the following:

- (4) Instruments defining the rights of security holders
  - (4.1) DUSA Pharmaceuticals, Inc. 1996 Omnibus Plan, as amended.
- (5) Opinion re: legality
  - (5.1) Opinion of Reed Smith LLP.
- (23) Consents of experts and counsel
  - (23.1) Consent of Deloitte & Touche LLP.
  - (23.2) Consent of Reed Smith LLP, included in Exhibit 5.1.
- (24) Power of Attorney
  - (24.1) Power of Attorney (See Signature Page)
- (99) Additional Exhibits

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(99.1) Form of Omnibus Nonqualified Stock Option Agreement with Increasing Exercise Price filed as Exhibit 99.5 to Registrant's registration statement on Form S-8 No. 333-57890, and is incorporated herein by reference.

(99.2) Form of Omnibus Incentive Stock Option Agreement with Increasing Exercise Price filed as Exhibit 99.6 to Registrant's registration statement on Form S-8 No. 333-57890, and is incorporated herein by reference.

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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 Wilmington, State of Massachusetts, on September 5, 2001.

DUSA Pharmaceuticals, Inc.
-----
Registrant

By: s/D. Geoffrey Shulman
-----
Dr. D. Geoffrey Shulman, President

POWER OF ATTORNEY

Know All Men By These Presents, that each person whose signature appears below constitutes and appoints D. Geoffrey Shulman as his/her true and lawful attorney-in-fact and agent with full power of substitution and resubstitution, for him/her and in his/her name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this registration statement or any related registration statement registering additional shares in accordance with General Instruction E to the Form S-8, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with the above premises, as fully to all intents and purposes as he/she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or his/her substitute or substitutes, may lawfully do or cause to be done by virtue thereof.

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:

/s/D. Geoffrey Shulman Director, Chairman of the Board, September 5, 2001
-----
D. Geoffrey Shulman, MD, President, Chief Executive Officer,
FRCPC (Principal Executive Officer) Date

/s/Mark C. Carota Vice President, Operations September 5, 2001
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Mark C. Carota Date

\* Vice President, Business September 5, 2001

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|--|--|---|
| -----<br>Ronald L. Carroll<br>-----<br>*<br>-----  | Development<br><br>Vice President, Technology  | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>Scott L. Lundahl<br>-----<br>*<br>-----   | Vice President, Scientific Affairs   | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>Stuart L. Marcus, MD, PhD<br><br>/s/John E. Mattern<br>-----<br>John E. Mattern | Vice President of Finance and Chief<br>Financial Officer (Principal Financial<br>and Accounting Officer) | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>/s/William R. McIntyre<br>-----<br>William R. McIntyre                          | Vice President, Regulatory Affairs   | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>/s/Paul A. Sowyrda<br>-----<br>Paul A. Sowyrda<br><br>*<br>-----                | Vice President, Product<br>Development and Marketing<br><br>Director                                     | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>John H. Abeles<br><br>5   |  | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>*<br>-----<br>James P. Doherty, BSc<br><br>*<br>-----                           | Director<br><br>Director   | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>Jay M. Haft, Esq.<br><br>*<br>-----   | Director   | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>Richard C. Lufkin<br><br>*<br>-----   | Secretary  | -----<br>Date<br><br>September 5, 2001<br>----- |
| -----<br>Nanette W. Mantell  |  | -----<br>Date                                   |

\*By: s/D. Geoffrey Shulman

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D. Geoffrey Shulman, Attorney-in-Fact