
Section 1: S-8 (S-8)

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

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

TRINITY INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-0225040
(I.R.S. Employer
Identification Number)

**2525 N. Stemmons Freeway
Dallas, Texas**
(Address of Principal Executive Offices)

75207-2401
(Zip Code)

**FOURTH AMENDED AND RESTATED TRINITY INDUSTRIES, INC.
2004 STOCK OPTION AND INCENTIVE PLAN**
(Full title of the plan)

JARED S. RICHARDSON
Vice President and Secretary
Trinity Industries, Inc.
2525 N. Stemmons Freeway
Dallas, Texas 75207-2401
(Name and address of agent for service)

(214) 631-4420
(Telephone number, including area code, of agent for service)

Indicate by check number whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company



If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered(1)(2)	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(1)
Common Stock, \$0.01 par value(1)(2)	3,000,000 shares ⁽²⁾	\$22.65	\$67,950,000.00	\$8,235.54

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- (1) The offering price per share, aggregate offering price, and registration fee with respect to the shares of Common Stock, par value \$0.01 per share, of Trinity Industries, Inc. issuable pursuant to the employee benefit plan described herein have been calculated in accordance with Rule 457(c) and (h) under the Securities Act of 1933, as amended, based on the average of the high and low prices of the Trinity Industries, Inc. Common Stock on March 21, 2019 as reported in the consolidated reporting system of the New York Stock Exchange.
- (2) Pursuant to Rule 416 under the Securities Act of 1933, as amended, this Registration Statement also covers additional shares of common stock of the registrant as may be offered or issued as a result of stock splits, stock dividends, or similar transactions.
- (3) This Registration Statement registers an additional 3,000,000 shares issuable under the Fourth Amended and Restated Trinity Industries, Inc. 2004 Stock Option and Incentive Plan (the "Plan"). We have previously registered 15,000,000 shares issuable under the Plan.
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EXPLANATORY NOTE

Pursuant to General Instruction E to Form S-8, Trinity Industries, Inc. (“Trinity”) hereby incorporates by reference the contents of each of the five previous Registration Statements filed by Trinity on Form S-8, which are (1) File No. 333-115376, filed with the Securities and Exchange Commission (the “Commission”) on May 11, 2004, (2) File No. 333-169452, filed with the Commission on September 17, 2010, (3) File No. 333-183941, filed with the Commission on September 17, 2012, (4) File No. 333-203876, filed with the Commission on May 5, 2015, and (5) File No. 333-215067, filed with the Commission on December 13, 2016, including any amendments thereto or filings incorporated therein. This Registration Statement is being filed to register an additional 3,000,000 shares of Common Stock of Trinity, \$0.01 par value per share, for issuance under the Fourth Amended and Restated Trinity Industries, Inc. 2004 Stock Option and Incentive Plan, pursuant to the terms of such plan.

PART I INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified by Item 1 (Plan Information) and Item 2 (Registrant Information and Employee Plan Annual Information) of Part I of Form S-8 is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the “Securities Act”), and the introductory Note to Part I of Form S-8.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

Trinity hereby incorporates by reference the documents set forth below in this Registration Statement. All documents subsequently filed by Trinity pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent a statement contained herein or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

- (a) Trinity’s Annual Report on Form 10-K filed with the Commission for the fiscal year ended December 31, 2018;
All other reports filed by Trinity with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year
- (b) covered by Trinity’s Annual Report on Form 10-K referred to in (a) above; and
The description of Trinity’s Common Stock, \$0.01 par value per share, contained in Trinity’s Registration Statement on Form S-3 dated
- (c) September 15, 2014 (Registration No. 333-198744).

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 145(a) of the Delaware General Corporation Law (the “DGCL”), among other things, provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (collectively, a “Proceeding”) (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, 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, suit or proceeding if the person 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 or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 145(b) of the DGCL provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, whether for the corporation or at its request, against expenses (including attorneys’ fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit 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, except that no indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the court shall deem proper.

Section 145(c) of the DGCL also provides that, to the extent a present or former director or officer of a corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to above or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys’ fees) actually and reasonably incurred by him or her in connection therewith.

Section 145(f) of the DGCL provides that the statutory provisions on indemnification are not exclusive of indemnification provided pursuant to the bylaws, indemnification agreements, vote of stockholders or disinterested directors or otherwise.

The Company's Bylaws contain provisions regarding the indemnification of directors and officers. Article VI of the Company's Bylaws provides for the indemnification of its officers and directors to substantially the same extent permitted by the DGCL; provided, however, that except with respect to Proceedings brought by a director or officer to enforce indemnification rights, the Company may indemnify a director or officer in connection with a Proceeding (or part thereof) initiated by that director or officer only if the Proceeding (or part thereof) was authorized by the Board of Directors of the Company. The indemnification described above (unless ordered by a court) shall be paid by the Company unless a determination is made that indemnification of the director or officer is not proper in the circumstances because he or she has not met the applicable standard of conduct set forth above. This determination must be made:

- by the Company's Board of Directors by a majority vote of the directors who were not parties to such Proceeding, even though in less than a quorum;
- if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or
- by the Company's stockholders.

Article VI of the Company's Bylaws provides that expenses (including attorneys' fees) incurred by a person seeking indemnification under Article VI of the Company's Bylaws in defending a Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding; provided, however, that, if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer) in advance of the final disposition of such Proceeding shall be made only upon delivery to the Company of an undertaking by or on behalf of the director or officer to repay all amounts so advanced in the event that it shall ultimately be determined by final judicial decision from which there is no further right to appeal, that such director or officer is not entitled to be indemnified by the Company. The Company's Board of Directors may, upon approval of such director or officer of the Company, authorize the Company's counsel to represent such person in any Proceeding, whether or not the Company is a party to such Proceeding.

Section 102(b)(7) of the DGCL provides that a corporation may provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, but excludes specifically liability for any:

- breach of the director's duty of loyalty to the corporation or its stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- payments of unlawful dividends or unlawful stock repurchases or redemptions; or
- transactions from which the director derived an improper personal benefit.

The provision does not limit equitable remedies, such as an injunction or rescission for breach of a director's fiduciary duty of care.

The Company's Certificate of Incorporation, as amended, contains a provision eliminating the personal liability of a director from breaches of fiduciary duty, subject to the exceptions described above.

The Company has entered into indemnity agreements with some of its directors and officers that establish contract rights to indemnification substantially similar to the rights to indemnification provided for in the Company's Bylaws.

ITEM 8. EXHIBITS.

EXHIBIT	DESCRIPTION
4.1	<u>Specimen Common Stock Certificate of Trinity Industries, Inc. (incorporated by reference to Exhibit 4.2 to the Annual Report on Form 10-K for the annual period ended December 31, 2017).</u>
5.1*	<u>Opinion of Locke Lord LLP.</u>
23.1*	<u>Consent of Locke Lord LLP (included in Exhibit 5.1).</u>
23.2*	<u>Consent of Ernst & Young LLP.</u>
24.1*	<u>Power of Attorney (included on the signature pages of this Registration Statement).</u>
99.1	<u>Fourth Amended and Restated Trinity Industries, Inc. 2004 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.1 to the Form 8-K filed on May 3, 2017).</u>

* Filed herewith.

ITEM 9. UNDERTAKINGS.

(a) Trinity 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 this 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 this Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this 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 periodic reports filed with or furnished to the Commission by Trinity pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in 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.

(4) That, for purposes of determining any liability under the Securities Act, each filing of Trinity's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act 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.

(5) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of Trinity pursuant to the foregoing provisions, or otherwise, Trinity 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 Trinity of expenses incurred or paid by a director, officer or controlling person of Trinity 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, Trinity 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 AND POWER OF ATTORNEY

Pursuant to the requirements of the Securities Act of 1933, Trinity 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 Dallas, State of Texas, on this 27th day of March, 2019.

TRINITY INDUSTRIES, INC.

By: /s/ Melendy E. Lovett
Printed Name: Melendy E. Lovett
Title: Senior Vice President and Chief
Financial Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each individual whose signature appears below hereby constitutes and authorizes Timothy R. Wallace and Jared S. Richardson, and each of them, each with full power to act without the other, his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution for him or her and in his or her name, place and stead, in any and all capacities, to sign any or all 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 of said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person hereby ratifying and confirming that each of said attorneys-in-fact and agents or his or her substitutes may lawfully do or cause to be done by virtue hereto.

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:

Name	Title	Date
/s/ Timothy R. Wallace Timothy R. Wallace	Chief Executive Officer, President and Director (Principal Executive Officer)	March 27, 2019
/s/ Melendy E. Lovett Melendy E. Lovett	Senior Vice President and Chief Financial Officer (Principal Financial Officer)	March 27, 2019
/s/ Steven L. McDowell Steven L. McDowell	Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 27, 2019
/s/ John L. Adams John L. Adams	Director	March 27, 2019
/s/ Brandon B. Boze Brandon B. Boze	Director	March 27, 2019
/s/ John J. Diez John J. Diez	Director	March 27, 2019
/s/ Leldon E. Echols Leldon E. Echols	Director	March 27, 2019
/s/ Charles W. Matthews Charles W. Matthews	Director	March 27, 2019
/s/ E. Jean Savage E. Jean Savage	Director	March 27, 2019
/s/ Dunia A. Shive Dunia A. Shive	Director	March 27, 2019

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Section 2: EX-5.1 (EXHIBIT 5.1)

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Van M. Jolas
Direct Telephone: 214-740-8594
Direct Fax: 214-756-8594
vjolas@lockelord.com

March 27, 2019

Trinity Industries, Inc.
2525 Stemmons Freeway
Dallas, Texas 75207-2401

Re: Registration Statement on Form S-8 of 3,000,000 shares of Common Stock of Trinity Industries, Inc.

Gentlemen:

We are acting as counsel to Trinity Industries, Inc., a Delaware corporation (the "Company"), in connection with the preparation of a Registration Statement on Form S-8 (the "Registration Statement") to be filed by the Company with the United States Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), with respect to the offer and sale of 3,000,000 shares of common stock of the Company, par value \$0.01 per share (the "Common Stock"), pursuant to the Fourth Amended and Restated Trinity Industries, Inc. 2004 Stock Option and Incentive Plan (the "Plan").

For the purpose of rendering our opinion as expressed herein, we have been furnished and have reviewed the following documents: (i) the Company's Amended and Restated Certificate of Incorporation, effective May 11, 2015 (the "Certificate of Incorporation"); (ii) the Amended and Restated Bylaws of the Company, effective November 1, 2018 (the "Bylaws"); (iii) resolutions of the Company's Board of Directors (the "Board") adopted at its meetings held on March 9, 2017 and March 7, 2019; (iv) the Plan; (v) the Registration Statement; (vi) a certificate of an officer of the Company, dated on or about the date hereof, as to certain matters; and (vii) a certificate of the Secretary of State of the State of Delaware, dated on or about the date hereof, as to the good standing and existence of the Company.

With respect to the foregoing documents, we have assumed: (i) the genuineness of all signatures, and the incumbency, authority, legal right and power and legal capacity under all applicable laws and regulations, of each of the officers and other persons and entities signing or whose signatures appear upon each of said documents as or on behalf of the parties thereto; (ii) the authenticity of all documents submitted to us as originals; (iii) the conformity to authentic originals of all documents submitted to us as certified, conformed, photostatic, electronic or other copies; and (iv) that the foregoing documents, in the forms submitted to us for our review, have not been and will not be altered or amended in any respect material to our opinion as expressed herein. We have not reviewed any document other than the documents listed above for purposes of rendering our opinion as expressed herein, and we assume that there exists no provision of any such other document that bears upon or is inconsistent with our opinion as expressed herein. In addition, we have conducted no independent factual investigation of our own, but rather have relied solely upon the foregoing documents furnished for our review as listed above, the statements of facts and factual information set forth in said documents, and the additional matters recited or assumed herein, all of which we assume to be true, complete and accurate in all material respects.

In addition to the foregoing, for purposes of rendering our opinion as expressed herein, we have assumed: (i) that prior to the grant or issuance of any Award (as defined in the Plan) pursuant to the Plan, the Board or the duly constituted Human Resources Committee of the Board (or a subcommittee thereof) will have duly and validly authorized such grant or issuance, as the case may be, and all Awards granted or issued under the Plan have been or will be validly granted or issued in accordance with the provisions of the Plan; (ii) the Company has received, or prior to the issuance

thereof will receive, proper consideration having a value of not less than the aggregate par value of the shares of Common Stock issued or issuable pursuant to any Award granted or issued pursuant to the Plan; (iii) that prior to the issuance of any shares of Common Stock issued or issuable under any Award pursuant to the Plan, the terms and conditions of any such Award shall have been complied with and any limitations or restrictions on the issuance of such shares shall have lapsed, been waived, satisfied or otherwise ceased to be applicable to the issuance of such shares; and (iv) that the Company has, and at all relevant times will have, a sufficient number of authorized but unissued shares of Common Stock not otherwise reserved for issuance available for issuance pursuant to any Award granted or issued pursuant to the Plan.

Based upon and subject to the foregoing and upon our review of such matters of law as we have deemed necessary and appropriate to render our opinion as expressed herein, and subject to the assumptions, exceptions, limitations and qualifications set forth herein, it is our opinion that the shares of Common Stock issuable pursuant to the Plan, when issued by the Company in accordance with the Plan, and any Awards granted or issued thereunder, will be duly authorized, validly issued, fully paid and non-assessable under the Delaware General Corporation Law (“DGCL”).

The foregoing opinion is subject to the following limitations, exceptions and qualifications:

The foregoing opinion is limited to the DGCL as currently in effect. We have not considered and express no opinion on the effect of any other laws, including the laws of any other state or jurisdiction, including state or federal laws relating to securities or other federal laws, or the rules and regulations of stock exchanges or of any other regulatory body.

We consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement to be filed by the Company with the Commission. By so consenting, we do not thereby admit that our firm’s consent is required by Section 7 of the Securities Act, or the rules and regulations of the Commission thereunder. We undertake no duty to update or supplement this opinion for the benefit of any person or entity with respect to any facts or circumstances that may hereafter come to our attention or any changes in facts or law that may hereafter occur or take effect.

Very truly yours,

/s/ Locke Lord LLP

LOCKE LORD LLP

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Section 3: EX-23.2 (EXHIBIT 23.2)

Exhibit 23.2

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8 filed on March 27, 2019) pertaining to the Fourth Amended and Restated Trinity Industries, Inc. 2004 Stock Option and Incentive Plan of Trinity Industries, Inc. of our reports dated February 21, 2019, with respect to the consolidated financial statements of Trinity Industries, Inc. and subsidiaries and the effectiveness of internal control over financial reporting of Trinity Industries, Inc. and subsidiaries included in its Annual Report (Form 10-K) for the year ended December 31, 2018, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Dallas, Texas

March 27, 2019

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