

KROGER CO  
Form S-8  
August 24, 2015

As filed with the Securities and Exchange

Commission on August 21, 2015

Registration No. 333-

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

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**FORM S-8**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**THE KROGER CO.**

(Exact name of registrant as specified in its charter)

**Ohio**

(State or other jurisdiction of  
incorporation or organization)

**31-0345740**

(I.R.S. Employer  
Identification No.)

**1014 Vine Street, Cincinnati, Ohio**  
(Address of Principal Executive Offices)

**45202**  
(Zip Code)

**The Kroger Co. 401(k) Retirement Savings Account Plan**

(Full title of Plan)

**Christine S. Wheatley**

**Group Vice President, Secretary and General Counsel**

**The Kroger Co.**

**1014 Vine Street**

**Cincinnati, Ohio 45202**

(Name and address of agent for service)

**(513) 762-4000**

(Telephone number, including area code, of agent for service)

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 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

<b>Title of Securities to be Registered</b>	<b>Amount to be Registered</b>	<b>Proposed Maximum Offering Price Per Share(1)</b>	<b>Proposed Maximum Aggregate Offering Price(1)</b>	<b>Amount of Registration Fee</b>
Common Shares \$1 Par Value	20,000,000 shares(2) \$	34.93 \$	698,600,000 \$	81,177.32

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Securities Act Rule 457(c), on the basis of the average of the high and low sale prices of the Registrant's Common Shares on the New York Stock Exchange on August 21, 2015, which date is within 5 business days prior to the date of the filing of this Registration Statement.

(2) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, this Registration Statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan described herein.

**EXPLANATORY NOTE**

The Registrant is registering additional securities under The Kroger Co. 401(k) Retirement Savings Account Plan (the Plan ) covered hereby for which a Registration Statement on Form S-8, bearing Registration No. 333-180404, currently is effective. Pursuant to General Instruction E of Form S-8, the Registrant elects to incorporate by reference into this Registration Statement the contents of such earlier registration statement that constitute information required in this Registration Statement.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

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

A legal opinion to the effect that the Registrant's common shares offered hereby have been duly authorized and that, when they are issued in accordance with the terms of the Plan, they will be validly issued and outstanding, fully paid and nonassessable, has been rendered by Christine S. Wheatley, Esquire, Group Vice President, Secretary and General Counsel of the Registrant. As of July 15, 2015, Ms. Wheatley owned approximately 47,619 common shares of the Registrant and held options to acquire 19,980 common shares of the Registrant.

**Item 8. Exhibits.**

The following exhibits are filed as part of this Registration Statement:

<b>Exhibit No.</b>	<b>Description</b>
Exhibit 5.1*	Opinion of Christine S. Wheatley, Esquire.
Exhibit 5.2*	IRS Determination Letter for The Kroger Co. 401(k) Retirement Savings Account Plan.
Exhibit 23.1*	Consent of PricewaterhouseCoopers LLP.
Exhibit 23.2*	Consent of Christine S. Wheatley, Esquire (included as part of Exhibit 5.1).
Exhibit 24.1*	Power of Attorney of Directors of the Registrant.

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\* Filed herewith.



**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 Cincinnati, State of Ohio, on August 24, 2015.

THE KROGER CO.

By: /s/ W. Rodney McMullen  
W. Rodney McMullen  
Chairman of the Board and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on August 24, 2015.

<b>Signature</b>	<b>Title</b>
/s/ W. Rodney McMullen W. Rodney McMullen	Chairman of the Board, Chief Executive Officer and Director (principal executive officer)
/s/ J. Michael Schlotman J. Michael Schlotman	Chief Financial Officer (principal financial officer)
/s/ M. Elizabeth Van Oflen M. Elizabeth Van Oflen	Vice President and Corporate Controller (principal accounting officer)
* /s/ Nora A. Aufreiter Nora A. Aufreiter	Director
* /s/ Robert D. Beyer Robert D. Beyer	Director
* /s/ Susan J. Kropf Susan J. Kropf	Director
* /s/ David B. Lewis David B. Lewis	Director
* /s/ Jorge P. Montoya Jorge P. Montoya	Director
* /s/ Clyde R. Moore Clyde R. Moore	Director
* /s/ Susan M. Phillips Susan M. Phillips	Director

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\* /s/ James A. Runde  
James A. Runde

Director

\* /s/ Ronald L. Sargent  
Ronald L. Sargent

Director

\* /s/ Bobby S. Shackouls  
Bobby S. Shackouls

Director

By:  
Stacey M. Heiser  
Attorney-in-fact

\* /s/ Stacey M. Heiser

The Plan. Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plan) have duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Cincinnati, Ohio, on August 24, 2015.

THE KROGER CO. 401(K) RETIREMENT SAVINGS ACCOUNT PLAN

By: /s/ Theresa Monti  
Name: Theresa Monti  
Title: Chairman of the Administrative Committee

**EXHIBIT INDEX**

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