

CHOICE HOTELS INTERNATIONAL INC /DE

Form S-8

March 02, 2018

As filed with the Securities and Exchange Commission on March 2, 2018

Registration No. 333-

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

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

**Choice Hotels International, Inc.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**1 Choice Hotels Circle, Suite 400,**

**52-1209792**  
**(I.R.S. Employer**

**Identification No.)**

**20850**

**Rockville, Maryland**  
**(Address of principal executive offices)**

**(Zip code)**

**Choice Hotels International, Inc.**

**Non-Employee Director Deferred Compensation Stock Purchase Plan**

**(Full title of the plan)**

**Simone Wu**

**Senior Vice President, General Counsel,  
Corporate Secretary & External Affairs**

**Choice Hotels International, Inc.**

**1 Choice Hotels Circle, Suite 400**

**Rockville, Maryland 20850**

**(Name and address of agent for service)**

**(301) 592-5000**

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

*Copies to:*

**John B. Beckman**

**C. Alex Bahn**

**Hogan Lovells US LLP**

**555 Thirteenth Street, N.W.**

**Washington, D.C. 20004-1109**

**(202) 637-5600**

Indicate by check mark 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 (Check one):

Large accelerated filer

Accelerated filer

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

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 pursuant to Section 7(a)(2)(B) of the Securities Act.

#### CALCULATION OF REGISTRATION FEE

| Title of Securities<br>to be Registered  | Amount<br>to be<br>Registered (1) | Maximum<br>Proposed<br>Offering Price<br>Per Share (2) | Proposed<br>Maximum<br>Aggregate<br>Offering Price (2) | Amount of<br>Registration Fee |
|--|-----------------------------------|--|--|-------------------------------|
|  |                                   |  |  |                               |
| Common Stock, par value \$0.01 per share | 80,000                            | \$82.37  | \$6,589,600  | \$821                         |

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933 (the Securities Act ), as amended, this registration statement also covers an indeterminate number of additional shares of common stock that may become issuable under the plan referenced above by reason of any stock dividend, stock split, recapitalization or other similar transaction.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h)(1) of the Securities Act, as amended, and based upon the average of the high and low sales prices of the registrant's common stock as reported on the New York Stock Exchange on February 26, 2018.

## **EXPLANATORY NOTE**

This Registration Statement on Form S-8 (this Registration Statement ) is filed by Choice Hotels International, Inc., a Delaware corporation (the Company or Registrant ), relating to 80,000 shares of the Company s common stock, par value \$0.01 per share ( Common Stock ), to be issued under the Choice Hotels International, Inc. Non-Employee Director Deferred Compensation Stock Purchase Plan (the Non-Employee Director Deferred Compensation Plan ).

### **PART I**

#### **INFORMATION REQUIRED UNDER THE SECTION 10(a) PROSPECTUS**

The documents containing the information required in Part I of this Registration Statement will be sent or given to the persons participating in the Non-Employee Director Deferred Compensation Plan, as specified by Rule 428(b)(1) promulgated under the Securities Act of 1933, as amended ( Securities Act ). In accordance with the instructions to Part I of Form S-8, such documents will not be filed with the Securities and Exchange Commission (the Commission ) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 promulgated under the Securities Act. These documents and the documents incorporated by reference into 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.**

The following documents filed with the Commission by the Company pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act ) are hereby incorporated as of their respective dates in this Registration Statement by reference:

1. The Annual Report on Form 10-K for the fiscal year ended December 31, 2017 filed by the Company on March 1, 2018;
2. The Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2017, June 30, 2017 and September 30, 2017;
3. The Current Reports on Form 8-K filed by the Company on March 3, 2017, April 24, 2017, July 13, 2017, August 10, 2017, August 14, 2017, September 18, 2017, December 18, 2017 and February 1, 2018; and
4. The description of the Company s Common Stock included in the Registration Statement on Form 10-12B filed September 19, 1997 and all amendments or reports filed for the purpose of updating such description. All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the filing of a post-effective amendment that indicates that all securities offered 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 such documents. Unless specifically stated to the contrary, none of the information that the Company discloses under Items 2.02 or 7.01 of any Current Report on Form 8-K or 8-K/A that the Company may from time to time furnish to the SEC or any other document or information deemed to have been furnished and not filed with the SEC will be incorporated by reference into, or otherwise included in, this registration statement.

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 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 such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**Item 4. Description of Securities.**

Not applicable.

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

Not applicable.

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

Set forth below is a description of certain provisions of the restated certificate of incorporation of the Company, as amended (the Restated Certificate of Incorporation ), and the amended and restated bylaws of the Company, as amended (the Bylaws ), and the Delaware General Corporation Law ( DGCL ), as such provisions relate to the indemnification of the directors and officers of the Company. This description is intended only as a summary and is qualified in its entirety by reference to the Restated Certificate of Incorporation, the Bylaws and the DGCL.

Section 102(b)(7) of the Delaware General Corporation Law (the DGCL ) enables a corporation to eliminate or limit the personal liability of a director to the corporation or its stockholders for monetary damages for breach of the director s fiduciary duty, except:

for any breach of the director s duty of loyalty to the corporation or its stockholders;

for any breach of the director s duty of loyalty to the corporation or its stockholders;

pursuant to Section 174 of the DGCL (providing for liability of directors for unlawful payment of dividends or unlawful stock purchases or redemptions); or

for any transaction from which the director derived an improper personal benefit.

In accordance with Section 102(b)(7) of the DGCL, the Restated Certificate of Incorporation of the Company includes provisions eliminating, to the fullest extent permitted by the DGCL, the liability of its directors to the Company or its stockholders for monetary damages for breach of fiduciary duties as directors.

Section 145(a) of the DGCL empowers a corporation to indemnify any present or former director, officer, employee or agent of the corporation, or any individual serving at the corporation s request as a director, officer, employee or agent of another organization, 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 (other than an action by or in the right of the corporation), against expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding provided that such director, officer, employee or agent 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, provided further that such director, officer, employee or agent had no reasonable cause to believe his or her conduct was unlawful.

The DGCL provides that the indemnification described above shall not be deemed exclusive of any other indemnification that may be granted by a corporation pursuant to its bylaws, disinterested directors' vote, stockholders' vote, agreement or otherwise.

The DGCL also provides corporations with the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation in a similar capacity for another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability as described above.

In accordance with Section 145(a) of the DGCL, the Bylaws of the Company provide that 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 or investigation, whether civil, criminal or administrative, and whether external or internal to the Company (other than a judicial action or suit brought by or in the right of the Company) by reason of the fact that he or she is or was a director, officer, employee or agent of the Company, or that, being or having been such a director, officer, employee or agent, he or she is or was serving at the request of the Company as a director, officer, employee or agent or another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to hereafter as an Agent ), shall be indemnified and held harmless against all 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, or any appeal thereof, 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 Company, and with respect to any criminal action or proceeding had no reasonable cause to believe his or her conduct was unlawful. Expenses incurred in defending any civil, criminal, administrative or investigative action, suit or proceeding or investigation or any appeal therein shall be paid by the Company in advance of the final disposition of such matter, if the Agent shall undertake to repay such amount in the event that it is ultimately determined, as provided herein, that such person is not entitled to indemnification.

The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent against any liability asserted against him and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Company would have the power to indemnify him or her against such liability under the provisions of the Bylaws. The Company has purchased and maintains insurance under which the directors, officers, employees and agents of the Company are insured against loss arising from claims made against any of them due to wrongful acts while acting in their individual and collective capacities as such, subject to certain exclusions.

**Item 7. Exemptions from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

**Exhibit**

| <b>Number</b> | <b>Description</b>  |
|---------------|---|
| 5.1           | <u>Opinion of Hogan Lovells US LLP regarding the validity of the shares of common stock registered hereby</u> |
| 10.1          | <u>Choice Hotels International, Inc. Non-Employee Director Deferred Compensation Stock Purchase Plan</u>      |
| 23.1          | <u>Consent of Ernst &amp; Young LLP</u>   |
| 23.2          | <u>Consent of Hogan Lovells US LLP (included in Exhibit 5.1)</u>  |
| 24.1          | <u>Power of Attorney (included on signature page hereto)</u>  |



**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 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.

(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 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.

(h) 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 Securities and Exchange 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 for 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, as amended, 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 Rockville, State of Maryland, on the 2nd day of March, 2018.

### Choice Hotels International, Inc.

By: /s/ Patrick S. Pacious  
 Name: Patrick S. Pacious  
 Title: President & Chief Executive Officer

## POWER OF ATTORNEY

Each person whose signature appears below hereby constitutes and appoints Patrick Pacious, Simone Wu and Dominic Dragisich as his or her attorney-in-fact and agent, with full power of substitution and resubstitution for him in any and all capacities, to sign any and all amendments or post-effective amendments to this registration statement, and to file the same, with all exhibits thereto and any other documents in connection therewith with the Securities and Exchange Commission, granting unto such attorneys-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary in connection with such matters and hereby ratifying and confirming all that such attorneys-in-fact and agent or his substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

| Signature   | Title  | Date          |
|---|--|---------------|
| /s/ Stewart W. Bainum, Jr.<br><b>Stewart W. Bainum, Jr.</b> | Chairman   | March 2, 2018 |
| /s/ Patrick S. Pacious<br><b>Patrick S. Pacious</b>         | President, Chief Executive Officer and Director<br>(Principal Executive Officer)                 | March 2, 2018 |
| /s/ Dominic E. Dragisich<br><b>Dominic E. Dragisich</b>     | Chief Financial Officer<br>(Principal Financial Officer)   | March 2, 2018 |
| /s/ Scott E. Oaksmith<br><b>Scott E. Oaksmith</b>           | Senior Vice President, Finance and Chief<br>Accounting Officer<br>(Principal Accounting Officer) | March 2, 2018 |
| /s/ Barbara T. Alexander<br><b>Barbara T. Alexander</b>     | Director   | March 2, 2018 |
| /s/ William L. Jews<br><b>William L. Jews</b>               | Director   | March 2, 2018 |

| <b>Signature</b>  | <b>Title</b> | <b>Date</b>   |
|---|--------------|---------------|
| /s/ Monte J. M. Koch<br><b>Monte J. M. Koch</b>                   | Director     | March 2, 2018 |
| /s/ Liza K. Landsman<br><b>Liza K. Landsman</b>                   | Director     | March 2, 2018 |
| /s/ Scott A. Renschler, Psy.D<br><b>Scott A. Renschler, Psy.D</b> | Director     | March 2, 2018 |
| /s/ Ervin R. Shames<br><b>Ervin R. Shames</b>                     | Director     | March 2, 2018 |
| /s/ John P. Tague<br><b>John P. Tague</b>                         | Director     | March 2, 2018 |