

BRINKER INTERNATIONAL INC  
Form 11-K  
June 09, 2009  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 11-K**

**ANNUAL REPORT PURSUANT TO SECTION 15(d)**  
**OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2008

OR

**TRANSITION REPORT PURSUANT TO**  
**SECTION 15(d)**  
**OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition year from            to

Commission File No. 1-10275

A. Full title of the plan and the address of the plan, if different from that of the issuer named below:

**BRINKER INTERNATIONAL**  
**401(K) SAVINGS PLAN**

B. Name of issuer of the securities held pursuant to the plan and the address of its principal executive office:

**Brinker International**

**6820 LBJ Freeway**

**Dallas, Texas 75240**

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Exhibit 99 - Certification by Marie Perry, Plan Administrator of the Registrant, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	

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\* All other schedules required by Department of Labor Rules and Regulations for Reporting and Disclosure under ERISA have been omitted because they are not applicable.

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**Report of Independent Registered Public Accounting Firm**

To the Participants and Administrator of the

Brinker International 401(k) Savings Plan:

We have audited the accompanying statements of net assets available for benefits of the Brinker International 401(k) Savings Plan as of December 31, 2008 and 2007, and the related statements of changes in net assets available for benefits for the years then ended. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Plan is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of the Brinker International 401(k) Savings Plan as of December 31, 2008 and 2007, and the changes in its net assets available for benefits for the years then ended in conformity with U.S. generally accepted accounting principles.

Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedule of assets (held at end of year) is presented for the purpose of additional analysis and is not a required part of the basic financial statements but is supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. This supplemental schedule is the responsibility of the Plan's management. The supplemental schedule has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

/s/ Whitley Penn LLP

Dallas, Texas  
June 8, 2009

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**BRINKER INTERNATIONAL**

**401(k) SAVINGS PLAN**

**Statements of Net Assets Available for Benefits**

**December 31, 2008 and 2007**

	<b>2008</b>	<b>2007</b>
Investments at fair value (Note 3):		
Money market	\$ 8,143,860	\$ 5,858,161
Mutual funds	67,079,273	87,577,640
Brinker common stock fund	7,096,948	9,476,222
Participant loans	5,177,206	4,673,201
	87,497,287	107,585,224
Receivables:		
Participants contributions	258,295	255,340
Employer contributions	145,310	734,372
	403,605	989,712
Net assets available for benefits	\$ 87,900,892	\$ 108,574,936

See accompanying notes to financial statements.

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**BRINKER INTERNATIONAL**

**401(k) SAVINGS PLAN**

**Statements of Changes in Net Assets Available for Benefits**

**Years Ended December 31, 2008 and 2007**

	2008	2007
Additions:		
Contributions:		
Participants	\$ 16,962,634	\$ 17,030,379
Rollovers	716,720	931,297
Employer	8,812,900	9,049,215
	26,492,254	27,010,891
Investment income:		
Net depreciation in fair value of investments	(39,235,533)	(1,677,777)
Interest and dividends	3,774,119	6,695,428
	(35,461,414)	5,017,651
Total (reductions) additions	(8,969,160)	32,028,542
Deductions:		
Benefits paid to participants	11,704,884	12,636,408
Net (decrease) increase	(20,674,044)	19,392,134
Net assets available for benefits at beginning of year	108,574,936	89,182,802
Net assets available for benefits at end of year	\$ 87,900,892	\$ 108,574,936

See accompanying notes to financial statements.

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**BRINKER INTERNATIONAL**

**401(k) SAVINGS PLAN**

**Notes to Financial Statements**

**December 31, 2008 and 2007**

**1. DESCRIPTION OF THE PLAN**

The following description of the Brinker International ( Company or Brinker ) 401(k) Savings Plan (the Plan ) is provided for general information purposes only. Participants should refer to the Plan Document for a more complete description of the Plan s provisions. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 ( ERISA ), as amended.

*General*

The Company adopted the Plan effective January 1, 1993. The Plan is a qualified defined contribution retirement plan covering eligible employees as defined below. Effective January 1, 2006, the plan was amended and restated. The primary changes to the plan affected participant eligibility, contributions and vesting rules. Leased employees, non-US citizens, and union employees without specific contract provisions are not eligible to participate in the Plan.

The investments of the Plan are maintained in a trust (the Trust ) by Fidelity Management Trust Company (the Trustee ) and the recordkeeping functions are performed by Fidelity Investments Institutional Operations Company Incorporated (the Recordkeeper ).

*Contributions*

An employee may become a participant on the first of the month following the date the employee completes one year of eligible service (at least 1,000 hours) and attains the age of twenty-one. Contributions are subject to Internal Revenue Service ( IRS ) limitations on total annual contributions, as well as plan limitations which stipulate that up to 50% of eligible base compensation including tips and 100% of eligible bonuses, as defined in the Plan, may be contributed to various investment funds on a tax-deferred basis.

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The Company matches in cash at a rate of 100% of the first 3% of pay and 50% of the next 2% of pay for a participant's compensation, as defined in the Plan, up to the maximum deferrable amount allowed by the Internal Revenue Code ( IRC ).

Eligible participants age 50 or older by the end of a calendar year are permitted to make catch-up contributions to the Plan up to the deferral amount allowed by the IRC.

Active hourly-tipped participants may elect to make voluntary after-tax contributions for each pay period under the Plan. The employee contributions may be made only from the participant's compensation representing tip income that is not paid through the Company's payroll and may contribute up to 100% of such tip income. An active participant may not make contributions for any period in which such person is not accruing hours of service with the Company.



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**BRINKER INTERNATIONAL**

**401(k) SAVINGS PLAN**

**Notes to Financial Statements**

*Participants Accounts*

Participant and Company matching contributions are invested in accordance with participants elections in the following funds:

<b>Fund Options</b>	<b>Primarily invests in:</b>
Fidelity Retirement Money Market Portfolio	Money market funds
PIMCO Total Return Fund	Intermediate-term mortgage, corporate, government and foreign bonds
American Beacon Large Cap Value Fund	Equities of large-cap domestic companies
Fidelity Contrafund	Equities of