

RIO TINTO PLC
Form S-8
October 12, 2012

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM S-8

REGISTRATION STATEMENT

UNDER THE

THE SECURITIES ACT OF 1933

Rio Tinto plc

(Exact name of registrant as specified in its charter)

England and Wales

(State or other jurisdiction of incorporation or organization)

None

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

**2 Eastbourne Terrace
London W2 6LG,**

United Kingdom

(Address of principal executive offices)

Global Employee Share Plan

(Full title of plans)

Cheree Finan

Corporate Secretary

Rio Tinto Services Inc

80 State Street
Albany

New York, 12207-2543
(Name and address of agent for service)

(801) 204-2251
(Telephone number, including area code, for 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. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

CALCULATION OF REGISTRATION FEE

| Title of each class of securities to be registered | Amount to be registered(1)(2) | Proposed maximum offering price per share(3) | Proposed maximum aggregate offering price(3) | Amount of registration fee |
|--|-------------------------------|--|--|----------------------------|
| Rio Tinto plc ordinary shares of 10p each | | | | |
| -Global Employee Share Plan(4) | 1,276,000 | \$48.51 | \$61,898,760 | \$8,442.99 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this registration statement also covers such indeterminate number of additional shares as may be issuable under the plan in connection with variations in share capital, demergers, special dividends or similar transactions.
- (2) The amount of shares being registered represents the estimated aggregate amount issuable to the employees in the United States of each Registrant pursuant to such plan and not previously registered.
- (3) Estimated solely for the purposes of calculating the registration fee in accordance with Rule 457(c) and Rule 457(h) under the Securities Act. The maximum offering price has been calculated on the basis of the average of the high and low prices of Rio Tinto plc ordinary shares of 10p each quoted on the London Stock Exchange on 9 October 2012 (£30.32). The translation of pounds sterling into U.S. dollars have been made at the rate of US\$1.5997 per £1.00 as reported by Bloomberg on 9 October 2012.
- (4) The Rio Tinto plc ordinary shares to be distributed pursuant to the Global Employee Share Plan may also be represented by American Depositary Shares evidenced by American Depositary Receipts, each representing one Rio Tinto plc ordinary share.

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

Explanatory note:

As permitted by Rule 428 under the Securities Act of 1933, as amended (the Securities Act), this registration statement omits the information specified in Part I of Form S-8. We will deliver the documents containing the information specified in Part I to the participants in the plans covered by this registration statement as required by Rule 428(b)(1). We are not filing these documents with the Securities and Exchange Commission as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such documents and the documents incorporated by reference herein pursuant to Item 3 of Part II of this form, taken together, constitute a prospectus for this Registration Statement 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

We incorporate by reference into this registration statement:

1. Rio Tinto's Annual report on Form 20-F for the year ended 31 December 2011.
2. Certain reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934 (the Exchange Act).

All documents subsequently filed by Rio Tinto pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities hereby registered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference and to be part hereof from the date of filing such documents.

Item 4. Description of Securities

The Description of Rio Tinto plc's Equity Securities is hereby incorporated by reference to such description contained in Rio Tinto's Form 6-K filed on 5 June 2007.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

Deeds of Indemnity

On 9 December 2008, Rio Tinto plc entered into a deed of indemnity with Paul Tellier, director of Rio Tinto plc. On 10 December 2008, Rio Tinto plc entered into deeds of indemnity with the remaining directors of Rio Tinto plc and the company secretary of Rio Tinto plc. Directors appointed subsequent to 10 December 2008 have entered into a deed of indemnity with Rio Tinto plc as follows: Sam Walsh on 4 June 2009, Ann Godbehere on 9 February 2010, Robert Brown on 1 April 2010, Chris Lynch and John Varley on 1 September 2011. There has been no change to the company secretary of Rio Tinto plc since 9 December 2008. Under the terms of each deed, subject to certain exceptions, Rio Tinto plc shall indemnify and hold each of their directors harmless, in respect of all claims and any losses arising in connection with any such claims arising out of, or in connection with the exercise of the director's duties as a director or officer of the company, any subsidiary or holding company or any associated company and in connection with certain other activities of the company.

English law

Sections 232 to 236 of the Companies Act 2006 provide as follows:

232. Provisions protecting directors from liability

- (1) Any provision that purports to exempt a director of a company (to any extent) from any liability that would otherwise attach to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company is void.
- (2) Any provision by which a company directly or indirectly provides an indemnity (to any extent) for a director of the company, or of an associated company, against any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company of which he is a director is void, except as permitted by
 - (a) section 233 (provision of insurance),
 - (b) section 234 (qualifying third party indemnity provision), or
 - (c) section 235 (qualifying pension scheme indemnity provision).
- (3) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise.
- (4) Nothing in this section prevents a company's articles from making such provision as has previously been lawful for dealing with conflicts of interest.

233. Provision of insurance

Section 232(2) (voidness of provisions for indemnifying directors) does not prevent a company from purchasing and maintaining for a director of the company, or of an associated company, insurance against any such liability as is mentioned in that subsection.

234. Qualifying third party indemnity provision

- (1) Section 232(2) (voidness of provisions for indemnifying directors) does not apply to qualifying third party indemnity provision.
- (2) Third party indemnity provision means provision for indemnity against liability incurred by the director to a person other than the company or an associated company.

Such provision is qualifying third party indemnity provision if the following requirements are met.

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(3) The provision must not provide any indemnity against

(a) any liability of the director to pay

(i) a fine imposed in criminal proceedings, or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); or

(b) any liability incurred by the director

(i) in defending criminal proceedings in which he is convicted, or

- (ii) in defending civil proceedings brought by the company, or an associated company, in which judgment is given against him, or
 - (iii) in connection with an application for relief (see subsection (6)) in which the court refuses to grant him relief.
- (4) The references in subsection (3)(b) to a conviction, judgment or refusal of relief are to the final decision in the proceedings.
- (5) For this purpose
- (a) a conviction, judgment or refusal of relief becomes final
 - (i) if not appealed against, at the end of the period for bringing an appeal, or
 - (ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and
 - (b) an appeal is disposed of
 - (i) if it is determined and the period for bringing any further appeal has ended, or
 - (ii) if it is abandoned or otherwise ceases to have effect.
- (6) The reference in subsection (3)(b)(iii) to an application for relief is to an application for relief under section 661(3) or (4) (power of court to grant relief in a case of acquisition of shares by innocent nominee), or section 1157 (general power of court to grant relief in case of honest and reasonable conduct).

235. *Qualifying pension scheme indemnity provision*

- (1) Section 232(2) (voidness of provisions for indemnifying directors) does not apply to qualifying pension scheme indemnity provision.
- (2) Pension scheme indemnity provision means provision indemnifying a director of a company that is a trustee of an occupational pension scheme against liability incurred in connection with the company's activities as trustee of the scheme. Such provision is qualifying pension scheme indemnity provision if the following requirements are met.
 - (3) The provision must not provide any indemnity against

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- (a) any liability of the director to pay
 - (i) a fine imposed in criminal proceedings, or
 - (ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); or
 - (b) any liability incurred by the director in defending criminal proceedings in which he is convicted.
- (4) The reference in subsection (3)(b) to a conviction is to the final decision in the proceedings.
- (5) For this purpose
-

- (a) a conviction becomes final
 - (i) if not appealed against, at the end of the period for bringing an appeal, or
 - (ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and
- (b) an appeal is disposed of
 - (i) if it is determined and the period for bringing any further appeal has ended, or
 - (ii) if it is abandoned or otherwise ceases to have effect.

(6) In this section *occupational pension scheme* means an occupational pension scheme as defined in section 150(5) of the Finance Act 2004 (c 12) that is established under a trust.

236. *Qualifying indemnity provision to be disclosed in directors' report*

- (1) This section requires disclosure in the directors' report of
 - (a) qualifying third party indemnity provision, and
 - (b) qualifying pension scheme indemnity provision.

Such provision is referred to in this section as *qualifying indemnity provision* .

- (2) If when a directors' report is approved any qualifying indemnity provision (whether made by the company or otherwise) is in force for the benefit of one or more directors of the company, the report must state that such provision is in force.
- (3) If at any time during the financial year to which a directors' report relates any such provision was in force for the benefit of one or more persons who were then directors of the company, the report must state that such provision was in force.
- (4) If when a directors' report is approved qualifying indemnity provision made by the company is in force for the benefit of one or more directors of an associated company, the report must state that such provision is in force.
- (5)

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If at any time during the financial year to which a directors' report relates any such provision was in force for the benefit of one or more persons who were then directors of an associated company, the report must state that such provision was in force. Section 1157 of the Companies Act 2006 provides as follows:

1157. Power of court to grant relief in certain cases:

- (1) If in proceedings for negligence, default, breach of duty or breach of trust against
 - (a) an officer of a company, or
 - (b) a person employed by a company as auditor (whether he is or is not an officer of the company),

it appears to the court hearing the case that the officer or person is or may be liable but that he acted honestly and reasonably, and that having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused, the court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

- (2) If any such officer or person has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust
- (a) he may apply to the court for relief, and
 - (b) the court has the same power to relieve him as it would have had if it had been a court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.
- (3) Where a case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant (in Scotland, the defender) ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case from the jury and forthwith direct judgment to be entered for the defendant (in Scotland, grant decree of absolvitor) on such terms as to costs (in Scotland, expenses) or otherwise as the judge may think proper .

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

See index of Exhibits attached hereto.

Item 9. Undertakings

The undersigned registrant, and where applicable, the plan, 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 of 1933 (the Act);

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- (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 a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

- (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 registration statement is furnished on Form S-8 and 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 Securities Exchange Act of 1934 that are incorporated by reference in the registration statement;

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- (2) That, for the purpose of determining any liability under the Securities Act of 1933, 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) To file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A. of Form 20-F at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Securities Act of 1933 need not be furnished, *provided*, that the registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph (4) and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Act or Item 8.A. of Form 20-F if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement;
 - (5) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
 - (i) Each prospectus filed by a registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
 - (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date;
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- (6) That, for the purpose of determining liability of a registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned undertakes that in a primary offering of securities of an undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
 - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of an undersigned registrant or used or referred to by the undersigned registrant;
 - (iii) The portion of any other free writing prospectus relating to the offering containing material information about an undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
 - (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the 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.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than 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 of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, each registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto to duly authorized in the city of London, United Kingdom, on 12 October 2012.

Rio Tinto plc
(Registrant)

By /s/ Ben Mathews
Ben Mathews
Secretary
(Signature and Title)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below severally constitutes and appoints each Director listed below (with full power to each of them to act alone), his or her true and lawful attorneys-in-fact and agents, 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 do any and all things and execute any and all instruments that such attorney may deem necessary or advisable under the Securities Act of 1933 (the Securities Act), and any rules, regulations and requirements of the Securities and Exchange Commission (the Commission) in connection with the registration under the Securities Act of the Securities and any securities or Blue Sky law of any of the states of the United States of America in order to effect the registration or qualification (or exemption therefrom) of the said securities for issue, offer, sale or trade under the Blue Sky or other securities laws of any of such states and in connection therewith to execute, acknowledge, verify, deliver, file and cause to be published applications, reports, consents to service of process, appointments of attorneys to receive service of process and other papers and instruments which may be required under such laws, including specifically, but without limiting the generality of the foregoing, the power and authority to sign his or her name in his or her capacity as an Officer, Director or Authorized Representative in the United States of America or in any other capacity with respect to this Registration Statement and any registration statement in respect of the Securities that is to be effective upon filing pursuant to Rule 462(b) (collectively, the Registration Statement) and/or such other form or forms as may be appropriate to be filed with the Commission or under or in connection with any Blue Sky laws or other securities laws of any state of the United States of America or with such other regulatory bodies and agencies as any of them may deem appropriate in respect of the Securities, and with respect to any and all amendments, including post-effective amendments, to this Registration Statement and to any and all instruments and documents filed as part of or in connection with this Registration Statement.

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.

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| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|--|------------------------|-----------------|
| /s/ Jan du Plessis Jan du Plessis | Chairman | 12 October 2012 |
| /s/ Tom Albanese Tom Albanese | Chief executive | 12 October 2012 |
| /s/ Guy Elliott Guy Elliott | Finance director | 12 October 2012 |
| /s/ Robert Brown Robert Brown | Executive director | 12 October 2012 |
| /s/ Vivienne Cox Vivienne Cox | Non executive director | 12 October 2012 |
| /s/ Michael Fitzpatrick Michael Fitzpatrick | Non executive director | 12 October 2012 |
| /s/ Ann Godbehere Ann Godbehere | Non executive director | 12 October 2012 |
| /s/ Richard Goodmanson Richard Goodmanson | Non executive director | 12 October 2012 |
| /s/ Lord Kerr of Kinlochard Lord Kerr of Kinlochard | Non executive director | 12 October 2012 |
| /s/ Chris Lynch Chris Lynch | Non executive director | 12 October 2012 |
| /s/ Paul Tellier Paul Tellier | Non executive director | 12 October 2012 |

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/s/ John Varley
John Varley

Non executive director

12 October 2012

/s/ Sam Walsh
Sam Walsh

Executive director

12 October 2012

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Pursuant to the requirements of Section 6(a) of the Securities Act of 1933, the undersigned has signed the registration statement in the capacity of the duly authorized representative of Rio Tinto plc in the United States.

/s/ Cheree Finan

By: Cheree Finan

Title: Authorized Representative

EXHIBITS

The following are filed at exhibits to this registration statement:

- 4.1 Articles of Association of Rio Tinto plc (adopted by special resolution passed on 20 April 2009 and amended on 1 October 2009) (incorporated by reference to Exhibit 1.1 of Rio Tinto plc Annual report on Form 20-F for the fiscal year ended 31 December 2009, File No. 1-10533)
- 5.1 The ordinary shares to be offered and sold under the Global Employee Share Plan in connection with this registration statement have been purchased in open market transactions. Because no original issuance securities will be offered or sold pursuant to the Global Employee Share Plan, no opinion of counsel regarding the legality of the securities being registered hereunder is required.
- 23.1 Consent of Independent Registered Public Accounting Firms to the incorporation of the audit report relating to the Rio Tinto Group by reference.
- 24.1 Power of Attorney (included on the signature page of this registration statement).

