

OFFICE DEPOT INC  
Form S-4/A  
May 22, 2013  
Table of Contents

As filed with the Securities and Exchange Commission on May 21, 2013

Registration No. 333-187807

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

WASHINGTON, D.C. 20549

**AMENDMENT NO. 1**  
**TO**  
**FORM S-4**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

**OFFICE DEPOT, INC.**

(Exact name of registrant as specified in its charter)

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

**5110**  
(Primary Standard Industrial  
Classification Code Number)

**59-2663954**  
(I.R.S. Employer  
Identification Number)

**6600 North Military Trail**

**Boca Raton, Florida 33496**

**(561) 438-4800**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Elisa D. Garcia C.**

**Executive Vice President, General Counsel**

**& Corporate Secretary**

**6600 North Military Trail**

**Boca Raton, Florida 33496**

**(561) 438-4800**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*With copies to:*

**Mario A. Ponce**

**Matthew R. Broad**

**Margaret A. Brown**

**Eric M. Swedenburg**

**Executive Vice President & General Counsel**

**Skadden, Arps, Slate, Meagher & Flom LLP**

**Simpson Thacher & Bartlett LLP**

**OfficeMax Incorporated**

**One Beacon Street**

**425 Lexington Avenue**

**263 Shuman Boulevard**

**Boston, Massachusetts 02108**

**New York, New York 10017**

**Naperville, Illinois 60563**

**(617) 573-4800**

**(212) 455-2000**

**(630) 438-7800**

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after this Registration Statement is declared effective and upon the satisfaction or waiver of all other conditions to consummation of the transactions described herein.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

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If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

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

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) "

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer) "

**The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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**Table of Contents**

**The information in this joint proxy statement/prospectus is subject to completion and amendment. A registration statement relating to the securities described in this joint proxy statement/prospectus has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy these securities be accepted prior to the time the registration statement becomes effective. This joint proxy statement/prospectus shall not constitute an offer to sell or the solicitation of any offer to buy nor shall there be any sale of these securities in any jurisdiction, in which such offer, solicitation or sale would be unlawful prior to registration under the securities laws of any such jurisdiction.**

**PRELIMINARY SUBJECT TO COMPLETION, DATED MAY 21, 2013**

**JOINT PROXY STATEMENT/PROSPECTUS PROPOSED MERGER YOUR VOTE IS IMPORTANT**

The board of directors of each of Office Depot, Inc. ( Office Depot ) and OfficeMax Incorporated ( OfficeMax ) unanimously approved a strategic business combination structured as a merger of equals. Based upon the estimated number of shares of capital stock of the parties that will be outstanding immediately prior to the consummation of this business combination, we estimate that, upon consummation of the business combination, Office Depot stockholders will hold approximately [ ]% and OfficeMax stockholders will hold approximately [ ]% of the outstanding common stock of the combined company (assuming redemption of all outstanding shares of Office Depot convertible preferred stock).

This is an exciting and important event in each of our companies' histories, and we are very pleased to provide this document to you. It is a prospectus related to the proposed issuance by Office Depot of shares of its common stock, par value \$0.01 per share (the Office Depot common stock ), pursuant to an Agreement and Plan of Merger (as it may be amended from time to time, the merger agreement ) entered into by, among others, Office Depot and OfficeMax. Upon the terms and subject to the conditions set forth in the merger agreement, if the requisite stockholder approval and other approvals are obtained and the other closing conditions are satisfied or waived, through a series of transactions that are further described in this document, OfficeMax will become an indirect, wholly-owned subsidiary of Office Depot. This document is also a proxy statement of OfficeMax and Office Depot to use in soliciting proxies for their respective special meetings of stockholders. At Office Depot's special meeting of stockholders, stockholders of Office Depot will vote on, among other things, the proposal to issue shares of Office Depot common stock to the stockholders of OfficeMax pursuant to the merger agreement (the Office Depot share issuance ). Under the rules of the New York Stock Exchange (the NYSE ), Office Depot is required to obtain stockholder approval for the Office Depot share issuance. At OfficeMax's special meeting of stockholders, stockholders of OfficeMax will vote on, among other things, the proposal to adopt the merger agreement and to approve certain transactions contemplated by the merger agreement. Under the General Corporation Law of the State of Delaware, the approval of stockholders of OfficeMax must be obtained before the transactions can be completed.

The series of transactions described in this document include, among others, what are referred to in this document as the first merger and the second merger. The first merger involves only OfficeMax and two of its subsidiaries. Pursuant to the merger agreement, at the effective time of the first merger, each outstanding share of common stock, par value \$2.50 per share, of OfficeMax (the OfficeMax common stock ) will be converted into one share of common stock of Mapleby Holdings Merger Corporation ( New OfficeMax ). The first merger will result in a holding company structure for OfficeMax but will not affect the merger consideration that OfficeMax stockholders will receive at the effective time of the second merger pursuant to the merger agreement. Pursuant to the merger agreement, at the effective time of the second merger, each share of New OfficeMax common stock issued and outstanding immediately prior to the effective time of the second merger (excluding any shares of OfficeMax common stock held by Office Depot or its subsidiary Dogwood Merger Sub Inc. or held in treasury) will be converted into the right to receive 2.69 shares of Office Depot common stock, together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement. This exchange ratio is fixed and will not be adjusted for changes in the market value of shares of Office Depot common stock or OfficeMax common stock.

OfficeMax common stock currently trades on the NYSE under the ticker symbol OMX, and Office Depot common stock currently trades on the NYSE under the ticker symbol ODP. The Office Depot common stock being registered pursuant to the registration statement on Form S-4 (of which this joint proxy statement/prospectus forms a part) will be listed on the NYSE.

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**Table of Contents**

The special meeting of OfficeMax stockholders will be held on [ ], 2013 at [ ] [ ] .m., local time, at [ ]. At the special meeting, OfficeMax stockholders will be asked to vote on, among other things, the adoption of the merger agreement and the approval of the first merger and the second merger. **OfficeMax's board of directors unanimously approved the merger agreement and determined that the merger agreement and the transactions contemplated by the merger agreement, including the first merger and the second merger, are advisable and in the best interests of OfficeMax and its stockholders. OfficeMax's board of directors recommends that OfficeMax stockholders vote FOR the adoption of the merger agreement and approval of the first merger and the second merger; FOR the approval on an advisory (non-binding) basis of the compensation that may be paid or become payable to OfficeMax's named executive officers that is based on or otherwise related to the proposed transactions; and FOR the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and to approve the first merger and the second merger.**

The special meeting of Office Depot stockholders will be held on [ ], 2013 at [ ] [ ] .m., local time, at [ ]. At the special meeting, Office Depot stockholders will be asked to vote on, among other things, the Office Depot share issuance. **Office Depot's board of directors unanimously approved the Office Depot share issuance and determined that the merger agreement and the transactions contemplated by the merger agreement, including the Office Depot share issuance, are advisable and in the best interests of Office Depot and its stockholders. Office Depot's board of directors recommends that Office Depot stockholders vote FOR the approval of the Office Depot share issuance; and FOR the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.**

This joint proxy statement/prospectus is an important document containing answers to frequently asked questions and a summary description of the transactions, followed by more detailed information about Office Depot, OfficeMax, the transactions, the merger agreement, and the other matters to be voted upon by Office Depot stockholders and OfficeMax stockholders as part of the special meetings. We urge you to read this document and the documents incorporated by reference into this document carefully and in their entirety. **In particular, you should consider the matters discussed under Risk Factors beginning on page 39.**

We look forward to the successful merger of Office Depot and OfficeMax.

Sincerely,

Neil R. Austrian  
Chairman and Chief Executive Officer  
Office Depot, Inc.

Ravi K. Saligram  
President and Chief Executive Officer  
OfficeMax Incorporated

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities to be issued in connection with the transactions described in this joint proxy statement/prospectus or determined if this joint proxy statement/prospectus is accurate or complete. Any representation to the contrary is a criminal offense.**

This document is dated [ ] and is first being mailed to stockholders of Office Depot and stockholders of OfficeMax on or about [ ].

Table of Contents

OFFICE DEPOT, INC.

6600 North Military Trail

Boca Raton, Florida 33496

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS TO BE HELD ON [ ], 2013**

This is a notice that a special meeting of stockholders of Office Depot, Inc. ( Office Depot ) will be held on [ ], 2013, beginning at [ ][ ]m., local time, at [ ], unless postponed to a later date. This special meeting will be held for the following purposes:

1. to approve the issuance of shares, \$0.01 par value per share, of common stock of Office Depot (the Office Depot share issuance ) to stockholders of OfficeMax Incorporated ( OfficeMax ) pursuant to the Agreement and Plan of Merger, dated as of February 20, 2013 (as it may be amended from time to time, the merger agreement ), by and among Office Depot, Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, Mapleby Merger Corporation and OfficeMax; and
2. to approve the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.

This joint proxy statement/prospectus describes the proposals listed above in more detail. Please refer to the attached document, including the merger agreement and all other annexes and including any documents incorporated by reference, for further information with respect to the business to be transacted at the special meeting. You are encouraged to read the entire document carefully before voting. **In particular, see the section Risk Factors beginning on page 39.**

**Office Depot s board of directors unanimously approved the Office Depot share issuance and determined that the merger agreement and the transactions contemplated by the merger agreement, including the Office Depot share issuance, are advisable and in the best interests of Office Depot and its stockholders. Office Depot s board of directors recommends that Office Depot stockholders vote FOR the approval of the Office Depot share issuance; and FOR the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.**

The Office Depot board of directors has fixed the close of business on May 28, 2013 as the record date for determination of Office Depot stockholders entitled to receive notice of, and to vote at, the Office Depot special meeting or any adjournments or postponements thereof. Only holders of record of Office Depot capital stock at the close of business on the record date are entitled to receive notice of, and to vote at, the Office Depot special meeting.

**YOUR VOTE IS VERY IMPORTANT REGARDLESS OF THE NUMBER OF SHARES THAT YOU OWN.** The merger between Office Depot and OfficeMax cannot be completed without the approval of the Office Depot share issuance by the affirmative vote, in person or by proxy, of a majority of the votes cast at the special meeting in favor of the Office Depot share issuance by holders of shares of 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock, par value \$0.01 per share, and 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock, par value \$0.01 per share, of Office Depot (together, the Office Depot convertible preferred stock ) and shares of Office Depot common stock, voting

**Table of Contents**

together as a single class, provided that the total votes cast on the proposal represent over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and shares of Office Depot common stock entitled to vote on the proposal on the record date. Without approval of the Office Depot share issuance, the second merger will not be completed.

**Whether or not you expect to attend the Office Depot special meeting in person, we urge you to submit a proxy to have your shares voted as promptly as possible by either: (1) logging onto the website shown on your proxy card and following the instructions to vote online; (2) dialing the toll-free number shown on your proxy card and following the instructions to vote by phone; or (3) signing and returning the enclosed proxy card in the postage-paid envelope provided, so that your shares may be represented and voted at the Office Depot special meeting.** If your shares are held in an Office Depot plan or in the name of a broker, bank or other nominee, please follow the instructions on the voting instruction card furnished by the plan trustee or administrator, or such broker, bank or other nominee, as appropriate.

If you have any questions concerning the Office Depot share issuance or the other transactions contemplated by the merger agreement or this joint proxy statement/prospectus, would like additional copies or need help voting your shares of Office Depot common stock, please contact Office Depot's proxy solicitor:

**Innisfree M&A Incorporated**

**501 Madison Avenue**

**New York, NY 10022**

**Stockholders may call toll-free: (877) 825-8621**

**Banks and brokers may call collect: (212) 750-5833**

By order of the Board of Directors

Elisa D. Garcia C.  
*Executive Vice President, General Counsel & Corporate Secretary*

Table of Contents

**OFFICEMAX INCORPORATED**

**263 Shuman Boulevard**

**Naperville, Illinois 60563**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS TO BE HELD ON [ ], 2013**

This is a notice that a special meeting of stockholders of OfficeMax Incorporated ( OfficeMax ) will be held on [ ], 2013, beginning at [ ][ ] .m., local time, at [ ], unless postponed to a later date. This special meeting will be held for the following purposes:

1. to adopt the Agreement and Plan of Merger, dated as of February 20, 2013 (as it may be amended from time to time, the merger agreement ), by and among Office Depot, Inc. ( Office Depot ), Dogwood Merger Sub Inc., Dogwood Merger Sub LLC, Mapleby Holdings Merger Corporation, a direct, wholly-owned subsidiary of OfficeMax ( New OfficeMax ), Mapleby Merger Corporation, a direct, wholly-owned subsidiary of New OfficeMax ( Merger Sub One ), and OfficeMax and to approve:

the merger of Merger Sub One with and into OfficeMax (the first merger ), as a result of which OfficeMax will become a wholly-owned subsidiary of New OfficeMax and each outstanding share of OfficeMax common stock will be converted into one share of New OfficeMax common stock; and

the merger of Dogwood Merger Sub Inc., a direct, wholly-owned subsidiary of Office Depot, with and into New OfficeMax (the second merger ), as a result of which New OfficeMax will become a direct, wholly-owned subsidiary of Office Depot and each outstanding share of New OfficeMax common stock will be converted into the right to receive 2.69 shares, par value \$0.01 per share, of common stock of Office Depot, together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement;

2. to approve on an advisory (non-binding) basis the compensation that may be paid or become payable to OfficeMax s named executive officers that is based on or otherwise related to the proposed transactions; and
3. to approve the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and approve the first merger and the second merger.

This joint proxy statement/prospectus describes the proposals listed above in more detail. Please refer to the attached document, including the merger agreement and all other annexes and including any documents incorporated by reference, for further information with respect to the business to be transacted at the special meeting. You are encouraged to read the entire document carefully before voting. **In particular, see the section Risk Factors beginning on page 39.**

**OfficeMax s board of directors unanimously approved the merger agreement and determined that the merger agreement and the transactions contemplated by the merger agreement, including the first merger and the second merger, are advisable and in the best interests of OfficeMax and its stockholders. OfficeMax s board of directors recommends that OfficeMax stockholders vote FOR the adoption of the merger agreement and the approval of the first merger and the second merger; FOR the approval on an advisory (non-binding) basis of the compensation that may be paid or become payable to OfficeMax s named executive officers that is based on or otherwise related to the proposed transactions; and FOR the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and to approve the first merger and the second merger.**



**Table of Contents**

The OfficeMax board of directors has fixed the close of business on May 28, 2013 as the record date for determination of OfficeMax stockholders entitled to receive notice of, and to vote at, the OfficeMax special meeting or any adjournments or postponements thereof. Only holders of record of OfficeMax capital stock at the close of business on the record date are entitled to receive notice of, and to vote at, the OfficeMax special meeting.

**YOUR VOTE IS VERY IMPORTANT REGARDLESS OF THE NUMBER OF SHARES THAT YOU OWN.** The merger between OfficeMax and Office Depot cannot be completed without the adoption of the merger agreement and the approval of the first merger and the second merger by the affirmative vote, in person or by proxy, of holders of a majority of the outstanding shares of OfficeMax common stock and OfficeMax's Convertible Preferred Stock, Series D ( OfficeMax Series D preferred stock ), entitled to vote as of the record date for the special meeting, voting together as a single class.

**Whether or not you expect to attend the OfficeMax special meeting in person, we urge you to submit a proxy to have your shares voted as promptly as possible by either: (1) logging onto the website shown on your proxy card and following the instructions to vote online; (2) dialing the toll-free number shown on your proxy card and following the instructions to vote by phone; or (3) signing and returning the enclosed proxy card in the postage-paid envelope provided, so that your shares may be represented and voted at the OfficeMax special meeting.** If your shares are held in an OfficeMax plan or in the name of a broker, bank or other nominee, please follow the instructions on the voting instruction card furnished by the plan trustee or administrator, or such broker, bank or other nominee, as appropriate.

If you have any questions concerning the merger agreement or the transactions contemplated by the merger agreement or this joint proxy statement/prospectus, would like additional copies or need help voting your shares of OfficeMax common stock, please contact OfficeMax's proxy solicitor:

**D. F. King & Co., Inc.**

**48 Wall Street**

**New York, NY 10005**

**Stockholders may call toll-free: (888) 605-1956**

**Banks and brokers may call collect: (212) 269-5550**

By order of the Board of Directors

Matthew R. Broad  
*Executive Vice President & General Counsel*

**Table of Contents**

**ADDITIONAL INFORMATION**

This joint proxy statement/prospectus incorporates important business and financial information about Office Depot and OfficeMax from documents that are not included in or delivered with this joint proxy statement/prospectus. **This information is available to you without charge upon your request. You can obtain the documents incorporated by reference into this joint proxy statement/prospectus free of charge by requesting them in writing or by telephone from the appropriate company or its proxy solicitor at the following addresses and telephone numbers:**

**For Office Depot stockholders:**

**Office Depot, Inc.**

**6600 North Military Trail**

**Boca Raton, Florida 33496**

**(561) 438-7878**

**Attention: Investor Relations**

**Innisfree M&A Incorporated**

**501 Madison Avenue**

**New York, NY 10022**

**Stockholders may call toll-free: (877) 825-8621**

**Banks and brokers may call collect: (212) 750-5833**

**If you would like to request any documents, please do so by [ ], 2013 in order to receive them before the special meetings.**

**For OfficeMax stockholders:**

**OfficeMax Incorporated**

**263 Shuman Boulevard**

**Naperville, Illinois 60563**

**(630) 864-6800**

**Attention: Investor Relations**

**D.F. King & Co., Inc.**

**48 Wall Street**

**New York, NY 10005**

**Stockholders may call toll-free: (888) 605-1956**

**Banks and brokers may call collect: (212) 269-5550**

For a more detailed description of the information incorporated by reference into this joint proxy statement/prospectus and how you may obtain it, see [Where You Can Find More Information](#) beginning on page 219.

**ABOUT THIS JOINT PROXY STATEMENT/PROSPECTUS**

This joint proxy statement/prospectus, which forms part of a registration statement on Form S-4 (Registration No. 333-187807) filed with the U.S. Securities and Exchange Commission (referred to in this joint proxy statement/prospectus as the "SEC") by Office Depot, constitutes a prospectus of Office Depot under the Securities Act of 1933, as amended (referred to in this joint proxy statement/prospectus as the "Securities Act"), with respect to the Office Depot common stock to be issued to OfficeMax stockholders pursuant to the second merger. This joint proxy statement/prospectus also constitutes a joint proxy statement for both OfficeMax and Office Depot under the Securities Exchange Act of 1934, as amended (referred to in this joint proxy statement/prospectus as the "Exchange Act"). It also constitutes a notice of meeting with respect to the special meeting of Office Depot stockholders and a notice of meeting with respect to the special meeting of OfficeMax stockholders.

You should rely only on the information contained in or incorporated by reference into this joint proxy statement/prospectus. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this joint proxy statement/prospectus. This joint proxy statement/prospectus is dated [ ], and you should assume that the information contained in this joint proxy statement/prospectus is accurate only as of such date. You should also assume that the information incorporated by reference into this joint proxy statement/prospectus is only accurate as of the date of such information.

**This joint proxy statement/prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation in such**

**jurisdiction. Information contained in this joint proxy statement/prospectus regarding Office Depot has been provided by Office Depot and information contained in this joint proxy statement/prospectus regarding OfficeMax has been provided by OfficeMax.**

**Table of Contents**

All references in this joint proxy statement/prospectus to OfficeMax refer to OfficeMax Incorporated, a Delaware corporation, or, immediately following the conversion into a limited liability company, as described in this joint proxy statement/prospectus, OfficeMax Converted LLC, as applicable; all references to New OfficeMax refer to Mapleby Holdings Merger Corporation, a Delaware corporation and a wholly-owned subsidiary of OfficeMax formed for the purpose of effecting the first merger as described in this joint proxy statement/prospectus; and all references to Merger Sub One refer to Mapleby Merger Corporation, a Delaware corporation and a wholly-owned subsidiary of New OfficeMax formed for the purpose of effecting the first merger as described in this joint proxy statement/prospectus. All references in this joint proxy statement/prospectus to Office Depot refer to Office Depot, Inc., a Delaware corporation; all references to Merger Sub Two refer to Dogwood Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of Office Depot formed for the purpose of effecting the second merger as described in this joint proxy statement/prospectus; and all references to Merger Sub Three refer to Dogwood Merger Sub LLC, a Delaware limited liability company and a wholly-owned subsidiary of Office Depot formed for the purpose of effecting the third merger as described in this joint proxy statement/prospectus. All references in this joint proxy statement/prospectus to the combined company refer to Office Depot immediately following completion of the transactions contemplated by the merger agreement.

All references in this joint proxy statement/prospectus to the merger agreement refer to the Agreement and Plan of Merger, dated as of February 20, 2013, by and among Office Depot, Merger Sub Two, Merger Sub Three, New OfficeMax, Merger Sub One and OfficeMax, a copy of which is included as Annex A to this joint proxy statement/prospectus, as it may be amended from time to time.

**Table of Contents**

**TABLE OF CONTENTS**

	<b>Page</b>
<u>QUESTIONS AND ANSWERS</u>	1
<u>SUMMARY</u>	8
<u>The Parties</u>	8
<u>The Transactions</u>	9
<u>Structure and Effects of the Transactions</u>	9
<u>Office Depot Special Meeting</u>	12
<u>OfficeMax Special Meeting</u>	13
<u>Recommendation of Office Depot's Board of Directors and Reasons for the Transactions</u>	14
<u>Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions</u>	14
<u>Opinions of Office Depot's Financial Advisors</u>	15
<u>Opinion of OfficeMax's Financial Advisor</u>	15
<u>Interests of Certain Office Depot Persons in the Transactions</u>	16
<u>Interests of Certain OfficeMax Persons in the Transactions</u>	17
<u>Board of Directors and Management of the Combined Company Following Completion of the Transactions</u>	18
<u>Material U.S. Federal Income Tax Consequences of the Transactions</u>	19
<u>Accounting Treatment of the Transactions</u>	19
<u>Regulatory Approvals Required to Complete the Transactions</u>	20
<u>Treatment of OfficeMax Stock Options and OfficeMax Stock-Based Awards</u>	20
<u>Treatment of OfficeMax Series D Preferred Stock</u>	21
<u>Treatment of Office Depot Convertible Preferred Stock; Agreements with BC Partners</u>	21
<u>Listing of Office Depot Common Stock; Delisting of OfficeMax Common Stock</u>	22
<u>Appraisal Rights</u>	22
<u>Litigation Related to the Transactions</u>	22
<u>No Solicitation of Acquisition Proposals</u>	23
<u>Conditions to Completion of the Transactions</u>	23
<u>Termination of the Merger Agreement</u>	25
<u>Expenses and Termination Fee Relating to the Transactions</u>	25
<u>Comparison of Rights of Common Stockholders of Office Depot and OfficeMax</u>	26
<u>SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA</u>	27
<u>Selected Historical Consolidated Financial Data of Office Depot</u>	27
<u>Selected Historical Consolidated Financial Data of OfficeMax</u>	29
<u>SELECTED UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION</u>	33
<u>UNAUDITED COMPARATIVE PER SHARE INFORMATION</u>	34
<u>COMPARATIVE STOCK PRICE DATA AND DIVIDENDS</u>	35
<u>Stock Prices</u>	35
<u>Dividends</u>	36
<u>CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS</u>	37
<u>RISK FACTORS</u>	39
<u>Risks Relating to the Transactions</u>	39
<u>Risks Relating to the Combined Company after Completion of the Transactions</u>	44
<u>Other Risk Factors of Office Depot and OfficeMax</u>	47
<u>INFORMATION ABOUT OFFICE DEPOT</u>	48
<u>Office Depot, Inc.</u>	48
<u>Dogwood Merger Sub Inc.</u>	48
<u>Dogwood Merger Sub LLC</u>	48
<u>INFORMATION ABOUT OFFICEMAX</u>	49
<u>OfficeMax Incorporated</u>	49
<u>Mapleby Holdings Merger Corporation</u>	49

**Table of Contents**

	<b>Page</b>
<u>Mapleby Merger Corporation</u>	49
<u>OFFICE DEPOT SPECIAL MEETING</u>	50
<u>General</u>	50
<u>Date, Time and Place of the Office Depot Special Meeting</u>	50
<u>Purposes of the Office Depot Special Meeting</u>	50
<u>Recommendation of Office Depot's Board of Directors</u>	50
<u>Attendance at the Office Depot Special Meeting</u>	51
<u>Record Date</u>	51
<u>Outstanding Shares as of Record Date</u>	51
<u>Shares and Voting of Office Depot's Directors and Executive Officers</u>	52
<u>Voting Agreement with BC Partners</u>	52
<u>Quorum</u>	52
<u>Vote Required</u>	53
<u>How To Vote</u>	53
<u>Proxies and Revocation</u>	54
<u>Inspector of Election</u>	54
<u>Solicitation of Proxies</u>	55
<u>Adjournments</u>	55
<u>Questions and Additional Information</u>	55
<u>OFFICEMAX SPECIAL MEETING</u>	56
<u>General</u>	56
<u>Date, Time and Place of the OfficeMax Special Meeting</u>	56
<u>Purposes of the OfficeMax Special Meeting</u>	56
<u>Recommendation of OfficeMax's Board of Directors</u>	57
<u>Attendance at the OfficeMax Special Meeting</u>	57
<u>Record Date</u>	58
<u>Outstanding Shares as of Record Date</u>	58
<u>Shares and Voting of OfficeMax's Directors and Executive Officers</u>	58
<u>Quorum</u>	59
<u>Vote Required</u>	59
<u>How To Vote</u>	60
<u>Proxies and Revocation</u>	61
<u>Inspector of Election</u>	61
<u>Solicitation of Proxies</u>	61
<u>Adjournments</u>	61
<u>Questions and Additional Information</u>	62
<u>THE TRANSACTIONS</u>	63
<u>Effects of the Transactions</u>	63
<u>Background of the Transactions</u>	66
<u>Recommendation of Office Depot's Board of Directors and Reasons for the Transactions</u>	80
<u>Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions</u>	84
<u>Certain Financial Projections Utilized by Office Depot's Board of Directors and Office Depot's Financial Advisors</u>	88
<u>Certain Financial Projections Utilized by OfficeMax's Board of Directors and OfficeMax's Financial Advisor</u>	90
<u>Important Information About the Unaudited Financial Projections</u>	92
<u>Opinions of Office Depot's Financial Advisors</u>	93
<u>Opinion of OfficeMax's Financial Advisor</u>	113
<u>Interests of Certain Office Depot Persons in the Transactions</u>	123
<u>Interests of Certain OfficeMax Persons in the Transactions</u>	129

**Table of Contents**

	<b>Page</b>
<u>Board of Directors and Management of the Combined Company Following Completion of the Transactions</u>	134
<u>Material U.S. Federal Income Tax Consequences of the Transactions</u>	135
<u>Accounting Treatment of the Transactions</u>	138
<u>Regulatory Approvals</u>	138
<u>Exchange of Shares</u>	140
<u>Treatment of OfficeMax Stock Options and OfficeMax Stock-Based Awards</u>	141
<u>Treatment of OfficeMax Series D Preferred Stock</u>	142
<u>Treatment of Office Depot Convertible Preferred Stock; Agreements with BC Partners</u>	142
<u>Dividend Policy</u>	144
<u>Listing of Office Depot Common Stock; Delisting of OfficeMax Common Stock</u>	144
<u>Appraisal Rights</u>	144
<u>Litigation Related to the Transactions</u>	144
<b><u>THE MERGER AGREEMENT</u></b>	146
<u>The Transactions</u>	146
<u>Closing; Effective Time</u>	147
<u>Conditions to Completion of the Transactions</u>	147
<u>Efforts to Obtain Required Stockholder Approvals</u>	150
<u>No Solicitation of Acquisition Proposals</u>	150
<u>Effects of the Transactions</u>	153
<u>Treatment of OfficeMax Stock Options and OfficeMax Stock-Based Awards</u>	154
<u>Adjustments to Prevent Dilution</u>	155
<u>Dividends and Distributions</u>	155
<u>Efforts to Complete the Transactions</u>	155
<u>Termination of the Merger Agreement</u>	157
<u>Expenses and Termination Fee</u>	159
<u>Conduct of Business Pending the Completion of the Transactions</u>	161
<u>Governance of the Combined Company Following Completion of the Transactions</u>	164
<u>Indemnification; Directors and Officers Insurance</u>	166
<u>Employee Matters</u>	166
<u>Amendment and Waiver</u>	167
<u>No Third Party Beneficiaries</u>	167
<u>Remedies; Specific Performance</u>	167
<u>Representations and Warranties</u>	168
<u>Other Covenants and Agreements</u>	169
<b><u>UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION</u></b>	170
<b><u>OFFICE DEPOT STOCK OWNERSHIP INFORMATION</u></b>	183
<b><u>DESCRIPTION OF OFFICE DEPOT CAPITAL STOCK</u></b>	187
<u>General</u>	187
<u>Common Stock</u>	187
<u>Rights Agreement and Office Depot Series C Preferred Stock</u>	188
<u>Office Depot Convertible Preferred Stock</u>	191
<b><u>COMPARISON OF RIGHTS OF COMMON STOCKHOLDERS OF OFFICE DEPOT AND OFFICEMAX</u></b>	193
<b><u>LEGAL MATTERS</u></b>	214
<b><u>EXPERTS</u></b>	215
<u>Office Depot</u>	215
<u>Office Depot de México, S.A. de C.V.</u>	215
<u>OfficeMax</u>	215
<b><u>STOCKHOLDER PROPOSALS</u></b>	216
<u>Office Depot</u>	216
<u>OfficeMax</u>	216

**Table of Contents**

	<b>Page</b>
<u>HOUSEHOLDING OF JOINT PROXY STATEMENT/PROSPECTUS</u>	218
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	219
Annex A Agreement and Plan of Merger	A-1
Annex B Form of Amended and Restated Bylaws.	B-1
Annex C Peter J. Solomon Company L.P. Fairness Opinion.	C-1
Annex D Morgan Stanley & Co. LLC Fairness Opinion	D-1
Annex E J.P. Morgan Securities LLC Fairness Opinion	E-1



**Table of Contents**

**QUESTIONS AND ANSWERS**

*The following are some questions that you, as a stockholder of Office Depot or a stockholder of OfficeMax, may have regarding the transactions, the Office Depot share issuance and other matters being considered at the special meetings of stockholders of Office Depot and OfficeMax and the answers to those questions. Office Depot and OfficeMax urge you to carefully read the remainder of this joint proxy statement/prospectus because the information in this section does not provide all the information that might be important to you with respect to the transactions, the Office Depot share issuance and the other matters being considered at the special meetings of stockholders of Office Depot and OfficeMax. Additional important information is also contained in the annexes to and the documents incorporated by reference into this joint proxy statement/prospectus.*

**Q: Why am I receiving this document?**

A: Office Depot and OfficeMax and certain of their wholly-owned subsidiaries have entered into the merger agreement providing for a merger of equals pursuant to the transactions described in this joint proxy statement/prospectus.

In order to complete the transactions, among other conditions, Office Depot stockholders must approve the proposal to issue Office Depot common stock to the OfficeMax stockholders pursuant to the merger agreement, and OfficeMax stockholders must approve the proposal to adopt the merger agreement and to approve the first merger and the second merger as contemplated by the merger agreement. Office Depot and OfficeMax will hold separate special meetings to obtain these approvals.

This joint proxy statement/prospectus, which you should read carefully, contains important information about the transactions, the Office Depot share issuance and other matters being considered at the special meetings of stockholders of Office Depot and OfficeMax.

**Q: How important is my vote?**

A: Your vote FOR the proposals related to the transactions is very important. You are encouraged to submit a proxy as soon as possible.

Approval of the Office Depot share issuance requires the affirmative vote, in person or by proxy, of a majority of the votes cast by holders of shares of Office Depot convertible preferred stock and Office Depot common stock, voting as a single class; provided that the total votes cast represent over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and Office Depot common stock entitled to vote on the Office Depot share issuance. Any abstention from voting by an Office Depot stockholder will have the same effect as a vote against this proposal. The failure of any Office Depot stockholder to submit a vote and any broker non-vote will not be counted in determining the votes cast in connection with this proposal, but could have the same effect as a vote against this proposal if the failure to submit a vote or any broker non-vote results in the total number of votes cast on the proposal not representing over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and Office Depot common stock entitled to vote on this proposal.

Adoption of the merger agreement and approval of the first merger and the second merger requires the affirmative vote, in person or by proxy, of holders of a majority of the outstanding shares of OfficeMax common stock and OfficeMax Series D preferred stock entitled to vote, voting as a single class. Any abstention from voting by an OfficeMax stockholder, the failure of any OfficeMax stockholder to submit a vote and any broker non-vote will have the same effect as voting against this proposal.

## **Table of Contents**

### **Q: Why have the companies decided to merge?**

A: Office Depot and OfficeMax believe that the proposed business combination will provide strategic and financial benefits including:

the expectation that the combined company will be well positioned to optimize and integrate its sales platform and distribution network to better compete with online retailers, mass merchants, warehouse clubs, and other retailers that are placing a greater emphasis on office product sales;

the opportunity to combine resources and expertise to better meet the needs of consumers and business-to-business customers of both companies;

the expectation that the combined company will deliver long-term operating improvement, with greater potential for earnings expansion;

the expectation based on estimates by Office Depot and OfficeMax management prior to the execution of the merger agreement that the transactions will deliver \$400-600 million in annual cost synergies by the third year following completion of the transactions;

the increased financial strength of the combined company and the resulting ability to invest in current businesses and future growth opportunities; and

the combination of the two companies' complementary international businesses, strengthening the combined company's ability to serve customers around the world to create a stronger global competitor.

To review the reasons for the transactions in greater detail, see the sections titled "The Transactions" Recommendation of Office Depot's Board of Directors and Reasons for the Transactions" beginning on page 80 and "The Transactions" Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions" beginning on page 84.

### **Q: What will OfficeMax stockholders receive for their shares?**

A: As a result of the transactions, each OfficeMax stockholder will be entitled to receive 2.69 shares of Office Depot common stock for each share of OfficeMax common stock held (referred to in this joint proxy statement/prospectus as the "exchange ratio"), together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement.

Based upon the estimated number of shares of capital stock of the parties that will be outstanding immediately prior to completion of the transactions, we estimate that, upon completion of the transactions, Office Depot stockholders will hold approximately [ ]% and OfficeMax stockholders will hold approximately [ ]% of the outstanding common stock of the combined company (assuming the redemption of all outstanding shares of Office Depot convertible preferred stock).

For additional information regarding the consideration to be received in the transactions, see the section entitled "The Transactions" Effects of the Transactions" beginning on page 63.

**Q: What will happen in the proposed transactions?**

A: Office Depot and OfficeMax have entered into the merger agreement pursuant to which, through a series of transactions, including the first merger and the second merger, OfficeMax will become a wholly-owned subsidiary of Office Depot, and OfficeMax stockholders will become stockholders of Office Depot.

Following completion of the transactions, the stockholders of Office Depot and OfficeMax will be the stockholders of the combined company. Additional information regarding the structure of the proposed transactions is contained in the section entitled "The Transactions" "Effects of the Transactions" beginning on page 63.

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**Table of Contents**

**Q: What will the board of directors and management of the combined company look like?**

A: The merger agreement contains certain provisions relating to the governance of Office Depot following completion of the transactions (referred to in this joint proxy statement/prospectus as the combined company ), which reflect the merger of equals structure of the proposed business combination. Completion of the transactions is subject to certain conditions, including the adoption by Office Depot, effective as of the effective time of the second merger, of the amended and restated bylaws in the form included as Annex B in this joint proxy statement/prospectus (referred to in this joint proxy statement/prospectus as the amended and restated bylaws or the Office Depot amended and restated bylaws ) to implement certain governance matters for a four-year period following completion of the transactions.

The board of directors of the combined company and its committees will have equal representation from both parties as of the closing. As of the closing, the then-current chief executive officers of both parties will be appointed as co-chief executive officers of the combined company, unless and until a successor has been appointed as the sole chief executive officer of the combined company (referred to in this joint proxy statement/prospectus as the successor CEO ). A selection committee consisting of an equal number of independent directors of each party will identify successor CEO candidates. Office Depot has designated Nigel Travis, Marsha J. Evans and Thomas J. Colligan and OfficeMax has designated V. James Marino, Rakesh Gangwal and Francesca Ruiz de Luzuriaga as members of the selection committee with Messrs. Travis and Marino serving as co-chairpersons. The selection committee will also consider the then-current chief executive officers of both parties as successor CEO candidates. In addition, as of the closing, the officers for the combined company will be appointed by the newly constituted board of directors from among the officers of both parties.

The combined company s name and headquarters location will be determined by the newly constituted board of directors, taking into consideration the recommendation of the successor CEO after his or her appointment. If such matters have not been determined prior to the completion of the transactions, the combined company will have dual headquarters in Naperville, Illinois and Boca Raton, Florida, and the businesses of each party will continue to operate under their existing names, in each case until otherwise so determined.

For a more complete description of the provisions of the merger agreement and the amended and restated bylaws related to the governance of the combined company, see The Transactions Board of Directors and Management of the Combined Company Following Completion of the Transactions on page 134 and The Merger Agreement Governance of the Combined Company Following Completion of the Transactions on page 164.

**Q: Will the Office Depot common stock received at the time of completion of the transactions be traded on an exchange?**

A: Yes. It is a condition to the consummation of the transactions that the shares of Office Depot common stock to be issued to OfficeMax stockholders in the second merger be authorized for listing on the NYSE, subject to official notice of issuance.

**Q: How will Office Depot stockholders be affected by the transactions?**

A: Upon completion of the transactions, each Office Depot stockholder will hold the same number of shares of Office Depot common stock that such stockholder held immediately prior to completion of the transactions. As a result of the transactions, Office Depot stockholders will own shares in a larger company with more assets. However, because in connection with the transactions, Office Depot will be issuing additional shares of Office Depot common stock to OfficeMax stockholders in exchange for their shares of OfficeMax common stock, each outstanding share of Office Depot common stock immediately prior to the transactions will represent a smaller percentage of the aggregate number of shares of Office Depot common stock outstanding after the transactions.

**Table of Contents**

**Q: What are the material U.S. federal income tax consequences of the transactions?**

A: The obligations of the parties to consummate the transactions are subject to the receipt by Office Depot and OfficeMax of the opinions of their respective counsel to the effect that, on the basis of the facts, representations and assumptions set forth in such opinions which are consistent with the state of facts existing as of the closing date, the transactions, taken together, will qualify for U.S. federal income tax purposes as reorganizations within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (referred to in this joint proxy statement/prospectus as the Code ). If the transactions so qualify, then a U.S. holder of OfficeMax common stock generally will not recognize any gain or loss as a result of the transactions (other than gain or loss with respect to cash received in lieu of a fractional share).

The tax consequences of the transactions to each OfficeMax stockholder may depend on such holder's particular facts and circumstances. OfficeMax stockholders are urged to consult their tax advisors to understand fully the consequences to them of the transactions in their specific circumstances. A more detailed discussion of the material U.S. federal income tax consequences of the transactions can be found in the section entitled The Transactions Material U.S. Federal Income Tax Consequences of the Transactions beginning on page 135.

**Q: When do Office Depot and OfficeMax expect to complete the transactions?**

A: Office Depot and OfficeMax currently expect to complete the transactions by the end of calendar year 2013, subject to receipt of required stockholder approvals and regulatory approvals and subject to the satisfaction or waiver of other conditions. However, neither Office Depot nor OfficeMax can predict the actual date on which the transactions will be completed because completion is subject to conditions beyond each company's control. See the sections entitled The Transactions Regulatory Approvals beginning on page 138 and The Merger Agreement Conditions to Completion of the Transactions beginning on page 147.

**Q: When and where is the special meeting of the Office Depot stockholders?**

A: The Office Depot special meeting will be held on [ ], 2013, beginning at [ ] [ ]m., local time, at [ ], unless postponed to a later date.

**Q: When and where is the special meeting of the OfficeMax stockholders?**

A: The OfficeMax special meeting will be held on [ ], 2013, beginning at [ ] [ ]m., local time, at [ ], unless postponed to a later date.

**Q: Who can vote at the special meetings?**

A: All Office Depot stockholders of record at the close of business on May 28, 2013, the record date for the Office Depot special meeting, are entitled to receive notice of and to vote at the special meeting.

All OfficeMax stockholders of record at the close of business on May 28, 2013, the record date for the OfficeMax special meeting, are entitled to receive notice of and to vote at the special meeting.

**Q: What do I need to do now?**

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- A: After you have carefully read and considered the information contained or incorporated by reference into this joint proxy statement/prospectus, please submit your proxy via the Internet or by telephone in accordance with the instructions set forth on the enclosed proxy card, or complete, sign, date and return the enclosed proxy card in the postage-prepaid envelope provided as soon as possible so that your shares will be represented and voted at the Office Depot special meeting or the OfficeMax special meeting, as applicable.

Additional information on voting procedures can be found under the section entitled Office Depot Special Meeting beginning on page 50 and under the section entitled OfficeMax Special Meeting beginning on page 56.

**Table of Contents**

**Q: How will my proxy be voted?**

A: If you submit your proxy via the Internet, by telephone or by completing, signing, dating and returning the enclosed proxy card, your proxy will be voted in accordance with your instructions.

Additional information on voting procedures can be found under the section entitled Office Depot Special Meeting beginning on page 50 and under the section entitled OfficeMax Special Meeting beginning on page 56.

**Q: May I vote in person?**

A: Yes. If you are a stockholder of record of Office Depot at the close of business on May 28, 2013 or of OfficeMax at the close of business on May 28, 2013, you may attend your special meeting and vote your shares in person, in lieu of submitting your proxy by Internet, telephone or by completing, signing, dating and returning the enclosed proxy card.

**Q: What must I bring to attend my special meeting?**

A: Only stockholders of record as of the applicable record date, beneficial owners as of the applicable record date, holders of valid proxies for the special meeting and invited guests of Office Depot or OfficeMax may attend the applicable special meeting. All attendees should be prepared to present government-issued photo identification (such as a driver's license or passport) for admittance. The additional items, if any, that attendees must bring depend on whether they are stockholders of record, beneficial owners or proxy holders.

Additional information on attending the special meetings can be found under the section entitled Office Depot Special Meeting beginning on page 50 and under the section entitled OfficeMax Special Meeting beginning on page 56.

**Q: What should I do if I receive more than one set of voting materials for the Office Depot special meeting or the OfficeMax special meeting?**

A: You may receive more than one set of voting materials for the Office Depot special meeting or the OfficeMax special meeting, including multiple copies of this joint proxy statement/prospectus and multiple proxy cards or voting instruction cards. For example, if you hold your Office Depot common stock or OfficeMax common stock in more than one brokerage account, you will receive a separate voting instruction card for each brokerage account in which you hold shares. If you are a holder of record and your shares are registered in more than one name, you will receive more than one proxy card. Please submit each separate proxy or voting instruction card that you receive by following the instructions set forth in each separate proxy or voting instruction card.

**Q: If my shares are held in street name by my broker, bank or other nominee, will my broker, bank or other nominee automatically vote my shares for me?**

A: No. If your shares are held in the name of a broker, bank or other nominee, you will receive separate instructions from your broker, bank or other nominee describing how to vote your shares. The availability of Internet or telephonic voting will depend on the nominee's voting process. Please check with your broker, bank or other nominee and follow the voting procedures your broker, bank or other nominee provides.

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You should instruct your broker, bank or other nominee how to vote your shares. Under the rules applicable to broker-dealers, your broker, bank or other nominee does not have discretionary authority to vote your shares on any of the proposals scheduled to be voted on at the Office Depot or OfficeMax special meetings.

Additional information on voting procedures can be found under the section entitled Office Depot Special Meeting beginning on page 50 and under the section entitled OfficeMax Special Meeting beginning on page 56.



**Table of Contents**

**Q: As a participant in the OfficeMax Employee Stock Ownership Plan, how do I vote shares allocated to me under the plan?**

A: If you are a current or former employee of OfficeMax or one of its subsidiaries and you own shares of OfficeMax Series D preferred stock in the Employee Stock Ownership Plan (referred to in this joint proxy statement/prospectus as the ESOP ) fund, you may instruct Vanguard Fiduciary Trust Company, the plan trustee, how to vote the shares of stock allocated to you under the ESOP by requesting a proxy card to sign, date and return or by submitting your voting instructions by telephone or through the Internet.

The plan trustee will vote any shares in the ESOP for which instructions are not received, or that are not allocated to an account, in the same proportion as shares of stock voted by the plan participants generally, subject to the trustee's fiduciary obligations under applicable law.

**Q: What do I do if I am an Office Depot stockholder and I want to revoke my proxy?**

A: Office Depot stockholders of record may revoke their proxies at any time before their shares are voted at the Office Depot special meeting in any of the following ways:

sending a written notice of revocation to Office Depot at 6600 North Military Trail, Boca Raton, Florida 33496, Attention: Corporate Secretary, which must be received before their shares are voted at the special meeting;

properly submitting a later-dated, new proxy card, which must be received before their shares are voted at the special meeting (in which case only the later-dated proxy is counted and the earlier proxy is revoked);

submitting a proxy via Internet or by telephone at a later date (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or

attending the Office Depot special meeting and voting in person. Attendance at the special meeting will not, however, in and of itself, constitute a vote or revocation of a prior proxy.

Office Depot beneficial owners may change their voting instruction only by submitting new voting instructions to the brokers, banks or other nominees that hold their shares of record.

Additional information can be found under the section entitled Office Depot Special Meeting beginning on page 50.

**Q: What do I do if I am an OfficeMax stockholder and I want to revoke my proxy?**

A: OfficeMax stockholders of record may revoke their proxies at any time before their shares are voted at the OfficeMax special meeting in any of the following ways:

sending a written notice of revocation to OfficeMax at 263 Shuman Boulevard, Naperville, Illinois 60563, Attention: Corporate Secretary, which must be received before their shares are voted at the special meeting;

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properly submitting a later-dated, new proxy card, which must be received before their shares are voted at the special meeting (in which case only the later-dated proxy is counted and the earlier proxy is revoked);

submitting a proxy via Internet or by telephone at a later date (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or

attending the OfficeMax special meeting and voting in person. Attendance at the special meeting will not, however, in and of itself, constitute a vote or revocation of a prior proxy.

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**Table of Contents**

OfficeMax beneficial owners may change their voting instruction only by submitting new voting instructions to the brokers, banks or other nominees that hold their shares of record.

Additional information can be found under the section entitled **OfficeMax Special Meeting** beginning on page 56.

**Q: Should I send in my OfficeMax stock certificates now?**

A: No. Please DO NOT send your OfficeMax stock certificates with your proxy card. If the transactions are completed, you will receive written instructions for exchanging your stock certificates for shares of Office Depot common stock shortly after the time the transactions are completed.

**Q: Do Office Depot or OfficeMax stockholders have appraisal or dissenters' rights?**

A: No. Under Delaware law, neither Office Depot nor OfficeMax stockholders are entitled to appraisal or dissenters' rights in connection with the transactions.

**Q: How can I find more information about Office Depot and OfficeMax?**

A: You can find more information about Office Depot and OfficeMax from various sources described in the section entitled **Where You Can Find More Information** beginning on page 219.

**Q: Who can answer any questions I may have about the special meeting or the transactions?**

A: If you have any questions about the transactions or how to submit your proxy, or if you need additional copies of this joint proxy statement/prospectus or documents incorporated by reference herein, the enclosed proxy card or voting instructions, you should contact:

**For Office Depot stockholders:**

**Office Depot, Inc.  
6600 North Military Trail  
Boca Raton, Florida 33496  
(561) 438-7878  
Attention: Investor Relations**

**Innisfree M&A Incorporated**

**501 Madison Avenue  
New York, NY 10022**

**Stockholders may call toll-free: (877) 825-8621**

**Banks and brokers may call collect: (212) 750-5833**

**For OfficeMax stockholders:**

**OfficeMax Incorporated  
263 Shuman Boulevard  
Naperville, Illinois 60563  
(630) 864-6800  
Attention: Investor Relations**

**D.F. King & Co., Inc.  
48 Wall Street  
New York, NY 10005**

**Stockholders may call toll-free: (888) 605-1956**

**Banks and brokers may call collect: (212) 269-5550**



**Table of Contents**

**SUMMARY**

*The following summary highlights selected information described in more detail elsewhere in this joint proxy statement/prospectus and the documents incorporated by reference into this joint proxy statement/prospectus and may not contain all the information that may be important to you. To understand the transactions and the matters being voted on by OfficeMax stockholders and Office Depot stockholders at their respective special meetings more fully, and to obtain a more complete description of the legal terms of the merger agreement, you should carefully read this entire document, including the annexes, and the documents to which Office Depot and OfficeMax refer you. Each item in this summary includes a page reference directing you to a more complete description of that topic. See *Where You Can Find More Information* beginning on page 219.*

**The Parties (see pages 48 and 49)**

***OfficeMax Incorporated***

OfficeMax Incorporated, a Delaware corporation and referred to in this joint proxy statement/prospectus as OfficeMax, is a leader in both business-to-business and retail office products distribution. OfficeMax provides office supplies and paper, print and document services, technology products and solutions and office furniture and facilities products to large, medium and small businesses, government offices and consumers. OfficeMax customers are served by approximately 29,000 associates through direct sales, catalogs, the Internet and more than 900 retail stores located throughout the United States, Canada, Australia, New Zealand, Mexico, the U.S. Virgin Islands and Puerto Rico. Shares of OfficeMax common stock are traded on the New York Stock Exchange (referred to in this joint proxy statement/prospectus as the NYSE ) under the symbol OMX. The principal executive offices of OfficeMax are located at 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800.

***Mapleby Holdings Merger Corporation***

Mapleby Holdings Merger Corporation, a Delaware corporation and referred to in this joint proxy statement/prospectus as New OfficeMax, is a direct, wholly-owned subsidiary of OfficeMax. Mapleby Holdings Merger Corporation was formed by OfficeMax solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o OfficeMax Incorporated, 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800.

***Mapleby Merger Corporation***

Mapleby Merger Corporation, a Delaware corporation and referred to in this joint proxy statement/prospectus as Merger Sub One, is a direct, wholly-owned subsidiary of Mapleby Holdings Merger Corporation and an indirect, wholly-owned subsidiary of OfficeMax. Mapleby Merger Corporation was formed by OfficeMax solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o OfficeMax Incorporated, 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800.

***Office Depot, Inc.***

Office Depot, Inc., a Delaware corporation and referred to in this joint proxy statement/prospectus as Office Depot, is a global supplier of office products and services. Office Depot provides office supplies and services through 1,629 worldwide retail stores (including retail stores wholly-owned and operated by Office Depot, retail stores operated by Office Depot de México, S.A. de C.V., Office Depot's Mexican joint venture, and retail stores

## **Table of Contents**

operated under Office Depot's franchise and licensing agreements), a field sales force, top-rated catalogs and global e-commerce operations. Sales are processed through multiple channels, consisting of office supply stores, a contract sales force, an outbound telephone account management sales force, Internet sites, direct marketing catalogs and call centers, all supported by a network of supply chain facilities and delivery operations. Office Depot employs about 38,000 associates and serves customers in 59 countries worldwide. Shares of Office Depot common stock are traded on the NYSE under the symbol ODP. The principal executive offices of Office Depot are located at 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800.

### ***Dogwood Merger Sub Inc.***

Dogwood Merger Sub Inc., a Delaware corporation and referred to in this joint proxy statement/prospectus as Merger Sub Two, is a direct, wholly-owned subsidiary of Office Depot. Dogwood Merger Sub Inc. was formed by Office Depot solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o Office Depot, Inc., 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800.

### ***Dogwood Merger Sub LLC***

Dogwood Merger Sub LLC, a Delaware limited liability company and referred to in this joint proxy statement/prospectus as Merger Sub Three, is a direct, wholly-owned subsidiary of Office Depot. Dogwood Merger Sub LLC was formed by Office Depot solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o Office Depot, Inc., 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800.

### **The Transactions (see page 63)**

Office Depot, Merger Sub Two, Merger Sub Three, New OfficeMax, Merger Sub One and OfficeMax have entered into the merger agreement pursuant to which, through a series of transactions including the first merger and the second merger, OfficeMax will become an indirect, wholly-owned subsidiary of Office Depot, and OfficeMax stockholders will become stockholders of Office Depot.

OfficeMax stockholders are receiving this document in connection with OfficeMax's solicitation of proxies for its special meeting of stockholders to vote on, among other things, the proposal to adopt the merger agreement and to approve the first merger and the second merger as contemplated by the merger agreement.

Office Depot stockholders are receiving this document in connection with Office Depot's solicitation of proxies for its special meeting of stockholders to vote on, among other things, the proposal to issue Office Depot common stock to the OfficeMax stockholders pursuant to the merger agreement.

### **Structure and Effects of the Transactions (see page 63)**

Upon the terms and subject to the conditions set forth in the merger agreement and in accordance with Delaware law, on the closing date:

Merger Sub One will merge (referred to in this joint proxy statement/prospectus as the first merger) with and into OfficeMax, with OfficeMax surviving the first merger as a wholly-owned subsidiary of New OfficeMax;

following the effective time of the first merger, OfficeMax, the surviving corporation of the first merger, will be converted (referred to in this joint proxy statement/prospectus as the LLC conversion) into a Delaware limited liability company;

**Table of Contents**

following the effective time of the LLC conversion, Merger Sub Two will merge (referred to in this joint proxy statement/prospectus as the second merger ) with and into New OfficeMax, with New OfficeMax surviving the second merger as a wholly-owned subsidiary of Office Depot; and

following the effective time of the second merger, New OfficeMax, the surviving corporation from the second merger, will merge (referred to in this joint proxy statement/prospectus as third merger ) with and into Merger Sub Three, with Merger Sub Three surviving the third merger as a wholly-owned subsidiary of Office Depot.

Set forth below is a diagram depicting the structure of the first merger and the LLC conversion described under the first and second bullet points above.

- \* In the first merger, shares of OfficeMax will be converted into shares of New OfficeMax, so the former holders of OfficeMax capital stock will, at the effective time of the first merger, own all of the outstanding shares of New OfficeMax. Following the effective time of the first merger, OfficeMax will be converted into a limited liability company.
- \*\* Circled entities are disregarded for U.S. federal income tax purposes.

**Table of Contents**

Set forth below is a diagram depicting the structure of the second merger and the third merger described under the third and fourth bullet points above.

\* Circled entities are disregarded for U.S. federal income tax purposes.

The first merger, the second merger, the third merger and the LLC conversion are collectively referred to in this joint proxy statement/prospectus as the transactions. In structuring the transactions as described above, the parties took into account, among other things, the effect of the transactions on certain contractual obligations of Office Depot and OfficeMax, as well as the desire to preserve tax-free reorganization treatment. For diagrams depicting the structure of the transactions described above, see The Transactions Effects of the Transactions beginning on page 63.

At the effective time of the first merger, each share of OfficeMax common stock issued and outstanding immediately prior to the effective time of the first merger will be converted into one share of common stock of



## **Table of Contents**

New OfficeMax. Each of OfficeMax and New OfficeMax will take all actions as may be necessary so that at the effective time of the first merger, each OfficeMax stock option and each other OfficeMax stock-based award will, automatically and without any action on behalf of the holder thereof, be converted into a stock option or award, as the case may be, denominated in, or measured in whole or in part by the value of, shares of capital stock of New OfficeMax.

At the effective time of the second merger, each share of New OfficeMax common stock issued and outstanding immediately prior to the effective time of the second merger (excluding any shares held by Office Depot, Merger Sub Two or in treasury, which shares will be cancelled and no payment will be made with respect to such shares) will be converted into the right to receive 2.69 shares of Office Depot common stock (referred to in this joint proxy statement/prospectus as the exchange ratio ), together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement.

For more information, see also The Merger Agreement Effects of the Transactions beginning on page 153.

The exchange ratio is fixed and will not be adjusted for changes in the market value of shares of Office Depot common stock or OfficeMax common stock. Because the exchange ratio was fixed at the time the merger agreement was executed and because the market value of Office Depot common stock and OfficeMax common stock will fluctuate during the pendency of the transactions, OfficeMax stockholders cannot be sure of the value of the shares of Office Depot common stock they will receive relative to the value of their shares of OfficeMax common stock. See also Risk Factors Risks Relating to the Transactions beginning on page 39.

### **Office Depot Special Meeting (see page 50)**

**Date, Time and Place.** The Office Depot special meeting will be held on [ ], 2013, beginning at [ ][ ] .m., local time, at [ ], unless postponed to a later date.

**Purpose.** The special meeting of Office Depot stockholders is being held to consider and vote on the following proposals:

**Proposal 1.** to approve the issuance of shares of Office Depot common stock to OfficeMax stockholders pursuant to the merger agreement, which is referred to in this joint proxy statement/prospectus as the Office Depot share issuance; and

**Proposal 2.** to approve the adjournment of the Office Depot special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.

**Record Date; Voting Rights.** The record date for the determination of stockholders entitled to notice of and to vote at the Office Depot special meeting is May 28, 2013. Only Office Depot stockholders who held shares of record at the close of business on May 28, 2013 are entitled to vote at the special meeting and any adjournment or postponement of the special meeting, so long as such shares remain outstanding on the date of the special meeting. Office Depot common stock and Office Depot convertible preferred stock are the only classes of stock entitled to vote, and holders of Office Depot common stock and Office Depot convertible preferred stock are entitled to vote on each proposal presented at the Office Depot special meeting. Each share of Office Depot common stock entitles its holder of record to one vote at the Office Depot special meeting. As of the record date, the 350,000 shares of Office Depot convertible preferred stock issued and outstanding entitle funds advised by BC Partners Ltd and its affiliates (collectively referred to in this joint proxy statement/prospectus as BC Partners ) as the record holder to a total of 81,354,536 votes (on an as-converted basis) at the Office Depot special meeting.

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**Table of Contents**

**Vote Required.** The votes required for each proposal are as follows:

**Proposal 1.** The affirmative vote, in person or by proxy, of a majority of the votes cast on Proposal 1 by holders of shares of Office Depot convertible preferred stock and Office Depot common stock, voting as a single class, is required to approve the Office Depot share issuance; provided that the total votes cast on Proposal 1 represents over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and Office Depot common stock entitled to vote on Proposal 1.

**Proposal 2.** The affirmative vote of holders of a majority of the shares of Office Depot common stock and Office Depot convertible preferred stock (on an as-converted basis) present, in person or by proxy, and entitled to vote at the Office Depot special meeting, is required to approve the adjournment of the Office Depot special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.

As of the record date, there were [ ] shares of Office Depot common stock outstanding, held by [ ] holders of record, and [ ] shares of Office Depot convertible preferred stock outstanding, all of which are held of record by BC Partners. In addition, as of the record date, Office Depot directors and executive officers, as a group, owned and were entitled to vote [ ] shares of Office Depot common stock, or approximately [ ]% of the outstanding shares of Office Depot common stock. Office Depot currently expects that these directors and executive officers will vote their shares in favor of the proposal to approve the Office Depot share issuance, although none of them has entered into any agreement obligating them to do so.

Concurrently with the execution of the merger agreement, Office Depot and OfficeMax entered into a voting agreement (referred to in this joint proxy statement/prospectus as the voting agreement ) with BC Partners, pursuant to which BC Partners agreed, among other matters and upon the terms and subject to the conditions set forth in the voting agreement, to vote all of their shares of Office Depot convertible preferred stock, together with any other voting securities of Office Depot acquired by BC Partners after February 20, 2013, in favor of the Office Depot share issuance and the other actions contemplated by the merger agreement and against any alternative transaction proposal with respect to Office Depot. BC Partners holds all of the 350,000 shares of Office Depot convertible preferred stock, representing, on an as-converted basis, approximately [ ]% of the voting power of Office Depot as of the record date.

**OfficeMax Special Meeting (see page 56)**

**Date, Time and Place.** The OfficeMax special meeting will be held on [ ], 2013, beginning at [ ] [ ] .m., local time, at [ ], unless postponed to a later date.

**Purpose.** The special meeting of OfficeMax stockholders is being held to consider and vote on the following proposals:

**Proposal 1.** to adopt the merger agreement and to approve the first merger and the second merger;

**Proposal 2.** to approve on an advisory (non-binding) basis the compensation that may be paid or become payable to OfficeMax s named executive officers that is based on or otherwise related to the proposed transactions; and

**Proposal 3.** to approve the adjournment of the OfficeMax special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and approve the first merger and the second merger.

**Record Date; Voting Rights.** The record date for the determination of stockholders entitled to notice of and to vote at the OfficeMax special meeting is May 28, 2013. Only OfficeMax stockholders who held shares of record at the close of business on May 28, 2013 are entitled to vote at the special meeting and any adjournment



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**Table of Contents**

or postponement of the special meeting, so long as such shares remain outstanding on the date of the special meeting. OfficeMax common stock and OfficeMax Series D preferred stock are the only classes of stock entitled to vote, and holders of OfficeMax common stock and OfficeMax Series D preferred stock are entitled to vote on each proposal presented at the OfficeMax special meeting. Each share of OfficeMax common stock entitles its holder of record to one vote at the OfficeMax special meeting, and each share of OfficeMax Series D preferred stock entitles its holder of record to one vote at the OfficeMax special meeting.

**Vote Required.** The votes required for each proposal are as follows:

**Proposal 1.** The affirmative vote, in person or by proxy, of holders of a majority of the outstanding shares of OfficeMax common stock and OfficeMax Series D preferred stock entitled to vote on Proposal 1, voting as a single class, is required to adopt the merger agreement and to approve the first merger and the second merger.

**Proposal 2.** The affirmative vote of holders of a majority of the shares of OfficeMax common stock and OfficeMax Series D preferred stock present, in person or by proxy, and entitled to vote at the OfficeMax special meeting (excluding, in accordance with OfficeMax's bylaws, any shares where the holder has expressly indicated that the holder is abstaining from voting), is required to approve, on an advisory (non-binding) basis, the compensation that may be paid or become payable to OfficeMax's named executive officers that is based on or otherwise related to the proposed transactions.

**Proposal 3.** The affirmative vote of holders of a majority of the shares of OfficeMax common stock and OfficeMax Series D preferred stock present, in person or by proxy, and entitled to vote at the OfficeMax special meeting (excluding, in accordance with OfficeMax's bylaws, any shares where the holder has expressly indicated that the holder is abstaining from voting) is required to approve the adjournment of the OfficeMax special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and to approve the first merger and the second merger.

As of the record date, there were [ ] shares of OfficeMax common stock outstanding, held by [ ] holders of record, and [ ] shares of OfficeMax Series D preferred stock outstanding, held by [ ] holders of record. In addition, as of the record date, OfficeMax directors and executive officers, as a group, owned and were entitled to vote [ ] shares of OfficeMax common stock, or approximately [ ]% of the outstanding shares of OfficeMax common stock. OfficeMax currently expects that these directors and executive officers will vote their shares in favor of the proposal to adopt the merger agreement and to approve the first merger and the second merger, although none of them has entered into any agreement obligating them to do so.

**Recommendation of Office Depot's Board of Directors and Reasons for the Transactions (see page 80)**

**Office Depot's board of directors recommends that Office Depot stockholders vote FOR the approval of the issuance of shares of Office Depot common stock pursuant to the merger agreement (referred to in this joint proxy statement/prospectus as the Office Depot share issuance).**

In the course of reaching its decision to approve the merger agreement and the transactions contemplated by the merger agreement, including the Office Depot share issuance, Office Depot's board of directors considered a number of factors in its deliberations. For a more complete discussion of these factors, see The Transactions Recommendation of Office Depot's Board of Directors and Reasons for the Transactions beginning on page 80.

**Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions (see page 84)**

**OfficeMax's board of directors recommends that OfficeMax stockholders vote FOR the adoption of the merger agreement and approval of the first merger and the second merger.**

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**Table of Contents**

In the course of reaching its decision to approve the merger agreement and the transactions contemplated by the merger agreement, including the first merger and second merger, OfficeMax's board of directors considered a number of factors in its deliberations. For a more complete discussion of these factors, see "The Transactions" Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions beginning on page 84.

**Opinions of Office Depot's Financial Advisors (see page 93)**

*Opinion of Peter J. Solomon Company L.P.*

In connection with the proposed transactions, Office Depot's financial advisor, Peter J. Solomon Company L.P. and Peter J. Solomon Securities Company LLC (collectively referred to in this joint proxy statement/prospectus as "PJSC"), rendered to the board of directors of Office Depot its oral opinion on February 19, 2013, subsequently confirmed in writing, that as of such date, and based upon and subject to various assumptions, considerations, qualifications and limitations set forth in its written opinion, the exchange ratio provided for in the merger agreement was fair from a financial point of view to Office Depot.

**The full text of PJSC's written opinion, dated February 19, 2013, is attached as Annex C to this joint proxy statement/prospectus. PJSC's opinion was directed only to the fairness of the exchange ratio to Office Depot from a financial point of view, was provided to Office Depot's board of directors in connection with its evaluation of the transactions, did not address any other aspect of the transactions and did not, and does not, constitute a recommendation to any holder of Office Depot's capital stock as to how any such holder should vote on the transactions or act on any matter relating to the transactions.**

*Opinion of Morgan Stanley & Co. LLC*

Office Depot also retained Morgan Stanley & Co. LLC (referred to in this joint proxy statement/prospectus as "Morgan Stanley") to act as its financial advisor in connection with the transactions. On February 19, 2013, Morgan Stanley rendered its oral opinion to the Office Depot board of directors, subsequently confirmed in writing, that as of such date and based upon and subject to the assumptions, procedures, factors, qualifications and limitations set forth therein, the exchange ratio pursuant to the merger agreement was fair from a financial point of view to Office Depot.

**The full text of the written opinion of Morgan Stanley, dated February 19, 2013, is attached as Annex D to this joint proxy statement/prospectus. The Morgan Stanley opinion is directed to Office Depot's board of directors and addresses only the fairness, from a financial point of view, of the exchange ratio to Office Depot pursuant to the merger agreement as of the date of the opinion. The Morgan Stanley opinion does not address any other aspect of the transactions and does not constitute a recommendation as to how the stockholders of Office Depot and OfficeMax should vote at the stockholders' meetings to be held in connection with the transactions.**

**Opinion of OfficeMax's Financial Advisor (see page 113)**

OfficeMax retained J.P. Morgan Securities LLC (referred to in this joint proxy statement/prospectus as "J.P. Morgan") to act as its financial advisor in connection with the transactions. At the meeting of OfficeMax's board of directors on February 19, 2013, J.P. Morgan rendered its oral opinion to the board of directors of OfficeMax that, as of such date and based upon and subject to the factors and assumptions set forth in its opinion, the exchange ratio in the proposed transactions was fair, from a financial point of view, to the holders of OfficeMax common stock. The oral opinion was subsequently confirmed in writing by delivery of J.P. Morgan's written opinion dated the same date.

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**Table of Contents**

The full text of the written opinion of J.P. Morgan, dated February 19, 2013, which sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations on the review undertaken in rendering its opinion, is attached as Annex E to this joint proxy statement/prospectus and is incorporated herein by reference. The OfficeMax stockholders are urged to read the opinion in its entirety. J.P. Morgan's written opinion is addressed to the board of directors of OfficeMax, is directed only to the fairness from a financial point of view of the exchange ratio in the proposed transactions as of the date of the opinion and does not constitute a recommendation to any stockholder of OfficeMax as to how such stockholder should vote at the OfficeMax special meeting.

**Interests of Certain Office Depot Persons in the Transactions (see page 123)**

When considering the recommendation of Office Depot's board of directors with respect to the transactions, you should be aware that Office Depot's executive officers and directors may have interests in the transactions that are different from, or in addition to, those of Office Depot's stockholders more generally. These interests may present such executive officers and directors with actual or potential conflicts of interest. Office Depot's board of directors was aware of these interests during its deliberations on the merits of the transactions and in deciding to recommend that Office Depot stockholders vote for the Office Depot share issuance at the special meeting. These interests include:

*Acceleration of Vesting of Equity Awards.* Office Depot's executive officers have previously been granted stock options, restricted stock, restricted stock units and performance awards under Office Depot's 2007 Long-Term Incentive Plan (referred to in this joint proxy statement/prospectus as the "2007 Plan") and long-term cash incentive awards under Office Depot's 2010, 2011, 2012 and 2013 Long-Term Incentive Cash Plans for Officers and Directors (collectively referred to in this joint proxy statement/prospectus as the "LTICPs"). The awards granted under the 2007 Plan and the LTICPs have generally been amended or otherwise granted with terms to provide that in the event of the award holder's involuntary termination without cause (as defined in the 2007 Plan) or termination for good reason (as defined in the award holder's employment agreement or change in control agreement with Office Depot), which termination is referred to in this joint proxy statement/prospectus as a "Qualifying Termination," during the two year period following the completion of the transactions, any such award, to the extent then outstanding, will become fully vested. In the case of any performance-based awards that become vested pursuant to the provisions described in the preceding sentence, the vesting of such awards will be deemed to occur (i) at a percentage that corresponds to the level as if the target level of future performance had been achieved in the case of any award for which the performance period has not yet been completed at the time of termination and (ii) based on actual performance results in the case of any award for which the performance period has been completed at or prior to the time of termination. The double triggered vesting protection described above does not, however, apply to (x) Neil Austrian's outstanding incentive awards (which would generally become service vested upon any Qualifying Termination, regardless of whether such termination occurs before, in connection with or following the completion of the transactions) or (y) the final tranche of performance share awards that were granted to Office Depot's executive officers (other than Neil Austrian) in February 2013, which tranche is scheduled to vest in 2016.

*Change in Control and Termination Benefits.* The change in control agreements entered into with certain of Office Depot's executive officers were amended to provide that the completion of the transactions will constitute a "change in control" for purposes of the change in control agreements and, accordingly, following the completion of the transactions, Office Depot has agreed to provide and/or maintain their position, compensation and benefits generally no less favorable than those provided to such executive officers prior to the closing. In the event of a Qualifying Termination, in each case, within two years following the completion of the transactions (or prior to the closing, so long as the closing subsequently occurs), certain of Office Depot's executive officers would receive certain

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**Table of Contents**

compensation and benefits paid or provided by Office Depot under its change in control agreements with such executive officers. Such benefits to Office Depot's executive officers include: (i) all vested and accrued, but unpaid, salary and benefits earned through the termination date; (ii) a lump-sum cash severance payment equal to two times the sum of (x) the executive officer's annual base salary and (y) the executive officer's target annual bonus for the fiscal year in which the date of the termination of employment occurs; (iii) an additional cash payment equal to the executive officer's prorated target annual bonus amount for the fiscal year in which the date of termination of employment occurs; (iv) a lump-sum cash payment equal to eighteen times Office Depot's COBRA premium for the executive officer in effect on the date of termination of employment; and (v) an executive outplacement services package for a period of 24 months.

*Retention Plan Bonus Payments.* In connection with the transactions, Office Depot has entered into a retention arrangement with Kim Moehler (Senior Vice President Finance and Controller) providing for retention payments subject to her continued employment with Office Depot through the installment payment dates described below, or if Kim Moehler's employment is earlier terminated without cause, due to death or disability or due to a resignation for good reason, if applicable. The aggregate amount of Kim Moehler's retention payments is \$400,000. The first 50% installment of the retention payment is earned upon the earlier of (i) a decision by the antitrust regulators regarding whether the transactions will be allowed to proceed and (ii) December 15, 2013. The second 50% installment of the retention payment is earned on June 30, 2014. No retention arrangements have been entered into with any of Office Depot's executive officers who are party to change in control agreements with Office Depot.

For a more detailed discussion, see *The Transactions Interests of Certain Office Depot Persons in the Transactions* beginning on page 123.

**Interests of Certain OfficeMax Persons in the Transactions (see page 129)**

When considering the recommendation of OfficeMax's board of directors with respect to the transactions, you should be aware that OfficeMax's executive officers and directors may have interests in the transactions that are different from, or in addition to, those of OfficeMax's stockholders more generally. These interests may present such executive officers and directors with actual or potential conflicts of interest. OfficeMax's board of directors was aware of these interests during its deliberations on the merits of the transactions and in deciding to recommend that OfficeMax stockholders vote for the adoption of the merger agreement and the approval of the first merger and the second merger at the OfficeMax special meeting. These interests include:

*Acceleration of Vesting of Equity Awards.* OfficeMax's executive officers have previously been granted stock options, restricted stock units and performance restricted stock units under OfficeMax's 2003 Incentive and Performance Plan (referred to in this joint proxy statement/prospectus as the *OfficeMax Plan*). Under the merger agreement, performance restricted stock units granted under the OfficeMax Plan will be converted in the transactions into time vesting awards which will vest at the target level of performance, subject to the holder's continued employment, upon the vesting date or dates previously applicable to the performance award. The awards granted under the OfficeMax Plan also have terms which provide that in the event of the executive's qualifying termination (as defined in the executive's change in control agreement described below) during the two year period following the completion of the transactions, any award, to the extent then outstanding and unvested, will become fully vested.

*Change in Control Termination Benefits.* All of OfficeMax's executive officers have change in control agreements that formalize their severance benefits if the officer is terminated under the circumstances discussed below on or after a change in control of OfficeMax (which will occur upon the completion of

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**Table of Contents**

the proposed transactions). Generally, under the change in control agreements, an executive officer will receive the benefits provided under the agreement if a change in control occurs, and after the change in control the officer's employment is terminated and the termination is a qualifying termination, as defined in the change in control agreement. The principal benefits under the change in control agreements upon a qualifying termination include: (i) the officer's salary through the termination date; (ii) severance pay equal to a multiple (two times for each executive officer other than Mr. Hartley and Ms. O'Connor) of the sum of the officer's annual base salary and target bonus; and pay for accrued but unused time off. For certain officers, OfficeMax will gross-up the officer's total payments under the agreement to cover any excise and other applicable taxes imposed by the Internal Revenue Service as a result of such payments. The agreements also contain provisions allowing the officer to continue to participate in OfficeMax's benefit plans or to receive cash at OfficeMax's discretion in lieu of participating, with the duration and cost of this arrangement differing depending on title.

For a more detailed description, see *The Transactions* *Interests of Certain OfficeMax Persons in the Transactions* beginning on page 129.

**Board of Directors and Management of the Combined Company Following Completion of the Transactions (see page 134)**

The merger agreement contains certain provisions relating to the governance of Office Depot following completion of the transactions (referred to in this joint proxy statement/prospectus as the combined company), which reflect the merger of equals structure of the proposed business combination. Completion of the transactions is subject to the conditions described under *Conditions to Completion of the Transactions* beginning on page 23, including the adoption by Office Depot, effective as of the effective time of the second merger, of the amended and restated bylaws in the form included as Annex B in this joint proxy statement/prospectus (referred to in this joint proxy statement/prospectus as the amended and restated bylaws or the Office Depot amended and restated bylaws) to implement certain governance matters for a four-year period following completion of the transactions.

The board of directors of the combined company and its committees will have equal representation from both parties as of the closing. As of the closing, the then-current chief executive officers of both parties will be appointed as co-chief executive officers of the combined company, unless and until a successor has been appointed as the sole chief executive officer of the combined company (referred to in this joint proxy statement/prospectus as the successor CEO). A selection committee consisting of an equal number of independent directors of each party will identify successor CEO candidates. Office Depot has designated Nigel Travis, Marsha J. Evans and Thomas J. Colligan and OfficeMax has designated V. James Marino, Rakesh Gangwal and Francesca Ruiz de Luzuriaga as members of the selection committee with Messrs. Travis and Marino serving as co-chairpersons. The selection committee will also consider the then-current chief executive officers of both parties as successor CEO candidates. In addition, as of the closing, the officers for the combined company will be appointed by the newly constituted board of directors from among the officers of both parties.

The combined company's name and headquarters location will be determined by the newly constituted board of directors, taking into consideration the recommendation of the successor CEO after his or her appointment. If such matters have not been determined prior to the completion of the transactions, the combined company will have dual headquarters in Naperville, Illinois and Boca Raton, Florida, and the businesses of each party will continue to operate under their existing names, in each case until otherwise so determined.

For a more complete description of the provisions of the merger agreement and the amended and restated bylaws related to the governance of the combined company, see *The Transactions* *Board of Directors and Management of the Combined Company Following Completion of the Transactions* on page 134 and *The*



## **Table of Contents**

Merger Agreement Governance of the Combined Company Following Completion of the Transactions on page 164.

### **Material U.S. Federal Income Tax Consequences of the Transactions (see page 135)**

Each of the first merger and the LLC conversion, taken together, and the second merger and the third merger, taken together, are intended to be treated for U.S. federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (referred to in this joint proxy statement/prospectus as the Code).

The obligations of Office Depot and OfficeMax to consummate the transactions are subject to the receipt by Office Depot and OfficeMax of the opinions of their respective counsel to the effect that, on the basis of the facts, representations and assumptions set forth in such opinions which are consistent with the state of facts existing as of the closing date, each of the first merger and the LLC conversion, taken together, and the second merger and the third merger, taken together, will qualify for U.S. federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code.

If the transactions so qualify, then a U.S. Holder of OfficeMax common stock generally will not recognize any gain or loss on the conversion of such holder's OfficeMax common stock into New OfficeMax common stock in the first merger, and a U.S. Holder of New OfficeMax common stock who receives shares of Office Depot common stock in the second merger generally will not recognize gain or loss on the exchange of such holder's New OfficeMax common stock for Office Depot common stock (other than gain or loss with respect to cash received in lieu of a fractional share).

The tax consequences of the transactions to each OfficeMax stockholder may depend on such holder's particular facts and circumstances. OfficeMax stockholders are urged to consult their tax advisors to understand fully the consequences to them of the transactions in their specific circumstances. A more detailed discussion of the material U.S. federal income tax consequences of the transactions can be found in the section entitled The Transactions Material U.S. Federal Income Tax Consequences of the Transactions beginning on page 135.

### **Accounting Treatment of the Transactions (see page 138)**

Although the parties have structured the transactions as a merger of equals, accounting principles generally accepted in the United States of America, referred to in this joint proxy statement/prospectus as GAAP, require that one party to the transactions be identified as the acquirer. Based on a number of factors viewed as of the date of this joint proxy statement/prospectus, including the relative voting rights of former Office Depot stockholders in the combined entity anticipated to exist upon the completion of the combination, the transactions are expected to be accounted for as a business combination, with Office Depot as the accounting acquirer and OfficeMax as the accounting acquiree. The final consideration will be allocated to the net tangible and identifiable intangible assets acquired and liabilities assumed from OfficeMax based on their respective fair values as of the completion of the transactions. Any consideration above or below those fair values will be recorded as goodwill or gain, respectively.

The allocation of consideration reflected in the unaudited pro forma condensed consolidated financial statements included in this joint proxy statement/prospectus is based on preliminary estimates using assumptions that management believes are reasonable utilizing information currently available. The final allocation will be based in part on detailed valuation studies which have not yet been completed. Differences between preliminary estimates in the unaudited pro forma condensed consolidated financial statements and the final acquisition accounting will occur and could have a material impact on the combined company's future results of operations and financial position. The final allocation is expected to be completed no later than twelve months following the closing of the transactions.

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**Table of Contents**

**Regulatory Approvals Required to Complete the Transactions (see page 138)**

OfficeMax and Office Depot have each agreed to use their reasonable best efforts to obtain all regulatory approvals required to complete the transactions and the other transactions contemplated by the merger agreement. The obligations of Office Depot and OfficeMax to consummate the transactions are subject to, among other matters, termination or earlier expiration of any waiting period applicable to the transactions and the other transactions contemplated by the merger agreement and receipt of any approvals, consents or clearances required in connection with the transactions and the other transactions contemplated by the merger agreement, in each case, under the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (referred to in this joint proxy statement/prospectus as the HSR Act ), the Mexican Federal Law on Economic Competition (referred to in this joint proxy statement/prospectus as the FLEC ) and the Competition Act (Canada) (referred to in this joint proxy statement/prospectus as the CAC ).

On March 7, 2013, Office Depot and OfficeMax filed Notification and Report Forms with the Antitrust Division of the U.S. Department of Justice (referred to in this joint proxy statement/prospectus as the Antitrust Division ) and the Federal Trade Commission (referred to in this joint proxy statement/prospectus as the FTC ). On April 8, 2013, the parties received a Request for Additional Information and Documentary Materials (referred to in this joint proxy statement/prospectus as a second request ) from the FTC regarding the proposed transactions. The effect of the second request was to extend the waiting period imposed by the HSR Act until 30 days after each party has substantially complied with the second request, unless that period is terminated sooner by the FTC or is extended voluntarily by agreement of the parties. The parties will work to promptly respond to the second request and continue to work cooperatively with the FTC in connection with this review.

On April 12, 2013, Office Depot and OfficeMax filed their respective notices and an application for an advance ruling certificate pursuant to section 102 of the CAC or, in the alternative, a no-action letter with the Commissioner of Competition under the CAC in respect of the transactions. On May 6, 2013, the Commissioner of Competition issued a no-action letter in respect of the transactions stating that, as at such date, the Commissioner of Competition does not intend to challenge the transactions by making an application to the Competition Tribunal under section 92 of the CAC. The no-action letter acknowledges that, pursuant to section 97 of the CAC, the Commissioner of Competition reserves the right to challenge the transactions up to one year after they have been completed.

The parties intend to notify the Mexican Federal Competition Commission (referred to in this joint proxy statement/prospectus as the MFCC ) under the FLEC as soon as reasonably practicable.

See also the sections entitled The Transactions Regulatory Approvals beginning on page 138 and The Merger Agreement Efforts to Complete the Transactions beginning on page 155.

**Treatment of OfficeMax Stock Options and OfficeMax Stock-Based Awards (see page 141)**

In connection with the first merger, each of OfficeMax and New OfficeMax will take all actions as may be necessary so that at the effective time of the first merger, each OfficeMax stock option and each other OfficeMax stock-based award will, automatically and without any action on behalf of the holder thereof, be converted into a stock option or award, as the case may be, denominated in, or measured in whole or in part by the value of, shares of capital stock of New OfficeMax.

In connection with the second merger, each outstanding New OfficeMax stock option will be converted into an option to purchase, on the same terms and conditions as the New OfficeMax stock option, a number of shares of Office Depot common stock that is equal to the number of shares of New OfficeMax common stock subject to the New OfficeMax stock option multiplied by the exchange ratio, at an exercise price per share of Office Depot

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**Table of Contents**

common stock equal to the exercise price per share of New OfficeMax common stock subject to the New OfficeMax stock option divided by the exchange ratio. Each other New OfficeMax stock-based award will be converted as a result of the second merger into an award, on the same terms and conditions as the New OfficeMax stock-based award, with respect to a number of shares of Office Depot common stock that is equal to the number of shares of New OfficeMax common stock underlying such New OfficeMax stock-based award multiplied by the exchange ratio, except that any then outstanding New OfficeMax stock-based awards that vest based on the attainment of performance goals with a performance period that has not completed prior to the closing will be converted into time-based awards that will vest at target levels at the originally scheduled vesting date, subject to any accelerated vesting upon a qualifying termination of employment in accordance with the terms of the 2003 OfficeMax Incentive and Performance Plan. Prior to the effective time of the second merger, OfficeMax, Office Depot and their respective boards of directors and compensation committees, as applicable, will take all actions necessary to effectuate the conversion of New OfficeMax stock options and other stock-based awards as described in this paragraph.

**Treatment of OfficeMax Series D Preferred Stock (see page 142)**

Prior to the closing of the transactions, OfficeMax will redeem each issued and outstanding share of its Convertible Preferred Stock, Series D (referred to in this joint proxy statement/prospectus as the OfficeMax Series D preferred stock ) for shares of OfficeMax common stock in accordance with the terms governing the OfficeMax Series D preferred stock. The shares of OfficeMax common stock issued upon such redemption will then be converted at the effective time of the second merger into the right to receive shares of Office Depot common stock based on the exchange ratio, together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement.

**Treatment of Office Depot Convertible Preferred Stock; Agreements with BC Partners (see page 142)**

Under the voting agreement described above under Office Depot Special Meeting, Office Depot, OfficeMax and BC Partners agreed that, effective as of immediately following the receipt of (i) the requisite Office Depot stockholder approval in connection with the transactions and (ii) the consent of the lenders under Office Depot's Amended and Restated Credit Agreement, dated May 25, 2011 (referred to in this joint proxy statement/prospectus as the amended credit agreement ), 175,000 shares of the Office Depot convertible preferred stock held by BC Partners will be redeemed for cash by Office Depot at the redemption price applicable to the Office Depot convertible preferred stock. In addition, upon satisfaction or waiver of the closing conditions under the merger agreement and following receipt by Office Depot of the consent of the lenders under the amended credit agreement, all remaining shares of the Office Depot convertible preferred stock then held by BC Partners will, effective as of immediately prior to completion of the transactions, be redeemed for cash by Office Depot at the redemption price applicable to the Office Depot convertible preferred stock. As of December 29, 2012, the applicable redemption price for all of the shares of Office Depot convertible preferred stock would have been approximately \$435 million.

In addition, BC Partners may not, at any time following receipt of the requisite Office Depot stockholder approval in connection with the transactions and prior to the redemption of the Office Depot convertible preferred stock, convert their Office Depot convertible preferred stock into Office Depot common stock if such conversion would result in the ownership by BC Partners of 5% or more of the undiluted Office Depot common stock expected to be outstanding immediately following completion of the transactions (referred to in this joint proxy statement/prospectus as the ownership cap ), unless BC Partners have a good faith intention to sell an amount of Office Depot common stock such that their aggregate ownership of Office Depot common stock immediately following completion of the transactions will be less than the ownership cap (such amount of Office Depot common stock equal to, or in excess of, the ownership cap, being referred to in this joint proxy statement/prospectus as the excess amount ) and have entered into sale agreements or made other arrangements with

## **Table of Contents**

respect to such sale. If BC Partners are not able to sell the excess amount prior to completion of the transactions, Office Depot will, upon receipt of the required lender consent under the amended credit agreement, repurchase from BC Partners, and BC Partners will be required to sell to Office Depot, at a price per share of Office Depot common stock reported at the close of the NYSE on the trading date immediately prior to the date of completion of the transactions, a number of shares of Office Depot common stock equal to the excess amount.

The obligations of OfficeMax to consummate the transactions are subject to the completion of the transactions contemplated by the voting agreement. As a result, if the Office Depot convertible preferred stock is not redeemed or any excess amount of Office Depot common stock is not repurchased as provided for in the voting agreement, the transactions may not be completed.

On March 4, 2013, Office Depot entered into the Second Amendment (referred to in this joint proxy statement/prospectus as the second amendment ) to the amended credit agreement with the lenders party to the amended credit agreement. The second amendment provides Office Depot the ability to make payments to BC Partners to redeem all of the Office Depot convertible preferred stock and to repurchase certain amounts of Office Depot common stock held by BC Partners, in each case as required by the voting agreement.

In connection with the voting agreement, Office Depot and BC Partners also entered into a termination agreement (referred to in this joint proxy statement/prospectus as the termination agreement ), pursuant to which the Investor Rights Agreement, dated June 23, 2009, between Office Depot and BC Partners and the related management rights letter will automatically terminate effective as of the completion of the transactions.

### **Listing of Office Depot Common Stock; Delisting of OfficeMax Common Stock (see page 144)**

It is a condition to the consummation of the transactions that the shares of Office Depot common stock to be issued to OfficeMax stockholders in the second merger be authorized for listing on the NYSE, subject to official notice of issuance. As a result of the transactions, shares of OfficeMax common stock currently listed on the NYSE will cease to be listed on the NYSE.

### **Appraisal Rights (see page 144)**

Under Delaware law, holders of OfficeMax stock are not entitled to appraisal rights in connection with the first merger or the second merger. Because Office Depot is not a constituent corporation to any of the first merger, the second merger or the third merger, and Office Depot stockholders will continue to hold their shares of Office Depot common stock, Office Depot stockholders will not be entitled to appraisal rights in connection with the transactions.

### **Litigation Related to the Transactions (see page 144)**

In connection with the transactions, purported stockholders of OfficeMax have filed putative stockholder class action lawsuits against OfficeMax, Office Depot and the OfficeMax board of directors, among others. The lawsuits generally allege, among other things, that the directors of OfficeMax breached their fiduciary duties to OfficeMax stockholders in connection with the transactions. The lawsuits further allege that OfficeMax and Office Depot, among others, aided and abetted the OfficeMax directors in the breach of their fiduciary duties. The lawsuits seek injunctive relief enjoining the transactions, damages and costs, among other remedies.

OfficeMax, Office Depot and the OfficeMax board of directors believe that these lawsuits are without merit and intend to defend against them vigorously.

**Table of Contents**

**No Solicitation of Acquisition Proposals (see page 150)**

In the merger agreement, Office Depot and OfficeMax agreed not to solicit proposals relating to certain alternative transactions or, except as described below, engage in discussions or negotiations with respect to, or provide nonpublic information to any person in connection with, any proposal for an alternative transaction. If Office Depot or OfficeMax, as the case may be, receives a written unsolicited bona fide proposal relating to an alternative transaction that its respective board of directors has determined in good faith (after consultation with its outside legal counsel and financial advisors) constitutes a superior proposal or could reasonably be expected to result in a superior proposal, then Office Depot or OfficeMax, as applicable, may, subject to certain conditions, furnish nonpublic information to the third party making the proposal for an alternative transaction and engage in discussions or negotiations with the third party with respect to the proposal for an alternative transaction.

**Conditions to Completion of the Transactions (see page 147)**

The obligations of Office Depot and OfficeMax to consummate the transactions are subject to the satisfaction of the following conditions:

adoption of the merger agreement and approval of the first merger and the second merger by the affirmative vote of holders of a majority of the outstanding shares of OfficeMax common stock and OfficeMax Series D preferred stock entitled to vote at the special meeting of OfficeMax stockholders, voting as a single class;

approval of the Office Depot share issuance by the affirmative vote of a majority of the votes cast by holders of shares of Office Depot common stock and Office Depot convertible preferred stock, provided that the total votes cast represent over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and shares of Office Depot common stock;

expiration or earlier termination of any waiting period (and any extension thereof) applicable to the transactions and the other transactions contemplated by the merger agreement, and receipt of any approvals, consents or clearances required in connection with the transactions and the other transactions contemplated by the merger agreement, in each case, under the HSR Act, the CAC and the FLEC;

expiration or termination of any agreement entered into with a governmental authority under any antitrust laws, which provides that the parties to the merger agreement will not consummate the transactions and the other transactions contemplated by the merger agreement;

absence of any judgment, injunction, order or decree of a competent United States federal or state governmental authority prohibiting or enjoining the consummation of the transactions and the other transactions contemplated by the merger agreement;

effectiveness of the registration statement on Form S-4 of which this joint proxy statement/prospectus forms a part and the absence of any stop order or similar restraining order by the SEC suspending the effectiveness of the registration statement; and

approval for listing on the NYSE of the shares of Office Depot common stock to be issued to OfficeMax stockholders in connection with the second merger, subject to official notice of issuance.

In addition, each of Office Depot's and OfficeMax's obligations to consummate the transactions are subject to the satisfaction or waiver of the following additional conditions:

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the representations and warranties of the other party (other than the representations relating to the capitalization of such other party and its subsidiaries that are parties to the merger agreement and the absence of an event having a material adverse effect on such other party between September 29, 2012

**Table of Contents**

and the date of the merger agreement) that are qualified by a material adverse effect qualification being true and correct as so qualified as of the date of the merger agreement and as of the closing (other than those representations and warranties of this type that were made only as of a specified date or period, which need only be true and correct as so qualified as of such date or period);

the representations and warranties of the other party (other than the representations relating to the capitalization of such other party and its subsidiaries that are parties to the merger agreement and the absence of an event having a material adverse effect on such other party between September 29, 2012 and the date of the merger agreement) that are not qualified by a material adverse effect qualification being true and correct as of the date of the merger agreement and as of the closing (other than those representations and warranties of this type that were made only as of a specified date or period, which need only be true and correct as of such date or period) except for such failures to be true and correct as would not have, in the aggregate, a material adverse effect on such other party;

the representations and warranties of the other party relating to the capitalization of such other party and its subsidiaries that are parties to the merger agreement being true and correct in all material respects as of the date of the merger agreement and as of the closing, other than with respect to issuances permitted under the merger agreement (other than those representations and warranties of this type that were made only as of a specified date or period, which need only be true and correct in all material respects as of such date or period);

the representations and warranties of the other party relating to the absence of an event having a material adverse effect on such other party between September 29, 2012 and the date of the merger agreement being true and correct as of such period;

the absence of any events that have or would have a material adverse effect on the other party since the date of the merger agreement;

the other party having performed and complied in all material respects with its obligations and agreements under the merger agreement at or prior to the closing;

receipt of a certificate, dated as of the closing date, from the other party, signed on the other party's behalf by such other party's chief executive officer and chief financial officer to the effect that the conditions described under the preceding six bullet points have been satisfied; and

receipt of a written tax opinion, dated as of the closing date, from each party's counsel to the effect that (i) the first merger and the LLC conversion, taken together, and (ii) the second merger and the third merger, taken together, will qualify, for United States federal income tax purposes, as a reorganization within the meaning of Section 368(a) of the Code.

In addition, the obligations of OfficeMax to consummate the transactions are also subject to the satisfaction or waiver of the following additional conditions:

the adoption by Office Depot, effective as of the effective time of the second merger, of the amended and restated bylaws included as Annex B in this joint proxy statement/prospectus that will include certain governance matters applicable to the combined company following completion of the transactions; and

the transactions contemplated by the voting agreement with BC Partners have been consummated, and the agreements with BC Partners will be in full force and effect.





**Table of Contents**

**Termination of the Merger Agreement (see page 157)**

The merger agreement may be terminated and the transactions may be abandoned at any time prior to the closing date under the following circumstances:

by mutual written consent of Office Depot and OfficeMax;

by either Office Depot or OfficeMax:

if there is any law or regulation that makes consummation of the transactions illegal or otherwise prohibited, or if any judgment, injunction, order or decree of a competent United States federal or state governmental authority enjoining Office Depot or OfficeMax from consummating the transactions has become final and nonappealable (the party seeking to terminate the merger agreement must, however, have used its reasonable best efforts to render inapplicable such law or regulation or remove such judgment, injunction, order or decree);

if the transactions have not been consummated by December 31, 2013 (referred to in this joint proxy statement/prospectus as the end date), except that, if, on December 31, 2013, the only conditions to closing that have not been satisfied or waived are those related to antitrust approvals, consents or clearances or an outstanding judgment, injunction, order or decree of a competent United States federal or state governmental authority prohibiting or enjoining the transactions, then the end date will be automatically extended without further action of the parties to (including) April 30, 2014 (this termination right, however, will not be available to any party whose failure to perform any covenant or obligation under the merger agreement has been the cause of or resulted in the failure of the transactions to occur on or before the end date, as extended);

if the OfficeMax stockholders fail to adopt the merger agreement and to approve the first merger and the second merger at the special meeting of OfficeMax stockholders;

if the Office Depot stockholders fail to approve the Office Depot share issuance at the special meeting of Office Depot stockholders; or

if there has been a material breach by the other party of any of its representations, warranties, covenants or agreements contained in the merger agreement or if any event has occurred, which breach or event results in the failure of certain conditions to the obligations of a party to consummate the transactions described under Conditions to Completion of the Transactions on page 23 to be satisfied on or prior to the end date, and such breach or event is not capable of being cured or has not been cured within 30 business days after detailed written notice has been received by such other party;

by either party, if, prior to obtaining the requisite approval of the other party's stockholders, (i) the other party's board of directors withdraws, modifies or qualifies, in a manner adverse to such party, its recommendation with respect to the transactions or (ii) after the date of the merger agreement an acquisition proposal with respect to the other party was announced or disclosed and such other party's board of directors fails to affirm its recommendation with respect to the transactions within ten business days after receipt of a written request to do so; and

by either party, at any time prior to obtaining the requisite approval of its stockholders, in order to enter into a definitive written agreement with respect to a superior proposal it received in accordance with the merger agreement.

**Expenses and Termination Fee Relating to the Transactions (see page 159)**

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Generally, all costs and expenses incurred in connection with the merger agreement and the transactions contemplated by the merger agreement will be paid by the party incurring those expenses, subject to the

**Table of Contents**

exceptions described under The Merger Agreement Expenses and Termination Fee on page 159. In addition, if it is judicially determined that the termination of the merger agreement was caused by a willful or intentional breach of the merger agreement, then, in addition to other remedies for a willful or intentional breach of the merger agreement, the breaching party will indemnify and hold harmless the other parties to the merger agreement for their respective reasonable out-of-pocket costs, fees and expenses as well as fees and expenses incident to negotiation, preparation and execution of the merger agreement and related documentation and stockholders' meetings and consents, except that, upon payment of the full termination fee, the breaching party will no longer be required to so indemnify or hold harmless the other parties.

Upon termination of the merger agreement, Office Depot or OfficeMax, as the case may be, will under certain circumstances be required to pay the other party or its designee a termination fee of \$30 million in cash (referred to in this joint proxy statement/prospectus as the termination fee ). See The Merger Agreement Expenses and Termination Fee on page 159 for a more complete description of the circumstances under which Office Depot or OfficeMax may be required to pay the other party the termination fee.

**Comparison of Rights of Common Stockholders of Office Depot and OfficeMax (see page 193)**

OfficeMax stockholders receiving shares of Office Depot common stock in the second merger will have different rights once they become stockholders of the combined company due to differences between the governing corporate documents of OfficeMax and the proposed governing corporate documents of the combined company. These differences are described in more detail under Comparison of Rights of Common Stockholders of Office Depot and OfficeMax beginning on page 193.

**Table of Contents**

**SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA**

**Selected Historical Consolidated Financial Data of Office Depot**

The following selected historical consolidated financial data of Office Depot for each of the years during the three-year period ended December 29, 2012 and the selected historical consolidated balance sheet data as of December 29, 2012 and December 31, 2011 have been derived from Office Depot's audited consolidated financial statements as of and for the fiscal year ended December 29, 2012 contained in its Current Report on Form 8-K filed with the SEC on April 30, 2013, which is incorporated by reference into this joint proxy statement/prospectus. The selected historical consolidated financial data for each of the years ended December 26, 2009 and December 27, 2008 and the selected balance sheet data as of December 25, 2010, December 26, 2009 and December 27, 2008 have been derived from Office Depot's audited consolidated financial statements as of and for such years contained in Office Depot's other reports filed with the SEC, which are not incorporated by reference into this joint proxy statement/prospectus.

The selected historical financial information for each of the three-month periods ended March 30, 2013 and March 31, 2012, and the balance sheet data as of March 30, 2013 have been derived from Office Depot's unaudited consolidated financial statements as of and for the quarterly period ended March 30, 2013 contained in Office Depot's Quarterly Report on Form 10-Q for the quarterly period ended March 30, 2013 filed with the SEC on April 30, 2013, which is incorporated by reference into this joint proxy statement/prospectus. The balance sheet data as of March 31, 2012 have been derived from Office Depot's unaudited consolidated financial statements for the quarterly period ended March 31, 2012 contained in Office Depot's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 filed with the SEC on May 1, 2012, which is not incorporated by reference into this joint proxy statement/prospectus. In Office Depot's view, the unaudited financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of the interim March 30, 2013 financial information. Interim results for the three months ended and as of March 30, 2013 are not necessarily indicative of, and are not projections for, the results to be expected for the fiscal year ending December 28, 2013.

The information set forth below is only a summary and is not necessarily indicative of the results of future operations of Office Depot or the combined company following completion of the transactions, and you should read the following information together with Office Depot's consolidated financial statements, the related notes and the sections entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in Office Depot's Current Report on Form 8-K filed with the SEC on April 30, 2013 and in its Quarterly Report on Form 10-Q for the quarterly period ended March 30, 2013, which are incorporated by reference into this joint proxy statement/prospectus, and in Office Depot's other reports filed with the SEC. For more information, see the section entitled "Where You Can Find More Information" beginning on page 219.

**Table of Contents**

	March 30, 2013	March 31, 2012	December 29, 2012	December 31, 2011 <sup>(1)</sup>	December 25, 2010	December 26, 2009	December 27, 2008
<b>(In thousands, except per share amounts and statistical data)</b>							
<b>Statements of Operations Data:</b>							
Sales	\$ 2,718,260	\$ 2,872,809	\$ 10,695,652	\$ 11,489,533	\$ 11,633,094	\$ 12,144,467	\$ 14,495,544
Net earnings (loss) <sup>(2)(3)(4)(5)(6)(7)(8)</sup>	\$ (6,643)	\$ 49,499	\$ (77,120)	\$ 95,691	\$ (46,205)	\$ (598,724)	\$ (1,481,003)
Net earnings (loss) attributable to Office Depot <sup>(2)(3)(4)(5)(6)(7)(8)</sup>	\$ (6,655)	\$ 49,503	\$ (77,111)	\$ 95,694	\$ (44,623)	\$ (596,465)	\$ (1,478,938)
Net earnings (loss) available to common shareholders <sup>(2)(3)(4)(5)(6)(7)(8)</sup>	\$ (16,824)	\$ 41,287	\$ (110,045)	\$ 59,989	\$ (81,736)	\$ (626,971)	\$ (1,478,938)
Net earnings (loss) per share:							
Basic	\$ (0.06)	\$ 0.14	\$ (0.39)	\$ 0.22	\$ (0.30)	\$ (2.30)	\$ (5.42)
Diluted	\$ (0.06)	\$ 0.14	\$ (0.39)	\$ 0.22	\$ (0.30)	\$ (2.30)	\$ (5.42)
<b>Statistical Data:</b>							
Facilities open at end of period:							
United States <sup>(9)</sup> :							
Office supply stores	1,111	1,123	1,112	1,131	1,147	1,152	1,267
Distribution centers	13	13	13	13	13	15	20
Crossdock facilities	2	2	2	2	3	6	12
International <sup>(10)</sup> :							
Office supply stores	124	132	123	131	97	137	162
Distribution centers	23	27	23	27	26	39	43
Call centers	21	22	21	22	25	29	27
Total square footage North American Retail Division	25,328,898	26,477,499	25,518,027	26,556,126	27,559,184	28,109,844	30,672,862
Percentage of sales by segment:							
North American Retail Division	42.1%	42.5%	41.7%	42.4%	42.7%	42.1%	42.2%
North American Business Solutions Division	30.0%	28.8%	30.0%	28.4%	28.3%	28.7%	28.6%
International Division	27.9%	28.7%	28.3%	29.2%	29.0%	29.2%	29.2%

**Table of Contents**

	March 30, 2013	March 31, 2012	December 29, 2012	December 31, 2011	December 25, 2010	December 26, 2009	December 27, 2008
(In thousands, except per share amounts and statistical data)							
<b>Balance Sheet Data:</b>							
Total assets	\$ 3,791,647	\$ 4,125,149	\$ 4,010,779	\$ 4,250,984	\$ 4,569,437	\$ 4,890,346	\$ 5,268,226
Long-term debt, excluding current maturities	479,820	642,513	485,331	648,313	659,820	662,740	688,788
Redeemable preferred stock, net	386,401	371,851	386,401	363,636	355,979	355,308	

- (1) Includes 53 weeks in accordance with Office Depot's 52-53 week reporting convention.
- (2) First quarter 2013 Net earnings (loss), Net earnings attributable to Office Depot, and Net earnings available to holders of Office Depot common stock include approximately \$15 million of merger-related expenses, \$5 million of asset impairment charges and \$5 million of restructuring activities and asset dispositions.
- (3) First quarter 2012 Net earnings (loss), Net earnings attributable to Office Depot, and Net earnings available to holders of Office Depot common stock include approximately \$63 million net gain on purchase price recovery, as well as \$18 million of asset impairment charges, \$23 million of charges related to restructuring activities, lease accruals and actions to improve future operating performance, and \$12 million of charges related to the extinguishment of debt.
- (4) Fiscal year 2012 Net earnings (loss), Net earnings attributable to Office Depot, and Net earnings available to holders of Office Depot common stock include approximately \$139 million of asset impairment charges, \$63 million net gain on purchase price recovery and \$56 million of charges related to closure costs and process improvement activity.
- (5) Fiscal year 2011 Net earnings (loss), Net earnings attributable to Office Depot, and Net earnings available to holders of Office Depot common stock includes approximately \$58 million of charges relating to facility closure and process improvement activity. In addition, approximately \$123 million of tax and interest benefits were recognized associated with settlements and removal of contingencies and valuation allowances.
- (6) Fiscal year 2010 Net earnings (loss), Net loss attributable to Office Depot, and Net loss available to holders of Office Depot common stock include charges of approximately \$87 million, including approximately \$51 million for the write-off of Construction in Progress related to developed software. In addition, tax benefits and interest reversals of approximately \$41 million were recognized from settlements.
- (7) Fiscal year 2009 Net earnings (loss), Net loss attributable to Office Depot, and Net loss available to holders of Office Depot common stock include charges of approximately \$253 million relating to facility closures and other items and approximately \$322 million to establish valuation allowances on certain deferred tax assets.
- (8) Fiscal year 2008 Net loss attributable to Office Depot, and Net loss available to holders of Office Depot common stock include impairment charges for goodwill and trade names of \$1.27 billion and other asset impairment charges of \$222 million.
- (9) Facilities of wholly-owned entities operated by Office Depot in the United States.
- (10) Facilities of wholly-owned or majority-owned entities operated by Office Depot's International Division.

**Selected Historical Consolidated Financial Data of OfficeMax**

The following selected historical consolidated financial data of OfficeMax for each of the years during the three-year period ended December 29, 2012 and the selected historical consolidated balance sheet data as of December 29, 2012 and December 31, 2011 have been derived from OfficeMax's audited consolidated financial statements as of and for the fiscal year ended December 29, 2012 contained in its Annual Report on Form 10-K for the year ended December 29, 2012 filed with the SEC on February 25, 2013, which is incorporated by reference into this joint proxy statement/prospectus. The selected historical consolidated financial data for each of the years ended December 26, 2009 and December 27, 2008 and the selected balance sheet data as of December 25, 2010, December 26, 2009 and December 27, 2008 have been derived from OfficeMax's audited consolidated financial statements as of and for such years contained in OfficeMax's other reports filed with the SEC, which are not incorporated by reference into this joint proxy statement/prospectus.

**Table of Contents**

The selected historical financial information for the three-month period ended March 30, 2013 and the balance sheet data as of March 30, 2013 have been derived from OfficeMax's unaudited consolidated financial statements as of and for the quarterly period ended March 30, 2013 contained in OfficeMax's Quarterly Report on Form 10-Q for the quarterly period ended March 30, 2013 filed with the SEC on May 8, 2013, which is incorporated by reference into this joint proxy statement/prospectus. The selected historical financial information for the three-month period ended March 31, 2012 and the balance sheet data as of March 31, 2012 have been derived from OfficeMax's unaudited consolidated financial statements for the quarterly period ended March 31, 2012 contained in OfficeMax's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 filed with the SEC on May 8, 2012, which is not incorporated by reference into this joint proxy statement/prospectus. In OfficeMax's view, the unaudited financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of the interim March 30, 2013 financial information. Interim results for the three months ended and as of March 30, 2013 are not necessarily indicative of, and are not projections for, the results to be expected for the fiscal year ending December 28, 2013.

The information set forth below is only a summary and is not necessarily indicative of the results of future operations of OfficeMax or the combined company following completion of the transactions, and you should read the following information together with OfficeMax's consolidated financial statements, the related notes and the sections entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in OfficeMax's Annual Report on Form 10-K for the year ended December 29, 2012 and in its Quarterly Report on Form 10-Q for the quarterly period ended March 30, 2013, which are incorporated by reference into this joint proxy statement/prospectus, and in OfficeMax's other reports filed with the SEC. For more information, see the section entitled "Where You Can Find More Information" beginning on page 219.

**Table of Contents**

	March 30, 2013 <sup>(1)</sup>	March 31, 2012 <sup>(2)</sup>	December 29, 2012 <sup>(3)</sup>	December 31, 2011 <sup>(4)</sup>	December 25, 2010 <sup>(5)</sup>	December 26, 2009 <sup>(6)</sup>	December 27, 2008 <sup>(7)</sup>
(millions, except per-share amounts)							
<b>Assets:</b>							
Current assets	\$ 1,996	\$ 1,935	\$ 1,984	\$ 1,939	\$ 2,014	\$ 2,021	\$ 1,855
Property and equipment, net	342	365	352	365	397	422	491
Timber notes receivable	818	899	818	899	899	899	899
Other	469	856	630	866	769	728	929
Total assets	\$ 3,624	\$ 4,055	\$ 3,784	\$ 4,069	\$ 4,079	\$ 4,070	\$ 4,174
<b>Liabilities and shareholders' equity:</b>							
Current liabilities	\$ 931	\$ 980	\$ 1,057	\$ 1,013	\$ 1,044	\$ 1,092	\$ 1,184
Long-term debt, less current portion	227	229	226	229	270	275	290
Non-recourse debt	735	1,470	735	1,470	1,470	1,470	1,470
Other	589	751	687	756	645	702	918
Noncontrolling interest	49	36	45	32	49	28	22
OfficeMax shareholders' equity - preferred stock	27	29	27	29	31	36	43
OfficeMax shareholders' equity - other	1,066	561	1,007	540	570	467	247
Total liabilities and shareholders' equity	\$ 3,624	\$ 4,055	\$ 3,784	\$ 4,069	\$ 4,079	\$ 4,070	\$ 4,174
Net sales	\$ 1,767	\$ 1,873	\$ 6,920	\$ 7,121	\$ 7,150	\$ 7,212	\$ 8,267
Net income (loss) attributable to OfficeMax and noncontrolling interest	\$ 58	\$ 7	\$ 421	\$ 38	\$ 74	\$ (1)	\$ (1,666)
Joint venture results attributable to noncontrolling interest	(1)	(2)	(4)	(3)	(3)	2	8
Net income (loss) attributable to OfficeMax	\$ 57	\$ 5	\$ 417	\$ 35	\$ 71	\$ 1	\$ (1,658)
Preferred dividends	(1)	(1)	(2)	(2)	(2)	(3)	(4)
Net income (loss) available to OfficeMax common shareholders	\$ 56	\$ 5	\$ 415	\$ 33	\$ 69	\$ (2)	\$ (1,662)
Basic net income (loss) per common share	\$ 0.65	\$ 0.06	\$ 4.79	\$ 0.38	\$ 0.81	\$ (0.03)	\$ (21.90)
Diluted net income (loss) per common share	\$ 0.64	\$ 0.06	\$ 4.74	\$ 0.38	\$ 0.79	\$ (0.03)	\$ (21.90)
Cash dividends declared per common share	\$ 0.02	\$ 0.00	\$ 0.06	\$	\$	\$	\$ 0.45

- (1) First quarter of 2013 included the following pre-tax items: (i) \$85.4 million of income for the recognition of deferred gains related to OfficeMax's investment in Boise Cascade Holdings, L.L.C.; (ii) \$6.9 million charge for certain costs related to the pending merger with Office Depot; and (iii) \$1.0 million of dividend income related to OfficeMax's investment in Boise Cascade Holdings, L.L.C.



**Table of Contents**

- (2) First quarter of 2012 included the following pre-tax items: (i) \$25.3 million charge for costs related to retail store closures in the U.S.; and (ii) \$2.1 million of dividend income related to OfficeMax's investment in Boise Cascade Holdings, L.L.C.
- (3) 2012 included the following pre-tax items: (i) \$11.4 million charge for impairment of fixed assets associated with certain of OfficeMax's retail stores. OfficeMax's minority partner's share of this charge of \$0.4 million is included in joint venture results attributable to non-controlling interest; (ii) \$56.4 million charge for accelerated pension expense related to participant settlements; (iii) \$41.0 million charge for costs related to retail store closures in the U.S.; (iv) \$6.2 million charge for severance and other costs; and (v) \$670.8 million gain related to an agreement that legally extinguished OfficeMax's non-recourse debt guaranteed by Lehman Brothers Holdings, Inc.
- (4) 2011 included the following pre-tax items: (i) \$14.9 million charge for severance and other costs; (ii) \$11.2 million charge for impairment of fixed assets associated with certain of OfficeMax's retail stores in the U.S.; and (iii) \$5.6 million charge for costs related to retail store closures in the U.S.
- (5) 2010 included the following pre-tax items: (i) \$11.0 million charge for impairment of fixed assets associated with certain of OfficeMax's retail stores in the U.S.; (ii) \$13.1 million charge for costs related to retail store closures in the U.S., partially offset by a \$0.6 million severance reserve adjustment; and (iii) \$9.4 million favorable adjustment of a reserve associated with OfficeMax's legacy building materials manufacturing facility near Elma, Washington due to the sale of the facility's equipment and the termination of the lease.
- (6) 2009 included the following items: (i) \$17.6 million pre-tax charge for impairment of fixed assets associated with certain of OfficeMax's retail stores in the U.S. and Mexico; OfficeMax's minority partner's share of this charge of \$1.2 million is included in joint venture results attributable to non-controlling interest; (ii) \$31.2 million pre-tax charge for costs related to retail store closures in the U.S. and Mexico. OfficeMax's minority partner's share of this charge of \$0.5 million is included in joint venture results attributable to non-controlling interest; (iii) \$18.1 million pre-tax charge for severance and other costs; (iv) \$4.4 million pre-tax gain related to interest earned on a tax escrow balance established in a prior period in connection with OfficeMax's legacy Voyageur Panel business; (v) \$2.6 million pre-tax gain related to OfficeMax's investment in Boise Cascade Holdings, L.L.C.; and (vi) \$14.9 million of income tax benefit from the release of a tax uncertainty reserve upon resolution of an issue under IRS appeal regarding the deductibility of interest on certain of OfficeMax's industrial revenue bonds.
- (7) 2008 included the following pre-tax items: (i) \$1,364.4 million charge for impairment of goodwill, trade names and fixed assets. OfficeMax's minority partner's share of this charge of \$6.5 million is included in joint venture results attributable to non-controlling interest; (ii) \$735.8 million charge for non-cash impairment of the timber installment note receivable due from Lehman Brothers Holdings, Inc. and \$20.4 million of related interest expense; (iii) \$27.9 million charge for severance and costs associated with the termination of certain store and site leases; and (iv) \$20.5 million gain related to OfficeMax's investment in Boise Cascade Holdings, L.L.C., primarily attributable to the sale of a majority interest in its paper and packaging and newsprint businesses.

**Table of Contents****SELECTED UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION**

The following selected unaudited pro forma condensed consolidated balance sheet data gives effect to the OfficeMax special dividend and the proposed transactions (collectively referred to in this joint proxy statement/prospectus as the pro forma events ) as if they had occurred on March 30, 2013 while the unaudited pro forma condensed combined statement of operations data for the three months ended March 30, 2013 and the year ended December 29, 2012 is presented as if the pro forma events had occurred on January 1, 2012.

The following selected unaudited pro forma condensed combined consolidated financial information has been prepared for illustrative purposes only and is not necessarily indicative of what the combined company's condensed consolidated financial position or results of operations actually would have been had the pro forma events occurred as of the dates indicated. In addition, the unaudited pro forma condensed combined financial information does not purport to project the future financial position or operating results of the combined company. Future results may vary significantly from the results reflected because of various factors, including those discussed in the section entitled "Risk Factors" beginning on page 39. The following selected unaudited pro forma condensed combined consolidated financial information should be read in conjunction with the section entitled "Unaudited Pro Forma Condensed Combined Financial Information" and related notes included in this joint proxy statement/prospectus beginning on page 170.

**Unaudited Pro Forma Condensed Combined Consolidated Balance Sheet Data**

As of March 30, 2013

*(in thousands)*

	Historical Office Depot	Historical OfficeMax	Pro Forma Adjustment for the OfficeMax Special Dividend	Pro Forma for the OfficeMax Special Dividend	Pro Forma Adjustments for the Transactions	Pro Forma Combined
Total assets	\$ 3,791,647	\$ 3,624,411	\$ (130,565)	\$ 7,285,493	\$ (373,946)	\$ 6,911,547
Long-term debt, net of current maturities	479,820	226,552		706,372	(2,954)	703,418
Non-recourse debt		735,000		735,000	157,420	892,420
Total liabilities	2,769,627	2,481,803		5,251,430	14,434	5,265,864
Total equity	635,619	1,093,448	(130,565)	1,598,502	(1,979)	1,596,523
Total liabilities and equity	\$ 3,791,647	\$ 3,624,411	\$ (130,565)	\$ 7,285,493	\$ (373,946)	\$ 6,911,547

**Unaudited Pro Forma Condensed Combined Consolidated Statement of Operations Data**

For the Three Months Ended March 30, 2013

*(in thousands, except per share amounts)*

	Historical Office Depot	Historical OfficeMax	Pro Forma Adjustments	Pro Forma Combined
Sales	\$ 2,718,260	\$ 1,766,729	\$ 3,580	\$ 4,488,569
Operating income (loss)	9,645	101,897	25,690	137,232
Net earnings (loss) attributable to common stockholders	\$ (16,824)	\$ 56,335	\$ 35,170	\$ 74,681
Net earnings (loss) per share:				
Basic	\$ (0.06)	\$ 0.65		\$ 0.14
Diluted	\$ (0.06)	\$ 0.64		\$ 0.14



**Table of Contents****Unaudited Pro Forma Condensed Combined Consolidated Statement of Operations Data****For the Year Ended December 29, 2012***(in thousands, except per share amounts)*

	<b>Historical Office Depot</b>	<b>Historical OfficeMax</b>	<b>Pro Forma Adjustments</b>	<b>Pro Forma Combined</b>
Sales	\$ 10,695,652	\$ 6,920,384	\$ 23,547	\$ 17,639,583
Operating income (loss)	(30,841)	24,278	14,982	8,419
Net earnings (loss) attributable to common stockholders	\$ (110,045)	\$ 414,694	\$ 45,556	\$ 350,205
Net earnings (loss) per share:				
Basic	\$ (0.39)	\$ 4.79		\$ 0.67
Diluted	\$ (0.39)	\$ 4.74		\$ 0.66

**UNAUDITED COMPARATIVE PER SHARE INFORMATION**

The following table summarizes unaudited per share data for (i) Office Depot and OfficeMax on a historical basis for the three months ended March 30, 2013 and the year ended December 29, 2012, (ii) Office Depot on a pro forma combined basis giving effect to the OfficeMax special dividend and the transactions (collectively referred to in this joint proxy statement/prospectus as the pro forma events ) and (iii) OfficeMax on a pro forma equivalent basis based on the exchange ratio of 2.69 shares of Office Depot common stock for each share of OfficeMax common stock. It has been assumed for purposes of the pro forma combined financial information provided below that the pro forma events occurred on January 1, 2012 for earnings per share purposes and on March 30, 2013 for book value per share purposes. The historical earnings per share information should be read in conjunction with the historical consolidated financial statements and notes thereto of Office Depot and OfficeMax incorporated by reference into this joint proxy statement/prospectus. See *Where You Can Find More Information* on page 219. The unaudited pro forma combined earnings per share information is derived from, and should be read in conjunction with, the section entitled *Unaudited Pro Forma Condensed Combined Financial Information* and related notes included in this joint proxy statement/prospectus beginning on page 170. The pro forma information is presented for illustrative purposes only and is not necessarily indicative of the operating results or financial position that would have occurred if the pro forma events had occurred as of the beginning of the periods presented, nor is it necessarily indicative of the future operating results or financial position of the combined company.

	<b>Office Depot</b>		<b>OfficeMax</b>	
	<b>Historical</b>	<b>Pro Forma Combined</b>	<b>Historical</b>	<b>Pro Forma Equivalent<sup>(1)</sup></b>
<b>Three Months Ended March 30, 2013</b>				
Basic earnings (loss) per share <sup>(2)</sup>	\$ (0.06)	\$ 0.14	\$ 0.65	\$ 0.38
Diluted earnings (loss) per share <sup>(2)</sup>	\$ (0.06)	\$ 0.14	\$ 0.64	\$ 0.38
Book value per share <sup>(3)</sup>	\$ 2.22	\$ 3.03	\$ 12.57	\$ 8.15
<b>Year Ended December 29, 2012</b>				
Basic earnings (loss) per share <sup>(2)</sup>	\$ (0.39)	\$ 0.67	\$ 4.79	\$ 1.81
Diluted earnings (loss) per share <sup>(2)</sup>	\$ (0.39)	\$ 0.66	\$ 4.74	\$ 1.78
Book value per share <sup>(3)</sup>	\$ 2.31	\$ 3.35	\$ 11.91	\$ 9.00

- (1) The pro forma equivalent share amounts were calculated by multiplying the pro forma combined per share amounts by the exchange ratio of 2.69 shares of Office Depot common stock per share of OfficeMax common stock. This information shows how each share of OfficeMax common stock would have participated in the combined company's earnings (loss) from continuing operations and book value if the pro forma events had occurred on the relevant dates.



**Table of Contents**

- (2) The pro forma earnings (loss) per share of the combined company are calculated by dividing the pro forma income (loss) by the pro forma weighted average number of shares outstanding.
- (3) Historical book value per share is computed by dividing total stockholders' equity by the number of shares of Office Depot common stock or OfficeMax common stock, as applicable, outstanding as of March 30, 2013. Pro forma combined book value per share is computed by dividing pro forma common stockholders' equity by the pro forma number of shares of Office Depot common stock that would have been outstanding as of March 30, 2013.

**COMPARATIVE STOCK PRICE DATA AND DIVIDENDS****Stock Prices**

Office Depot's common stock is listed on the NYSE under the symbol ODP. OfficeMax's common stock is listed on the NYSE under the symbol OMX. The following table sets forth the closing sales prices per share of Office Depot common stock and OfficeMax common stock, on an actual and equivalent per share basis, on the NYSE on the following dates:

February 15, 2013, the last full trading day before the publication of press reports regarding a potential merger,

February 19, 2013, the last full trading day before the public announcement of the merger, and

[ ], the last trading day for which this information could be calculated before the date of this joint proxy statement/prospectus.

	Office Depot Common Stock	OfficeMax Common Stock	Office Depot Equivalent Per Share <sup>(1)</sup>
February 15, 2013	\$ 4.59	\$ 10.75	\$ 12.35
February 19, 2013	\$ 5.02	\$ 13.00	\$ 13.50
[ ]	\$ [ ]	\$ [ ]	\$ [ ]

- (1) The equivalent per share data for Office Depot common stock has been determined by multiplying the market price of one share of Office Depot common stock on each of the dates by the exchange ratio of 2.69.

The following table sets forth, for the periods indicated, the high and low sales prices per share of Office Depot common stock and OfficeMax common stock as reported on the NYSE.

**Office Depot Common Stock**

	Office Depot Price Range		Cash Dividends
	High	Low	
<b>Fiscal Year ending December 28, 2013</b>			
Second Quarter (through [ ], 2013)	\$ [ ]	\$ [ ]	
First Quarter	\$ 5.02	\$ 3.28	
<b>Fiscal Year ended December 29, 2012</b>			
Fourth Quarter	\$ 3.62	\$ 2.24	
Third Quarter	\$ 2.85	\$ 1.51	
Second Quarter	\$ 3.50	\$ 1.98	
First Quarter	\$ 3.81	\$ 2.08	

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**Fiscal Year ended December 31, 2011**

Fourth Quarter	\$ 2.58	\$ 1.80
Third Quarter	\$ 4.42	\$ 2.05
Second Quarter	\$ 4.74	\$ 3.33
First Quarter	\$ 6.10	\$ 4.77

**Table of Contents****OfficeMax Common Stock**

	OfficeMax Price Range		Cash Dividends
	High	Low	
<b>Fiscal Year ending December 28, 2013</b>			
Second Quarter (through [ ], 2013)	\$ [ ]	\$ [ ]	\$ 0.02
First Quarter	\$ 13.00	\$ 9.58	\$ 0.02
<b>Fiscal Year ended December 29, 2012</b>			
Fourth Quarter	\$ 10.62	\$ 7.04	\$ 0.02
Third Quarter	\$ 8.33	\$ 4.20	\$ 0.02
Second Quarter	\$ 5.95	\$ 4.10	
First Quarter	\$ 6.33	\$ 4.46	
<b>Fiscal Year ended December 31, 2011</b>			
Fourth Quarter	\$ 5.93	\$ 3.90	
Third Quarter	\$ 8.82	\$ 4.46	
Second Quarter	\$ 14.36	\$ 6.05	
First Quarter	\$ 18.95	\$ 12.24	

As of [ ], 2013, the last date before the date of this joint proxy statement/prospectus for which it was practicable to obtain this information, there were [ ] shares of Office Depot common stock outstanding and approximately [ ] holders of record of Office Depot common stock, and [ ] shares of OfficeMax common stock outstanding and approximately [ ] holders of record of OfficeMax common stock.

Because the exchange ratio will not be adjusted for changes in the market price of either Office Depot common stock or OfficeMax common stock, the market value of the shares of Office Depot common stock that holders of OfficeMax common stock will have the right to receive on the date the transactions are completed may vary significantly from the market value of the shares of Office Depot common stock that holders of OfficeMax common stock would receive if the transactions were completed on the date of this joint proxy statement/prospectus. As a result, you should obtain recent market prices of OfficeMax common stock and Office Depot common stock prior to voting your shares. See Risk Factors Risks Relating to the Transactions beginning on page 39.

**Dividends**

OfficeMax suspended its dividends to holders of common stock on December 18, 2008. In the third quarter of 2012, OfficeMax reinstated the payment of quarterly cash dividends on its common stock, given progress in executing its strategic plan to achieve sustainable, profitable growth. The quarterly dividends are expected to be \$0.02 per share of OfficeMax common stock, or \$0.08 per share of OfficeMax common stock on an annualized basis. During 2012, OfficeMax paid \$3.5 million in common stock dividends. On April 30, 2013, OfficeMax declared a quarterly cash dividend of \$0.02 per share of its common stock, payable on May 31, 2013.

Office Depot has never declared or paid cash dividends on its common stock.

Under the merger agreement, neither party may authorize, declare or pay any dividend on its respective outstanding shares of common stock prior to completion of the transactions, except, in the case of OfficeMax, for regular quarterly cash dividends and a distribution by OfficeMax to holders of its common stock of \$1.50 per share of OfficeMax common stock, not to exceed \$131 million in the aggregate. On May 6, 2013, OfficeMax declared a special non-recurring dividend of \$1.50 per share of its common stock, payable on July 2, 2013, which OfficeMax expects to total approximately \$131 million (referred to in this joint proxy statement/prospectus as the OfficeMax special dividend ).



**Table of Contents**

**CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS**

This joint proxy statement/prospectus and the documents incorporated by reference into this joint proxy statement/prospectus contain forward-looking statements within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 that are not limited to historical facts but reflect Office Depot's and OfficeMax's current beliefs, expectations or intentions regarding future events. Words such as anticipate, believe, plan, continue, could, estimate, expect, forecast, guidance, intend, may, plan, possible, pursue, will, should, target, and other similar words, phrases or expressions are intended to identify such forward-looking statements. These forward-looking statements include, without limitation, Office Depot's and OfficeMax's expectations with respect to the synergies, costs and other anticipated financial impacts of the transactions; future financial and operating results of the combined company; the combined company's plans, objectives, expectations and intentions with respect to future operations and services; required approvals of the transactions by the Office Depot stockholders and OfficeMax stockholders and by governmental regulatory authorities; the satisfaction of the closing conditions to the proposed transactions; and the timing of the completion of the transactions.

All forward-looking statements involve significant risks and uncertainties that could cause actual results to differ materially from those expressed or implied in the forward-looking statements, many of which are generally outside the control of Office Depot and OfficeMax and difficult to predict. These risks and uncertainties also include those set forth under "Risk Factors" beginning on page 39, as well as, among others, risks and uncertainties relating to:

the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement or the failure to satisfy the closing conditions;

the possibility that the consummation of the proposed transactions is delayed or does not occur, including due to the failure to obtain the required approvals of the Office Depot stockholders and OfficeMax stockholders;

the ability to obtain the regulatory approvals required to complete the transactions contemplated by the merger agreement, and the timing and conditions for such approvals;

the taking of governmental action (including the passage of legislation) to block the transactions or otherwise adversely affecting Office Depot and OfficeMax;

the outcome of any legal proceedings that have been or may be instituted against Office Depot, OfficeMax or others following announcement of the transactions contemplated by the merger agreement;

the possibility that the expected synergies from the transactions will not be realized or will take longer to realize than expected;

the ability to successfully integrate the businesses of Office Depot and OfficeMax, unexpected costs or unexpected liabilities that may arise from the transactions, whether or not consummated;

the disruption from the transactions making it more difficult for Office Depot and OfficeMax to maintain relationships with their respective customers, employees or suppliers;

the inability of Office Depot and OfficeMax to retain key personnel; and

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the impact of global economic conditions, fluctuations in exchange rates, labor relations, competitive actions taken by other office solutions businesses or other competitors, terrorist attacks or natural disasters.

**Table of Contents**

Office Depot and OfficeMax caution that the foregoing list of factors is not exhaustive. Additional information concerning these and other risk factors is contained in Office Depot's and OfficeMax's most recently filed Annual Reports on Form 10-K, subsequent Quarterly Reports on Form 10-Q, recent Current Reports on Form 8-K and other SEC filings, as such filings may be amended from time to time. All subsequent written and oral forward-looking statements concerning Office Depot, OfficeMax, the transactions or other matters attributable to Office Depot or OfficeMax or any person acting on their behalf are expressly qualified in their entirety by the cautionary statements above. Neither Office Depot nor OfficeMax undertakes any obligation to update publicly any of these forward-looking statements to reflect events or circumstances that may arise after the date hereof.

**Table of Contents****RISK FACTORS**

*In addition to the other information included and incorporated by reference into this joint proxy statement/prospectus, including the matters addressed in the section entitled **Cautionary Statements Regarding Forward-Looking Statements** beginning on page 37, you should carefully consider the following risk factors before deciding whether to vote for the proposal to adopt the merger agreement and approve the first merger and the second merger, in the case of OfficeMax stockholders, or for the proposal to approve the Office Depot share issuance, in the case of Office Depot stockholders. In addition, you should read and consider the risks associated with each of the businesses of OfficeMax and Office Depot because these risks will relate to the combined company following the completion of the transactions. Descriptions of some of these risks can be found in the Annual Reports of OfficeMax and Office Depot on Form 10-K for the fiscal year ended December 29, 2012, and any amendments thereto for each of OfficeMax and Office Depot, as such risks may be updated or supplemented in each company's subsequently filed Quarterly Reports on Form 10-Q or Current Reports on Form 8-K, which are incorporated by reference into this joint proxy statement/prospectus. You should also consider the other information in this document and the other documents incorporated by reference into this document. See the section entitled **Where You Can Find More Information** beginning on page 219.*

**Risks Relating to the Transactions**

***The transactions are subject to conditions, including certain conditions that may not be satisfied, or completed on a timely basis, if at all. Failure to complete the transactions could have material and adverse effects on Office Depot and OfficeMax.***

The completion of the transactions is subject to a number of conditions, including the approval by the Office Depot stockholders of the Office Depot share issuance and the adoption of the merger agreement and the approval of the first merger and the second merger by the OfficeMax stockholders, which make the completion and timing of the completion of the transactions uncertain. See the section entitled **The Merger Agreement Conditions to Completion of the Transactions**, beginning on page 147, for a more detailed discussion. Also, either Office Depot or OfficeMax may terminate the merger agreement if the transactions have not been consummated by December 31, 2013 or, if the only conditions to closing that have not been satisfied or waived by that date are those related to antitrust approvals, consents or clearances or an outstanding judgment, injunction, order or decree of a competent United States federal or state governmental authority prohibiting or enjoining the transactions, April 30, 2014, except that this right to terminate the merger agreement will not be available to any party whose failure to perform any covenant or obligation under the merger agreement has been the cause of or resulted in the failure of the transactions to be consummated on or before that date.

If the transactions are not completed on a timely basis, or at all, Office Depot's and OfficeMax's respective ongoing businesses may be adversely affected and, without realizing any of the benefits of having completed the transactions, Office Depot and OfficeMax will be subject to a number of risks, including the following:

Office Depot and OfficeMax will be required to pay their respective costs relating to the transactions, such as legal, accounting, financial advisory and printing fees, whether or not the transactions are completed;

time and resources committed by Office Depot's and OfficeMax's respective management to matters relating to the transactions could otherwise have been devoted to pursuing other beneficial opportunities;

the market price of Office Depot common stock or OfficeMax common stock could decline to the extent that the current market price reflects a market assumption that the transactions will be completed; and

if the merger agreement is terminated and the board of directors of Office Depot or the board of directors of OfficeMax seeks another business combination, Office Depot stockholders and OfficeMax

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**Table of Contents**

stockholders cannot be certain that Office Depot or OfficeMax will be able to find a party willing to enter into a merger agreement on terms equivalent to or more attractive than the terms that the other party has agreed to in the merger agreement.

***The merger agreement contains provisions that limit each party's ability to pursue alternatives to the transactions, could discourage a potential competing acquiror of either Office Depot or OfficeMax from making a favorable alternative transaction proposal and, in specified circumstances, could require either party to pay a termination fee of \$30 million to the other party.***

The merger agreement contains certain provisions that restrict each of Office Depot's and OfficeMax's ability to initiate, solicit, knowingly encourage or, subject to certain exceptions, engage in discussions or negotiations with respect to, or approve or recommend, any third-party proposal for an alternative transaction. Further, even if the Office Depot board of directors withdraws or qualifies its recommendation with respect to the Office Depot share issuance or if the OfficeMax board of directors withdraws or qualifies its recommendation with respect to the adoption of the merger agreement and the approval of the first merger and the second merger, unless the merger agreement has been terminated in accordance with its terms, Office Depot or OfficeMax, as the case may be, will still be required to submit each of their merger-related proposals to a vote at their special meeting of stockholders. In addition, the other party generally has an opportunity to offer to modify the terms of the transactions contemplated by the merger agreement in response to any third-party alternative transaction proposal before the board of directors of the company that has received a third-party alternative transaction proposal may withdraw or qualify its recommendation with respect to the merger-related proposal. In some circumstances, upon termination of the merger agreement, a party will be required to pay a termination fee of \$30 million to the other party. See the sections entitled "The Merger Agreement - No Solicitation of Acquisition Proposals" beginning on page 150, "The Merger Agreement - Termination of the Merger Agreement" beginning on page 157 and "The Merger Agreement - Expenses and Termination Fee" beginning on page 159.

These provisions could discourage a potential third-party acquiror or merger partner that might have an interest in acquiring all or a significant portion of Office Depot or OfficeMax or pursuing an alternative transaction from considering or proposing such a transaction, even if it were prepared to pay consideration with a higher per share cash or market value than the per share cash or market value proposed to be received or realized in the transactions or might result in a potential third-party acquiror or merger partner proposing to pay a lower price to the stockholders of Office Depot or OfficeMax than it might otherwise have proposed to pay because of the added expense of the \$30 million termination fee that may become payable in certain circumstances.

If the merger agreement is terminated and either Office Depot or OfficeMax determines to seek another business combination, Office Depot or OfficeMax, as applicable, may not be able to negotiate a transaction with another party on terms comparable to, or better than, the terms of the transactions.

***OfficeMax's and Office Depot's executive officers and directors have interests in the transactions that may be different from, or in addition to, the interests of OfficeMax and Office Depot stockholders generally.***

OfficeMax's and Office Depot's executive officers and directors have interests in the transactions that may be different from, or in addition to, the interests of OfficeMax and Office Depot stockholders generally. The executive officers of OfficeMax and Office Depot have arrangements with OfficeMax or Office Depot, as applicable, that provide for severance, accelerated vesting of certain rights and other benefits if their employment is terminated under certain circumstances following the completion of the transactions. In addition, certain of OfficeMax's and Office Depot's compensation and benefit plans and arrangements provide for payment or accelerated vesting or distribution of certain rights or benefits upon completion of the transactions. Executive officers and directors of OfficeMax also have rights to indemnification, advancement of expenses and directors' and officers' liability insurance that will survive completion of the transactions.

The merger agreement contains certain provisions relating to the governance of the combined company following completion of the transactions, which reflect the merger of equals structure of the proposed business.

## **Table of Contents**

combination. Completion of the transactions is subject to the conditions described under "The Merger Agreement - Conditions to Completion of the Transactions" beginning on page 147, including the adoption by Office Depot, as of the closing, of the amended and restated bylaws to implement certain governance matters for a four-year period following completion of the transactions.

The board of directors of the combined company and its committees will have equal representation from both parties as of the closing. As of the closing, the then-current chief executive officers of Office Depot and OfficeMax will be appointed as co-chief executive officers of the combined company and the board of directors will have co-chairpersons and co-lead outside directors designated by the parties, unless and until the successor CEO has been appointed. A selection committee consisting of an equal number of independent directors of each party will identify successor CEO candidates. Office Depot has designated Nigel Travis, Marsha J. Evans and Thomas J. Colligan and OfficeMax has designated V. James Marino, Rakesh Gangwal and Francesca Ruiz de Luzuriaga as members of the selection committee with Messrs. Travis and Marino serving as co-chairpersons. The selection committee will also consider the then-current chief executive officers of Office Depot and OfficeMax as successor CEO candidates. The amended and restated bylaws will provide for the rotation of the selection of the chairperson and lead outside director. In addition, as of the closing, the officers for the combined company will be appointed by the newly constituted board of directors from among the officers of both parties.

As of the date of this joint proxy statement/prospectus, neither OfficeMax nor Office Depot has made a determination as to which independent directors to appoint to the board of directors of the combined company.

The OfficeMax and Office Depot boards of directors were aware of these interests at the time each approved the merger agreement, the transactions and the other transactions contemplated by the merger agreement. These interests may cause OfficeMax's and Office Depot's directors and executive officers to view the proposed transactions differently and more favorably than you may view them. These interests are described in greater detail in the sections entitled "The Transactions - Interests of Certain Office Depot Persons in the Transactions" beginning on page 123, "The Transactions - Interests of Certain OfficeMax Persons in the Transactions" beginning on page 129, and "The Transactions - Board of Directors and Management of the Combined Company Following Completion of the Transactions" beginning on page 134.

***Each party is subject to business uncertainties and contractual restrictions while the proposed transactions are pending, which could adversely affect each party's business and operations.***

In connection with the pendency of the transactions, it is possible that some customers, suppliers and other persons with whom Office Depot or OfficeMax has a business relationship may delay or defer certain business decisions or might decide to seek to terminate, change or renegotiate their relationships with Office Depot or OfficeMax, as the case may be, as a result of the transactions, which could negatively affect Office Depot's or OfficeMax's respective revenues, earnings and cash flows, as well as the market price of Office Depot's or OfficeMax's common stock, regardless of whether the transactions are completed.

Under the terms of the merger agreement, each of Office Depot or OfficeMax is subject to certain restrictions on the conduct of its business prior to completing the transactions, which may adversely affect its ability to execute certain of its business strategies, including the ability in certain cases to enter into contracts, acquire or dispose of assets, incur indebtedness or incur capital expenditures. Such limitations could negatively affect each party's businesses and operations prior to the completion of the transactions.

***Because the exchange ratio is fixed and the market price of Office Depot's and OfficeMax's common stock may fluctuate, OfficeMax stockholders cannot be sure of the value of the Office Depot common stock they will receive on the closing date.***

Upon completion of the transactions, each share of OfficeMax common stock will be converted into the right to receive 2.69 shares of Office Depot common stock. If applicable, the exchange ratio will be adjusted

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**Table of Contents**

appropriately to fully reflect the effect of any stock dividend or other stock distribution, stock split, reclassification, combination or other change with respect to the shares of either Office Depot common stock or OfficeMax common stock prior to the completion of the second merger. The exchange ratio will not, however, be adjusted for changes in the market price of either Office Depot common stock or OfficeMax common stock between the date of signing the merger agreement and completion of the transactions. Accordingly, the value of Office Depot common stock that OfficeMax stockholders will receive on the closing date will depend upon the market price of Office Depot common stock on the closing date. As a result, changes in the price of Office Depot common stock prior to the closing date will affect the value of Office Depot common stock that OfficeMax stockholders will receive on the closing date.

The prices of Office Depot common stock and OfficeMax common stock and, as a result, the value of Office Depot common stock that OfficeMax stockholders will receive pursuant to the merger agreement, may fluctuate from the date the merger agreement was executed through the date of the closing of the transactions. For example, based on the range of closing prices of Office Depot common stock during the period from February 15, 2013, the last full trading day before the publication of press reports regarding a potential merger, through [ ], the latest practicable trading date before the date of this joint proxy statement/prospectus, the exchange ratio represented a value ranging from a high of \$[ ] to a low of \$[ ] for each share of OfficeMax common stock. Accordingly, at the time of the Office Depot special meeting and the OfficeMax special meeting, OfficeMax stockholders will not know or be able to determine the value of Office Depot common stock they may receive upon completion of the transactions. For that reason, the market prices of Office Depot common stock and OfficeMax common stock on the date of the Office Depot special meeting and the OfficeMax special meeting may not be indicative of the value of Office Depot common stock that OfficeMax stockholders will receive upon completion of the transactions.

The market prices of Office Depot common stock and OfficeMax common stock are subject to general price fluctuations in the market for publicly traded equity securities and have experienced volatility in the past. Neither Office Depot nor OfficeMax is permitted to terminate the merger agreement or re-solicit the vote of Office Depot stockholders or OfficeMax stockholders, as applicable, solely because of changes in the market prices of either company's common stock. As described above, the exchange ratio will not be adjusted for changes in the market price of either Office Depot common stock or OfficeMax common stock between the date of signing the merger agreement and completion of the transactions. Stock price changes may result from a variety of factors, including general market and economic conditions and changes in the respective businesses, operations and prospects, and regulatory considerations of Office Depot and OfficeMax. Market assessments of the benefits of the proposed business combination and the likelihood that the transactions will be completed, as well as general and industry-specific market and economic conditions, may also impact market prices of Office Depot common stock and OfficeMax common stock. Many of these factors are beyond Office Depot's and OfficeMax's control. OfficeMax stockholders should obtain current market quotations for shares of Office Depot common stock and for shares of OfficeMax common stock.

***The transactions are subject to the expiration of applicable waiting periods and the receipt of approvals, consents or clearances from domestic and foreign regulatory authorities that may impose conditions that could have an adverse effect on Office Depot, OfficeMax or the combined company or, if not obtained, could prevent completion of the transactions.***

Before the transactions may be completed, any waiting period (or extension thereof) applicable to the transactions must have expired or been terminated, and any approvals, consents or clearances required in connection with the transactions must have been obtained, in each case, under the HSR Act, the CAC and the FLEC. In addition, the transactions may be reviewed under antitrust statutes of other governmental authorities, including U.S. state laws. In deciding whether to grant the required regulatory approval, consent or clearance, the relevant governmental entities will consider the effect of the transactions on competition within their relevant jurisdiction. The terms and conditions of the approvals, consents and clearances that are granted may impose requirements, limitations or costs or place restrictions on the conduct of the combined company's business.

## **Table of Contents**

Under the merger agreement, OfficeMax and Office Depot have agreed to use their reasonable best efforts to obtain such approvals, consents and clearances and therefore may be required to comply with conditions or limitations imposed by governmental authorities, except to the extent that such condition or limitation would reasonably be expected to have a material adverse effect after the closing of the transactions on the combined businesses of Office Depot and OfficeMax and their subsidiaries, taken as a whole, including the overall benefits expected, as of the date of the merger agreement, to be derived by the parties from the combination of Office Depot and OfficeMax via the transactions. There can be no assurance that regulators will not impose conditions, terms, obligations or restrictions and that such conditions, terms, obligations or restrictions will not have the effect of delaying completion of the transactions or imposing additional material costs on or materially limiting the revenues of the combined company following the completion of the transactions. In addition, neither OfficeMax nor Office Depot can provide assurance that any such conditions, terms, obligations or restrictions will not result in the delay or abandonment of the transactions. For a more detailed description of the regulatory review process, see the section entitled *The Transactions Regulatory Approvals* beginning on page 138.

***Any delay in completing the transactions may reduce or eliminate the benefits expected to be achieved thereunder.***

In addition to the required regulatory approvals, consents and clearances, the completion of the transactions is subject to a number of other conditions beyond Office Depot's and OfficeMax's control that may prevent, delay or otherwise materially adversely affect such completion. Office Depot and OfficeMax cannot predict whether and when these other conditions will be satisfied. Furthermore, the requirements for obtaining the required approvals, consents and clearances could delay the completion of the transactions for a significant period of time or prevent it from occurring. Any delay in completing the transactions could cause the combined company not to realize some or all of the synergies that we expect to achieve if the transactions are successfully completed within the expected time frame. See *The Merger Agreement Conditions to Completion of the Transactions* beginning on page 147.

***Uncertainties associated with the transactions may cause a loss of management personnel and other key employees which could adversely affect the future business and operations of the combined company.***

Office Depot and OfficeMax are dependent on the experience and industry knowledge of their officers and other key employees to execute their business plans. The combined company's success after the completion of the transactions will depend in part upon the ability of Office Depot and OfficeMax to retain key management personnel and other key employees. Current and prospective employees of Office Depot and OfficeMax may experience uncertainty about their roles within the combined company following the completion of the transactions, which may have an adverse effect on the ability of each of Office Depot and OfficeMax to attract or retain key management and other key personnel. Accordingly, no assurance can be given that the combined company will be able to attract or retain key management personnel and other key employees of Office Depot and OfficeMax to the same extent that Office Depot and OfficeMax have previously been able to attract or retain their own employees.

***Litigation filed against OfficeMax, Office Depot and the OfficeMax board of directors could prevent or delay the consummation of the transactions or result in the payment of damages following completion of the transactions.***

In connection with the transactions, purported stockholders of OfficeMax have filed putative stockholder class action lawsuits against OfficeMax, Office Depot and the OfficeMax board of directors, among others. Among other remedies, the plaintiffs seek to enjoin the transactions. The outcome of any such litigation is uncertain. If a dismissal is not granted or a settlement is not reached, these lawsuits could prevent or delay completion of the transactions and result in substantial costs to OfficeMax and Office Depot, including any costs associated with indemnification. Additional lawsuits may be filed against OfficeMax, Office Depot or the directors and officers of either company in connection with the transactions. The defense or settlement of any



## **Table of Contents**

lawsuit or claim that remains unresolved at the time the transactions are consummated may adversely affect the combined company's business, financial condition, results of operations and cash flows. See "The Transactions - Litigation Related to the Transactions" beginning on page 144 for more information about the lawsuits that have been filed related to the transactions.

*The unaudited pro forma condensed combined financial information in this joint proxy statement/prospectus is presented for illustrative purposes only and may not be reflective of the operating results and financial condition of the combined company following completion of the transactions.*

The unaudited pro forma condensed combined financial information in this joint proxy statement/prospectus is presented for illustrative purposes only and is not necessarily indicative of what the combined company's actual financial position or results of operations would have been had the transactions been completed on the dates indicated. Further, the combined company's actual results and financial position after the transactions may differ materially and adversely from the unaudited pro forma condensed combined financial data that is included in this joint proxy statement/prospectus. The unaudited pro forma condensed combined financial information has been prepared with the expectation, as of the date of this joint proxy statement/prospectus, that Office Depot will be identified as the acquirer under GAAP and reflects adjustments based upon preliminary estimates of the fair value of assets to be acquired and liabilities to be assumed. The final acquisition accounting will be based upon the actual purchase price and the fair value of the assets and liabilities of the party that is determined to be the acquiree under GAAP as of the date of the completion of the transactions. In addition, subsequent to the closing date, there will be further refinements of the acquisition accounting as additional information becomes available. Accordingly, the final acquisition accounting may differ materially from the pro forma condensed combined financial information reflected in this document. See "Unaudited Pro Forma Condensed Combined Financial Information" beginning on page 170 for more information.

*Completion of the transactions may trigger change in control or other provisions in certain agreements to which OfficeMax is a party.*

The completion of the transactions may trigger change in control or other provisions in certain agreements to which OfficeMax is a party. If Office Depot and OfficeMax are unable to negotiate waivers of those provisions, the counterparties may exercise their rights and remedies under the agreements, potentially terminating the agreements or seeking monetary damages. Even if Office Depot and OfficeMax are able to negotiate waivers, the counterparties may require a fee for such waivers or seek to renegotiate the agreements on terms less favorable to OfficeMax or the combined company.

## **Risks Relating to the Combined Company after Completion of the Transactions**

*The combined company may be unable to successfully integrate the businesses of Office Depot and OfficeMax and realize the anticipated benefits of the transactions.*

The transactions involve the combination of two companies that currently operate as independent public companies. The combined company will be required to devote significant management attention and resources to integrating the business practices and operations of Office Depot and OfficeMax. Potential difficulties the combined company may encounter as part of the integration process include the following:

the inability to successfully combine the businesses of Office Depot and OfficeMax in a manner that permits the combined company to achieve the full synergies anticipated to result from the transactions;

complexities associated with managing the businesses of the combined company, including the challenge of integrating complex systems, technology, networks and other assets of each of the companies in a seamless manner that minimizes any adverse impact on customers, suppliers, employees and other constituencies;

## **Table of Contents**

integrating the workforces of the two companies while maintaining focus on providing consistent, high quality customer service; and

potential unknown liabilities and unforeseen increased expenses or delays associated with the transactions, including one-time cash costs to integrate the two companies that may exceed the anticipated range of \$350-450 million one-time cash costs that Office Depot and OfficeMax estimated as of the date of execution of the merger agreement.

In addition, Office Depot and OfficeMax have operated and, until the completion of the transactions, will continue to operate independently and may not begin the actual integration process. Although the parties are conducting an integration planning process as permitted by legal restrictions, this process could result in:

diversion of the attention of each company's management; and

the disruption of, or the loss of momentum in, each company's ongoing businesses or inconsistencies in standards, controls, procedures and policies, any of which could adversely affect each company's ability to maintain relationships with customers, suppliers, employees and other constituencies or Office Depot's and OfficeMax's ability to achieve the anticipated benefits of the transactions or could reduce each company's earnings or otherwise adversely affect the business and financial results of the combined company.

***Office Depot stockholders and OfficeMax stockholders will have a reduced ownership and voting interest after the transactions and will exercise less influence over management.***

Office Depot stockholders presently have the right to vote in the election of Office Depot's board of directors and on other matters affecting Office Depot. OfficeMax stockholders presently have the right to vote in the election of OfficeMax's board of directors and on other matters affecting OfficeMax. Immediately after the transactions are completed, it is expected that current Office Depot stockholders will own approximately [ ]% of the combined company's common stock outstanding and current OfficeMax stockholders will own approximately [ ]% of the combined company's common stock outstanding, respectively (assuming redemption of all outstanding shares of Office Depot convertible preferred stock).

As a result, current Office Depot stockholders and current OfficeMax stockholders will have less influence on the management and policies of the combined company than they now have on the management and policies of Office Depot and OfficeMax, respectively.

***The market price of the combined company's common stock may be volatile, and holders of the combined company's common stock could lose a significant portion of their investment due to drops in the market price of the combined company's common stock following completion of the transactions.***

The market price of the combined company's common stock may be volatile, and following completion of the transactions stockholders may not be able to resell their Office Depot common stock at or above the price at which they acquired the common stock pursuant to the merger agreement or otherwise due to fluctuations in its market price, including changes in price caused by factors unrelated to the combined company's operating performance or prospects.

Specific factors that may have a significant effect on the market price for the combined company's common stock include, among others, the following:

changes in stock market analyst recommendations or earnings estimates regarding the combined company's common stock, other companies comparable to it or companies in the industries they serve;

actual or anticipated fluctuations in the combined company's operating results or future prospects;



**Table of Contents**

reaction to public announcements by the combined company;

strategic actions taken by the combined company or its competitors, such as acquisitions or restructurings;

failure of the combined company to achieve the perceived benefits of the transactions, including financial results and anticipated synergies, as rapidly as or to the extent anticipated by financial or industry analysts;

the recruitment or departure of key personnel, including the selection and appointment of the chief executive officer of the combined company following completion of the transactions if the selection and appointment have not been made prior to the completion of the transactions;

new laws or regulations or new interpretations of existing laws or regulations applicable to the combined company's business and operations;

changes in tax or accounting standards, policies, guidance, interpretations or principles;

adverse conditions in the financial markets or general U.S. or international economic conditions, including those resulting from war, incidents of terrorism and responses to such events; and

sales of common stock by the combined company, members of its management team or significant stockholders.

***The market price of the combined company's common stock may be affected by factors different from those affecting the price of Office Depot or OfficeMax common stock.***

Upon completion of the transactions, holders of Office Depot common stock and OfficeMax common stock will become holders of common stock in the combined company. As the businesses of Office Depot and OfficeMax are different, the results of operations as well as the price of the combined company's common stock may in the future be affected by factors different from those factors affecting Office Depot and OfficeMax as independent stand-alone companies. The combined company will face additional risks and uncertainties that Office Depot or OfficeMax may currently not be exposed to as independent companies.

***The future results of the combined company will suffer if the combined company does not effectively manage its expanded operations following the completion of the transactions.***

Following the completion of the transactions, the size of the business of the combined company will increase significantly beyond the current size of either Office Depot's or OfficeMax's business. The combined company's future success depends, in part, upon its ability to manage this expanded business, which will pose substantial challenges for management, including challenges related to the management and monitoring of new operations and associated increased costs and complexity. There can be no assurances that the combined company will be successful or that it will realize the expected operating efficiencies, cost savings and other benefits currently anticipated from the transactions.

***The combined company is expected to incur substantial expenses related to the completion of the transactions and the integration of Office Depot and OfficeMax.***

The combined company is expected to incur substantial expenses in connection with the completion of the transactions and the integration of Office Depot and OfficeMax. There are a large number of processes, policies, procedures, operations, technologies and systems that must be integrated, including purchasing, accounting and finance, sales, payroll, pricing, revenue management, marketing and benefits. In addition, if the board of directors has not approved the name and the headquarters of the combined company prior to completion of the transactions, the businesses of Office Depot and OfficeMax will continue to operate under their existing names and the combined company will have dual headquarters in Boca Raton, Florida and Naperville, Illinois until



## **Table of Contents**

otherwise determined. While Office Depot and OfficeMax have assumed that a certain level of expenses would be incurred, there are many factors beyond their control that could affect the total amount or the timing of the integration expenses. Moreover, many of the expenses that will be incurred are, by their nature, difficult to estimate accurately. These expenses could, particularly in the near term, exceed the savings that the combined company expects to achieve from the elimination of duplicative expenses and the realization of economies of scale and cost savings. These integration expenses likely will result in the combined company taking significant charges against earnings following the completion of the transactions, and the amount and timing of such charges are uncertain at present.

*Following the completion of the transactions, the combined company may need to launch branding or rebranding initiatives that may involve substantial costs and may not be favorably received by customers.*

Following completion of the transactions, the business of OfficeMax and the business of Office Depot will continue to operate under their existing names until the board of directors approves a new name of the combined businesses of OfficeMax and Office Depot. As a result, in connection with the approval of a new name the combined company may incur substantial costs in rebranding its products and services, and the combined company may not be able to achieve or maintain brand name recognition or status under the new combined company brand that is comparable to the recognition and status previously enjoyed by Office Depot and OfficeMax separately. The failure of any such rebranding initiative could adversely affect the combined company's ability to attract and retain customers after the completion of the transactions, which could cause the combined company not to realize some or all of the benefits contemplated by Office Depot and OfficeMax to result from the completion of the transactions.

### **Other Risk Factors of Office Depot and OfficeMax**

Office Depot's and OfficeMax's businesses are and will be subject to the risks described above. In addition, Office Depot and OfficeMax are, and will continue to be subject to the risks described in Office Depot's and OfficeMax's Annual Reports on Form 10-K for the fiscal year ended December 29, 2012, as updated by subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, all of which are filed with the SEC and incorporated by reference into this joint proxy statement/prospectus. The risks described above and in those filings represent all known material risks with respect to Office Depot's and OfficeMax's businesses. See "Where You Can Find More Information" beginning on page 219 for the location of information incorporated by reference into this joint proxy statement/prospectus.

**Table of Contents**

**INFORMATION ABOUT OFFICE DEPOT**

**Office Depot, Inc.**

Office Depot, Inc., a Delaware corporation and referred to in this joint proxy statement/prospectus as Office Depot, is a global supplier of office products and services. Office Depot provides office supplies and services through 1,629 worldwide retail stores (including retail stores wholly-owned and operated by Office Depot, retail stores operated by Office Depot de México, S.A. de C.V., Office Depot's Mexican joint venture, and retail stores operated under Office Depot's franchise and licensing agreements), a field sales force, top-rated catalogs and global e-commerce operations. Sales are processed through multiple channels, consisting of office supply stores, a contract sales force, an outbound telephone account management sales force, Internet sites, direct marketing catalogs and call centers, all supported by a network of supply chain facilities and delivery operations. Office Depot employs about 38,000 associates and serves customers in 59 countries worldwide.

Shares of Office Depot common stock are traded on the NYSE under the symbol ODP.

The principal executive offices of Office Depot are located at 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800. Additional information about Office Depot and its subsidiaries is included in documents incorporated by reference into this joint proxy statement/prospectus. See Where You Can Find More Information on page 219.

**Dogwood Merger Sub Inc.**

Dogwood Merger Sub Inc., a Delaware corporation and referred to in this joint proxy statement/prospectus as Merger Sub Two, is a direct, wholly-owned subsidiary of Office Depot. Dogwood Merger Sub Inc. was formed by Office Depot solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o Office Depot, Inc., 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800.

**Dogwood Merger Sub LLC**

Dogwood Merger Sub LLC, a Delaware limited liability company and referred to in this joint proxy statement/prospectus as Merger Sub Three, is a direct, wholly-owned subsidiary of Office Depot. Dogwood Merger Sub LLC was formed by Office Depot solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o Office Depot, Inc., 6600 North Military Trail, Boca Raton, Florida 33496, and its telephone number is (561) 438-4800.

**Table of Contents**

**INFORMATION ABOUT OFFICEMAX**

**OfficeMax Incorporated**

OfficeMax Incorporated, a Delaware corporation and referred to in this joint proxy statement/prospectus as OfficeMax, is a leader in both business-to-business and retail office products distribution. OfficeMax provides office supplies and paper, print and document services, technology products and solutions and office furniture and facilities products to large, medium and small businesses, government offices and consumers. OfficeMax customers are served by approximately 29,000 associates through direct sales, catalogs, the Internet and more than 900 retail stores located throughout the United States, Canada, Australia, New Zealand, Mexico, the U.S. Virgin Islands and Puerto Rico.

Shares of OfficeMax common stock are traded on the NYSE under the symbol OMX.

The principal executive offices of OfficeMax are located at 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800. Additional information about OfficeMax and its subsidiaries is included in documents incorporated by reference into this joint proxy statement/prospectus. See Where You Can Find More Information on page 219.

**Mapleby Holdings Merger Corporation**

Mapleby Holdings Merger Corporation, a Delaware corporation and referred to in this joint proxy statement/prospectus as New OfficeMax, is a direct, wholly-owned subsidiary of OfficeMax. Mapleby Holdings Merger Corporation was formed by OfficeMax solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o OfficeMax Incorporated, 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800.

**Mapleby Merger Corporation**

Mapleby Merger Corporation, a Delaware corporation and referred to in this joint proxy statement/prospectus as Merger Sub One, is a direct, wholly-owned subsidiary of Mapleby Holdings Merger Corporation and an indirect, wholly-owned subsidiary of OfficeMax. Mapleby Merger Corporation was formed by OfficeMax solely in contemplation of the transactions, has not conducted any business and has no assets, liabilities or other obligations of any nature other than as set forth in the merger agreement. Its principal executive offices are located at c/o OfficeMax Incorporated, 263 Shuman Boulevard, Naperville, Illinois 60563, and its telephone number is (630) 438-7800.



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**Table of Contents**

**OFFICE DEPOT SPECIAL MEETING**

**General**

This joint proxy statement/prospectus is being provided to Office Depot stockholders as part of a solicitation of proxies by the board of directors of Office Depot for use at the special meeting of Office Depot stockholders and at any adjournments or postponements of such special meeting. This joint proxy statement/prospectus provides Office Depot stockholders with important information about the special meeting of Office Depot stockholders and should be read carefully in its entirety.

**Date, Time and Place of the Office Depot Special Meeting**

The Office Depot special meeting will be held on [ ], 2013, beginning at [ ] [ ] .m., local time, at [ ], unless postponed to a later date.

**Purposes of the Office Depot Special Meeting**

The special meeting of Office Depot stockholders is being held to consider and vote upon the following proposals:

*Proposal 1:* to approve the Office Depot share issuance, which is further described in the sections titled "The Transactions" beginning on page 63 and "The Merger Agreement" beginning on page 146; and

*Proposal 2:* to approve the adjournment of the Office Depot special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.

**Recommendation of Office Depot's Board of Directors**

The board of directors of Office Depot recommends that the Office Depot stockholders vote:

*Proposal 1:* **FOR** the approval of the Office Depot share issuance; and

*Proposal 2:* **FOR** the adjournment of the Office Depot special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance.

**Office Depot's board of directors unanimously approved the Office Depot share issuance and determined that the merger agreement and the transactions contemplated by the merger agreement, including the Office Depot share issuance, are advisable and in the best interests of Office Depot and its stockholders.** See "The Transactions" Recommendation of Office Depot's Board of Directors and Reasons for the Transactions" beginning on page 80.

In considering the recommendation of Office Depot's board of directors with respect to the Office Depot share issuance, Office Depot stockholders should be aware that some of Office Depot's directors and executive officers may have interests that are different from, or in addition to, the interests of Office Depot stockholders more generally. See "The Transactions" Interests of Certain Office Depot Persons in the Transactions" beginning on page 123.

This joint proxy statement/prospectus contains important information regarding these proposals and factors that Office Depot stockholders should consider when deciding how to cast their votes. Office Depot stockholders are encouraged to read the entire document carefully, including the annexes to and documents incorporated by reference into this document, for more detailed information regarding the merger agreement and the transactions contemplated by the merger agreement, including the Office Depot share issuance.

## **Table of Contents**

### **Attendance at the Office Depot Special Meeting**

Only Office Depot stockholders of record as of the record date, beneficial owners as of the record date, holders of valid proxies for the special meeting and invited guests of Office Depot may attend the special meeting.

All attendees should be prepared to present government-issued photo identification (such as a driver's license or passport) for admittance. The additional items, if any, that attendees must bring depend on whether they are stockholders of record, beneficial owners or proxy holders.

An Office Depot stockholder who holds shares directly registered in such stockholder's name with Office Depot's transfer agent, Computershare Shareowner Services LLC (referred to in this joint proxy statement/prospectus as a stockholder of record), who wishes to attend the special meeting in person should bring government-issued photo identification.

A stockholder who holds shares in street name through a broker, bank, trustee or other nominee (referred to in this joint proxy statement/prospectus as a beneficial owner) who wishes to attend the special meeting in person should bring:

government-issued photo identification; and

proof of beneficial ownership as of the record date (*e.g.*, a letter from the broker, bank, trustee or other nominee that is the record owner of such beneficial owner's shares, a brokerage account statement or the voting instruction form provided by the broker).

A person who holds a validly executed proxy entitling such person to vote on behalf of a record owner of Office Depot shares (referred to in this joint proxy statement/prospectus as a proxy holder) who wishes to attend the special meeting in person should bring:

government-issued photo identification;

the validly executed proxy naming such person as the proxy holder, signed by the Office Depot stockholder; and

proof of the signing stockholder's record ownership as of the record date.

No cameras, recording equipment or other electronic devices will be allowed in the meeting room. Failure to provide the requested documents at the door or failure to comply with the procedures for the special meeting may prevent stockholders from being admitted to the Office Depot special meeting.

Office Depot is able to provide reasonable assistance to help persons with disabilities participate in the special meeting if Office Depot is notified in advance of requested accommodations. Please write to Office Depot's principal executive offices at 6600 North Military Trail, Boca Raton, Florida 33496, Attention: Corporate Secretary.

### **Record Date**

The record date for the determination of stockholders entitled to notice of and to vote at the Office Depot special meeting is May 28, 2013. Only Office Depot stockholders who held shares of record at the close of business on May 28, 2013 are entitled to vote at the special meeting and any adjournment or postponement of the special meeting, so long as such shares remain outstanding on the date of the special meeting.

**Outstanding Shares as of Record Date**

As of the record date, there were [ ] shares of Office Depot common stock outstanding, held by [ ] holders of record, and [ ] shares of Office Depot convertible preferred stock outstanding, all of which are held of record

## **Table of Contents**

by BC Partners. Each share of Office Depot common stock entitles its holder of record to one vote at the Office Depot special meeting. As of the record date, the 350,000 shares of Office Depot convertible preferred stock issued and outstanding entitle BC Partners as the record holder to a total of 81,354,536 votes (on an as-converted basis) at the Office Depot special meeting. Office Depot common stock and Office Depot convertible preferred stock are the only classes of stock entitled to vote, and holders of Office Depot common stock and Office Depot convertible preferred stock are entitled to vote on each proposal presented at the Office Depot special meeting.

A complete list of registered Office Depot stockholders entitled to vote at the Office Depot special meeting will be available for inspection at the principal place of business of Office Depot at 6600 North Military Trail, Boca Raton, Florida 33496 during regular business hours for a period of no less than 10 days before the special meeting and at the place of the Office Depot special meeting during the meeting.

### **Shares and Voting of Office Depot's Directors and Executive Officers**

As of the record date, Office Depot directors and executive officers, as a group, owned and were entitled to vote [ ] shares of Office Depot common stock, or approximately [ ]% of the outstanding shares of Office Depot common stock. Office Depot currently expects that these directors and executive officers will vote their shares in favor of the proposal to approve the Office Depot share issuance, although none of them has entered into any agreement obligating them to do so.

### **Voting Agreement with BC Partners**

Concurrently with the execution of the merger agreement, Office Depot and OfficeMax entered into a voting agreement (referred to in this joint proxy statement/prospectus as the voting agreement) with BC Partners, pursuant to which BC Partners agreed, among other matters, to vote all of their shares of Office Depot convertible preferred stock, together with any other voting securities of Office Depot acquired by BC Partners after February 20, 2013, in favor of the Office Depot share issuance and the other actions contemplated by the merger agreement and against any alternative transaction proposal with respect to Office Depot. These obligations will be suspended if Office Depot's board of directors effects a change of recommendation with respect to the transactions, including by withdrawing its recommendation to Office Depot's stockholders to approve the Office Depot share issuance, approving or recommending, or publicly proposing to approve, an alternative transaction proposal with respect to Office Depot or failing to recommend against the acceptance of a tender or exchange offer for any of Office Depot's capital stock by Office Depot's stockholders. The voting agreement will terminate upon the earliest to occur of (i) the completion of the transactions, (ii) certain amendments to the merger agreement or waivers by Office Depot under the merger agreement that adversely affect BC Partners without BC Partners' consent, including any amendment or waiver that increases the exchange ratio or otherwise provides additional consideration to OfficeMax's stockholders in exchange for their shares of OfficeMax common stock and (iii) the termination of the merger agreement in accordance with its terms. As of the record date, BC Partners held 274,596 shares of the 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock and 75,404 shares of the 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock, par value \$0.01, representing together, on an as-converted basis, approximately [ ]% of the voting power of Office Depot.

### **Quorum**

In order for business to be conducted at the special meeting, a quorum must be present. A quorum requires the presence, in person or by proxy, of holders of a majority of the issued and outstanding shares of Office Depot common stock and Office Depot convertible preferred stock (on an as-converted basis) entitled to vote at the special meeting. For purposes of determining whether there is a quorum, all shares that are present, including abstentions and broker non-votes, will count towards the quorum. Broker non-votes occur when a beneficial owner holding shares in street name does not instruct the broker, bank or other nominee that is the record owner of such stockholder's shares on how to vote those shares on a particular proposal.

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## **Table of Contents**

### **Vote Required**

The votes required for each proposal are as follows:

**Proposal 1.** The affirmative vote, in person or by proxy, of a majority of the votes cast on Proposal 1 by holders of shares of Office Depot convertible preferred stock and Office Depot common stock, voting as a single class, is required to approve the Office Depot share issuance; provided that the total votes cast on Proposal 1 represents over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and Office Depot common stock entitled to vote on Proposal 1. The required vote on Proposal 1 is based on the number of shares voted not the number of shares outstanding. Under the NYSE rules, abstentions are treated as votes cast and, as a result, any abstention from voting by an Office Depot stockholder will have the same effect as a vote against Proposal 1. The failure of any Office Depot stockholder to submit a vote (i.e., not submitting a proxy and not voting in person) will not be counted in determining the votes cast in connection with Proposal 1. Because Proposal 1 is non-routine, brokers, banks and other nominees do not have discretionary authority to vote on Proposal 1 and will not be able to vote on Proposal 1 absent instructions from the beneficial owner. As a result, the failure of a beneficial owner to provide voting instructions to its broker, bank or other nominee will have the effect of not being counted in determining the votes cast in connection with Proposal 1. The failure of any Office Depot shareholder to submit a vote (i.e., not submitting a proxy and not voting in person) or failure of a beneficial owner to provide voting instructions to its broker, bank or other nominee could, however, have the same effect as a vote against Proposal 1 if the failure to submit a vote or failure of a beneficial owner to provide voting instructions to its broker, bank or other nominee results in the total number of votes cast on Proposal 1 not representing over 50% of the aggregate outstanding shares of Office Depot convertible preferred stock (on an as-converted basis) and Office Depot common stock entitled to vote on Proposal 1.

**Proposal 2.** The affirmative vote of holders of a majority of the shares of Office Depot common stock and Office Depot convertible preferred stock (on an as-converted basis) present, in person or by proxy (as counted for purposes of determining the existence of a quorum), and entitled to vote at the Office Depot special meeting, is required to approve the adjournment of the Office Depot special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to approve the Office Depot share issuance. The required vote on Proposal 2 is based on the number of shares present and entitled to vote at the Office Depot special meeting not the number of outstanding shares. As a result, any abstention from voting by an Office Depot stockholder will have the same effect as a vote against Proposal 2. The failure of any Office Depot stockholder to submit a vote (i.e., not submitting a proxy and not voting in person) will not be counted in determining the shares present and entitled to vote at the Office Depot special meeting. We believe that brokers, banks and other nominees do not have discretionary authority to vote on Proposal 2 and will not be able to vote on Proposal 2 absent instructions from the beneficial owner and that, as a result, broker non-votes will not be entitled to vote at the Office Depot special meeting. The failure to submit a vote and broker non-votes will therefore have no effect on the outcome of Proposal 2.

### **How To Vote**

Office Depot stockholders as of the record date may have their shares voted by submitting a proxy or may vote in person at the special meeting by following the instructions provided on the enclosed proxy card. Office Depot recommends that Office Depot stockholders entitled to vote submit a proxy even if they plan to attend the special meeting.

Office Depot stockholders who hold their shares beneficially in street name and wish to submit a proxy must provide instructions to the broker, bank, trustee or other nominee that holds their shares of record as to how to vote their shares with respect to Proposals 1 and 2. Office Depot stockholders who hold their shares beneficially and wish to vote in person at the special meeting must obtain proxies issued in their own names (known as a legal proxy).

## **Table of Contents**

Office Depot stockholders of record may submit a proxy in one of three ways or vote in person at the special meeting:

**Internet:** Office Depot stockholders may submit their proxy over the Internet at the web address shown on their proxy card. Internet voting is available 24 hours a day and will be accessible until 11:59 p.m., Eastern time, on [ ], 2013. Stockholders will be given an opportunity to confirm that their voting instructions have been properly recorded. Office Depot stockholders who submit a proxy this way should NOT send in their proxy card.

**Telephone:** Office Depot stockholders may submit their proxy by calling the toll-free telephone number shown on their proxy card. Telephone voting is available 24 hours a day and will be accessible until 11:59 p.m., Eastern time, on [ ], 2013. Easy-to-follow voice prompts will guide stockholders through the voting and allow them to confirm that their instructions have been properly recorded. Office Depot stockholders who submit a proxy this way should NOT send in their proxy card.

**Mail:** Office Depot stockholders may submit their proxy by properly completing, signing, dating and mailing their proxy card in the postage-paid envelope (if mailed in the United States) included with this joint proxy statement/prospectus. Office Depot stockholders who vote this way should mail the proxy card early enough so that it is received before the date of the special meeting.

**In Person:** Office Depot stockholders may vote in person at the special meeting or by sending a representative with an acceptable proxy that has been signed and dated. Attendance at the special meeting will not, however, in and of itself constitute a vote or a revocation of a prior proxy.

Office Depot stockholders are encouraged to submit a proxy promptly. Each valid proxy received in time will be voted at the special meeting according to the choice specified, if any. Executed but uninstructed proxies (*i.e.*, proxies that are properly signed, dated and returned but are not marked to tell the proxies how to vote) will be voted in accordance with the recommendations of Office Depot's board of directors.

## **Proxies and Revocation**

Office Depot stockholders of record may revoke their proxies at any time before their shares are voted at the Office Depot special meeting in any of the following ways:

sending a written notice of revocation to Office Depot at 6600 North Military Trail, Boca Raton, Florida 33496, Attention: Corporate Secretary, which must be received before their shares are voted at the special meeting;

properly submitting a new, later-dated proxy card, which must be received before their shares are voted at the special meeting (in which case only the later-dated proxy is counted and the earlier proxy is revoked);

submitting a proxy via Internet or by telephone at a later date (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or

attending the Office Depot special meeting and voting in person. Attendance at the special meeting will not, however, in and of itself, constitute a vote or revocation of a prior proxy.

Office Depot beneficial owners may change their voting instruction only by submitting new voting instructions to the brokers, banks or other nominees that hold their shares of record.

## **Inspector of Election**

## Edgar Filing: OFFICE DEPOT INC - Form S-4/A

The board of directors of Office Depot has appointed a representative of Innisfree M&A Incorporated to act as the inspector of election at the Office Depot special meeting.

## **Table of Contents**

### **Solicitation of Proxies**

Office Depot will pay for the proxy solicitation costs related to the Office Depot special meeting, except that Office Depot and OfficeMax will share equally the expenses incurred in connection with the filing, printing and mailing of the registration statement on Form S-4 and this joint proxy statement/prospectus. In addition to sending and making available these materials, some of Office Depot's directors, officers and other employees may solicit proxies by contacting Office Depot stockholders by telephone, by mail, by e-mail or in person. Office Depot stockholders may also be solicited by press releases issued by Office Depot and/or OfficeMax, postings on Office Depot's or OfficeMax's websites and advertisements in periodicals. None of Office Depot's directors, officers or employees will receive any extra compensation for their solicitation services. Office Depot has also retained Innisfree M&A Incorporated to assist in the solicitation of proxies for an estimated fee of approximately \$20,000, plus reasonable out-of-pocket expenses. Office Depot will also reimburse brokers, banks and other nominees for their expenses in sending proxy solicitation materials to the beneficial owners of Office Depot common stock and obtaining their proxies.

### **Adjournments**

The Office Depot special meeting may be adjourned in the absence of a quorum by the chairman of the meeting or the affirmative vote of holders of a majority of the Office Depot shares present in person or represented by proxy at the special meeting and entitled to vote at the special meeting.

Even if a quorum is present, the Office Depot special meeting could be adjourned in order to provide more time to solicit additional proxies in favor of approval of the Office Depot share issuance if sufficient votes are cast in favor of Proposal 2.

If the adjournment is for more than 30 days or if after the adjournment a new record date is set for the adjourned meeting, a notice of the adjourned meeting must be given to each stockholder of record entitled to vote at the special meeting.

### **Questions and Additional Information**

Office Depot stockholders may contact Office Depot's proxy solicitor, Innisfree M&A Incorporated, with any questions about the proposals or how to vote or to request additional copies of any materials at Innisfree M&A Incorporated, 501 Madison Avenue, New York, NY 10022. Stockholders may call toll-free at (877) 825-8621, and banks and brokers may call collect at (212) 750-5833.



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**Table of Contents**

**OFFICEMAX SPECIAL MEETING**

**General**

This joint proxy statement/prospectus is being provided to OfficeMax stockholders as part of a solicitation of proxies by the board of directors of OfficeMax for use at the special meeting of OfficeMax stockholders and at any adjournments or postponements of such special meeting. This joint proxy statement/prospectus provides OfficeMax stockholders with information about the special meeting of OfficeMax stockholders and should be read carefully in its entirety.

**Date, Time and Place of the OfficeMax Special Meeting**

The OfficeMax special meeting will be held on [ ], 2013, beginning at [ ] [ ] .m., local time, at [ ], unless postponed to a later date.

**Purposes of the OfficeMax Special Meeting**

The special meeting of OfficeMax stockholders is being held to consider and vote upon the following proposals:

**Proposal 1:** to adopt the merger agreement, which is further described in the sections titled "The Transactions" beginning on page 63 and "The Merger Agreement" beginning on page 146 and a copy of which is attached to this joint proxy statement prospectus as Annex A, and to approve the first merger and the second merger;

**Proposal 2:** to approve on an advisory (non-binding) basis the compensation that may be paid or become payable to OfficeMax's named executive officers that is based on or otherwise related to the proposed transactions; and

**Proposal 3:** to approve the adjournment of the OfficeMax special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and approve the first merger and the second merger.

Section 14A of the Exchange Act, which was enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, requires that OfficeMax provide its stockholders with the opportunity to vote to approve, on an advisory, non-binding basis, the golden parachute compensation arrangements for the OfficeMax named executive officers, as disclosed in the table titled "Golden Parachute Compensation - OfficeMax" under the section entitled "The Transactions - Interests of Certain OfficeMax Persons in the Transactions" beginning on page 129 and the accompanying footnotes. Through Proposal 2, OfficeMax is asking its stockholders to indicate their approval of the various change of control payments and equity acceleration which OfficeMax's named executive officers will or may be eligible to receive in connection with the proposed transactions as indicated in such table. The various plans and arrangements pursuant to which these compensation payments may be made have previously formed part of OfficeMax's overall compensation program for its named executive officers, which has been disclosed to OfficeMax's stockholders as required in the Compensation Discussion and Analysis and related sections of OfficeMax's annual proxy statements. OfficeMax is seeking approval of the following resolution:

RESOLVED, that the stockholders of OfficeMax Incorporated approve, solely on an advisory, non-binding basis, the golden parachute compensation which may be paid to OfficeMax's named executive officers in connection with the proposed transactions, as disclosed pursuant to Item 402(t) of Regulation S-K in the table titled "Golden Parachute Compensation - OfficeMax" under the section entitled "The Transactions - Interests of Certain OfficeMax Persons in the Transactions" beginning on page 129 and the accompanying footnotes.

OfficeMax stockholders should note that Proposal 2 is merely an advisory vote which will not be binding on OfficeMax, its board of directors or Office Depot. Further, the underlying plans and arrangements are contractual

## **Table of Contents**

in nature and not, by their terms, subject to stockholder approval. Accordingly, regardless of the outcome of the advisory vote, if the proposed transactions are consummated, the eligibility of the OfficeMax named executive officers for such payments and benefits will not be affected by the outcome of the advisory vote.

### **Recommendation of OfficeMax's Board of Directors**

The board of directors of OfficeMax recommends that the OfficeMax stockholders vote:

**Proposal 1: FOR** the adoption of the merger agreement and approval of the first merger and the second merger;

**Proposal 2: FOR** the approval on an advisory (non-binding) basis of the compensation that may be paid or become payable to OfficeMax's named executive officers that is based on or otherwise related to the proposed transactions; and

**Proposal 3: FOR** the adjournment of the OfficeMax special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and approve the first merger and the second merger.

**OfficeMax's board of directors unanimously approved the merger agreement and determined that the merger agreement and the transactions contemplated by the merger agreement, including the first merger and the second merger, are advisable and in the best interests of OfficeMax and its stockholders.** See The Transactions Recommendation of OfficeMax's Board of Directors and Reasons for the Transactions beginning on page 84.

In considering the recommendation of OfficeMax's board of directors with respect to the merger agreement, the transactions and the other transactions contemplated by the merger agreement, including the first merger and the second merger on the terms set forth in the merger agreement, OfficeMax stockholders should be aware that some of OfficeMax's directors and executive officers may have interests that are different from, or in addition to, the interests of OfficeMax stockholders more generally. See The Transactions Interests of Certain OfficeMax Persons in the Transactions beginning on page 129.

This joint proxy statement/prospectus contains important information regarding these proposals and factors that OfficeMax stockholders should consider when deciding how to cast their votes. OfficeMax stockholders are encouraged to read the entire document carefully, including the annexes to and documents incorporated by reference into this document, for more detailed information regarding the merger agreement and the transactions contemplated by the merger agreement, including the first merger and the second merger.

### **Attendance at the OfficeMax Special Meeting**

Only OfficeMax stockholders of record as of the record date, beneficial owners as of the record date, holders of valid proxies for the special meeting and invited guests of OfficeMax may attend the special meeting.

All attendees should be prepared to present government-issued photo identification (such as a driver's license or passport) for admittance. The additional items, if any, that attendees must bring depend on whether they are stockholders of record, beneficial owners or proxy holders.

An OfficeMax stockholder who holds shares directly registered in such stockholder's name with OfficeMax's transfer agent, Wells Fargo Shareowner Services (referred to in this joint proxy statement/prospectus as a stockholder of record), who wishes to attend the special meeting in person should bring government-issued photo identification.

## **Table of Contents**

A stockholder who holds shares in [redacted] street name through a broker, bank, trustee or other nominee (referred to in this joint proxy statement/prospectus as a [redacted] beneficial owner ) who wishes to attend the special meeting in person should bring:

[redacted] government-issued photo identification; and

[redacted] proof of beneficial ownership as of the record date (*e.g.*, a letter from the broker, bank, trustee or other nominee that is the record owner of such beneficial owner's shares, a brokerage account statement or the voting instruction form provided by the broker).

A person who holds a validly executed proxy entitling such person to vote on behalf of a record owner of OfficeMax shares (referred to in this joint proxy statement/prospectus as a [redacted] proxy holder ) who wishes to attend the special meeting in person should bring:

[redacted] government-issued photo identification;

[redacted] the validly executed proxy naming such person as the proxy holder, signed by the OfficeMax stockholder; and

[redacted] proof of the signing stockholder's record ownership as of the record date.

No cameras, recording equipment or other electronic devices will be allowed in the meeting room. Failure to provide the requested documents at the door or failure to comply with the procedures for the special meeting may prevent stockholders from being admitted to the OfficeMax special meeting.

OfficeMax is able to provide reasonable assistance to help persons with disabilities participate in the special meeting if OfficeMax is notified in advance of requested accommodations. Please write to OfficeMax's principal executive offices at 263 Shuman Boulevard, Naperville, Illinois 60563, Attention: Corporate Secretary.

### **Record Date**

The record date for the determination of stockholders entitled to notice of and to vote at the OfficeMax special meeting is May 28, 2013. Only OfficeMax stockholders who held shares of record at the close of business on May 28, 2013 are entitled to vote at the special meeting and any adjournment or postponement of the special meeting, as long as such shares remain outstanding on the date of the special meeting.

### **Outstanding Shares as of Record Date**

As of the record date, there were [redacted] shares of OfficeMax common stock outstanding, held by [redacted] holders of record, and [redacted] shares of OfficeMax Series D preferred stock outstanding, held by [redacted] holders of record. Each share entitles its holder of record to one vote at the OfficeMax special meeting. OfficeMax common stock and OfficeMax Series D preferred stock are the only classes of stock entitled to vote, and holders of OfficeMax common stock and OfficeMax Series D preferred stock are entitled to vote on each proposal presented at the OfficeMax special meeting.

A complete list of registered OfficeMax stockholders entitled to vote at the OfficeMax special meeting will be available for inspection at the principal place of business of OfficeMax at 263 Shuman Boulevard, Naperville, Illinois 60563 during regular business hours for a period of no less than 10 days before the special meeting and at the place of the OfficeMax special meeting during the meeting.

### **Shares and Voting of OfficeMax's Directors and Executive Officers**

As of the record date, OfficeMax directors and executive officers, as a group, owned and were entitled to vote [redacted] shares of OfficeMax common stock, or approximately [redacted] % of the outstanding shares of OfficeMax common stock. OfficeMax currently expects that these directors and executive officers will vote their shares in



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## **Table of Contents**

favor of the proposal to adopt the merger agreement and to approve the first merger and the second merger, although none of them has entered into any agreement obligating them to do so.

### **Quorum**

In order for business to be conducted at the special meeting, a quorum must be present. A quorum requires the presence, in person or by proxy, of holders of a majority of the issued and outstanding shares of OfficeMax common stock and OfficeMax Series D preferred stock entitled to vote at the special meeting. For purposes of determining whether there is a quorum, all shares that are present, including abstentions and broker non-votes, will count towards the quorum. Broker non-votes occur when a beneficial owner holding shares in street name does not instruct the broker, bank or other nominee that is the record owner of such stockholder's shares on how to vote those shares on a particular proposal.

### **Vote Required**

The votes required for each proposal are as follows:

**Proposal 1.** The affirmative vote, in person or by proxy, of holders of a majority of the outstanding shares of OfficeMax common stock and OfficeMax Series D preferred stock entitled to vote on Proposal 1, voting as a single class, is required to adopt the merger agreement and to approve the first merger and the second merger. The required vote on Proposal 1 is based on the number of outstanding shares not the number of shares actually voted. The failure of any OfficeMax stockholder to submit a vote (i.e., not submitting a proxy and not voting in person) and any abstention from voting by an OfficeMax stockholder will have the same effect as a vote against Proposal 1. Because Proposal 1 is non-routine, brokers, banks and other nominees do not have discretionary authority to vote on Proposal 1 and will not be able to vote on Proposal 1 absent instructions from the beneficial owner. As a result, broker non-votes will have the same effect as voting against Proposal 1.

**Proposal 2.** The affirmative vote of holders of a majority of the shares of OfficeMax common stock and OfficeMax Series D preferred stock present, in person or by proxy, and entitled to vote at the OfficeMax special meeting (excluding, in accordance with OfficeMax's bylaws, any shares where the holder has expressly indicated that the holder is abstaining from voting) is required to approve, on an advisory (non-binding) basis, the compensation that may be paid or become payable to OfficeMax's named executive officers that is based on or otherwise related to the proposed transactions. The required vote on Proposal 2 is based on the number of shares present not the number of outstanding shares. Abstentions from voting by an OfficeMax stockholder will have no effect on the outcome on Proposal 2. The failure of any OfficeMax stockholder to submit a vote (i.e., not submitting a proxy and not voting in person) will have no effect on the outcome of Proposal 2. Brokers, banks and other nominees do not have discretionary authority to vote on Proposal 2 and will not be able to vote on Proposal 2 absent instructions from the beneficial owner. Because broker non-votes will count as shares of stock that are present, broker non-votes will, however, have the same effect as voting against Proposal 2. While OfficeMax's board of directors intends to consider the vote resulting from this proposal, the vote is advisory only and therefore not binding on OfficeMax or the combined company, and, if the proposed transactions with Office Depot are approved by OfficeMax stockholders and consummated, the compensation will be payable even if Proposal 2 is not approved.

**Proposal 3.** The affirmative vote of holders of a majority of the shares of OfficeMax common stock and OfficeMax Series D preferred stock present, in person or by proxy, and entitled to vote at the OfficeMax special meeting (excluding, in accordance with OfficeMax's bylaws, any shares where the holder has expressly indicated that the holder is abstaining from voting) is required to approve the adjournment of the OfficeMax special meeting, if necessary or appropriate, to solicit additional proxies if there are not sufficient votes to adopt the merger agreement and approve the first merger and the second merger. The required vote on Proposal 3 is based on the number of shares present not the number of outstanding shares. Abstentions from voting by an OfficeMax stockholder will have no effect on the outcome on Proposal 3. The failure of any OfficeMax

## Table of Contents

stockholder to submit a vote (i.e., not submitting a proxy and not voting in person) will have no effect on the outcome of Proposal 3. Brokers, banks and other nominees do not have discretionary authority to vote on Proposal 3 and will not be able to vote on Proposal 3 absent instructions from the beneficial owner. Because broker non-votes will count as shares of stock that are present, broker non-votes will, however, have the same effect as voting against Proposal 3.

### **How To Vote**

OfficeMax stockholders as of the record date may have their shares voted by submitting a proxy or may vote in person at the special meeting by following the instructions provided on the enclosed proxy card. OfficeMax recommends that OfficeMax stockholders entitled to vote submit a proxy even if they plan to attend the special meeting.

OfficeMax stockholders who hold their shares beneficially in street name and wish to submit a proxy must provide instructions to the broker, bank, trustee or other nominee that holds their shares of record as to how to vote their shares with respect to Proposals 1, 2 and 3. OfficeMax stockholders who hold their shares beneficially and wish to vote in person at the special meeting must obtain proxies issued in their own names (known as a legal proxy).

OfficeMax stockholders of record may submit a proxy in one of three ways or vote in person at the special meeting:

**Internet:** OfficeMax stockholders may submit their proxy over the Internet at the web address shown on their proxy card. Internet voting is available 24 hours a day and will be accessible until 11:59 p.m., Eastern time, on [ ], 2013. Stockholders will be given an opportunity to confirm that their voting instructions have been properly recorded. OfficeMax stockholders who submit a proxy this way should NOT send in their proxy card.

**Telephone:** OfficeMax stockholders may submit their proxy by calling the toll-free telephone number shown on their proxy card. Telephone voting is available 24 hours a day and will be accessible until 11:59 p.m., Eastern time, on [ ], 2013. Easy-to-follow voice prompts will guide stockholders through the voting and allow them to confirm that their instructions have been properly recorded. OfficeMax stockholders who submit a proxy this way should NOT send in their proxy card.

**Mail:** OfficeMax stockholders may submit their proxy by properly completing, signing, dating and mailing their proxy card in the postage-paid envelope (if mailed in the United States) included with this joint proxy statement/prospectus. OfficeMax stockholders who vote this way should mail the proxy card early enough so that it is received before the date of the special meeting.

**In Person:** OfficeMax stockholders may vote in person at the special meeting or by sending a representative with an acceptable proxy that has been signed and dated. Attendance at the special meeting will not, however, in and of itself constitute a vote or a revocation of a prior proxy.

OfficeMax stockholders are encouraged to submit a proxy promptly. Each valid proxy received in time will be voted at the special meeting according to the choice specified, if any. Executed but uninstructed proxies (i.e., proxies that are properly signed, dated and returned but are not marked to tell the proxies how to vote) will be voted in accordance with the recommendations of OfficeMax's board of directors.

*OfficeMax Series D preferred stock.* If you are a current or former employee of OfficeMax or one of its subsidiaries and you own shares of OfficeMax Series D preferred stock in the Employee Stock Ownership Plan (referred to in this joint proxy statement/prospectus as the ESOP) fund, you may instruct Vanguard Fiduciary Trust Company, the plan trustee, how to vote the shares of stock allocated to you under the ESOP by requesting a proxy card to sign, date and return or by submitting your voting instructions by telephone or through the Internet.

## **Table of Contents**

**The plan trustee will vote any shares in the ESOP for which instructions are not received, or that are not allocated to an account, in the same proportion as shares of stock voted by the plan participants generally, subject to the trustee's fiduciary obligations under applicable law.**

### **Proxies and Revocation**

OfficeMax stockholders of record may revoke their proxies at any time before their shares are voted at the OfficeMax special meeting in any of the following ways:

sending a written notice of revocation to OfficeMax at 263 Shuman Boulevard, Naperville, Illinois 60563, Attention: Corporate Secretary, which must be received before their shares are voted at the special meeting;

properly submitting a new, later-dated proxy card, which must be received before their shares are voted at the special meeting (in which case only the later-dated proxy is counted and the earlier proxy is revoked);

submitting a proxy via Internet or by telephone at a later date (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or

attending the OfficeMax special meeting and voting in person. Attendance at the special meeting will not, however, in and of itself, constitute a vote or revocation of a prior proxy.

OfficeMax beneficial owners may change their voting instruction only by submitting new voting instructions to the brokers, banks or other nominees that hold their shares of record.

### **Inspector of Election**

The board of directors of OfficeMax has appointed a representative of Broadridge Financial Solutions, Inc. to act as the inspector of election at the OfficeMax special meeting.

### **Solicitation of Proxies**

OfficeMax will pay for the proxy solicitation costs related to the OfficeMax special meeting, except that OfficeMax and Office Depot will share equally the expenses incurred in connection with the filing, printing and mailing of the registration statement on Form S-4 and this joint proxy statement/prospectus. In addition to sending and making available these materials, some of OfficeMax's directors, officers and other employees may solicit proxies by contacting OfficeMax stockholders by telephone, by mail, by e-mail or in person. OfficeMax stockholders may also be solicited by press releases issued by OfficeMax and/or Office Depot, postings on OfficeMax's or Office Depot's websites and advertisements in periodicals. None of OfficeMax's directors, officers or employees will receive any extra compensation for their solicitation services. OfficeMax has also retained D.F. King & Co., Inc. to assist in the solicitation of proxies for approximately \$25,000, plus reasonable out-of-pocket expenses. OfficeMax will also reimburse brokers, banks and other nominees for their expenses in sending proxy solicitation materials to the beneficial owners of OfficeMax common stock and obtaining their proxies.

### **Adjournments**

The OfficeMax special meeting may be adjourned in the absence of a quorum by the affirmative vote of holders of a majority of the OfficeMax shares having voting power present in person or represented by proxy at the special meeting (excluding, in accordance with OfficeMax's bylaws, any shares where the holder has expressly indicated that the holder is abstaining from voting).

**Table of Contents**

Even if a quorum is present, the OfficeMax special meeting could also be adjourned in order to provide more time to solicit additional proxies in favor of adoption of the merger agreement and approval of the first merger and the second merger if sufficient votes are cast in favor of Proposal 3.

If the adjournment is for more than 30 days or if after the adjournment a new record date is set for the adjourned meeting, a notice of the adjourned meeting must be given to each stockholder of record entitled to vote at the special meeting.

**Questions and Additional Information**

OfficeMax stockholders may contact OfficeMax's proxy solicitor, D.F. King & Co., Inc., with any questions about the proposals or how to vote or to request additional copies of any materials at D.F. King & Co., Inc., 48 Wall Street, New York, NY 10005. Stockholders may call toll-free at (888) 605-1956, and banks and brokers may call collect at (212) 269-5550.



**Table of Contents**

**THE TRANSACTIONS**

*This section of the joint proxy statement/prospectus describes the material aspects of the proposed transactions. This section may not contain all of the information that is important to you. You should carefully read this entire proxy statement/prospectus and the documents incorporated by reference into this joint proxy statement/prospectus, including the full text of the merger agreement, a copy of which is attached to this joint proxy statement/prospectus as Annex A, for a more complete understanding of the proposed transactions. In addition, important business and financial information about each of Office Depot and OfficeMax is included in or incorporated by reference into this joint proxy statement/prospectus and is included in the annexes hereto. See *Where You Can Find More Information* beginning on page 219.*

**Effects of the Transactions**

Office Depot and OfficeMax, among others, have entered into the merger agreement, pursuant to which, through a series of transactions, OfficeMax will become a wholly-owned subsidiary of Office Depot, and OfficeMax stockholders will become stockholders of Office Depot.

***First Merger and LLC Conversion***

Upon satisfaction or waiver of the conditions to closing, on the closing date, Merger Sub One will merge with and into OfficeMax (referred to in this joint proxy statement/prospectus as the *first merger* ). OfficeMax will be the surviving corporation in the first merger as a wholly-owned subsidiary of New OfficeMax. At the effective time of the first merger, each share of OfficeMax common stock issued and outstanding immediately prior to the effective time of the first merger will be converted into one share of common stock of New OfficeMax. In addition, each of OfficeMax and New OfficeMax will take all actions as may be necessary so that at the effective time of the first merger, each OfficeMax stock option and each other OfficeMax stock-based award will, automatically and without any action on behalf of the holder thereof, be converted into a stock option or award, as the case may be, denominated in, or measured in whole or in part by the value of, shares of capital stock of New OfficeMax. All terms and conditions applicable to each such OfficeMax security immediately prior to the effective time of the first merger will, except as described in the immediately preceding sentence, remain in effect immediately after the effective time of the first merger. Immediately after the consummation of the first merger, OfficeMax will be converted into a Delaware limited liability company (referred to in this joint proxy statement/prospectus as the *LLC conversion* ) and will remain a wholly-owned subsidiary of New OfficeMax.

## **Table of Contents**

Set forth below is a diagram depicting the structure of the first merger and the LLC conversion described above.

\* In the first merger, shares of OfficeMax will be converted into shares of New OfficeMax, so the former holders of OfficeMax capital stock will, at the effective time of the first merger, own all of the outstanding shares of New OfficeMax. Following the effective time of the first merger, OfficeMax will be converted into a limited liability company.

\*\* Circled entities are disregarded for U.S. federal income tax purposes.

### ***Second Merger***

Following completion of the first merger, Merger Sub Two will, on the closing date, merge with and into New OfficeMax (referred to in this joint proxy statement/prospectus as the second merger). New OfficeMax will be the surviving corporation in the second merger and will become a wholly-owned subsidiary of Office Depot. At the effective time of the second merger, each share of New OfficeMax common stock issued and outstanding immediately prior to the effective time of the second merger (excluding any shares of OfficeMax common stock held by Office Depot, Merger Sub Two or in treasury) will be converted into the right to receive 2.69 shares (referred to in this joint proxy statement/prospectus as the exchange ratio) of Office Depot common stock together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement.

The exchange ratio is fixed and will not be adjusted for changes in the market value of Office Depot common stock or OfficeMax common stock. Because the exchange ratio was fixed at the time the merger agreement was executed and because the market value of Office Depot common stock and OfficeMax common stock will fluctuate during the pendency of the transactions, OfficeMax stockholders cannot be sure of the value of the shares of Office Depot common stock they will receive relative to the value of their shares of OfficeMax common stock. For example, decreases in the market value of Office Depot common stock will negatively affect the value that holders of OfficeMax common stock will receive in the second merger in exchange for their OfficeMax common stock, and increases in the market value of OfficeMax common stock may mean that the shares of Office Depot common stock that holders of OfficeMax common stock will receive in the second merger will be worth less than the market value of the shares of OfficeMax common stock such stockholders are exchanging. See Risk Factors Risks Relating to the Transactions on page 39.

Prior to the closing, OfficeMax will redeem each issued and outstanding share of OfficeMax Series D preferred stock for shares of OfficeMax common stock (excluding any shares of OfficeMax Series D preferred

**Table of Contents**

stock surrendered by the holder for conversion) in accordance with the Certificate of Designation for the OfficeMax Series D preferred stock. The shares of OfficeMax common stock issued upon such redemption or conversion will then be converted at the effective time of the second merger into the right to receive shares of Office Depot common stock in accordance with the exchange ratio, together with cash in lieu of fractional shares, if any, and unpaid dividends and distributions, if any, pursuant to the merger agreement.

***Third Merger***

Following completion of the second merger, the New OfficeMax will, on the closing date, merge with and into Merger Sub Three (referred to in this joint proxy statement/prospectus as the "third merger"). Merger Sub Three will be the surviving limited liability company in the third merger and will be a wholly-owned subsidiary of Office Depot. In this joint proxy statement/prospectus, we refer to the first merger, the second merger, the third merger, and the LLC conversion collectively as "the transactions."

Set forth below is a diagram depicting the structure of the second merger and the third merger described above.

\* Circled entities are disregarded for U.S. federal income tax purposes.

## **Table of Contents**

In structuring the transactions depicted above, the parties took into account, among other things, the effect of the transactions on certain contractual obligations of Office Depot and OfficeMax, as well as the desire to preserve tax-free reorganization treatment.

In connection with the second merger, each outstanding New OfficeMax stock option will be converted into an option to purchase, on the same terms and conditions as the New OfficeMax stock option, a number of shares of Office Depot common stock that is equal to the number of shares of New OfficeMax common stock subject to the New OfficeMax stock option multiplied by the exchange ratio, at an exercise price per share of Office Depot common stock equal to the exercise price per share of New OfficeMax common stock subject to the New OfficeMax stock option divided by the exchange ratio. Each other New OfficeMax stock-based award will be converted into an award as a result of the second merger, on the same terms and conditions as the New OfficeMax stock-based award, with respect to a number of shares of Office Depot common stock that is equal to the number of shares of New OfficeMax common stock underlying such New OfficeMax stock-based award multiplied by the exchange ratio, except that any then outstanding awards that vest based on the attainment of performance goals with a performance period that has not completed prior to the closing will be converted into time-based awards that will vest at target levels at the originally scheduled vesting date, subject to any accelerated vesting upon a qualifying termination of employment in accordance with the terms of the 2003 OfficeMax Incentive and Performance Plan.

## **Background of the Transactions**

For a number of years, the boards of directors and management of OfficeMax and Office Depot have confronted growing challenges in their industry, including as a result of prevailing macroeconomic trends and increased competition from online retailers, mass merchants, warehouse clubs, and other retailers that are placing a greater emphasis on office product sales.

Each of OfficeMax and Office Depot has continually reviewed its respective business strategy and prospects for earnings enhancement and growth in the context of these challenges and has evaluated opportunities to improve its operations and financial performance in order to create value for its respective stockholders. In the past, such reviews have on occasion resulted in considering combinations with or acquisitions of other companies (including the other party to the proposed transactions and other industry participants), transactions with joint venture partners and strategic alliances.