

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

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of Earliest Event Reported): March 13, 2023

THE ODP CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

1-10948
(Commission
File Number)

85-1457062
(IRS Employer
Identification No.)

6600 North Military Trail, Boca Raton, FL
(Address of Principal Executive Offices)

33496
(Zip Code)

(561) 438-4800
(Registrant's Telephone Number, Including Area Code)

Former Name or Former Address, If Changed Since Last Report: N/A

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on which Registered
Common Stock, par value \$0.01 per share	ODP	The NASDAQ Stock Market (NASDAQ Global Select Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement.

Effective March 13, 2023, The ODP Corporation (the “Company”) entered into a Stock Purchase Agreement (the “Purchase Agreement”) with HG Vora Special Opportunities Master Fund, Ltd. (“HG Vora”), pursuant to which the Company agreed to purchase 2 million shares of the Company’s common stock from HG Vora at a purchase price of \$44.55 per share for an aggregate purchase price of approximately \$89.1 million (the “Purchase Price”). These shares will be repurchased as part of the Company’s existing \$1 billion share buy-back plan that was previously announced on November 2, 2022.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

As previously disclosed, on April 17, 2020, the Company entered into a Third Amended and Restated Credit Agreement (the “Third Amended Credit Agreement”) with certain of its subsidiaries as borrowers and guarantors, the several banks and other institutions parties thereto as Lenders, JPMorgan Chase Bank, N.A., as Administrative Agent, Wells Fargo Bank, National Association, Bank of America, N.A. and Truist Bank, as Syndication Agents, and Citizens Bank, N.A., Fifth Third Bank, National Association, PNC Bank, National Association, TD Bank, N.A., NYCB Specialty Finance Company, LLC, and U.S. Bank National Association, as Documentation Agents. The material terms of the Third Amended Credit Agreement were described in the Company’s Current Report on Form 8-K filed with the Securities and Exchange Commission on April 20, 2020. Such description is incorporated by reference herein.

In connection with its entry into the Purchase Agreement, the Company elected to draw down \$100 million under the Third Amended Credit Agreement to fund the Purchase Price.

The foregoing description of the Third Amended Credit Agreement is qualified in its entirety by reference to the full text of such agreement, which was filed as an Exhibit to the Current Report on Form 8-K filed by the Company on April 20, 2020.

Item 7.01. Regulation FD Disclosure.

A copy of the Company’s press release issued on March 13, 2023 announcing the entry into the Purchase Agreement is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

The information furnished in Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1, shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that section, and shall not be deemed incorporated by reference into any registration statement or other document filed by the Company under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in any such filing.

Item 9.01. Financial Statements and Exhibits.**(d) Exhibits:**

- Exhibit 10.1* [Stock Purchase Agreement, dated as of March 13, 2022, by and between HG Vora Special Opportunities Master Fund, Ltd. and The ODP Corporation.](#)
- Exhibit 99.1 [Press release of The ODP Corporation, dated March 13, 2023.](#)
- Exhibit 104 Cover Page Interactive Data File – the cover page XBRL tags are embedded within the Inline XBRL document.

* Schedules and similar attachments have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule or attachment to the SEC upon request.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE ODP CORPORATION

Date: March 13, 2023

/s/ Sarah E. Hlavinka

Name: Sarah E. Hlavinka

Title: Executive Vice President, Chief Legal Officer and Corporate Secretary

STOCK PURCHASE AGREEMENT

This agreement (the “**Agreement**”), dated March 13, 2023, by and between The ODP Corporation, a Delaware corporation (the “**Issuer**”), and HG Vora Special Opportunities Master Fund, Ltd. (the “**Block Seller**”), sets out the terms under which the Issuer will purchase 2,000,000 shares of common stock, par value \$0.01 per share, of the Issuer (“**Common Stock**,” and such 2,000,000 shares, the “**Block Shares**”) from the Block Seller in a privately negotiated, off-market transaction (the “**Block Purchase**”).

1. **Purchase and Sale.** Subject to the terms and conditions of this Agreement, the Block Seller agrees as legal and beneficial owner to sell the Block Shares, free and clear of all Liens, and the Issuer agrees to purchase the Block Shares, at a price of \$44.55 per share, for a total consideration of \$89,107,200 (the “**Purchase Price**”).
2. **Closing.**
 - (a) At 9:00 a.m., New York City time, on March 14, 2023, or at such other time and/or date as the Block Seller and the Issuer may agree in writing (the “**Closing Date**”), (i) the Block Seller shall deliver to the Issuer the Block Shares and all of the Block Sellers’ right, title and interest in and to the Block Shares, free and clear of all Liens, which delivery shall be effected by crediting the Block Shares to the Issuer’s account through DWAC transfer, and (ii) promptly following receipt by the Issuer of confirmation that the Block Shares have been so credited to the account of the Issuer, the Issuer shall pay to the Block Seller the Purchase Price by transfer to the Block Seller’s account set forth on Schedule A attached hereto, by wire transfer of immediately available funds.
 - (b) The Block Seller agrees to bear and pay any duties or taxes on or in connection with the sale and transfer of the Block Shares to be sold by the Block Seller and the execution and delivery of this Agreement, and any other tax payable by the Block Seller in connection with the transaction contemplated hereby. The Block Seller shall provide to the Issuer any necessary certification of status necessary to avoid withholding taxes.
3. **Expenses.** The Block Seller and the Issuer shall bear their own legal costs (if any) and all their other out-of-pocket expenses (if any).
4. **Representations and Warranties.**
 - (a) The Block Seller hereby represents and warrants to the Issuer that (i) as of the date of this Agreement, the Block Seller is the holder and beneficial owner of 5,000,000 shares of Common Stock, including the Block Shares, and all Block Shares are free and clear of any and all mortgages, pledges, encumbrances, liens, security interests, options, charges, claims, deeds of trust, deeds to secure debt, title retention agreements, rights of first refusal or offer, limitations on voting rights, proxies, voting agreements, limitations on transfer or other agreements or claims of any kind or nature whatsoever (collectively, “**Liens**”) other than pledges or security interests that Block Seller may have created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker, all of which will be released effective upon transfer of the Block Shares to the Issuer pursuant hereto, and encumbrances that may be imposed by applicable securities laws, (ii) the Block Seller owns all Block Shares free of any “adverse claim” pursuant to section 8-102 of the New York Uniform Commercial Code, and (iii) immediately following the consummation of the Block Purchase, the Block Seller will cease to own the Specified Company Ownership Level (as defined in the Cooperation Agreement, dated January 25, 2021, by and between the Issuer and HG Vora Capital Management, LLC, as amended (the “**Cooperation Agreement**”).
 - (b) The Block Seller hereby represents and warrants to the Issuer that it has not engaged any third party as broker or finder or incurred or become obligated to pay any broker’s commission or finder’s fee in connection with the transactions contemplated by this Agreement.
 - (c) Each party hereby represents and warrants to the other party that:
 - (1) It has the power and authority to sell or purchase the Block Shares hereunder, as applicable, and no person has any conflicting right, contingent or otherwise, to purchase or to be offered for purchase, the Block Shares, or any portion thereof;
 - (2) The execution, delivery and performance of this Agreement has been duly authorized by it and upon execution and delivery of the Agreement by the Issuer and the Block Seller will constitute a legal, valid and binding obligation of such party;

- (3) The execution, delivery and performance of this Agreement by it will not infringe any law or regulation applicable to it and is not and will not be contrary to the provisions of the constitutional documents of it and will not result in any breach of the terms of, or constitute a default under, any instrument or agreement to which it is a party or by which it or its property is bound; and
- (4) All consents and approvals of any court, government department or other regulatory body required by it for the offering or purchase of the Block Shares, as applicable, and the execution, delivery and performance of the terms of this Agreement have been obtained and are in full force and effect.

5. **Agreements of the Issuer and the Block Seller**

- (a) Subject to the terms and conditions hereof, the Issuer and the Block Seller agree to use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.
- (b) Subject to the terms and conditions hereof, the Issuer and the Block Seller (i) shall each execute and deliver, or cause to be executed and delivered, such documents and other instruments and shall take, or shall cause to be taken, such further action as may be reasonably necessary to carry out the provisions of this Agreement and give effect to the transactions contemplated by this Agreement, and (ii) shall refrain from taking any actions that could reasonably be expected to impair, delay or impede the consummation of the transactions contemplated by this Agreement.
- (c) The terms of the transactions contemplated by this Agreement were approved prior to the execution and delivery of this Agreement by written consent of the Board of Directors of the Issuer in accordance with Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") for the purpose of exempting the Block Seller and its affiliates, to the extent they may be deemed to be directors by deputization under Section 16 of the Exchange Act, from the liability provisions of Section 16(b) of the Exchange Act.
- (d) The Block Seller, on the one hand, and the Issuer, on the other hand, shall, to the extent feasible, consult with each other before issuing, and provide each other reasonable opportunity to review and comment upon, any press release or other public statements with respect to this Agreement and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable law, rule or regulation (including the rules and regulations of the Nasdaq stock market), by obligations pursuant to any listing agreement with any national securities exchange or automated inter-dealer quotation system, or requested (by court order, deposition, interrogatory, questions, request for information or documents, subpoena, civil investigative demand, regulatory demand or similar process). Notwithstanding anything to the contrary herein, the Issuer and the Block Seller shall be permitted to make the disclosures required in its filings pursuant to the Exchange Act, in each case without such review and consultation.

6. **Conditions to Closing**. The obligations of each party hereunder shall be subject to the condition that all representations and warranties of the other party hereto are, and as of the Closing Date will be, true, complete and accurate in all material respects.

7. **Miscellaneous**

- (a) This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and permitted assigns. This Agreement is solely for the benefit of the parties hereto and their successors and is not binding upon or enforceable by any other persons. No party to this Agreement may assign its rights or delegate its obligations under this Agreement, whether by operation of law or otherwise, and any assignment in contravention hereof shall be null and void ab initio. Nothing in this Agreement, whether express or implied, is intended to or shall confer any rights, benefits or remedies under or by reason of this Agreement on any persons other than the parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party. All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the consummation of the Block Purchase.
- (b) Each of the parties hereto (a) consents to submit itself to the personal jurisdiction of the Court of Chancery or other federal or state courts of the State of Delaware in the event any dispute arises out of this Agreement or the transactions contemplated by this Agreement, (b) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (c) agrees that it shall not bring any action relating to this Agreement or the transactions contemplated by this Agreement in any court other than the Court of

Chancery or other federal or state courts of the State of Delaware, and each of the parties irrevocably waives the right to trial by jury, and (d) irrevocably consents to service of process by a reputable overnight mail delivery service, signature requested, to the address set forth in Section 13 of the Cooperation Agreement or as otherwise provided by applicable law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING VALIDITY, INTERPRETATION AND EFFECT, BY THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO CONTRACTS EXECUTED AND TO BE PERFORMED WHOLLY WITHIN SUCH STATE WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES OF SUCH STATE.

- (c) This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior and contemporaneous agreements, memoranda, arrangements and understandings, both written and oral, between the parties, or any of them, with respect to the subject matter hereof. For the avoidance of doubt, nothing in this Agreement shall be deemed to amend or modify any of the terms of the Cooperation Agreement. This Agreement may be amended only by an agreement in writing executed by the parties hereto, and no waiver of compliance with any provision or condition of this Agreement and no consent provided for in this Agreement shall be effective unless evidenced by a written instrument executed by the party against whom such waiver or consent is to be effective. No failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
- (d) If at any time subsequent to the date hereof, any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon the legality or enforceability of any other provision of this Agreement.
- (e) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

[Signature Page Immediately Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

The ODP Corporation

By: /s/ Sarah Hlavinka

Name: Sarah E. Hlavinka

Title: Executive Vice President, Chief Legal Officer
and Corporate Secretary

HG Vora Special Opportunities Master Fund, Ltd.

By: /s/ Mandy Lam

Name: Mandy Lam

Title: Authorized Signatory

**CONTACTS:**

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The ODP Corporation Announces Common Stock Repurchase from HG Vora

Following the transaction, HG Vora will continue to own 3 million shares, or approximately 7.9% of the Company's outstanding common stock, and maintain representation on ODP's Board of Directors

Boca Raton, Fla., March 1X, 2023 – The ODP Corporation (“ODP,” or the “Company”) (NASDAQ:ODP), a leading provider of business services, products and digital workplace technology solutions to businesses and consumers, today announced that it has agreed to repurchase 2 million shares of common stock of the Company from HG Vora Special Opportunities Master Fund, Ltd. (“HG Vora”), at a price per share equal to \$44.55, for a total purchase price of approximately \$89.1 million. The Company anticipates borrowing under its asset-based lending facility to finance the transaction. ODP’s Board of Director’s authorized the transaction as part of ODP’s existing \$1 billion share buy-back plan that was previously announced on November 2, 2022. Following the transaction, ODP expects to continue its share repurchases under such share buy-back plan, subject to a variety of factors including market conditions, regulatory requirements, and other corporate considerations.

“HG Vora continues to be a valuable shareholder, and Marcus Dunlop will continue to serve as a member of ODP’s Board of Directors,” said Gerry Smith, chief executive officer of The ODP Corporation. “Our decision to repurchase our shares through this transaction is consistent with our Board’s stated intent and focus on returning capital to shareholders and accelerates our plans under our long-term share buyback program.”

“We remain enthusiastic about our ongoing relationship with ODP, both as a shareholder and as a member of the Board of Directors,” said Marcus Dunlop, partner at HG Vora and ODP Board member. “We are confident in ODP’s future as it continues to execute upon its four-business unit strategy and prudently deploys capital.”

Prior to the transaction, HG Vora owned 5 million shares, or approximately 12.4% of the Company’s outstanding common stock based on the previously disclosed outstanding shares of common stock of the Company as of February 22, 2023. Following the transaction, HG Vora will own 3 million shares, or approximately 7.9% of the Company’s outstanding shares of common stock, based on the outstanding shares as of February 22, 2023 (giving effect to the transaction).

About The ODP Corporation

The ODP Corporation (NASDAQ:ODP) is a leading provider of products and services through an integrated business-to-business (B2B) distribution platform and omnichannel presence, which includes world-class supply chain and distribution operations, dedicated sales professionals, a B2B digital procurement solution, online presence and a network of Office Depot and OfficeMax retail stores. Through its operating companies Office Depot, LLC; ODP Business Solutions, LLC; Veyer, LLC; and Varis, LLC, The ODP Corporation empowers every business, professional, and consumer to achieve more every day. For more information, visit theodpcorp.com.

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FORWARD LOOKING STATEMENTS

This communication may contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These statements or disclosures may discuss goals, intentions and expectations as to future trends, plans, events, results of operations, cash flow or financial condition, the potential impacts on our business due to the unknown severity and duration of the COVID-19 pandemic, or state other information relating to, among other things, the Company, based on current beliefs and assumptions made by, and information currently available to, management. Forward-looking statements generally will be accompanied by words such as “anticipate,” “believe,” “plan,” “could,” “estimate,” “expect,” “forecast,” “guidance,” “expectations,” “outlook,” “intend,” “may,” “possible,” “potential,” “predict,” “project,” “propose” or other similar words, phrases or expressions, or other variations of such words. These forward-looking statements are subject to various risks and uncertainties, many of which are outside of the Company’s control. There can be no assurances that the Company will realize these expectations or that these beliefs will prove correct, and therefore investors and stakeholders should not place undue reliance on such statements.

Factors that could cause actual results to differ materially from those in the forward-looking statements include, among other things, highly competitive office products market and failure to differentiate the Company from other office supply resellers or respond to decline in general office supplies sales or to shifting consumer demands; competitive pressures on the Company’s sales and pricing; the risk that the Company is unable to transform the business into a service-driven, B2B platform that such a strategy will not result in the benefits anticipated; the risk that the Company will not be able to achieve the expected benefits of its strategic plans, including its strategic shift to maintain all of its businesses under common ownership; the risk that the Company may not be able to realize the anticipated benefits of acquisitions due to unforeseen liabilities, future capital expenditures, expenses, indebtedness and the unanticipated loss of key customers or the inability to achieve expected revenues, synergies, cost savings or financial performance; the risk that the Company is unable to successfully maintain a relevant omni-channel experience for its customers; the risk that the Company is unable to execute the Maximize B2B Restructuring Plan successfully or that such plan will not result in the benefits anticipated; failure to effectively manage the Company’s real estate portfolio; loss of business with government entities, purchasing consortiums, and sole- or limited- source distribution

arrangements; failure to attract and retain qualified personnel, including employees in stores, service centers, distribution centers, field and corporate offices and executive management, and the inability to keep supply of skills and resources in balance with customer demand; failure to execute effective advertising efforts and maintain the Company's reputation and brand at a high level; disruptions in computer systems, including delivery of technology services; breach of information technology systems affecting reputation, business partner and customer relationships and operations and resulting in high costs and lost revenue; unanticipated downturns in business relationships with customers or terms with the suppliers, third-party vendors and business partners; disruption of global sourcing activities, evolving foreign trade policy (including tariffs imposed on certain foreign made goods); exclusive Office Depot branded products are subject to additional product, supply chain and legal risks; product safety and quality concerns of manufacturers' branded products and services and Office Depot private branded products; covenants in the credit facility; general disruption in the credit markets; incurrence of significant impairment charges; retained responsibility for liabilities of acquired companies; fluctuation in quarterly operating results due to seasonality of the Company's business; changes in tax laws in jurisdictions where the Company operates; increases in wage and benefit costs and changes in labor regulations; changes in the regulatory environment, legal compliance risks and violations of the U.S. Foreign Corrupt Practices Act and other worldwide anti-bribery laws; volatility in the Company's common stock price; changes in or the elimination of the payment of cash dividends on Company common stock; macroeconomic conditions such as future declines in business or consumer spending; increases in fuel and other commodity prices and the cost of material, energy and other production costs, or unexpected costs that cannot be recouped in product pricing; unexpected claims, charges, litigation, dispute resolutions or settlement expenses; catastrophic events, including the impact of weather events on the Company's business; the discouragement of lawsuits by shareholders against the Company and its directors and officers as a result of the exclusive forum selection of the Court of Chancery, the federal district court for the District of Delaware or other Delaware state courts by the Company as the sole and exclusive forum for such lawsuits; and the impact of the COVID-19 pandemic on the Company's business. The foregoing list of factors is not exhaustive. Investors and shareholders should carefully consider the foregoing factors and the other risks and uncertainties described in the Company's Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, and Current Reports on Form 8-K filed with the U.S. Securities and Exchange Commission. The Company does not assume any obligation to update or revise any forward-looking statements.