
**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 28, 2011

Commission file number 1-10948

OFFICE DEPOT, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

59-2663954
(I.R.S. Employer
Identification No.)

6600 North Military Trail, Boca Raton, Florida 33496
(Address of principal executive offices) (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))
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ITEM 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

On March 30, 2011, Office Depot, Inc., a Delaware corporation (the "Company"), entered into a Waiver dated as of March 30, 2011 (the "Waiver"), with respect to the Credit Agreement dated as of September 26, 2008, among the Company, Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.À R.L. and Viking Finance (Ireland) Ltd. (collectively, the "Borrowers"), certain subsidiaries of the Company from time to time parties thereto, the several banks and other institutions from time to time parties thereto (the "Lenders"), JPMorgan Chase Bank N.A., London Branch, as European administrative agent and European collateral agent, JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") and US collateral agent, Bank of America, N.A., as syndication agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as documentation agents, as amended (the "Credit Agreement").

As reported in Item 4.02 below, the Company will restate its financial statements with respect to the second, third and fourth fiscal quarters of 2010 and fiscal year 2010 (collectively, the "2010 Financial Statements") as a result of the Company being denied a carry back claim relating to certain net operating losses it had asserted under the American Recovery and Re-investment Act of 2009 that, as reported in the 2010 Financial Statements, resulted in a tax benefit to the Company of approximately \$80 million for fiscal year 2010 (the "Carry Back Claim"). Pursuant to the Waiver, the Lenders have agreed to waive any Default or Event of Default (as defined in the Credit Agreement) arising from any representation or warranty made or deemed made by or on behalf of the Company in or relating to the 2010 Financial Statements, or in any certificate furnished in connection with the 2010 Financial Statements, having been incorrect, or proven to have been incorrect, when made or deemed made (solely as a result of the Carry Back Claim or other technical adjustments that do not have a material impact on the 2010 Financial Statements taken as a whole); provided that the Waiver shall cease to apply if the restated 2010 Financial Statements are not delivered to the Administrative Agent on or prior to May 15, 2011. The Company expects to file the restated 2010 Financial Statements on or about April 6, 2011.

The summary of the provisions of the Waiver is qualified in its entirety by reference to Exhibit 10.1 to this Current Report on Form 8-K, which is incorporated herein by reference.

ITEM 4.02. NON-RELIANCE ON PREVIOUSLY ISSUED FINANCIAL STATEMENTS OR A RELATED AUDIT REPORT OR COMPLETED INTERIM REVIEW

(a) On March 28, 2011, management concluded, after discussion with the Company's independent registered public accounting firm, Deloitte & Touche LLP, that the financial statements and related report of the independent registered public accounting firm included in the Company's Form 10-K for the year ended December 25, 2010, the Company's Quarterly Report on Form 10-Q for the period ended June 26, 2010, and the Company's Quarterly Report on Form 10-Q for the period ended September 25, 2010 (collectively, the "2010 Financial Statements") should no longer be relied upon as a result of the denial by the Internal Revenue Service (the "IRS") in March 2011 of the Company's claim for the carry back of tax losses in 2010 to prior

years and that the Company should restate its financial results for the applicable periods. The Audit Committee of the Company approved management's decision. The Company will amend its Form 10-K for the fiscal year ended December 25, 2010, and its Forms 10-Q for the quarters ended June 26, 2010 and September 25, 2010 to include the restated financial statements and related disclosures.

The Company's 2010 Financial Statements were prepared reflecting the expected carry back of certain net operating losses. The restatement reflects the denial by the IRS in March 2011 of the Company's claim for the carry back of tax losses in 2010 to prior years. The Company's claim was based on its view, after consultation with its tax advisor, that its tax losses qualified for the extended carry back provisions contained in the American Recovery and Re-investment Act of 2009. That position resulted in the Company recognizing a tax benefit of approximately \$80 million in the 2010 statement of operations. Because the Company has recognized full valuation allowances on its domestic deferred tax assets, the tax benefits recognized in the Company's 2010 Financial Statements no longer met the accounting recognition criteria. The expected impact of correcting the error on the 2010 Financial Statements is to reduce previously recorded full year tax benefits, change net earnings for 2010 to a net loss, increase the net loss attributable to common shareholders and increase loss per share. Additionally, we expect the current tax receivable associated with the carry back amount to be removed from the balance sheet at December 25, 2010, and adversely impact anticipated 2011 operating cash flow.

Management has considered, and is continuing to evaluate, the effect of the facts leading to the restatement on the Company's prior conclusions of the adequacy of its internal control over financial reporting and disclosure controls and procedures as of the end of each of the applicable restatement periods. A final conclusion with respect to the effectiveness of the Company's internal controls over financial reporting and disclosure controls and procedures has not been made, and management is currently working to determine whether any material weakness in such controls and procedures was present during each of the applicable restatement periods. The Company will amend any disclosures pertaining to its evaluation of such controls and procedures as appropriate in connection with filing the amendments to its Form 10-K for the fiscal year ended December 25, 2010 and Forms 10-Q for the quarters ended June 26, 2010 and September 25, 2010, which the Company expects to file on or about April 6, 2011.

Attached hereto as Exhibit 99.1 and incorporated by reference herein is the Company's press release dated March 31, 2011.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS: Except for historical information, the matters discussed in this Current Report on Form 8-K are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, as amended. Forward-looking statements, including statements regarding the review of the Company's Audit Committee, the Company's intent to restate its prior financial statements and the estimated amounts to be restated, involve risks and uncertainties which may cause actual results to differ materially from those discussed herein. The Company makes no commitment to revise or update any forward-looking statements in order to reflect events or circumstances after the date any such statement is made. Please refer to the risks and uncertainties detailed from time to time by Office Depot in its filings with the SEC made from time to time. You are strongly urged to review all such filings for a more detailed discussion of such risks and uncertainties. The Company's SEC filings are readily obtainable at no charge at www.sec.gov and at www.freeEDGAR.com, as well as on a number of other commercial web sites.

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

Exhibit Number	Description
Exhibit 10.1	Form of Waiver, dated as of March 30, 2011
Exhibit 99.1	Press Release, dated March 31, 2011

SIGNATURES

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 hereto duly authorized

OFFICE DEPOT, INC.

Date: March 31, 2011

By: /s/ Elisa D. Garcia C.

Elisa D. Garcia C.

Executive Vice President,

General Counsel & Corporate Secretary

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
Exhibit 10.1	Form of Waiver dated as of March 30, 2011
Exhibit 99.1	Press Release, dated March 31, 2011

FORM OF WAIVER

WAIVER (this "Waiver"), dated as of March 30, 2011, to the Credit Agreement dated as of September 26, 2008 (as amended or otherwise modified heretofore, the "Credit Agreement"), among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.À R.L. and Viking Finance (Ireland) Ltd. (collectively, the "Borrowers"), certain subsidiaries of Office Depot, Inc. from time to time parties thereto, the several banks and other institutions from time to time parties thereto (the "Lenders"), JPMorgan Chase Bank N.A., London Branch, as European administrative agent and European collateral agent, JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") and US collateral agent, Bank of America, N.A., as syndication agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as documentation agents.

WITNESSETH:

WHEREAS, pursuant to the Credit Agreement, the Lenders have agreed to make, and have made, certain loans and other extensions of credit to the Borrowers;

WHEREAS, the Company intends to restate its financial statements with respect to the second, third and fourth fiscal quarters of 2010 and fiscal year 2010 (collectively, the "2010 Financial Statements") as a result of the Company being denied a carry-back claim relating to certain net operating losses it had asserted under the American Recovery and Re-investment Act of 2009 that, as reported in the 2010 Financial Statements, resulted in a tax benefit to the Company of approximately \$80,000,000 (the "Carry-Back Claim");

WHEREAS, the Borrowers have requested that certain Defaults or Events of Default under the Credit Agreement and the other Loan Documents with respect to the 2010 Financial Statements be waived as set forth herein; and

WHEREAS, the Lenders are willing to agree to such waiver on the terms set forth herein;

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the undersigned hereby agree as follows:

I. Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

II. Waiver. The Lenders hereby waive any Default or Event of Default arising from any representation or warranty made or deemed made by or on behalf of the Company in or relating to the 2010 Financial Statements, or in any certificate furnished in connection with the 2010 Financial Statements, having been incorrect, or proven to have been incorrect, when made or deemed made (solely as a result of the Carry-Back Claim or other technical adjustments that do not have a material impact on the 2010 Financial Statements taken as a whole); provided that this waiver shall cease to apply if the restated 2010 Financial Statements are not delivered to the Administrative Agent on or prior to May 15, 2011.

III. Effectiveness of Waiver. This Waiver shall become effective as of the date first written above (the "Waiver Effective Date") upon receipt by the Administrative Agent of duly executed counterparts to this Waiver from the Borrowers, the Collateral Agents and the Required Lenders.

IV. Representations and Warranties. The Borrowers hereby represent and warrant that (a) after giving effect to this Waiver, each of the representations and warranties in the Credit Agreement shall be true and correct in all material respects as if made on and as of the Waiver Effective Date (unless such representations and warranties relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) and (b) after giving effect to this Waiver, no Default or Event of Default shall have occurred and be continuing.

V. Governing Law. This Waiver shall be governed by and construed in accordance with the laws of the State of New York, but giving effect to federal laws applicable to national banks.

VI. Counterparts. This Waiver may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Waiver may be delivered by facsimile or other electronic transmission of the relevant signature pages hereof.

[signature pages follow]

IN WITNESS WHEREOF, the undersigned have caused this Waiver to be executed and delivered by their duly authorized officers as of the date first above written.

OFFICE DEPOT, INC.

By: _____
Name:
Title:

OFFICE DEPOT INTERNATIONAL (UK) LTD.

By: _____
Name:
Title:

OFFICE DEPOT UK LTD.

By: _____
Name:
Title:

OFFICE DEPOT INTERNATIONAL B.V.

By: _____
Name:
Title:

OFFICE DEPOT B.V.

By: _____
Name:
Title:

VIKING FINANCE (IRELAND) LTD.

By: _____
Name:
Title:

Waiver Signature Page

OD INTERNATIONAL (LUXEMBOURG) FINANCE S.À R.L.

By: _____

Name:

Title:

OD INTERNATIONAL (LUXEMBOURG) FINANCE S.À R.L.

By: _____

Name:

Title:

Waiver Signature Page

JPMORGAN CHASE BANK, N.A., as Administrative Agent,
US Collateral Agent and as a Lender

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., LONDON BRANCH, as
European Collateral Agent

By: _____
Name:
Title:

Waiver Signature Page

[INSERT LENDER NAME], as a Lender

By: _____
Name:

Waiver Signature Page

Office DEPOT.

CONTACTS:

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Investor Relations
561-438-3657
brian.turcotte@officedepot.com

Brian Levine
Public Relations
561-438-2895
brian.levine@officedepot.com

OFFICE DEPOT ANNOUNCES RESTATEMENT OF 2010 FINANCIAL RESULTS FOLLOWING DENIAL OF TAX CLAIM

BOCA RATON, Fla., March 31, 2011 — Office Depot, Inc. (NYSE: ODP), a leading global provider of office supplies and services, today announced that the Internal Revenue Service has denied the Company's claim to carry back certain tax losses to prior tax years under economic stimulus-based tax legislation enacted in 2009, which claim was made after the Company consulted with its tax advisors. As a result, the Company has reassessed the carry back of tax losses in 2010 to prior periods and will restate its financial results to revise the accounting treatment regarding its original tax position. The periods covered by the restatement are the fiscal year ended December 25, 2010 and the quarters ended June 26, 2010 and September 25, 2010. The Company anticipates that it will file the restated financial statements on or about April 6, 2011.

The expected impact of correcting the 2010 financial statements is to reduce full-year tax benefits by approximately \$80 million, change net earnings for 2010 from \$33 million to a net loss of \$46 million and increase the net loss attributable to common shareholders from \$2 million or \$0.01 per share to \$82 million or \$0.30 per share. Additionally, the \$63 million current tax receivable associated with the carry back amount will be removed from the balance sheet at December 25, 2010 and will adversely impact anticipated 2011 operating cash flow.

"While we are disappointed to have to restate our 2010 financial results, it's important to note that this restatement has no impact on our previously reported 2010 EBIT or EBITDA and no net impact on 2010 cash flows," said Office Depot's Chief Financial Officer Mike Newman.

Additional information regarding the restatement will be included in a Form 8-K to be filed by the Company on or about March 31, 2011 with the U.S. Securities and Exchange Commission.

First Quarter 2011 Results Update

Sales results for the first quarter of 2011 are consistent with the outlook of down 3% versus prior year as provided during the fourth quarter 2010 earnings call on February 22, 2011. North American Retail Division same store sales in the first quarter were down 1% versus the same period one year ago. North American Business Solution Division sales were down 3% versus the first quarter of 2010. International Division first quarter sales in constant currency were down 5% versus the same period one year ago and up 1% excluding the impact of businesses rationalized in late 2010.

Although the close process for the first quarter has not yet been completed, it appears that first quarter 2011 EBIT will be down about 50% from one year ago due to the negative flow-through impact from lower sales, higher marketing costs, investments in business process improvement opportunities, product cost pressures in the International Division, increased spending to drive growth of service offerings and winter weather-related business disruptions in January and February.

Conference Call Information

Office Depot will hold a conference call for investors and analysts at 9:00 a.m. (Eastern Time) on April 1, 2011 to further discuss the restatement and the impact on its 2010 financial statements, and 2011 outlook. The conference call will be available to all investors via Web cast at <http://investor.officedepot.com>. Interested parties may contact Investor Relations at 561-438-7893 for further information.

About Office Depot

Celebrating 25 years as a leading global provider of office supplies and services, Office Depot is Taking Care of Business for millions of customers around the globe. For the local corner store as well as Fortune 500 companies, Office Depot provides supplies and services to its customers through 1,602 worldwide retail stores, a dedicated sales force, top-rated catalogs and a \$4.1 billion e-commerce operation. Office Depot has annual sales of approximately \$11.6 billion, and employs about 40,000 associates around the world. The Company provides more office supplies and services to more customers in more countries than any other company, and currently sells to customers directly or through affiliates in 53 countries.

Office Depot's common stock is listed on the New York Stock Exchange under the symbol ODP. Additional press information can be found at: <http://mediarelations.officedepot.com> and <http://socialpress.officedepot.com/>.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS: The Private Securities Litigation Reform Act of 1995, as amended (the "Act") provides protection from liability in private lawsuits for "forward-looking" statements made by public companies under certain circumstances, provided that the public company discloses with specificity the risk factors that may impact its future results. We want to take advantage of the "safe harbor" provisions of the Act. Certain statements made in this press release are forward-looking statements under the Act. Except for historical financial and business performance information, statements made in this press release should be considered forward-looking as referred to in the Act. Forward-looking statements, including statements regarding the Company's intent to restate its prior financial statements, the estimated amounts to be restated and the Company's future operations and financial results involve risks and uncertainties which may cause actual results to differ materially from those discussed herein. The Company makes no commitment to revise or update any forward-looking statements in order to reflect events or circumstances after the date any such statement is made. Certain risks and uncertainties are detailed from time to time in our filings with the United States Securities and Exchange Commission ("SEC"). You are strongly urged to review all such filings for a more detailed discussion of such risks and uncertainties. The Company's SEC filings are readily obtainable at no charge at www.sec.gov and at www.freeEDGAR.com, as well as on a number of other commercial web sites.