UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

☑ **Quarterly Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934**

For the quarterly period ended September 27, 2008

or

o **Transition Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934**

For the transition period from __________ to __________

Commission file number 1-10948

Office Depot, Inc.
(Exact name of registrant as specified in its charter)

Office DEPOT

Delaware (State or other jurisdiction of incorporation or organization)	**59-2663954** (I.R.S. Employer Identification No.)
2200 Old Germantown Road; Delray Beach, Florida (Address of principal executive offices)	**33445** (Zip Code)

(561) 438-4800
(Registrant's telephone number, including area code)

____
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☑ No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☑ Accelerated filer o Non-accelerated filer o (Do not check if a smaller reporting company) Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No ☑

The number of shares outstanding of the registrant's common stock, as of the latest practicable date: At September 27, 2008 there were 274,885,885 outstanding shares of Office Depot, Inc. Common Stock, $0.01 par value.

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share amounts)
(Unaudited)

	As of September 27, 2008	As of December 29, 2007	As of September 29, 2007
Assets			
Current assets:			
Cash and cash equivalents	$ 394,574	$ 222,954	$ 187,037
Receivables, net	1,450,220	1,511,681	1,532,784
Inventories	1,460,499	1,717,662	1,608,697
Deferred income taxes	144,209	120,162	85,207
Prepaid expenses and other current assets	166,917	143,255	139,865
Total current assets	3,616,419	3,715,714	3,553,590
Property and equipment, net	1,623,858	1,588,958	1,529,046
Goodwill	1,338,183	1,282,457	1,266,816
Other intangible assets	103,453	107,987	109,299
Other assets	537,500	561,424	487,420
Total assets	$ 7,219,413	$ 7,256,540	$ 6,946,171
Liabilities and stockholders' equity			
Current liabilities:			
Trade accounts payable	$ 1,351,016	$ 1,591,154	$ 1,622,841
Accrued expenses and other current liabilities	1,196,732	1,170,775	1,123,594
Income taxes payable	11,447	3,491	36,330
Short-term borrowings and current maturities of long-term debt	420,979	207,996	49,933
Total current liabilities	2,980,174	2,973,416	2,832,698
Deferred income taxes and other long-term liabilities	585,573	576,254	539,915
Long-term debt, net of current maturities	519,348	607,462	581,140
Minority interest	7,302	15,564	14,999
Commitments and contingencies			
Stockholders' equity:			
Common stock — authorized 800,000,000 shares of $.01 par value; issued and outstanding shares — 280,862,835 in 2008, 428,777,625 in December 2007 and 428,671,158 in September 2007	2,809	4,288	4,287
Additional paid-in capital	1,187,383	1,784,184	1,771,370
Accumulated other comprehensive income	449,854	495,916	420,258
Retained earnings	1,545,281	3,783,805	3,765,031
Treasury stock, at cost — 5,976,950 shares in 2008, 155,819,358 shares in December 2007 and 155,783,289 shares in September 2007	(58,311)	(2,984,349)	(2,983,527)
Total stockholders' equity	3,127,016	3,083,844	2,977,419
Total liabilities and stockholders' equity	$ 7,219,413	$ 7,256,540	$ 6,946,171

This report should be read in conjunction with the Notes to Condensed Consolidated Financial Statements ("Notes") herein and the Notes to Consolidated Financial Statements in the Office Depot, Inc. Form 10-K filed February 26, 2008 (the "2007 Form 10-K").

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS
(In thousands, except per share amounts)
(Unaudited)

	13 Weeks Ended		39 Weeks Ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Sales	$ 3,657,857	$ 3,935,411	$11,224,947	$11,660,610
Cost of goods sold and occupancy costs	2,633,416	2,820,276	8,048,310	8,180,248
Gross profit	1,024,441	1,115,135	3,176,637	3,480,362
Store and warehouse operating and selling expenses	844,189	843,958	2,522,689	2,529,144
General and administrative expenses	176,362	150,797	550,136	462,115
Amortization of deferred gain on building sale	(1,873)	(1,873)	(5,619)	(5,619)
Operating profit	5,763	122,253	109,431	494,722
Other income (expense):				
Interest income	1,908	4,111	8,417	6,212
Interest expense	(16,405)	(19,316)	(45,631)	(49,987)
Miscellaneous income, net	3,574	5,238	18,517	24,933
Earnings (loss) before income taxes	(5,160)	112,286	90,734	475,880
Income taxes	1,538	(5,202)	30,661	99,039
Net earnings (loss)	$ (6,698)	$ 117,488	$ 60,073	$ 376,841
Earnings (loss) per common share:				
Basic	$ (0.02)	$ 0.43	$ 0.22	$ 1.38
Diluted	(0.02)	0.43	0.22	1.36
Weighted average number of common shares outstanding:				
Basic	272,939	272,014	272,726	273,131
Diluted	272,939	274,370	273,073	276,817

This report should be read in conjunction with the Notes herein and the Notes to Consolidated Financial Statements in the 2007 Form 10-K.

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	39 Weeks Ended	
	September 27, 2008	September 29, 2007
Cash flow from operating activities:		
Net earnings	$ 60,073	$ 376,841
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	192,345	206,454
Charges for losses on inventories and receivables	100,353	76,425
Changes in working capital and other	45,510	(204,945)
Net cash provided by operating activities	398,281	454,775
Cash flows from investing activities:		
Capital expenditures	(277,818)	(334,010)
Acquisitions, net of cash acquired, and related payments	(101,786)	(47,848)
Release of restricted cash	18,100	—
Purchase of assets held for sale and sold	(39,772)	—
Proceeds from assets sold and other	85,286	107,680
Net cash used in investing activities	(315,990)	(274,178)
Cash flows from financing activities:		
Proceeds from exercise of stock options and sale of stock under employee stock purchase plans	658	27,913
Tax benefits from employee share-based payments	292	15,776
Acquisition of treasury stock under approved repurchase plans	—	(199,592)
Treasury stock additions from employee related plans	(1,015)	(10,372)
Proceeds from issuance of debt under asset based credit facility	365,000	—
Net payments on long- and short-term borrowings	(268,923)	(5,470)
Net cash provided by (used in) financing activities	96,012	(171,745)
Effect of exchange rate changes on cash and cash equivalents	(6,683)	4,633
Net increase in cash and cash equivalents	171,620	13,485
Cash and cash equivalents at beginning of period	222,954	173,552
Cash and cash equivalents at end of period	$ 394,574	$ 187,037

This report should be read in conjunction with the Notes herein and the Notes to Consolidated Financial Statements in the 2007 Form 10-K.

Note A — Basis of Presentation

Office Depot, Inc., including consolidated subsidiaries, is a global supplier of office products and services. Fiscal years are based on a 52- or 53-week period ending on the last Saturday in December. The Condensed Consolidated Balance Sheet at December 29, 2007 has been derived from audited financial statements at that date. The condensed interim financial statements as of September 27, 2008 and for the 13-week and 39-week periods ended September 27, 2008 (also referred to as "the third quarter of 2008" and "the year-to-date 2008") and September 29, 2007 (also referred to as "the third quarter of 2007" and "the year-to-date 2007") are unaudited. However, in our opinion, these financial statements reflect adjustments (consisting only of normal, recurring items) necessary to provide a fair presentation of our financial position, results of operations and cash flows for the periods presented. In addition to the normal, recurring items recorded for interim financial statement presentation, we recognized expenses associated with exit and other activities because the related accounting criteria were met during the period. We have included the balance sheet from September 29, 2007 to assist in analyzing our company.

These interim results are not necessarily indicative of the results that should be expected for the full year. For a better understanding of Office Depot, Inc. and its financial statements, we recommend reading these condensed interim financial statements in conjunction with the audited financial statements for the year ended December 29, 2007, which are included in our 2007 Annual Report on Form 10-K (the "2007 Form 10-K"), filed with the U. S. Securities and Exchange Commission ("SEC").

Cash Management: Our cash management process generally utilizes zero balance accounts which provide for the settlement of the related disbursement accounts on a daily basis. Accounts payable as of September 27, 2008, December 29, 2007 and September 29, 2007 included $98 million, $127 million and $172 million, respectively, of amounts not yet presented for payment drawn in excess of disbursement account book balances, after considering existing offset provisions. We borrow on a cost effective basis during the quarter, which may result in higher levels of borrowings and invested cash within the period. At the end of the quarter, cash may be used to minimize borrowings outstanding at the balance sheet date.

New Accounting Pronouncements

In September 2006, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("FAS 157"). This Standard defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. FAS 157 was effective for fiscal years beginning after November 15, 2007 for financial assets and liabilities, as well as for any other assets and liabilities that are carried at fair value on a recurring basis in financial statements. Certain aspects of this Standard were effective at the beginning of the first quarter of 2008 and had no impact on the company. In November 2007, the FASB provided a one year deferral for the implementation of FAS 157 for other nonfinancial assets and liabilities. We do not anticipate that the adoption of the deferred portion of FAS 157 will have a material impact on our financial condition, results of operations or cash flows.

The FASB also issued in September 2006 Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statement No. 87, 88, 106 and 132(R)* ("FAS 158"). This Standard prescribes two phases of implementation. In the first phase, which we adopted in 2006, deferred pension gains and losses are reflected in accumulated other comprehensive income. The second phase of FAS 158 requires that the valuation date of plan accounts be as of the end of the fiscal year, with that change required to be implemented by fiscal years ending after December 15, 2008. We anticipate that the change will reduce year end 2008 retained earnings by approximately $0.7 million at current exchange rates.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141 (R), *Business Combinations* ("FAS 141R"). This Standard retains the fundamental acquisition method of accounting established in Statement 141; however, among other things, FAS 141R requires recognition of assets and liabilities of noncontrolling interests acquired, fair value measurement of consideration and contingent consideration, expense recognition for transaction costs and certain integration costs, recognition of the fair value of contingencies, and adjustments to income tax expense for changes in an acquirer's existing valuation allowances or uncertain tax positions that result from the business combination. The Standard is effective for annual reporting periods beginning after December 15, 2008 and shall be applied prospectively. The Standard does not address transition provisions for certain items treated differently under FAS 141 and FAS 141R. Accordingly, capitalized acquisition costs related to transactions not finalized at the time of adoption of FAS 141R will be expensed under that Standard. We currently capitalize as incurred direct costs associated with probable business combinations. We anticipate expensing during the fourth quarter of 2008 any such costs that have not been applied to transactions finalized before the end of the fiscal year. However, currently we are not able to estimate that fourth quarter expense.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, *Noncontrolling Interests in Consolidated Financial Statements* ("FAS 160"). This Standard changes the way consolidated net income is presented, requiring consolidated net income to report amounts attributable to both the parent and the noncontrolling interest but earnings per share will be based on amounts attributable to the parent. It also establishes protocol for recognizing certain ownership changes as equity transactions or gain or loss and requires presentation of noncontrolling ownership interest as a component of consolidated equity. The Standard is effective for annual reporting periods beginning after December 15, 2008 and is to be applied prospectively. We have not yet completed our assessment of the impact FAS 160 will have on the presentation of our financial condition, results of operations or cash flows.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, *Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133* ("FAS 161"). This Standard requires enhanced disclosures regarding derivatives and hedging activities, including: (a) the manner in which an entity uses derivative instruments; (b) the manner in which derivative instruments and related hedged items are accounted for under Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*; and (c) the effect of derivative instruments and related hedged items on an entity's financial position, financial performance, and cash flows. The Standard is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. As FAS 161 relates specifically to disclosures, the Standard will have no impact on our financial condition, results of operations or cash flows.

In May 2008, the FASB issued Statement of Financial Accounting Standards No. 162, *The Hierarchy of Generally Accepted Accounting Principles* ("FAS 162"). This Standard identifies the sources of accounting principles and the framework for selecting the principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles. FAS 162 directs the hierarchy to the entity, rather than the independent auditors, as the entity is responsible for selecting accounting principles for financial statements that are presented in conformity with generally accepted accounting principles. The Standard is effective 60 days following SEC approval of the Public Company Accounting Oversight Board amendments to remove the hierarchy of generally accepted accounting principles from the auditing standards. FAS 162 is not expected to have an impact on our financial condition, results of operations or cash flows.

Note B — Acquisitions

In April 2008, the company and Reliance Retail Ltd, a subsidiary of Reliance Industries Ltd., through a joint venture acquired 100% of eOfficePlanet India pvt., India's leading provider of office products and services to corporate customers. The company invested approximately $20 million in the joint venture and holds a controlling 51% interest. The joint venture is included in our International Division. During July 2008, we acquired a 51% controlling interest in AGE Kontor & Data AB, a contract and retail office supply company operating in Sweden. Under terms of the agreement, the company may purchase or be required to purchase the remaining 49% interest for $20 million during the third quarter of 2010, or earlier under limited conditions. The business has been consolidated in our third quarter financial statements effective with the date of the acquisition and reported in the International Division. Both our integration plans and our assessment of the value of assets and liabilities acquired in these business combinations are in the process of being finalized and implemented. Accordingly, the amounts initially allocated to goodwill likely will change as the integration and valuation processes are completed.

Also in April 2008, the company acquired under previously existing put options all remaining minority interest shares of its joint ventures in Israel and China for approximately $40 million and $22 million, respectively.

The effects of these acquisitions are not considered material to our financial condition, results of operations or cash flows.

Note C — Comprehensive Income

Comprehensive income represents all non-owner changes in stockholders' equity and consists of the following:

	Third Quarter		Year-to-Date	
(In thousands)	2008	2007	2008	2007
Net earnings (loss)	$ (6,698)	$ 117,488	$ 60,073	$ 376,841
Other comprehensive income:				
Foreign currency translation adjustments, net	(137,195)	80,302	(33,037)	125,403
Amortization of gain on cash flow hedge	(415)	(415)	(1,244)	(1,244)
Deferred pension accounts	—	—	(11,470)	—
Unrealized gain (loss) on cash flow hedge	(186)	(180)	(311)	846
Total comprehensive income (loss)	$ (144,494)	$ 197,195	$ 14,011	$ 501,846

Note D — Debt

On September 26, 2008, the company entered into a Credit Agreement (the "Agreement") with a group of lenders, which provides for an asset based, multi-currency revolving credit facility (the "Facility") of up to $1.25 billion. The amount that can be drawn on the Facility at any given time will be determined based on percentages of certain accounts receivable, inventory and credit card receivables (the "Borrowing Base"). As of September 27, 2008, the company was eligible to borrow the full amount of the Facility. The Facility includes a sub-facility of up to $250 million which is available to certain of the company's European subsidiaries (the "European Borrowers"), subject to limitations based on their Borrowing Base. Certain of the company's domestic subsidiaries (the "Domestic Guarantors") guaranty the obligations under the Facility. The Agreement also provides for a letter of credit sub-facility of up to $400 million. All loans borrowed under the Agreement may be borrowed, repaid and reborrowed from time to time until September 26, 2013 (or, in the event that the Company's existing 6.25% Senior Notes are not repaid, then February 15, 2013), on which date the Facility matures.

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a lien on the company's and such Domestic Guarantors' accounts receivables, inventory, cash and deposit accounts. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on such European Borrowers' accounts receivable, inventory, cash and deposit accounts, as well as certain other assets. Borrowings made pursuant to the Agreement bear interest at either, at the company's option (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent) and the Federal Funds Rate plus 1/2 of 1%) or (ii) the Adjusted LIBOR Rate (defined as the LIBOR Rate as adjusted for statutory revenues) plus, in either case, a certain margin based on the aggregate average availability under the Facility. The Agreement also contains representations, warranties, fees, affirmative and negative covenants, and default provisions. The Facility includes limitations in certain circumstances on acquisitions, dispositions, share repurchases and dividends. The dividend restrictions are based on the then-current fixed charge coverage ratio and borrowing availability at the point of consideration. The company has never declared or paid cash dividends on its common stock.

The Agreement replaces the company's Revolving Credit Facility Agreement, which provided for multiple-currency borrowing of up to $1 billion and had a sub-limit of up to $350 million for standby and trade letter of credit issuances. The facility maturity date of the Revolving Credit Agreement was May 25, 2012.

At September 27, 2008, the company's borrowings under the Facility totaled $365 million at an interest rate of 7%. The company had approximately $750 million of available credit under the Facility that includes coverage of $135 million of outstanding letters of credit. An additional $3 million of letters of credit were outstanding under separate agreements.

Note E — Earnings Per Share ("EPS")

The information related to our basic and diluted EPS is as follows:

	Third Quarter		Year-to-Date	
(In thousands, except per share amounts)	2008	2007	2008	2007
Numerator:				
Net earnings (loss)	$ (6,698)	$ 117,488	$ 60,073	$ 376,841
Denominator:				
Weighted average shares outstanding:				
Basic	272,939	272,014	272,726	273,131
Effect of dilutive stock options and restricted stock	79	2,356	347	3,686
Diluted	273,018	274,370	273,073	276,817
EPS:				
Basic	$ (0.02)	$ 0.43	$ 0.22	$ 1.38
Diluted	(0.02)	0.43	0.22	1.36

Options and nonvested shares representing 17.1 million shares of common stock were outstanding for the quarter ended September 27, 2008 but were not included in the computation of diluted earnings per share because their effect would have been antidilutive. The diluted share amount for the third quarter of 2008 is provided for informational purposes, as the net loss for the period causes basic EPS to be the most dilutive.

Note F — Division Information

Office Depot operates in three reportable segments: North American Retail Division, North American Business Solutions Division, and International Division. The following is a summary of our significant accounts and balances by reportable segment (or "Division"), reconciled to consolidated totals.

	Sales			
	Third Quarter		Year-to-Date	
(In thousands)	2008	2007	2008	2007
North American Retail Division	$ 1,578,525	$ 1,771,975	$ 4,725,040	$ 5,145,909
North American Business Solutions Division	1,054,213	1,168,086	3,222,310	3,453,678
International Division	1,025,119	995,350	3,277,597	3,061,023
Total	$ 3,657,857	$ 3,935,411	$ 11,224,947	$ 11,660,610

	Division Operating Profit			
	Third Quarter		Year-to-Date	
(In thousands)	2008	2007	2008	2007
North American Retail Division	$ 11,947	$ 79,504	$ 90,037	$ 331,091
North American Business Solutions Division	39,049	68,776	147,917	219,321
International Division	35,937	47,215	147,271	171,412
Total reportable segments	86,933	195,495	385,225	721,824
Eliminations	—	—	—	(73)
Total	$ 86,933	$ 195,495	$ 385,225	$ 721,751

A reconciliation of the measure of Division operating profit to consolidated earnings (loss) before income taxes is as follows:

	Third Quarter		Year-to-Date	
(In thousands)	2008	2007	2008	2007
Total Division operating profit	$ 86,933	$ 195,495	$ 385,225	$ 721,751
Charges, as defined below	(5,346)	(812)	(31,626)	(24,759)
Corporate general and administrative expenses (excluding Charges)	(77,697)	(74,303)	(249,787)	(207,889)
Amortization of deferred gain	1,873	1,873	5,619	5,619
Interest income	1,908	4,111	8,417	6,212
Interest expense	(16,405)	(19,316)	(45,631)	(49,987)
Miscellaneous income, net	3,574	5,238	18,517	24,933
Earnings (loss) before income taxes	$ (5,160)	$ 112,286	$ 90,734	$ 475,880

Goodwill by Division is as follows:

	Goodwill		
(In thousands)	September 27, 2008	December 29, 2007	September 29, 2007
North American Retail Division	$ 2,200	$ 2,315	$ 2,271
North American Business Solutions Division	369,025	368,628	367,314
International Division	966,958	911,514	897,231
Total	$ 1,338,183	$ 1,282,457	$ 1,266,816

The change in goodwill balances compared to year end and third quarter 2007 results primarily from the acquisitions completed in 2008 and changes in foreign currency exchange rates on goodwill balances recorded in local functional currencies. The increase in goodwill from year end 2007 totaled approximately $56 million, reflecting an increase of $74 million related to acquisitions, offset partially by a decrease of $18 million related to changes in foreign currency exchange rates. See Note B for additional information on the acquisitions completed in 2008.

Note G — Asset Impairments, Exit Costs and Other Charges

During the third quarter of 2005, we announced a number of material charges relating to asset impairments, exit costs and other operating decisions (the “Charges”). This announcement followed a wide-ranging assessment of assets and commitments which began in the second quarter of 2005. Through the end of the third quarter of 2008, we had recorded $417 million of Charges. Expenses associated with future activities will be recognized as the individual plans are implemented and the related accounting recognition criteria are met. As with any estimate, the amounts may change when expenses are incurred. We manage these costs and programs at the corporate level and, accordingly, these amounts are not included in determining Division operating profit.

During the third quarter of 2008, we recognized approximately $5 million of Charges associated with these projects as the previously-identified plans were implemented and the related accounting recognition criteria were met. Approximately $4 million is included in store and warehouse operating and selling expenses and approximately $1 million is included in general and administrative expenses on our Condensed Consolidated Statement of Earnings. Implementation of projects during the quarter resulted in charges primarily for severance-related expenses. The 2008 year to date Charges totaled approximately $32 million, of which, $24 million is presented in store and warehouse operating and selling expenses and approximately $8 million is presented in general and administrative expenses.

Charges for the third quarter of 2007 totaled approximately $8 million, of which, $4 million was included in store and warehouse operating and selling expenses and $4 million was included in general and administrative expenses. Also during the third quarter of 2007, we recognized a gain of approximately $7 million associated with the overall supply chain consolidation initiative in Europe. This gain was aggregated with the Charges recognized in the third quarter of 2007 and was presented in store and warehouse operating and selling expenses. The 2007 year to date Charges totaled approximately $32 million, of which, $23 million was included in store and warehouse operating and selling expenses and $9 million was included in general and administrative expenses. The third quarter and year to date 2007 Charges primarily related to severance expenses and accelerated depreciation.

The following table summarizes the Charges recognized in the first nine months of 2008 by type of activity as well as changes in the related accrual balances.

(In millions)	Balance at December 29, 2007	Charges incurred	Cash payments	Non-cash settlements	Currency and other adjustments	Balance at September 27, 2008
One-time termination benefits	$13	$19	$(20)	$ (3)	$—	$ 9
Lease and contract obligations	17	—	(5)	—	(1)	11
Accelerated depreciation	—	9	—	(9)	—	—
Other associated costs	—	4	(2)	(2)	—	—
Total	$30	$32	$(27)	$(14)	$ (1)	$20

In addition to the Charges discussed above, during the second quarter of 2008, the company initiated a voluntary exit incentive program for certain employees. Severance expenses under this program are estimated to total approximately $7 million, the majority of which will be recognized and paid by the end of fiscal year 2008. We recognized approximately $1 million and $6 million in the third quarter and year to date 2008, respectively.

During the third quarter of 2008 and 2007, the company recorded store asset impairment charges of approximately $20 million and $3 million, respectively. These charges are included in operating expenses of the North American Retail Division.

Note H — Accounting for Uncertainty in Income Taxes

We file a U.S. federal income tax return and other income tax returns in various states and foreign jurisdictions. With few exceptions, we are no longer subject to U.S. federal, state and local, or non-U.S. income tax examinations for years before 2000. Our U.S. federal filings for the years 2000 and 2002 through 2006 are under routine examination, and the U.S. federal tax returns for 2007 and 2008 are under concurrent year review. It is reasonably possible that certain of these audits will close within the next 12 months, which could result in a decrease of as much as $14 million or an increase of as much as $12 million to our accrued uncertain tax positions. Additionally, we anticipate that it is reasonably possible that new issues will be raised or resolved by tax authorities that may require changes to the balance of unrecognized tax benefits, however, an estimate of such changes cannot reasonably be made at this time.

Note I — Pension Disclosures

The company has an active defined benefit pension plan covering certain employees in one International location. In April 2008, following trustee approval and notification of employees, future service benefits ceased for the remaining employees under the plan. As a result of this curtailment, a gain of approximately $13.1 million was recognized during the second quarter of 2008, including $11.5 million from the change in benefits and $1.6 million from previously accrued benefits included in other comprehensive income. The gain is presented in store and warehouse operating and selling expenses on the year to date Condensed Consolidated Statement of Earnings and included in the International Division's year to date operating profit.

The components of net periodic pension cost (gain) are as follows:

	Third Quarter		Year-to-Date	
(In millions)	2008	2007	2008	2007
Service cost	$ 0.3	$ 2.4	$ 0.9	$ 5.6
Interest cost	2.9	2.9	9.1	8.7
Expected return on plan assets	(2.7)	(2.2)	(8.4)	(6.7)
Net periodic pension cost	$ 0.5	$ 3.1	$ 1.6	$ 7.6
Curtailment gain	$ —	$ —	$ (13.1)	$ —

Plan assets and obligations were revalued at the curtailment date. Giving effect to additional funding through the end of the third quarter and changes in foreign currency exchange rates, the net unfunded pension liability was $57.4 million at September 27, 2008, compared to $67.9 million at December 29, 2007. Changes in deferred actuarial gains and asset returns different from projections up to the curtailment date and curtailment-related impacts reduced other comprehensive income by approximately $11.5 million during the second quarter of 2008. For the year-to-date period ended September 27, 2008, the Company contributed approximately $5 million to this plan and purchased approximately $1 million of annuity contracts for a separate plan.

In accordance with new pension accounting rules applicable to the company in the fourth quarter of 2008 (FAS 158), the pension plan valuation date will change from the currently used date of the end of October to the end of December. This change is expected to result in a charge to retained earnings of approximately $0.7 million at current exchange rates using the proportionate measurement approach specified in that Standard.

Note J — Capital Stock

During the second quarter of 2008, we retired approximately 150 million shares of treasury stock. This was a non-cash transaction, and the reduction in the treasury stock account was offset by changes in other equity accounts. The par value of the retired shares was charged against common stock, and the excess of purchase price over par value was allocated between additional paid-in capital and retained earnings using a pro rata method. The impact of this transaction on the condensed consolidated balance sheet was to reduce common stock, additional paid-in capital, retained earnings and treasury stock by approximately $1.5 million, $626.9 million, $2,298.6 million and $2,927.0 million, respectively.

Note K — Investment in Unconsolidated Joint Venture

Since 1994, we have participated in a joint venture in Mexico, Office Depot de Mexico. Because we participate equally in this business with a partner, we account for this investment using the equity method. Our proportionate share of Office Depot de Mexico's net income or loss is presented in miscellaneous income, net in the Condensed Consolidated Statements of Earnings.

The following tables provide summarized unaudited information from the balance sheet and statement of earnings for Office Depot de Mexico:

(In thousands)	September 27, 2008	December 29, 2007	September 29, 2007
Current assets	$220,184	$202,188	$213,557
Non-current assets	277,578	250,561	233,025
Current liabilities	156,975	169,592	132,858
Non-current liabilities	—	—	—

	Third Quarter		Year-to-Date	
(In thousands)	2008	2007	2008	2007
Sales	$278,272	$243,120	$733,017	$635,517
Gross profit	77,211	65,203	208,150	177,617
Net income	22,469	19,895	56,493	51,252

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

GENERAL

Office Depot, Inc., together with our subsidiaries, is a global supplier of office products and services. We sell to consumers and businesses of all sizes through our three reportable segments (or "Divisions"): North American Retail Division, North American Business Solutions Division, and International Division.

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to provide information to assist in better understanding and evaluating our financial condition and results of operations. We recommend that you read this MD&A in conjunction with our condensed consolidated financial statements and the notes to those statements included in Item 1 of this Quarterly Report on Form 10-Q, as well as our 2007 Annual Report on Form 10-K (the "2007 Form 10-K"), filed with the U.S. Securities and Exchange Commission (the "SEC").

This MD&A contains significant amounts of forward-looking information. Without limitation, when we use the words "believe," "estimate," "plan," "expect," "intend," "anticipate," "continue," "may," "project," "probably," "should," "could," "will" and similar expressions in this Quarterly Report on Form 10-Q, we are identifying forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995). Our discussion of Risk Factors, found in Item 1A of this Form 10-Q and our 2007 Form 10-K, and Forward-Looking Statements, found immediately following the MD&A in our 2007 Form 10-K, apply to these forward-looking statements.

RESULTS OF OPERATIONS

Current Economic Conditions

Early last year we began reporting on what we believed to be deteriorating economic conditions. We believe those conditions had an adverse impact on spending by the small- to medium-sized businesses we serve. We also reported on the growing negative impact on our business of slowing construction and real estate markets, particularly in Florida and California, and rising commodity prices. Those trends have generally continued into 2008 and now have expanded into significant global economic concerns, including many of the European countries where we have operations. It is unclear the extent to which these conditions will persist and what overall impact they will have on future consumer spending as compared to our expectations.

Throughout the past several quarters we have adjusted our business activities to address the changing economic environment. We have modified our product and service offerings and packaging to help our small business customers cope with the current financial and business challenges. We have lowered our inventory through more aggressive clearancing activity and improved inventory management within our supply chain, and we have strengthened our own liquidity position by slowing our new store openings and remodeling activities and securing a $1.25 billion multi-year asset based credit facility to replace our previous credit facility.

Our operating results are impacted by the health of the North American, European, Asian and Latin American economies. In spite of our efforts to address the current economic conditions, our results for the third quarter of 2008 were disappointing.

Because of the continuing negative global economic conditions, the company is undertaking a comprehensive review of its assets, practices and competitive position and will determine during the coming months how best to change our business to succeed in the current and anticipated future economic climate. While no decisions have been made or can even be predicted at this time, the review is expected to include where and how best to compete through our stores, which customers

should be pursued and retained and how those customers can be best served in our contract and direct businesses, and how best to serve our international customers. This review may result in store closures, modifications of our product offering, changes to our distribution facilities and modifications to our international business. Such strategic decisions could lead to additional impairment charges, severance costs and provisions for lease commitments.

The impact of these future decisions will be combined with our assessment of the competitive and economic environment and will serve as the basis for our annual assessment of goodwill. At the end of the third quarter of 2008, we carried approximately $1.3 billion of goodwill, with approximately $2 million in the North American Retail Division, $369 million in the North American Business Solutions Division and $967 million in the International Division.

Our market capitalization is currently below our net book value, but that condition has not been sustained for an extended period of time and has been significantly impacted by extreme volatility in the U.S. equity markets. In spite of this condition, we believe the indicators do not suggest testing of goodwill in advance of our annual fourth quarter test. However, our assessment of the carrying value of goodwill may be impacted by the strategic decisions made as part of the company-wide review.

OVERVIEW

A summary of factors important to understanding the results for the third quarter of 2008 is provided below and further discussed in the narrative that follows this overview.

- Sales for the third quarter and year to date 2008 periods decreased when compared to the same periods in 2007. For the third quarter, sales in North America were down 10%, while International sales increased 3% in U.S. dollars and decreased 2% in local currencies. North American Retail Division comparable store sales decreased 14% for the third quarter and 11% for the year to date period.
- Gross profit as a percentage of sales for the third quarter of 2008 was 28.0%, compared to 28.3% for the same period in 2007. The comparison reflects the de-leveraging of fixed costs against lower sales levels across all Divisions as well as increased promotional activity in our North American Business Solutions Division, partially offset by improved product margin in our North American Retail Division.
- As part of our previously announced streamlining activities, we recorded $5 million of charges in the third quarter of 2008 compared to $1 million of net charges in the third quarter of 2007 (the “Charges”).
- Total operating expenses as a percent of sales for the third quarter of 2008 were 27.8% compared to 25.2% for the same quarter of the prior year. The third quarter 2008 operating expenses include a charge of approximately $21 million, or $0.05 per share, for store impairment and closure costs. The third quarter 2007 operating expenses include a credit to reverse the year to date accrual for performance-based variable pay in response to the downturn in operating performance. This resulted in comparatively higher compensation costs in the third quarter of 2008. The 2008 increase as a percentage of sales also reflects the de-leveraging of costs against lower sales levels and higher corporate charges for professional and legal fees.
- We reported a net loss of $7 million for the third quarter of 2008 compared to net earnings of $117 million in the same quarter of the prior year, and we reported a diluted loss per share of $(0.02) in the third quarter of 2008 versus diluted earnings per share (“EPS”) of $0.43 in the same period a year ago. Charges negatively impacted EPS by $0.01 in the third quarter of 2008 and had no impact on EPS in the third quarter of 2007.
- Third quarter 2008 income taxes include a charge of approximately $8 million, or $0.03 per share, to reflect the enactment in July 2008 of a tax law change in the U.K. Third quarter 2007 income taxes include three discrete tax benefits totaling approximately $33 million, or $0.12 per share.
- Net earnings for the year to date period were $60 million compared to $377 million in the same period of the prior year, and EPS was $0.22 for year to date 2008 versus $1.36 in the same period a year ago. Charges negatively impacted EPS by $0.10 in the year to date 2008 period and $0.08 in the same period of 2007.

Charges and Division Results

Charges

During the third quarter of 2005, we announced a number of material charges relating to asset impairments, exit costs and other operating decisions. This announcement followed a wide-ranging assessment of assets and commitments which began in the second quarter of 2005. We indicated that these actions would continue to impact our results for several years, and expenses associated with future activities would be recognized as the individual plans were implemented and the applicable accounting recognition criteria were met. Charges incurred since this program began in the third quarter of 2005 total $417 million. We currently estimate recognizing $8 million of Charges under this program during the remainder of 2008, for a 2008 total of $40 million. As noted above, the company will be assessing during the fourth quarter of 2008 what actions may be necessary to adjust to changes in the economic environment. It currently is not possible to predict the outcome of that review, but decisions to close stores or change our offerings in markets could result in additional charges for asset impairments, lease terminations and severance. This review will also consider, and modify if appropriate, activities under existing plans. Accordingly, the estimated $46 million of Charges for 2009 under the existing program could change. These estimated 2008 and 2009 Charges are primarily severance-related expenses and accelerated depreciation associated with the consolidation of warehouses and distribution centers in both North America and Europe and the consolidation and outsourcing of our International call centers. As with any estimate, the timing and amounts may change when projects are implemented and such changes may be material. Also, changes in foreign currency exchange rates may have an impact on amounts reported in U.S. dollars related to foreign operations.

Our measurement of Division operating profit excludes the Charges because they are evaluated internally at the corporate level. The Charges recognized during the third quarter and year to date 2008 and 2007 periods are included in the following lines in our Condensed Consolidated Statements of Earnings.

	Third Quarter		Year-to-Date	
(In millions)	2008	2007	2008	2007
Store and warehouse operating and selling expenses	$ 4	$ (3)	$ 24	$ 16
General and administrative expenses	1	4	8	9
Total Charges	$ 5	$ 1	$ 32	$ 25

Other

The portion of General and Administrative (“G&A”) expenses considered directly or closely related to division activity is included in the measurement of Division operating profit. Other companies may charge more or less G&A expenses to their divisions, and our results therefore may not be comparable to similarly titled measures used by some other entities. Our measure of Division operating profit should not be considered as an alternative to operating income or net earnings determined in accordance with accounting principles generally accepted in the United States of America.

Results for the third quarter and year to date periods of both 2008 and 2007 include recognition of vendor program funds based on amounts earned to date and some amounts based on projections of sales and purchases for the fourth quarter. Should sales be less or more than the current projections, the vendor program amounts recognized in the fourth quarter will be adjusted accordingly. For

example, in the fourth quarter of 2007, as a result of lower-than-expected sales, we reduced our North American vendor program funds by approximately $30 million related to amounts recognized in earlier quarterly periods. We have prepared our financial statements in each period based on information available at the time, however, changes in such estimates may impact our financial statements in future periods. For additional information on our accounting for vendor arrangements and related accounting estimates, see Critical Accounting Policies in our 2007 Form 10-K.

North American Retail Division

	Third Quarter		Year-to-Date	
(Dollars in millions)	2008	2007	2008	2007
Sales	$1,578.5	$1,772.0	$4,725.0	$5,145.9
% change	(11)%	—%	(8)%	2%
Division operating profit	$ 11.9	$ 79.5	$ 90.0	$ 331.1
% of sales	0.8%	4.5%	1.9%	6.4%

Third quarter sales in the North American Retail Division decreased 11% compared to the same period last year. Comparable store sales in the 1,203 stores in the U.S. and Canada that have been open for more than one year decreased 14% in the third quarter of 2008 and 11% in year to date 2008. The decline in comparable store sales was driven by lower sales in our three major product categories of furniture, supplies and technology. Sales of laptops and business machines in particular were down as our small business customers reduced their spending on big ticket and discretionary items and focused their purchases on core supplies. The sales decline in the third quarter and year to date 2008 periods continued to reflect the adverse impacts of weakening business conditions in North America. The decline in comparable store sales in the third quarter of 2008 was driven by both a reduction in the number of store transactions and increased softness in average order values compared to the third quarter of 2007. Although most of the decline can be attributed to macroeconomic factors, a conscious reduction in our marketing efforts for low-margin technology products also negatively impacted sales levels in the third quarter. Additionally, hurricane activity during the third quarter had a negative impact on revenue.

The North American Retail Division reported an operating profit of approximately $12 million in the third quarter of 2008, compared to $80 million in the same period of the prior year. Operating profit for the third quarter of 2008 includes a charge of approximately $21 million for store impairment and closure costs. While we typically have some level of store impairment charges, this is approximately $17 million above the amount we recognized in the third quarter of 2007. The increase reflects the continuing impact of the economic downturn, as well as the impact from some additional store closures. As disclosed above, we will continue our review of store productivity during the fourth quarter. We cannot predict today the extent or magnitude of possible store closures and charges, but they may include asset impairments, severance costs and provisions for future lease commitments.

Operating profit as a percentage of sales declined to 0.8% in the third quarter of 2008, down 370 basis points from 4.5% in the prior year period. Operating margin expanded by approximately 170 basis points related to higher product margins, which resulted primarily from improved product mix and less inventory clearancing, partially offset by increased costs associated with mail-in-rebates. Despite this improvement, the decline in 2008 sales levels resulted in a de-leveraging of costs, which gave rise to about 300 basis points of margin contraction from the third quarter of 2007 to the third quarter of 2008. About 60% of this de-leveraging relates to fixed property costs and the remainder is associated with base operations such as payroll. As mentioned above, charges for store impairment and closure costs were significantly higher in the third quarter of 2008 compared to the third quarter of 2007. This increase resulted in a decrease in operating margin of about 110 basis points. Other negative factors totaling approximately 60 basis points include higher supply-chain costs and shrinkage. We also experienced a negative impact to operating margin of about 30 basis points due to recent hurricane activity. Additionally, operating margin was approximately 40 basis points lower in the third quarter of 2008 as a result of increased compensation costs as third quarter 2007 operating profit includes a credit to reverse the year to date accrual for performance-based variable pay in response to the downturn in Division performance.

On a year to date basis, Division operating profit decreased from $331 million in 2007 to $90 million in 2008, and operating margin declined 450 basis points to 1.9%. This decrease resulted from similar factors and trends as those outlined in the quarterly discussion above. Additionally, operating expenses for year to date 2008 were negatively impacted by increased pre-opening expenses related to the higher level of store openings in the first quarter of 2008 compared to the same period of 2007.

Inventory per store was $777,000 as of the end of the third quarter of 2008, a decline of approximately 15% from the end of the third quarter of 2007. On an average basis, inventory per store was approximately $888,000 for the third quarter of 2008, reflecting a reduction of 14% from the same period in 2007. These changes were the result of efforts made to align our inventory investment with the current economic environment.

At the end of the third quarter of 2008, Office Depot operated a total of 1,275 office products stores throughout the U.S. and Canada as we opened six stores and closed three stores in the quarter. For the year to date period, we have opened 57 stores, and we anticipate opening an additional three stores in the fourth quarter. During the third quarter we remodeled two stores, bringing the total for year to date 2008 to five. In the fourth quarter, we anticipate remodeling seven additional stores, which will be landlord funded. These remodeling activities affect the performance of the North American Retail Division from both acceleration of depreciation of store assets, as well as from the costs associated with the specific remodel efforts, some of which are not capitalizable. We exclude the brief remodel period from our comparable store sales calculation to partially account for the disruption.

North American Business Solutions Division

	Third Quarter		Year-to-Date	
(Dollars in millions)	**2008**	**2007**	**2008**	**2007**
Sales	$1,054.2	$1,168.1	$3,222.3	$3,453.7
% change	(10)%	(3)%	(7)%	—%
Division operating profit	$ 39.0	$ 68.8	$ 147.9	$ 219.3
% of sales	3.7%	5.9%	4.6%	6.4%

Third quarter and year to date sales in the North American Business Solutions Division decreased 10% and 7%, respectively, compared to the same periods last year. The decrease in third quarter sales was driven by deterioration in our small- to medium-sized customer base, a reversal in the sales growth trend among our large, national account customers and the public sector, and declining growth in our technology and furniture businesses as customers have focused their spending on core office supplies. Division sales in Florida and California continue to be challenged in response to current economic conditions. We have also experienced business declines in other markets as the negative impact of the economic downturn has spread across the nation.

Operating profit in the North American Business Solutions Division decreased to $39 million in the third quarter of 2008, compared to $69 million in the same period of the prior year. Operating profit as a percentage of sales declined to 3.7%, down 220 basis points from the prior year period. Approximately 90 basis points of this decline relates to product margin, including, increased promotional activity and customer rebates. Additionally, we increased our spending on advertising, primarily in the direct business, resulting in a 90 basis point reduction in operating margin. Similar to North American Retail, the third quarter 2007 results for North American Business Solutions include a

credit to reverse the year to date accrual for performance-based variable pay in response to the downturn in Division performance. Accordingly, higher compensation costs negatively impacted operating margin by approximately 30 basis points. Other negative impacts, which reduced operating margin by approximately 10 basis points, include the de-leveraging of costs against lower sales levels, partially offset by an increase in vendor program support.

On a year to date basis, Division operating profit decreased from $219 million in 2007 to $148 million in 2008, and operating margin declined 180 basis points to 4.6% from the year to date 2007 period. This decrease resulted from similar factors and trends as those outlined in the quarterly discussion above.

See Part II — Item 1A. “Risk Factors” for additional discussion of risks related to government contracts.

International Division

(Dollars in millions)	Third Quarter		Year-to-Date	
	2008	2007	2008	2007
Sales	$1,025.1	$995.4	$3,277.6	$3,061.0
% change	3%	13%	7%	16%
% change in local currency sales	(2)%	5%	(1)%	8%
Division operating profit	$ 35.9	$ 47.2	$ 147.3	$ 171.4
% of sales	3.5%	4.7%	4.5%	5.6%

Third quarter and year to date sales in the International Division increased 3% and 7%, respectively, in U.S. dollars, and sales in local currencies decreased by 2% in the third quarter and 1% for year to date 2008. The economic downturn in Europe, which started in the U.K., has steadily worsened and spread across the continent. As a result of the weakening economies and growing liquidity concerns, businesses, both small and large, are finding it more difficult to finance and grow their businesses, which has a direct impact on their purchases of office supplies and services. In local currencies, sales in the direct business were down 7% as a result of a growing number of value seeking customers and increased competitiveness. The contract business continued to outperform the direct business, reporting an increase in sales of 3% in local currencies for the third quarter. Despite this increase, however, sales weakened during the quarter as many of our larger accounts experienced pressure to reduce spending.

Division operating profit decreased to $36 million in the third quarter of 2008 from $47 million in the same period of the prior year. Operating profit as a percentage of sales decreased by 120 basis points to 3.5% in the third quarter of 2008. Approximately 70 basis points of this decline resulted from increased performance-based variable pay, reflecting a credit in the third quarter of 2007 to reverse the year to date accrual in response to the downturn in Division performance. Additionally, the decline in sales volume resulted in a de-leveraging of costs, reflecting a reduction in operating margin of about 70 basis points. Other negative factors, including unfavorable foreign exchange and the impact of acquisitions, resulted in a decrease of operating margin of approximately 40 basis points. Partially offsetting these negative factors was an improvement in the operating performance of our business in the U.K., which increased operating margin by approximately 60 basis points.

On a year to date basis, Division operating profit decreased from $171 million in 2007 to $147 million in 2008. Changes in foreign exchange rates positively impacted the Division’s operating profit by approximately $8 million for year to date 2008. Operating margin declined 110 basis points to 4.5% from year to date 2007. In addition to the factors and trends outlined in the quarterly discussion above, year to date operating margin was negatively impacted by our business in the U.K. in the first quarter of 2008 as well as by costs associated with implementing our growth initiatives in the first half of the year. Somewhat offsetting these negative factors was a non-cash gain of approximately $13 million related to the curtailment of a defined benefit pension plan in the U.K., which was recognized in the second quarter of 2008.

During April 2008, the company and Reliance Retail Ltd, a subsidiary of Reliance Industries Ltd., through a joint venture acquired 100% of eOfficePlanet India pvt., India's leading provider of office products and services to corporate customers. Also, during July 2008, we acquired a 51% controlling interest in AGE Kontor & Data AB, a contract and retail office supply company operating in Sweden. The results of these joint ventures have been consolidated into our results for the portion of the periods since acquisition, but the impact was not significant to the quarter or year to date periods.

Corporate and Other

General and Administrative Expenses: Total G&A increased from $151 million in the third quarter of 2007 to $176 million in the third quarter of 2008. As noted above, the portion of G&A expenses considered directly or closely related to division activity is included in the measurement of Division operating profit. The remainder of the total G&A expenses are considered corporate expenses. A breakdown of G&A is provided in the following table:

	Third Quarter		Year-to-Date	
(In millions)	2008	2007	2008	2007
Division G&A	$ 97.3	$ 72.8	$ 292.1	$ 245.6
Corporate G&A	79.1	78.0	258.0	216.5
Total G&A	$ 176.4	$ 150.8	$ 550.1	$ 462.1

Increases in Division G&A were primarily driven by higher levels of performance-based variable pay as discussed above and the impact of changes in foreign exchange rates. Corporate G&A includes Charges of $1 million and $4 million in the third quarter of 2008 and 2007, respectively. After considering the impact of Charges recognized in the period, corporate G&A expenses as a percentage of sales increased approximately 20 basis points during the third quarter of 2008 compared to the same period of 2007 primarily reflecting increased performance-based variable pay as well as corporate charges for professional and legal fees associated with the company's proxy challenge and legal matters described in Part II — Item 1. "Legal Proceedings." Also, during the second quarter of 2008, the company initiated a voluntary exit incentive program for certain employees that resulted in charges for severance expenses of approximately $1 million in the third quarter and $6 million in the year to date period.

During 2006, we sold our current corporate campus and leased the facility back as construction of a new facility is being completed. Amortization of the deferred gain on the sale largely offsets the rent during the leaseback period.

Other income (expense): Net interest costs decreased slightly in the third quarter of 2008 as the impact of lower interest rates and lower average debt balances were partially offset by lower interest income. Our debt, including short- and long-term borrowings, net of cash and investments, at September 27, 2008 was $546 million, compared to $444 million at September 29, 2007. We had $365 million of borrowings on our credit facility and held $395 million of cash at the end of the third quarter of 2008 to provide short-term liquidity.

The decrease in net miscellaneous income in the third quarter resulted primarily from foreign currency losses recognized in the period. The majority of miscellaneous income is attributable to equity in earnings from our joint venture in Mexico, Office Depot de Mexico, which increased from $9.9 million in the third quarter of 2007 to $11.2 million in the third quarter of 2008. The decrease in net miscellaneous income for year to date 2008 also resulted primarily from foreign currency losses. These losses were partially offset by a gain of approximately $5 million related to the sale of certain non-operating assets, which was recognized during the first quarter of 2008.

Other — Income Taxes: We recognized a tax expense in the third quarter of 2008, a period with a pre-tax loss, and we recognized a tax benefit in the third quarter of 2007, a period with pre-tax income.

The 2008 tax expense includes a charge of approximately $8 million to reflect the enactment in July 2008 of a tax law change in the U.K., partially offset by a benefit of approximately $5 million to adjust tax provisions for the first two quarters of 2008 to the current anticipated full year effective rate, given shifts in domestic and international income and lower projected earnings. While we continue to work to lessen the impact of the tax law change, we anticipate our overall operating tax rate, excluding discrete items, to be approximately 30% to 34% for 2008.

The tax benefit recognized in the third quarter of 2007 included discrete benefits of approximately $33 million from a release of an uncertain tax position, a change in a valuation allowance and a book to tax return adjustment, as well as approximately $4 million from a shift in the relative proportion of domestic and international income.

The effective tax rate in future periods can be affected by variability in our mix of income, the tax rates in various jurisdictions, changes in the rules related to accounting for income taxes, outcomes from tax audits that regularly are in process and our assessment of the need for accruals for uncertain tax positions.

LIQUIDITY AND CAPITAL RESOURCES

During the third quarter of 2008, the company entered into a Credit Agreement (the “Agreement”) with a group of lenders, which provides for an asset based, multi-currency revolving credit facility (the “Facility”) of up to $1.25 billion. The amount that can be drawn on the Facility at any given time will be determined based on percentages of certain accounts receivable, inventory and credit card receivables (the “Borrowing Base”). As of September 27, 2008, the company was eligible to borrow the full amount of the Facility. The Facility includes a sub-facility of up to $250 million which is available to certain of the company’s European subsidiaries (the “European Borrowers”), subject to limitations based on their Borrowing Base. Certain of the company’s domestic subsidiaries (the “Domestic Guarantors”) guaranty the obligations under the Facility. The Agreement also provides for a letter of credit sub-facility of up to $400 million. All loans borrowed under the Agreement may be borrowed, repaid and reborrowed from time to time until September 26, 2013 (or, in the event that the Company’s existing 6.25% Senior Notes are not repaid, then February 15, 2013), on which date the Facility matures.

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a lien on the company’s and such Domestic Guarantors’ accounts receivables, inventory, cash and deposit accounts. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on such European Borrowers’ accounts receivable, inventory, cash and deposit accounts, as well as certain other assets. Borrowings made pursuant to the Agreement bear interest at either, at the company’s option (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent) and the Federal Funds Rate plus 1/2 of 1%) or (ii) the Adjusted LIBOR Rate (defined as the LIBOR Rate as adjusted for statutory revenues) plus, in either case, a certain margin based on the aggregate average availability under the Facility. The Agreement also contains representations, warranties, fees, affirmative and negative covenants, and default provisions. The Facility includes limitations in certain circumstances on acquisitions, dispositions, share repurchases and dividends. The dividend restrictions are based on the then-current fixed charge coverage ratio and borrowing availability at the point of consideration. The company has never declared or paid cash dividends on its common stock.

The Agreement replaces the company’s Revolving Credit Facility Agreement, which provided for multiple-currency borrowing of up to $1 billion and had a sub-limit of up to $350 million for standby and trade letter of credit issuances. The facility maturity date of the Revolving Credit Agreement was May 25, 2012.

At September 27, 2008, the company had approximately $395 million of cash and cash equivalents and approximately $365 million of short-term borrowings under the Facility. The outstanding borrowings have an interest rate of 7%. The company had approximately $750 million of available credit under the Facility that includes coverage of $135 million of outstanding letters of credit. An additional $3 million of letters of credit were outstanding under separate agreements.

Our primary needs for cash include working capital for operations, capital expenditures for new stores, store remodels, information technology projects and supply chain costs, and funds to service our debt obligations and make acquisitions. We have lowered our anticipated capital expenditures by reducing the number of new store openings and curtailing the store remodeling activity. We have also lowered our working capital needs by reducing inventory and we have sold and leased back certain operating assets. We currently anticipate that we will fund our future uses of cash through cash on hand, funds generated from operations, property and equipment leases and funds available under our credit facilities.

We hold cash throughout our service areas, but we principally manage our cash through regional headquarters in North America and Europe. Historically, we moved cash between those regions from time to time through short-term transactions and used these cash transfers at the end of fiscal quarterly periods to pay down borrowings outstanding under our credit facilities. Although such transfers and debt repayments took place at the end of the third quarter of 2007, we completed a non-taxable distribution to the U.S. in the amount of $220 million during the fourth quarter of 2007, thereby permanently repatriating this cash. No such transfers have occurred since the third quarter of 2007. Additional distributions, including distributions of foreign earnings or changes in long-term arrangements could result in significant additional U.S. tax payments and income tax expense. Currently, there are no plans to change our expectation of foreign earnings reinvestment or the long-term nature of our intercompany arrangements.

Year to date cash provided by operating activities decreased from $455 million in 2007 to $398 million in 2008, reflecting a reduction in business performance. Depreciation and amortization decreased year over year as we recognized less accelerated depreciation in Charges during 2008. Changes in net working capital and other components resulted in a $46 million source of cash in the first nine months of 2008, compared to a $205 million use in the same period of 2007. The working capital source in the 2008 period primarily reflects the intentional lowering of inventory to adjust to current conditions, partially offset by liquidation of the related payables. The use of working capital during 2007 resulted from a shift in the timing of payments and a higher liquidation of payables. The timing of payments is subject to variability quarter to quarter depending on a variety of factors, including the flow of goods, credit terms, timing of promotions, vendor production planning, new product introductions and working capital management. At the end of the third quarter of 2007, vendor payments processed but not released until late in the quarter totaled approximately $80 million; we made no such disbursement delays at the end of the third quarter of 2008. The effect of such vendor disbursement delays at period-end on our 2007 financial statements was the reporting of higher accounts payable balance and lower balance of outstanding borrowings under our revolving credit facility than would otherwise appear if the vendor payments had been released earlier. For our accounting policy on cash management, see Note A of the Notes to Condensed Consolidated Financial Statements.

Cash used in investing activities was $316 million in the first nine months of 2008, compared to $274 million in the same period last year. The use of cash for the 2008 period reflects $278 million of capital expenditures for our investments in information technology, new store openings and store remodels in North America, as well as distribution network infrastructure costs, and costs associated with our new corporate headquarters facility. As noted above, the rate of new store openings and store remodels has been lowered in response to the current economic climate. Additionally, during the first nine months of 2008, we acquired controlling interests in joint ventures in Sweden and India and acquired under previously existing put options all remaining minority interest shares of our joint

ventures in Israel and China. These acquisitions resulted in a use of cash of approximately $95 million. We also made previously accrued acquisition-related payments to former owners of an entity acquired in 2006. During the first nine months of 2008, we purchased certain non-operating assets for approximately $40 million. We sold certain of these non-operating assets, as well as sold and leased back certain operating assets during the first nine months of 2008, realizing proceeds of approximately $85 million. Also, $18 million of cash that had been held in a restricted account at the end of 2007 was released during the first quarter of 2008. Investing activities in 2007 included capital expenditures from our store expansion and remodel efforts in North America as well as investments in information technology. Also, during the first half of 2007, we made acquisition-related payments to former owners of entities acquired in 2006 and received proceeds from the disposition of assets, including proceeds from a sale-leaseback transaction related to a European warehouse facility. We anticipate capital spending for the full year 2008 to be approximately $350 million.

Cash provided by financing activities in the first nine months of 2008 was $96 million, primarily reflecting $365 million of borrowings on our new asset based revolving credit facility and $269 million of net repayments related to our previous credit facility and capital leases. In the first nine months of 2007, cash used in financing activities totaled $172 million, which resulted primarily from repurchases of our common stock as we purchased 5.7 million shares for approximately $200 million in the first half of 2007.

CRITICAL ACCOUNTING POLICIES

Our condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies and a description of accounting policies that are considered critical may be found in our 2007 Form 10-K, filed on February 26, 2008, in the Notes to the Consolidated Financial Statements, Note A, and the Critical Accounting Policies section.

New Accounting Pronouncements

In September 2006, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* (“FAS 157”). This Standard defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. FAS 157 was effective for fiscal years beginning after November 15, 2007 for financial assets and liabilities, as well as for any other assets and liabilities that are carried at fair value on a recurring basis in financial statements. Certain aspects of this Standard were effective at the beginning of the first quarter of 2008 and had no impact on the company. In November 2007, the FASB provided a one year deferral for the implementation of FAS 157 for other nonfinancial assets and liabilities. We do not anticipate that the adoption of the deferred portion of FAS 157 will have a material impact on our financial condition, results of operations or cash flows.

The FASB also issued in September 2006 Statement of Financial Accounting Standards No. 158, *Employers’ Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statement No. 87, 88, 106 and 132(R)* (“FAS 158”). This Standard prescribes two phases of implementation. In the first phase, which we adopted in 2006, deferred pension gains and losses are reflected in accumulated other comprehensive income. The second phase of FAS 158 requires that the valuation date of plan accounts be as of the end of the fiscal year, with that change required to be implemented by fiscal years ending after December 15, 2008. We anticipate that the change will reduce year end 2008 retained earnings by approximately $0.7 million at current exchange rates.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141 (R), *Business Combinations* ("FAS 141R"). This Standard retains the fundamental acquisition method of accounting established in Statement 141; however, among other things, FAS 141R requires recognition of assets and liabilities of noncontrolling interests acquired, fair value measurement of consideration and contingent consideration, expense recognition for transaction costs and certain integration costs, recognition of the fair value of contingencies, and adjustments to income tax expense for changes in an acquirer's existing valuation allowances or uncertain tax positions that result from the business combination. The Standard is effective for annual reporting periods beginning after December 15, 2008 and shall be applied prospectively. The Standard does not address transition provisions for certain items treated differently under FAS 141 and FAS 141R. Accordingly, capitalized acquisition costs related to transactions not finalized at the time of adoption of FAS 141R will be expensed under that Standard. We currently capitalize as incurred direct costs associated with probable business combinations. We anticipate expensing during the fourth quarter of 2008 any such costs that have not been applied to transactions finalized before the end of the fiscal year. However, currently we are not able to estimate that fourth quarter expense.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, *Noncontrolling Interests in Consolidated Financial Statements* ("FAS 160"). This Standard changes the way consolidated net income is presented, requiring consolidated net income to report amounts attributable to both the parent and the noncontrolling interest but earnings per share will be based on amounts attributable to the parent. It also establishes protocol for recognizing certain ownership changes as equity transactions or gain or loss and requires presentation of noncontrolling ownership interest as a component of consolidated equity. The Standard is effective for annual reporting periods beginning after December 15, 2008 and is to be applied prospectively. We have not yet completed our assessment of the impact FAS 160 will have on the presentation of our financial condition, results of operations or cash flows.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, *Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133* ("FAS 161"). This Standard requires enhanced disclosures regarding derivatives and hedging activities, including: (a) the manner in which an entity uses derivative instruments; (b) the manner in which derivative instruments and related hedged items are accounted for under Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*; and (c) the effect of derivative instruments and related hedged items on an entity's financial position, financial performance, and cash flows. The Standard is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. As FAS 161 relates specifically to disclosures, the Standard will have no impact on our financial condition, results of operations or cash flows.

In May 2008, the FASB issued Statement of Financial Accounting Standards No. 162, *The Hierarchy of Generally Accepted Accounting Principles* ("FAS 162"). This Standard identifies the sources of accounting principles and the framework for selecting the principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles. FAS 162 directs the hierarchy to the entity, rather than the independent auditors, as the entity is responsible for selecting accounting principles for financial statements that are presented in conformity with generally accepted accounting principles. The Standard is effective 60 days following SEC approval of the Public Company Accounting Oversight Board amendments to remove the hierarchy of generally accepted accounting principles from the auditing standards. FAS 162 is not expected to have an impact on our financial condition, results of operations or cash flows.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risks

At September 27, 2008, there had not been a material change in the interest rate risk information disclosed in the “Market Sensitive Risks and Positions” subsection of the Management’s Discussion and Analysis of Financial Condition and Results of Operations set forth in Item 7 of our 2007 Form 10-K.

Foreign Exchange Rate Risks

At September 27, 2008, there had not been a material change in any of the foreign exchange risk information disclosed in the “Market Sensitive Risks and Positions” subsection of the Management’s Discussion and Analysis of Financial Condition and Results of Operations set forth in Item 7 of our 2007 Form 10-K.

Item 4. Controls and Procedures

We maintain controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be in this report is accumulated and communicated to its management, including its principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the possible controls and procedures.

Our management has evaluated, with the participation of its principal executive officer and principal financial officer, the effectiveness of its disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based upon that evaluation, our principal executive officer and principal financial officer have concluded that, as of the end of the period covered by this report, the company’s disclosure controls and procedures were effective.

Changes in Internal Control over Financial Reporting

The company is continuously seeking to improve the efficiency and effectiveness of its operations and of its internal controls. This results in refinements to processes throughout the company. However, there has been no change in the company’s internal control over financial reporting that occurred during the company’s most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the company’s internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are involved in litigation arising in the normal course of our business. While, from time to time, claims are asserted that make demands for a large sum of money (including, from time to time, actions which are asserted to be maintainable as class action suits), we do not believe that any of these matters, either individually or in the aggregate, will materially affect our financial position or the results of our operations.

As previously disclosed, the Company continues to cooperate with the SEC in their formal order of investigation issued in January 2008 covering the matters previously subject to the informal inquiry that commenced July 2007. A formal order of investigation allows the SEC to subpoena witnesses, books, records, and other relevant documents. The matters subject to the investigation include contacts and communications with financial analysts, inventory receipt and reserves, timing of vendor payments, certain intercompany loans, certain payments to foreign officials, inventory obsolescence and timing and recognition of vendor program funds.

In early November 2007, two putative class action lawsuits were filed against the Company and certain of its executive officers alleging violations of the Securities Exchange Act of 1934. In addition, two putative shareholder derivative actions were filed against the Company and its directors alleging various state law claims including breach of fiduciary duty. The allegations in all four lawsuits primarily relate to the accounting for vendor program funds. Each of the above-referenced lawsuits were filed in the Southern District of Florida, and are captioned as follows: (1) Nichols v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 6, 2007; (2) Sheet Metal Worker Local 28 Pension Fund v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 5, 2007; (3) Marin, derivatively, on behalf of Office Depot, Inc. v. Office Depot, Inc., Steve Odland, Neil R. Austrian, David W. Bernauer, Abelardo E. Bru, Marsha J. Evans, David I. Fuente, Brenda J. Gaines, Myra M. Hart, Kathleen Mason, Michael J. Myers, and Office Depot, Inc. filed on November 8, 2007; and (4) Mason, derivatively, on behalf of Office Depot, Inc. v. Steve Odland, Neil R. Austrian, David W. Bernauer, Abelardo E. Bru, Marsha J. Evans, David I. Fuente, Brenda J. Gaines, Myra M. Hart, Kathleen Mason, Michael J. Myers, and Office Depot, Inc. filed on November 8, 2007.

On March 21, 2008, the court in the Southern District of Florida entered an Order consolidating the class action lawsuits and an Order consolidating the derivative actions. Lead plaintiff in the consolidated class actions, the New Mexico Educational Retirement Board, filed its Consolidated Amended Complaint on July 2, 2008. On September 2, 2008, Office Depot filed a motion to dismiss the Consolidated Amended Complaint on the basis that it fails to state a claim. We are still awaiting an amended complaint in the derivative action. We plan to vigorously defend both the consolidated class action and the consolidated derivative action, which are in their early stages.

Item 1A. Risk Factors.

With the exception of material changes to the following previously disclosed risk factors, there have been no other material changes in our risk factors from those disclosed in Part 1, Item 1A of our 2007 Form 10-K.

Economic Conditions may Cause a Decline in Business and Consumer Spending which could Adversely Affect Our Business and Financial Performance: Our operating results are impacted by the health of the North American, European, Asian, and Latin American economies. Our business and financial performance, including collection of our accounts receivable, may be adversely affected by current and future economic conditions that cause a decline in business and consumer spending, including a reduction in the availability of credit, increased unemployment levels (particularly with office workers), higher energy costs, rising interest rates, financial market volatility, recession, and acts of terrorism. Additionally, we may experience difficulties in scaling our operations to react to economic pressures in the U.S. and International markets.

Government Contracts: One of our largest clients currently consists of a cooperative representing various state and local governments for whom we provide office supplies and services. Our sales under this cooperative arrangement to multiple customers was less than 5% of our consolidated sales during the nine months ended September 27, 2008. Our government customer relationships are subject to uncertain future funding levels and applicable procurement laws and require restrictive contract terms; any of these factors could curtail current or future business. Contracting with government customers is highly competitive and can be expensive and time-consuming, often requiring that we incur significant upfront time and expense without any assurance that we will win a contract. Our ability to compete successfully for and retain business with these various government customers is highly dependent on cost-effective performance. Our government business is also sensitive to changes in national and international priorities and government budgets. Currently, we provide office supplies and services to the federal government and numerous states and other government agencies and customers in the United States, including via approximately 20 state contracts. Many of these government contracts have provisions that permit the government customer to terminate the contract for convenience with appropriate notice. In addition, in the ordinary course of business, sales and transactions to government customers may be subject to audits and review by governmental authorities and regulatory agencies. There has been recent negative press regarding some of our government contracts. Government customers may elect not to renew their contracts and submit them for rebid and may seek to exclude the company from participating in bids. We have conducted or are in the process of conducting our own review of numerous government contracts and sales to government customers in an effort to verify contract compliance and pricing accuracy and are participating or seeking to participate in bidding for applicable contracts. Nevertheless, additional negative press or allegations of performance issues, even if unfounded, could lead government customers to terminate or not renew their contracts or otherwise discontinue doing business with us or refuse to allow us to participate in bids all of which could have a negative impact on our business.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The following table provides information with respect to company purchases made of Office Depot, Inc. common stock during the third quarter of the 2008 fiscal year:

Period	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs[1]	(d) Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs
June 29, 2008 - July 26, 2008	—	$ —	—	$500,000,000
July 27, 2008 - August 23, 2008	—	$ —	—	$500,000,000
August 24, 2008 - September 27, 2008	9,745[2]	$7.33	—	$500,000,000
Total	9,745	$7.33	—	$500,000,000

(1) On April 25, 2007, the board of directors authorized a common stock repurchase program whereby we were authorized to repurchase $500 million of our common stock. As of September 27, 2008, there had been no repurchases made under this authorization. The Company’s Asset Based Credit Facility imposes restrictions on the Company’s ability to repurchase or redeem shares of its stock.

(2) Represents shares of common stock delivered or restricted shares of common stock withheld to pay income tax or other tax liabilities with respect to the vesting of restricted stock, exercise of stock options, or the settlement of performance share awards.

The company's asset based credit facility includes limitations in certain circumstances on the payment of dividends. These dividend restrictions are based on the then-current fixed charge coverage ratio and borrowing availability at the point of consideration. The company has never declared or paid cash dividends on its common stock.

Item 5. Other Information

Effective September 17, 2008, the company entered into a Change in Control Agreement with Michael D. Newman (the "Executive"), the company's Executive Vice President and Chief Financial Officer (the "Agreement"). The Agreement is consistent with agreements relating to change in control entered into between the company and certain other named executive officers.

The Agreement provides that the company will employ the Executive for a period of one year from the date on which a Change in Control (as defined below) has occurred (the "Employment Period"). During the Employment Period, the Executive shall receive a base salary, calculated by multiplying twelve times the highest monthly base salary earned by the Executive during his employment, and car allowance paid or payable to the Executive in an amount equal to the allowance paid during the twelve-month period immediately preceding the month in which the Change in Control occurs. The Executive will also be awarded an annual bonus equal to no less than the Executive's highest bonus earned during his employment. During the Employment Period, the Executive shall also be eligible to participate in the company's incentive plans, savings plans and welfare benefit plans.

The following conditions constitute a "Change in Control" under the Agreement:

- the acquisition by an individual, entity or group of 20% or more of either (i) the company's then-outstanding common stock or (ii) the combined voting power of the company's then-outstanding voting securities; or
- the directors in office as of the date of the Agreement, cease to constitute at least a majority of the Board of Directors; or
- consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the company (the "Business Combination"). However, a change in control is not triggered if following the Business Combination (i) the company's then-existing shareholders continue to hold more than 80% of the common stock and of the combined voting power of the new corporation, (ii) no one directly or indirectly owns 20% or more of the then-outstanding common stock or of the combined voting power of the new corporation except to the extent that such ownership existed prior to the Business Combination, and (iii) at least a majority of the new corporation's directors were members of the Board of Directors at the time of the execution of the initial agreement providing for such Business Combination; or
- complete liquidation or dissolution of the company as approved by the company's shareholders.

The Agreement provides for payments to the Executive in the event the Executive is terminated during the Employment Period for "cause" (as defined in the Agreement) or in the event of death, disability or resignation for "good reason" (as defined in the Agreement). In the event that the Executive is terminated other than for cause, the Executive is entitled to receive his base salary through the date of termination and a pro-rata portion of the greater of (i) the annual bonus paid or payable for the most recently completed fiscal year during the Employment Period or (ii) the highest annual bonus earned for the last three full fiscal years prior to the Change in Control (the greater amount of (i) and (ii) being referred to as the "Highest Annual Bonus"). In addition, the Executive will also receive a lump sum payment equal to two times the sum of (i) his annual base salary and (ii) the Highest Annual Bonus. The Executive will receive the same payments in the event of the Executive's death or disability during the Employment Period. The Agreement further provides that if, during the Employment Period, the company terminates the Executive's employment for cause or, if the Executive exercises his right to terminate his employment without good reason, then the Executive is entitled to receive his base salary through the date of termination.

Item 6. Exhibits

Exhibits

- 10.1 Change in Control Agreement between the Company and Michael D. Newman
- 31.1 Rule 13a-14(a)/15d-14(a) Certification of CEO
- 31.2 Rule 13a-14(a)/15d-14(a) Certification of CFO
- 32 Section 1350 Certification

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 thereunto duly authorized.

OFFICE DEPOT, INC.
(Registrant)

Date: October 29, 2008

By: /s/ Steve Odland
Steve Odland
Chief Executive Officer and
Chairman, Board of Directors
(Principal Executive Officer)

Date: October 29, 2008

By: /s/ Michael D. Newman
Michael D. Newman
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

Date: October 29, 2008

By: /s/ Mark E. Hutchens
Mark E. Hutchens
Senior Vice President and Controller
(Principal Accounting Officer)

Exhibit 10.1

Change in Control Agreement

THIS CHANGE IN CONTROL AGREEMENT is made by and between Office Depot, Inc., a Delaware corporation (the "Company"), and Michael D. Newman (the "Executive") and is dated as of the date signed by Executive.

The Board of Directors of the Company (the "Board") has determined that it is in the best interests of the Company and its shareholders to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change of Control (as defined below) of the Company. The Board believes it is imperative to diminish the inevitable distraction of the Executive by virtue of the personal uncertainties and risks created by a pending or threatened Change of Control and to encourage the Executive's full attention and dedication to the Company currently and in the event of any threatened or pending Change of Control, and to provide the Executive with compensation and benefits arrangements upon a Change of Control which ensure that the compensation and benefits expectations of the Executive will be satisfied and which are competitive with those of other corporations. Therefore, in order to accomplish these objectives, the Board has caused the Company to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Certain Definitions. (a) The "Effective Date" shall mean the first date during the Change of Control Period (as defined in Section 1(b)) on which a Change of Control (as defined in Section 2) occurs. Anything in this Agreement to the contrary notwithstanding, if a Change of Control occurs and if the Executive's employment with the Company is terminated prior to the date on which the Change of Control occurs, and if it is reasonably demonstrated by the Executive that such termination of employment (i) was at the request of a third party who has taken steps reasonably calculated to effect a Change of Control or (ii) otherwise arose in connection with or anticipation of a Change of Control, then for all purposes of this Agreement the "Effective Date" shall mean the date immediately prior to the date of such termination of employment.

(b) The "Change of Control Period" shall mean the period commencing on the date hereof and ending on the third anniversary of the date hereof; provided, however, that commencing on the date one year after the date hereof, and on each annual anniversary of such date (such date and each annual anniversary thereof shall be hereinafter referred to as the "Renewal Date"), unless previously terminated, the Change of Control Period shall be automatically extended so as to terminate three years from such Renewal Date, unless at least 60 days prior to the Renewal Date the Company shall give notice to the Executive that the Change of Control Period shall not be so extended.

2. Change of Control. For the purpose of this Agreement, a “Change of Control” shall mean:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of either (i) the then-outstanding shares of common stock of the Company (the “Outstanding Company Common Stock”) or (ii) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”) (such 20% ownership shall be referred to as the “Threshold Amount”); provided, however, that for purposes of this subsection (a), if the Threshold Amount is reached by reason of the following events, a Change in Control will not be triggered: (i) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company of the Company’s outstanding common stock, or (ii) any acquisition by any person pursuant to a transaction which complies with each and all of clauses (i), (ii) and (iii) of subsection (c) of this Section 2. For the sake of clarity, if the Threshold Amount is reached by reason of the Company repurchasing its own outstanding common stock, a Change in Control will be triggered; or

(b) Individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company (a “Business Combination”), in each case, unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 80% of, respectively, the then-outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Business Combination (including, without limitation, a corporation which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Common Stock and Outstanding Company

Voting Securities, as the case may be, (ii) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination, or the combined voting power of the then-outstanding voting securities of such corporation except to the extent that such ownership existed prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(d) Approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

3. Employment Period. The Company hereby agrees to continue the Executive in its employ, and the Executive hereby agrees to remain in the employ of the Company subject to the terms and conditions of this Agreement, for the period commencing on the Effective Date and ending on the first anniversary of such date (the “Employment Period”). Such period may be extended in writing by the mutual agreement of the Company and Executive at any time prior to such first anniversary.

4. Terms of Employment. (a) Position and Duties. (i) During the Employment Period, (A) the Executive’s position (including status, offices, titles and reporting requirements), authority, duties and responsibilities shall be at least commensurate in all material respects with the most significant of those held, exercised and assigned at any time during the 120-day period immediately preceding the Effective Date and (B) the Executive’s services shall be performed at the location where the Executive was employed immediately preceding the Effective Date or any office or location less than 35 miles from such location.

(ii) During the Employment Period, and excluding any periods of vacation and sick leave to which the Executive is entitled, the Executive agrees to devote reasonable attention and time during normal business hours to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to the Executive hereunder, to use the Executive’s reasonable best efforts to perform faithfully and efficiently such responsibilities. During the Employment Period it shall not be a violation of this Agreement for the Executive to (A) serve on corporate, civic or charitable boards or committees, (B) deliver lectures, fulfill speaking engagements or teach at educational institutions, and (C) manage personal investments, so long as such activities do not significantly interfere with the performance of the Executive’s responsibilities as an employee of the Company in accordance with this Agreement. It is expressly understood and agreed that to the extent that any such activities have been conducted by the Executive prior to the Effective Date, the continued conduct of such activities (or the conduct of activities similar in nature and scope thereto) subsequent to the Effective Date shall not thereafter be deemed to interfere with the performance of the Executive’s responsibilities to the Company.

(b) Compensation. (i) Base Salary. During the Employment Period, the Executive shall receive an annual base salary, including any applicable car allowance ("Annual Base Salary"), which shall be paid in installments in accordance with the Company's standard payroll practices for salary, at least equal to twelve times the highest monthly base salary and car allowance paid or payable, including any base salary which has been earned but deferred, to the Executive by the Company and its affiliated companies in respect of the twelve-month period immediately preceding the month in which the Effective Date occurs. During the Employment Period, the Annual Base Salary shall be reviewed no more than 12 months after the last salary increase awarded to the Executive prior to the Effective Date and thereafter at least annually. Any increase in Annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement. Annual Base Salary shall not be reduced after any such increase and the term Annual Base Salary as utilized in this Agreement shall refer to Annual Base Salary as so increased. As used in this Agreement, the term "affiliated companies" shall include any company controlled by, controlling or under common control with the Company.

(ii) Annual Bonus. In addition to Annual Base Salary, the Executive shall be awarded, for each fiscal year ending during the Employment Period, an annual bonus (the "Annual Bonus") in cash at least equal to the Executive's highest bonus under the Company's annual bonus plans, or any comparable bonus under any predecessor or successor plan or plans, for the last three full fiscal years prior to the Effective Date (annualized in the event that the Executive was not employed by the Company for the whole of such fiscal year) (the "Recent Annual Bonus"). Notwithstanding the previous sentence, the Executive shall be awarded the Annual Bonus only if the Executive is employed by the Company at the end of the applicable fiscal year ending during the Employment Period. Each such Annual Bonus shall be paid in the fiscal year next following the fiscal year for which the Annual Bonus is awarded, no later than the fifteenth day of the third month of such fiscal year, unless the Executive shall elect to defer the receipt of such Annual Bonus pursuant to the terms of any deferred compensation arrangement maintained by the Company that permits such deferral.

(iii) Incentive, Savings and Retirement Plans. During the Employment Period, the Executive shall be entitled to participate in all incentive, savings and retirement plans, practices, policies and programs applicable generally to other peer Executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with incentive opportunities (measured with respect to both regular and special incentive opportunities, to the extent, if any, that such distinction is applicable), savings opportunities and retirement benefit opportunities, in each case, less favorable, in the aggregate, than the most favorable of those provided by the Company and its affiliated companies for the Executive under such plans, practices, policies and programs as in effect at any time during the 120-day period immediately preceding the Effective Date or if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(iv) Welfare Benefit Plans. During the Employment Period, the Executive and/or the Executive's family, as the case may be, shall be eligible for participation in and shall receive all benefits under welfare benefit plans, practices, policies and programs provided by the Company and its affiliated companies (including, without limitation, medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans and programs) to the extent applicable generally to other peer executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with benefits which are less favorable, in the aggregate, than the most favorable of such plans, practices, policies and programs in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(v) Expenses. During the Employment Period, the Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in accordance with the most favorable policies, practices and procedures of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies. To the extent that any such reimbursement does not qualify for exclusion from Federal income taxation, the Company will make the reimbursement only if the Executive incurs the corresponding expense during the Employment Period and submits the request for reimbursement no later than two months prior to the last day of the calendar year following the calendar year in which the expense was incurred so that the Company can make the reimbursement on or before the last day of the calendar year following the calendar year in which the expense was incurred; the amount of expenses eligible for such reimbursement during a calendar year will not affect the amount of expenses eligible for such reimbursement in another calendar year, and the right to such reimbursement is not subject to liquidation or exchange for another benefit from the Company.

(vi) Fringe Benefits. During the Employment Period, the Executive shall be entitled to fringe benefits, including, without limitation, tax and financial planning services, and, if applicable, use of an automobile and payment of related expenses, in accordance with the most favorable plans, practices, programs and policies of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(vii) Office and Support Staff. During the Employment Period, the Executive shall be entitled to an office or offices of a size and with furnishings and other appointments, and to exclusive personal secretarial and other assistance, at least equal to the most favorable of the foregoing provided to the Executive by the Company and its affiliated companies at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as provided generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(viii) Vacation. During the Employment Period, the Executive shall be entitled to paid vacation in accordance with the most favorable plans, policies, programs and practices of the Company and its affiliated companies as in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

5. Termination of Employment. (a) Death or Disability. The Executive's employment shall terminate automatically upon the Executive's death or Disability during the Employment Period. For purposes of this Agreement, "Disability" shall mean the absence of the Executive from the Executive's duties with the Company on a full-time basis for 180 consecutive days as a result of incapacity due to mental or physical illness which is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive's legal representative.

(b) Cause. The Company may terminate the Executive's employment during the Employment Period for Cause. For purposes of this Agreement, "Cause" shall mean:

(i) the continued failure of the Executive to perform substantially the Executive's duties with the Company or one of its affiliates (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to the Executive by the Board or the Chief Executive Officer of the Company which specifically identifies the manner in which the Board or Chief Executive Officer believes that the Executive has not substantially performed the Executive's duties, or

(ii) the engaging by the Executive in illegal conduct or gross misconduct in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duty adopted by the Board or upon the instructions of the Chief Executive Officer or a senior officer of the Company or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless

and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, the Executive is guilty of the conduct described in subsection (i) or (ii) above, and specifying the particulars thereof in detail.

(c) Good Reason. The Executive's employment may be terminated by the Executive for Good Reason within the 1 year period following the date of the initial existence of the event or circumstances constituting Good Reason. For purposes of this Agreement, "Good Reason" shall mean:

(i) a material diminution in the Executive's authority, duties or responsibilities with the Company;

(ii) a material failure by the Company to comply with any of the provisions of Section 4(b) of this Agreement;

(iii) a material change in the office or location at which the Company requires the Executive to based during the Employment Period or the Company's requiring the Executive to travel on Company business to a substantially greater extent than required immediately prior to the Effective Date;

(iv) any purported termination by the Company of the Executive's employment other than as expressly permitted by this Agreement; or

(v) any material failure by the Company to comply with and satisfy Section 12(c) of this Agreement;

provided, however, that the Executive will have Good Reason to terminate employment only if (i) the Executive provides notice to the Chief Executive Officer of the Company of the existence of the event or circumstances constituting Good Reason specified in any of the preceding clauses within 90 days of the initial existence of such event or circumstances, and (ii) the Company does not remedy such event or circumstances within 30 days following receipt of such notice.

(d) Notice of Termination. Any termination by the Company for Cause, or by the Executive for Good Reason, shall be communicated by Notice of Termination to the other party hereto given in accordance with Section 13(b) of this Agreement. For purposes of this Agreement, a "Notice of Termination" means a written notice which (i) indicates the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive's employment under the provision so indicated and (iii) if the Date of Termination (as defined below) is other than the date of receipt of such notice, specifies the termination date (which date shall be not more than thirty days after the giving of such notice). The failure by the

Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting such fact or circumstance in enforcing the Executive's or the Company's rights hereunder.

(e) Date of Termination. "Date of Termination" means (i) if the Executive's employment is terminated by the Company for Cause or by the Executive for Good Reason, the date of receipt of the Notice of Termination or any later date specified therein, as the case may be, (ii) if the Executive's employment is terminated by the Company other than for Cause, the Date of Termination shall be the date on which the Company notifies the Executive of such termination and (iii) if the Executive's employment is terminated by reason of death or Disability, the Date of Termination shall be the date of death of the Executive or the date on which the definition of "Disability" is first satisfied with respect to the Executive.

6. Obligations of the Company upon Termination. (a) Good Reason; By Company Other Than for Cause, Death or Disability. If, during the Employment Period, the Company shall terminate the Executive's employment other than for Cause, death or Disability or the Executive shall terminate employment for Good Reason within the 1 year period following the date of the initial existence of the event or circumstances constituting Good Reason:

(i) the Company shall pay to the Executive the following amounts:

A. the sum of (1) the Executive's Annual Base Salary through the Date of Termination to the extent not theretofore paid which shall be paid in accordance with the Company's standard payroll practices for salary, (2) in lieu of any bonus that might otherwise have been payable to the Executive under the Company's annual bonus plan(s) for the corresponding bonus period(s) that contain the Date of Termination, the product of (x) the higher of (I) the Recent Annual Bonus and (II) the Annual Bonus paid or payable, including any bonus or portion thereof which has been earned but deferred (and annualized for any fiscal year consisting of less than twelve full months or during which the Executive was employed for less than twelve full months), for the most recently completed fiscal year during the Employment Period, if any (such higher amount being referred to as the "Highest Annual Bonus") and (y) a fraction, the numerator of which is the number of days in the current fiscal year through the Date of Termination, and the denominator of which is 365 which shall be paid in a lump sum in cash within 30 days following the Date of Termination and (3) any accrued vacation pay due under the terms of the Company's vacation policy to the extent not theretofore paid which shall be paid at the time specified in the Company's vacation policy (the sum of the amounts described in clauses (1), (2), and (3) shall be hereinafter referred to as the "Accrued Obligations"); and

B. the amount equal to the product of (1) two and (2) the sum of (x) the Executive's Annual Base Salary and (y) the Highest Annual Bonus which shall be paid in a lump sum in cash within 30 days following the Date of Termination;

(ii) the Company shall pay to the Executive a lump sum in cash within 30 days following the Date of Termination equal to the product of (I) the Company's monthly COBRA premium in effect on the Date of Termination under the Company's group health plan for the type of coverage in effect under such plan (e.g., family coverage) for the Executive on the Date of Termination, and (II) 18;

(iii) within 30 days following the Date of Termination, the Company shall purchase a 24 month executive outplacement services package for the Executive from the provider generally used by the Company for such purposes on the Date of Termination; and

(iv) to the extent not theretofore paid or provided, the Company shall pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive under any plan, program, policy, practice, contract or agreement of the Company and its affiliated companies in accordance with the terms of the applicable plan, program, policy, practice, contract or agreement, except as expressly provided otherwise by this Agreement (such other amounts and benefits shall be hereinafter referred to as the "Other Benefits").

(b) Death. If the Executive's employment is terminated by reason of the Executive's death during the Employment Period, this Agreement shall terminate without further obligations to the Executive's legal representatives under this Agreement, other than for payment of the amounts set forth in Section 6(a)(i) and the provision of Other Benefits.

(c) Disability. If the Executive's employment is terminated by reason of the Executive's Disability during the Employment Period, this Agreement shall terminate without further obligations to the Executive, other than for the payment of the amounts set forth in Section 6(a)(i) and the provision of Other Benefits.

(d) Cause; Other than for Good Reason. If the Executive's employment shall be terminated for Cause during the Employment Period, this Agreement shall terminate without further obligations to the Executive other than the payment of the amounts set forth in Section 6(a)(i)(A)(1) and (3) and the provision of Other Benefits. If the Executive voluntarily terminates employment during the Employment Period, excluding a termination for Good Reason, this Agreement shall terminate without further obligations to the Executive, other than for the payment of the amounts set forth in Section 6(a)(i)(A)(1) and (3) and the provision of Other Benefits.

7. Nonexclusivity of Rights. Nothing in this Agreement shall prevent or limit the Executive's continuing or future participation in any plan, program, policy or practice provided by the Company or any of its affiliated companies and for which the Executive may qualify, nor, subject to Section 13(f), shall anything herein limit or otherwise affect such rights as the Executive may have under any contract or agreement with the Company or any of its affiliated companies. Amounts which are vested benefits or which the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any contract or agreement with the Company or any of its affiliated companies at or subsequent to the Date of Termination shall be payable in accordance with such plan, policy, practice or program or contract or agreement except as expressly provided otherwise by this Agreement.

8. Full Settlement. The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action which the Company may have against the Executive or others. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement and such amounts shall not be reduced whether or not the Executive obtains other employment. The Company agrees to pay as incurred, to the fullest extent permitted by law, all legal fees and expenses which the Executive may reasonably incur as a result of any contest (regardless of the outcome thereof) by the Company, the Executive or others of the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive about the amount of any payment pursuant to this Agreement), plus in each case interest on any delayed payment at the applicable Federal rate provided for in Section 7872(f)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"). To the extent that any such reimbursement does not qualify for exclusion from Federal income taxation, the Company will make the reimbursement only if the Executive incurs the corresponding expense during the term of this Agreement or the period of two years thereafter and submits the request for reimbursement no later than two months prior to the last day of the calendar year following the calendar year in which the expense was incurred so that the Company can make the reimbursement on or before the last day of the calendar year following the calendar year in which the expense was incurred; the amount of expenses eligible for such reimbursement during a calendar year will not affect the amount of expenses eligible for such reimbursement in another calendar year, and the right to such reimbursement is not subject to liquidation or exchange for another benefit from the Company. However, in the event the Executive is a "specified employee" on the Executive's Date of Termination (as determined by the Company in accordance with rules established by the Company in writing in advance of the "specified employee identification date" that relates to the date of the Executive's "separation from service"), and to the extent that any portion of such reimbursements relate to expenses that were

triggered by the Executive's "separation from service," such reimbursements shall be paid no earlier than the date that is six months after the date of such "separation from service" (if the Executive dies after the Executive's Termination Date but before such reimbursements have been made, such reimbursements will be paid to the Executive's estate in a lump sum without regard to any six-month delay that otherwise applies to specified employees). For purposes of this Agreement, "specified employee" shall be defined as provided in Section 409A(a)(2)(B)(i) of the Code, "specified employee identification date" shall be defined as provided in Treasury Regulation §1.409A-1(i), and "separation from service" shall be defined as provided in Section 409A(a)(2)(A)(i) of the Code.

9. Certain Additional Payments by the Company. (a) Anything in this Agreement to the contrary notwithstanding and except as set forth below, in the event it shall be determined that any payment or distribution by the Company to or for the benefit of the Executive (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section 9) (a "Payment") would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Executive shall be entitled to receive an additional payment (a "Gross-Up Payment") in an amount such that after payment by the Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, the Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 9(a), if it shall be determined that the Executive is entitled to a Gross-Up Payment, but that the Executive, after taking into account the Payments and the Gross-Up Payment, would not receive a net after-tax benefit of at least $50,000 (taking into account both income taxes and any Excise Tax) as compared to the net after-tax proceeds to the Executive resulting from an elimination of the Gross-Up Payment and a reduction of the Payments, in the aggregate, to an amount (the "Reduced Amount") such that the receipt of Payments would not give rise to any Excise Tax, then no Gross-Up Payment shall be made to the Executive and the Payments, in the aggregate, shall be reduced to the Reduced Amount.

(b) Subject to the provisions of Section 9(c), all determinations required to be made under this Section 9, including whether and when a Gross-Up Payment is required and the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by Deloitte & Touche or such other certified public accounting firm as may be designated by the Executive (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the receipt of notice from the Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change of Control, the Executive shall

appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any Gross-Up Payment, as determined pursuant to this Section 9, shall be paid by the Company to the Executive within five days of the receipt of the Accounting Firm's determination. Any determination by the Accounting Firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts its remedies pursuant to Section 9(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive.

(c) The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable but no later than ten business days after the Executive is informed in writing of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the 30-day period following the date on which it gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that it desires to contest such claim, the Executive shall:

(i) give the Company any information reasonably requested by the Company relating to such claim;

(ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company;

(iii) cooperate with the Company in good faith in order effectively to contest such claim; and

(iv) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax (including interest and penalties with respect thereto) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 9(c), the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Executive to pay the tax claimed and sue for a refund or to contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Executive to pay such claim and sue for a refund, the Company shall advance the amount of such payment to the Executive, on an interest-free basis and shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties with respect thereto) imposed with respect to such advance or with respect to any imputed income with respect to such advance; and further provided that any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(d) If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 9(c)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company does not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then such advance shall be forgiven and shall not be required to be repaid and the amount of such advance shall offset, to the extent thereof, the amount of Gross-Up Payment required to be paid.

(e) Notwithstanding the foregoing, (i) each Gross-Up Payment required to be made by the Company to the Executive hereunder and each repayment of a Gross-Up Payment required to be made by the Executive to the Company hereunder shall be paid no later than the end of the calendar year next following the calendar year in which Executive remits the corresponding taxes to the Internal Revenue Service, (ii) each reimbursement of expenses related to a tax contest addressing the existence or amount of a tax liability required to be made by the Company to the Executive hereunder and each repayment of such a reimbursement required to be made by the Executive to the Company hereunder shall be paid no later than the end of the

calendar year next following the calendar year in which the Executive remits to the Internal Revenue Service the taxes that are the subject of the contest or, where as a result of the contest no taxes are due or are remitted but other reimbursable costs and/or expenses have been incurred, the end of the calendar year following the calendar year in which the contest is completed or there is a final and nonappealable settlement or other resolution of the contest; and (iii) in the event the Executive is a "specified employee" on the Executive's Date of Termination (as determined by the Company in accordance with rules established by the Company in writing in advance of the "specified employee identification date" that relates to the date of the Executive's "separation from service"), and to the extent that any portion of such Gross-Up Payments relates to compensation that was triggered by the Executive's "separation from service" and/or any portion of such reimbursements related to expenses that were triggered by the Executive's "separation from service," such portion of the Gross-Up Payments and/or such portion of the reimbursements, as applicable, shall be paid no earlier than the date that is six months after the date of such "separation from service" (if the Executive dies after the Executive's Date of Termination but before any such payments are made, the payments will be paid to the Executive's estate without regard to any six-month delay that otherwise applies to specified employees).

10. Code Section 409A. It is intended, and this Agreement will be so construed, that any amounts payable under this Agreement and the Company's and the Executive's exercise of authority or discretion hereunder shall either be exempt from or comply with the provisions of Section 409A of the Code and the treasury regulations relating thereto so as not to subject the Executive to the payment of interest and/or any tax penalty that may be imposed under Section 409A of the Code. Executive acknowledges and agrees that the Company has made no representation to Executive as to the tax treatment of the compensation and benefits provided pursuant to this Agreement and that Executive is solely responsible for all taxes due with respect to such compensation and benefits.

11. Confidential Information. The Executive shall hold in a fiduciary capacity for the benefit of the Company all secret or confidential information, knowledge or data relating to the Company or any of its affiliated companies, and their respective businesses, which shall have been obtained by the Executive during the Executive's employment by the Company or any of its affiliated companies and which shall not be or become public knowledge (other than by acts by the Executive or representatives of the Executive in violation of this Agreement). After termination of the Executive's employment with the Company, the Executive shall not, without the prior written consent of the Company or as may otherwise be required by law or legal process, communicate or divulge any such information, knowledge or data to anyone other than the Company and those designated by it. In no event shall an asserted violation of the provisions of this Section 11 constitute a basis for deferring or withholding any amounts otherwise payable to the Executive under this Agreement.

12. Successors. (a) This Agreement is personal to the Executive and without the prior written consent of the Company shall not be assignable by the Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal representatives.

(b) This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.

(c) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law, or otherwise.

13. Miscellaneous. (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(b) All notices required to be given under this Agreement shall be given in writing and delivered either by hand, by certified mail, return receipt requested, postage pre-paid, or by reputable overnight courier, all delivery charges pre-paid, and addressed as follows, or to such other address as either party shall have furnished to the other in writing. Notices shall be effective upon receipt.

If to the Executive: Michael D. Newman

If to the Company: Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Chief Executive Officer

After December 1, 2008, all notices sent to the Company shall be sent to the following address:

Office Depot, Inc.
6600 North Military Trail
Boca Raton, FL 33496
Attn: Chief Executive Officer

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(d) The Company may withhold from any amounts payable under this Agreement such Federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(e) The Executive's or the Company's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right the Executive or the Company may have hereunder, including, without limitations the right of the Executive to terminate employment for Good Reason pursuant to Section 5(c)(i)-(v) of this Agreement, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

(f) The Executive and the Company acknowledge that, except as may otherwise be provided under any other written agreement between the Executive and the Company, the employment of the Executive by the Company is "at will" and, subject to Section 1(a) hereof, prior to the Effective Date, the Executive's employment and/or this Agreement may be terminated by either the Executive or the Company at any time prior to the Effective Date, in which case the Executive shall have no further rights under this Agreement. From and after the Effective Date this Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, the Executive has hereunto set the Executive's hand and, pursuant to the authorization from its Board of Directors, the Company has caused these presents to be executed in its name on its behalf, all as of the day and year first above written.

/s/ Michael D. Newman
Executive: Michael D. Newman

Date: September 17, 2008

OFFICE DEPOT, INC.

By: /s/ Steve Odland
Its: Chief Executive Officer

Exhibit 31.1

Rule 13a-14(a)/15d-14(a) Certification

I, Steve Odland, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Office Depot, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 29, 2008

/s/ Steve Odland

Steve Odland
Chief Executive Officer and Chairman, Board of Directors

Exhibit 31.2

Rule 13a-14(a)/15d-14(a) Certification

I, Michael D. Newman, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Office Depot, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 29, 2008

/s/ Michael D. Newman

Michael D. Newman
Executive Vice President and Chief Financial Officer

Office Depot, Inc.

**Certification of CEO and CFO Pursuant to
18 U.S.C. Section 1350, as Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report on Form 10-Q of Office Depot, Inc. (the "Company") for the quarterly period ended September 27, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Steve Odland, as Chief Executive Officer of the Company, and Michael D. Newman, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to each officer's knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Steve Odland
Name: Steve Odland
Title: Chief Executive Officer
Date: October 29, 2008

/s/ Michael D. Newman
Name: Michael D. Newman
Title: Chief Financial Officer
Date: October 29, 2008

A signed original of this written statement required by Section 1350 of Title 18 of the United States Code has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished as an exhibit to the Report pursuant to Item 601(b)(32) of Regulation S-K and Section 1350 of Title 18 of the United States Code and, accordingly, is not being filed with the Securities and Exchange Commission as part of the Report and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report, irrespective of any general incorporation language contained in such filing).