

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

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

OFFICE DEPOT, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

59-2663954
(IRS employer
identification number)

**6600 North Military Trail
Boca Raton, FL 33496**
(Address of Principal Executive Offices)(Zip Code)

Office Depot, Inc. 2019 Long-Term Incentive Plan
(Full title of the plan)

**N. David Bleisch
Executive Vice President, Chief Legal & Administrative Officer, and
Corporate Secretary
Office Depot, Inc.
6600 North Military Trail
Boca Raton, FL 33496
(561) 438-4800**

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

Copy to:
**Lillian Tsu, Esq.
Hogan Lovells US LLP
390 Madison Avenue
New York, NY 10017
(212) 918-3000**

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

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

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

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee (2)
Common Stock, par value \$0.01 per share	34,000,000	\$2.30	\$78,200,000	\$9,477.84

- (1) Pursuant to Rule 416(b), the number of shares of Common Stock being registered shall be adjusted to include any additional securities that may become issuable in connection with, or as a result of, stock splits, stock dividends or similar transactions.
 - (2) Determined on the basis of the average of the high and low prices of the Common Stock reported on the NASDAQ Stock Market on May 7, 2019 in accordance with Rule 457(c) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee pursuant to Rule 457(h) under the Securities Act.
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PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The Registrant files this Registration Statement on Form S-8 in connection with the Office Depot, Inc. 2019 Long-Term Incentive Plan approved by Office Depot Inc.'s shareholders on May 7, 2019. The documents containing the information specified in Part I of Form S-8 will be sent or given to each participant in the Plans as specified by Rule 428(b)(1) of the Securities Act of 1933, as amended (the "Securities Act"). These documents and the documents incorporated by reference herein pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this Registration Statement the following:

(a) The Registrant's Annual Report on [Form 10-K](#) for the fiscal year ended December 29, 2018, filed with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), on February 27, 2019;

(b) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the report referenced in Item 3(a) above, including the Registrant's Quarterly Report on [Form 10-Q](#) for the quarterly period ended March 30, 2019 filed with the Commission on May 8, 2019; and the Registrant's Current Reports on Form 8-K filed with the Commission on [March 8, 2019](#), [April 16, 2019](#), [May 3, 2019](#) and [May 8, 2019](#); and

(c) All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, from the date of filing of such documents.

Any statement contained herein or in a document all or a portion of which is incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 4. Description of Securities.

Not applicable.

ITEM 5. Interests of Named Experts and Counsel.

None.

ITEM 6. Indemnification of Directors and Officers.

The Registrant is a Delaware corporation subject to the applicable indemnification provisions of the General Corporation Law of the State of Delaware (the "DGCL"). Under Section 145 of the DGCL, each director and officer of the Registrant may be indemnified by the Registrant against all expenses and liabilities (including attorney's fees, judgments, fines and amounts paid in settlement) actually or reasonably incurred in connection with the defense

or settlement of any threatened, pending or completed legal proceedings in which he or she is involved by reason of the fact that he or she is or was a director or officer of the Registrant if such director or officer acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Registrant and, with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe that his or her conduct was unlawful. If the legal proceeding, however, is by or in the right of the Registrant, the director or officer may not be indemnified in respect of any claim, issue or matter as to which he or she shall have been adjudged to be liable to the Registrant unless a court determines otherwise.

The Registrant's Amended and Restated Bylaws provide for indemnification of the Registrant's directors and officers, to the fullest extent permitted by the DGCL, for all expenses, liability and loss (including reasonable amounts paid in settlement) incurred in defending actions brought against them arising out of the performance of their duties. In addition, the Registrant may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a director, officer, employee, fiduciary or agent of the Registrant or is serving or has served in such capacity for another business organization or entity at the Registrant's request, against any liability asserted against such person and incurred in such capacity, or arising out of such person's status as such, whether or not the registrant would have the power to indemnify such person against such liability under the provisions of Article VII of the registrant's Amended and Restated Bylaws.

The Registrant's Restated Certificate of Incorporation, as amended, contains a provision that eliminates, to the fullest extent permitted by the DGCL, the personal liability of each director of the Registrant to the Registrant and its stockholders for monetary damages for certain breaches of fiduciary duty. This provision does not affect the director's liability for monetary damages for breaches of the duty of loyalty, actions or omissions not in good faith, knowing violation of law or intentional misconduct, willful or negligent conduct in approving an unlawful dividend, stock repurchase or redemption or obtaining any improper personal benefit.

The foregoing indemnity and insurance provisions have the effect of reducing directors' and officers' exposure to personal liability for actions taken in connection with their respective positions.

The Registrant has obtained liability insurance policies under which the Registrant's directors and officers are insured, within the limits and subject to the limitations of the policies, against certain expenses in connection with the defense of certain actions, suits or proceedings, and certain liabilities which might be imposed as a result of certain actions, suits or proceedings, arising out of the performance of their duties.

ITEM 7. Exemption From Registration Claimed.

Not applicable.

ITEM 8. Exhibits.

The exhibits included as part of this Registration Statement are as follows:

<u>Exhibit Number</u>	<u>Description</u>
5.1	Opinion of Counsel to Registrant
23.1	Consent of Counsel to Registrant (included in Exhibit 5.1)
23.2	Consent of Deloitte & Touche LLP, independent registered public accounting firm of Office Depot, Inc.
24.1	Power of Attorney (included with signature page)

- 99.1 [Office Depot, Inc. 2019 Long-Term Incentive Plan \(Incorporated by reference from Annex 1 of Office Depot, Inc.'s Definitive Proxy Statement on Schedule 14A, filed with the Securities and Exchange Commission on March 20, 2019\).](#)
- 99.2 [Form of Restricted Stock Agreement \(Directors\) \(Incorporated by reference from Exhibit 10.2 to Office Depot, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on May 8, 2019\).](#)
- 99.3 [Form of Restricted Stock Unit Agreement \(Directors\) \(Incorporated by reference from Exhibit 10.3 to Office Depot, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on May 8, 2019\).](#)
- 99.4 [Form of Restricted Stock Unit Agreement \(Executives\) \(Incorporated by reference from Exhibit 10.4 to Office Depot, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on May 8, 2019\).](#)
- 99.5 [Form of FCF Performance Stock Unit Award Agreement \(Executives\) \(Incorporated by reference from Exhibit 10.5 to Office Depot, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on May 8, 2019\).](#)
- 99.6 [Form of TSR Performance Share Award Agreement \(Executives\) \(Incorporated by reference from Exhibit 10.6 to Office Depot, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on May 8, 2019\).](#)

ITEM 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual

report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Boca Raton, State of Florida, on May 10, 2019.

OFFICE DEPOT, INC.

By: /s/ N. David Bleisch

N. David Bleisch
EVP, Chief Legal & Administrative Officer and
Corporate Secretary

POWER OF ATTORNEY

Each person whose signature appears below hereby severally and individually constitutes and appoints N. David Bleisch, Katrina S. Lindsey, Kristen L. Sampo and Joseph G. White, each of them severally, the true and lawful attorneys and agents of each of us to execute in the name, place and stead of each of us (individually and in any capacity stated below) any and all amendments to this Registration Statement on Form S-8 and any subsequent registration statement filed by the Registrant pursuant to Rule 462(b) of the Securities Act or to Instruction E to Form S-8, in each case which relates to this Registration Statement, and all instruments necessary or advisable in connection therewith and to file the same with the Commission, each of said attorneys and agents to have the power to act with or without the others and to have full power and authority to do and perform in the name and on behalf of each of the undersigned every act whatsoever necessary or advisable to be done in the premises as fully and to all intents and purposes as any of the undersigned might or could do in person, and we hereby ratify and confirm our signatures as they may be signed by our said attorneys and agents or each of them to any and all such amendments and instruments.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on May 10, 2019.

/s/ Gerry P. Smith

Gerry P. Smith

Director and Chief Executive Officer
(Principal Executive Officer)

/s/ Joseph T. Lower

Joseph T. Lower

Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

/s/ Scott Kriss

Scott Kriss

Senior Vice President and Chief Accounting Officer
(Principal Accounting Officer)

/s/ Joseph S. Vassalluzzo

Joseph S. Vassalluzzo

Chairman of the Board

/s/ Kristin A. Campbell
Kristin A. Campbell

Director

/s/ Cynthia T. Jamison
Cynthia T. Jamison

Director

/s/ V. James Marino
V. James Marino

Director

/s/ Francesca Ruiz de Luzuriaga
Francesca Ruiz de Luzuriaga

Director

/s/ David M. Szymanski
David M. Szymanski

Director

/s/ Nigel Travis
Nigel Travis

Director



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May 10, 2019

Board of Directors
 Office Depot, Inc.
 6600 North Military Trail
 Boca Raton, FL 33496

Ladies and Gentlemen:

We are acting as counsel to Office Depot, Inc., a Delaware corporation (the “**Company**”), in connection with its registration statement on Form S-8 (the “**Registration Statement**”), filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “**Act**”) relating to the proposed offering of up to 34,000,000 newly issued shares of the common stock, par value \$.01 per share (the “**Common Stock**”) of the Company (the “**Shares**”), all of which shares are issuable pursuant to the Office Depot, Inc. 2019 Long-Term Incentive Plan (the “**Plan**”). This opinion letter is furnished to you at your request to enable you to fulfill the requirements of Item 601(b)(5) of Regulation S-K, 17 C.F.R. § 229.601(b)(5), in connection with the Registration Statement.

For purposes of this opinion letter, we have examined copies of such agreements, instruments and documents as we have deemed an appropriate basis on which to render the opinions hereinafter expressed. In our examination of the aforesaid documents, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the accuracy and completeness of all documents submitted to us, the authenticity of all original documents, and the conformity to authentic original documents of all documents submitted to us as copies (including pdfs). As to all matters of fact, we have relied on the representations and statements of fact made in the documents so reviewed, and we have not independently established the facts so relied on. This opinion letter is given, and all statements herein are made, in the context of the foregoing.

This opinion letter is based as to matters of law solely on the Delaware General Corporation Law, as amended. We express no opinion herein as to any other statutes, rules or regulations.

Based upon, subject to and limited by the foregoing, we are of the opinion that following (i) effectiveness of the Registration Statement, (ii) issuance of the Shares pursuant to the terms of the Plan, and (iii) receipt by the Company of the consideration for the Shares specified in the applicable resolutions of the Board of Directors and in the Plan, the Shares will be validly issued, fully paid, and nonassessable.

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This opinion letter has been prepared for use in connection with the Registration Statement. We assume no obligation to advise of any changes in the foregoing subsequent to the effective date of the Registration Statement.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not thereby admit that we are an “expert” within the meaning of the Act.

Very truly yours,

/s/ HOGAN LOVELLS US LLP

HOGAN LOVELLS US LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated February 27, 2019, relating to the consolidated financial statements of Office Depot, Inc. and subsidiaries, and the effectiveness of Office Depot Inc. and subsidiaries' internal control over financial reporting appearing in the Annual Report on Form 10-K of Office Depot Inc. and subsidiaries for the year ended December 29, 2018.

/s/ DELOITTE & TOUCHE LLP

Boca Raton, Florida
May 9, 2019