

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 8-K**

**CURRENT REPORT**

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

Date of Report: **November 4, 2009**  
Date of earliest event reported: **November 3, 2009**

**OFFICEMAX INCORPORATED**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State of Incorporation)

**1-5057**  
(Commission File Number)

**82-0100960**  
(IRS Employer Identification No.)

**263 Shuman Blvd.**  
**Naperville, Illinois 60563**  
(Address of principal executive offices) (Zip Code)

**(630) 438-7800**  
(Registrant's telephone number, including area code)

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

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

**Item 1.01 Entry into a Material Definitive Agreement**

The information set forth below under Item 3.02 regarding the Registration Rights Agreement is incorporated herein by reference.

**Item 3.02 Unregistered Sales of Equity Securities.**

On November 3, 2009, OfficeMax Incorporated ("OfficeMax" or the "Company") contributed 8,331,722 shares of its common stock, \$2.50 par value (the "Shares"), with a corresponding dollar value of approximately \$82.2 million, to the Company's master trust (the "Master Trust"), which is the funding vehicle for the Company's six tax-qualified employee pension benefit plans (the "Plans"), pursuant to a Contribution Agreement dated as of November 3, 2009 (the "Contribution Agreement") between OfficeMax and Evercore Trust Company, N.A., the independent fiduciary for the Shares held by the Master Trust, in consideration of the possible reduction of future funding obligations to the Master Trust. The Shares were contributed by the Company as a voluntary, excess contribution to the Master Trust in a private placement transaction made in reliance upon the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended. The Contribution Agreement is filed as Exhibit 99.1 to this Current Report on Form 8-K.

On November 3, 2009, the Company also entered into a related registration rights agreement with Evercore Trust Company, N.A., the independent fiduciary for the Shares held by the Master Trust (the "Registration Rights Agreement"). The Registration Rights Agreement provides, among other things, that OfficeMax will use its reasonable commercial efforts to cause a registration statement covering the Shares to be declared effective and to maintain its effectiveness until the earlier of (i) the date on which all of the Shares are sold, (ii) the date which is 90 days after the date on which the number of Shares that remain held by the Trust is less than one percent of the shares of the Company's common stock then outstanding, and (iii) the fifth anniversary of the date of the contribution pursuant to the Contribution Agreement. The Registration Rights Agreement is filed as Exhibit 10.1 to this Current Report on Form 8-K.

The foregoing description of the Registration Rights Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Registration Rights Agreement filed as Exhibit 10.1 hereto and incorporated herein by reference.

On November 3, 2009, OfficeMax issued a press release regarding the contribution of the Shares to the Master Trust. A copy of this press release is being furnished herewith as Exhibit 99.2.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

- Exhibit 10.1 Registration Rights Agreement between OfficeMax and Evercore Trust Company, N.A., independent fiduciary of the Master Trust, dated as of November 3, 2009.
- Exhibit 99.1 Contribution Agreement dated as of November 3, 2009 between OfficeMax and Evercore Trust Company, N.A., independent fiduciary of the Master Trust.
- Exhibit 99.2 Press Release, dated November 3, 2009, issued by OfficeMax.

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**SIGNATURE**

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

Dated: November 4, 2009

OFFICEMAX INCORPORATED

By: /s/ Matthew R. Broad  
Matthew R. Broad  
Executive Vice President and General Counsel

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EXHIBIT INDEX

<u>Number</u>	<u>Description</u>
10.1	Registration Rights Agreement between OfficeMax and Evercore Trust Company, N.A., independent fiduciary of the Master Trust, dated as of November 3, 2009.
99.1	Contribution Agreement dated as of November 3, 2009 between OfficeMax and Evercore Trust Company, N.A., independent fiduciary of the Master Trust.
99.2	Press Release, dated November 3, 2009, issued by OfficeMax.

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## REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT, dated as of November 3, 2009 (the "Agreement"), is made by and between OFFICEMAX INCORPORATED, a Delaware corporation, having an office at 263 Shuman Boulevard, Naperville, Illinois 60563 (the "Company" or "OfficeMax"), and EVERCORE TRUST COMPANY, N.A., solely in its capacity as duly appointed and acting investment manager (the "Manager") of the Master Trust (the "Trust"), which is the funding vehicle for the Company's six tax-qualified employee benefit pension plans (the "Plans").

## RECITALS

**WHEREAS**, the Company has agreed to contribute an aggregate of 8,331,722 shares (the "Registrable Shares"), of its Common Stock of \$2.50 par value ("Common Stock") to the Trust (the "Contribution"); and

**WHEREAS**, the Registrable Shares immediately following such Contribution will be held in a single segregated account in the Trust (the "Segregated Account"); and

**WHEREAS**, pursuant to the Investment Management Agreement, dated as of November 3, 2009, among the Manager, the Retirement Funds Investment Committee (the "Committee") of OfficeMax, and the Company (the "Investment Management Agreement"), the Manager has been appointed as a "fiduciary" of the Trust, as defined in Section 3(21) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), but only to the extent of the assets in the Segregated Account, with the authority to act on behalf of the Trust with respect to all assets held in the Segregated Account; and

**WHEREAS**, the Company has agreed to grant certain registration rights with respect to the Registrable Shares held in the Segregated Account, on the terms and subject to the conditions set forth in this Agreement; and

**WHEREAS**, pursuant to the Investment Management Agreement, the Manager has full power and authority to execute and deliver this Agreement for the benefit of the Trust and to take any actions required or permitted to be taken in connection with this Agreement.

**NOW, THEREFORE**, in consideration of the premises and mutual promises set forth herein, the parties hereto hereby agree as follows:

1. Registration; Compliance With the Securities Act.

1.1 Registration Procedures and Expenses. The Company hereby agrees that it shall:

(a) prepare and file with the Securities and Exchange Commission (the "SEC"), as soon as reasonably practicable after the date of the Contribution, but in no event more than 30 days after the Contribution, a shelf registration statement on Form S-1 covering the Registrable Shares, (such registration statement and any successor registration statement filed

under the Securities Act of 1933, as amended (the "Securities Act"), hereinafter referred to as the "Registration Statement"), to enable the Manager to sell the Registrable Shares from time to time in the manner contemplated by the plan of distribution set forth in the Registration Statement, as amended by any prospectus supplement or post-effective amendment thereto, and use its reasonable commercial efforts to cause such Registration Statement to be declared effective as promptly as reasonably possible after filing and to remain continuously effective until the earliest of (i) the date on which all Registrable Shares have been sold, (ii) the date which is 90 days after the date on which the number of Registrable Shares held by the Trust is less than one percent of the shares of Common Stock then outstanding and (iii) the fifth anniversary of the Contribution (the "Registration Period"); provided, however, that it shall not be required to file such Registration Statement or cause such Registration Statement to be declared effective during the pendency of any suspension period pursuant to Sections 1.2(c) or (d) below;

(b) prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus filed with the SEC pursuant to Rule 424(b) under the Securities Act, or if no such filing is required, as included in the Registration Statement (the "Prospectus"), as may be necessary to keep the Registration Statement effective at all times until the end of the Registration Period; provided, however, that it shall not be required to file any such amendment or prospectus supplement during the pendency of any suspension period pursuant to Sections 1.2(c) or (d) below;

(c) furnish the Manager with such reasonable number of copies of the Prospectus in conformity with the requirements of the Securities Act, and such other documents as the Manager may reasonably request, in order to facilitate the public sale or other disposition of all or any of the Registrable Shares by the Manager;

(d) use its reasonable commercial efforts to file documents required of the Company for normal blue sky clearance in such states as the Manager shall reasonably designate in writing; provided, however, that the Company shall not be required to qualify to do business or consent to service of process in any jurisdiction in which it is not now so qualified or has not so consented;

(e) use its reasonable commercial efforts to cause the Registrable Shares to be listed on the New York Stock Exchange (the "NYSE") as soon as reasonably practicable after the date of the Contribution; and

(f) bear all expenses in connection with the actions contemplated by paragraphs (a) through (e) of this Section 1.1 and the registration of the Registrable Shares pursuant to the Registration Statement, including reasonable fees and expenses of legal counsel to the Manager incurred in connection with the registration and sale of the Registrable Shares, such fees and expenses of legal counsel not to exceed \$30,000 in the aggregate, but excluding underwriting discounts, brokerage fees and commissions incurred by the Manager, the Trust or the Plans, if any.

It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1.1 that the Manager shall provide such reasonable assistance to the Company and furnish, or cause to be furnished, to the Company in writing such information

regarding the Manager, the Registrable Shares to be sold, and the intended method or methods of disposition of the Registrable Shares, as shall be required to effect the registration of the Registrable Shares and as may be required from time to time under the Securities Act and the rules and regulations thereunder.

## 1.2 Transfer of Registrable Shares After Registration; Suspension.

(a) The Manager agrees that it will not offer to sell or make any sale, assignment, pledge, hypothecation or other transfer with respect to the Registrable Shares that would constitute a sale within the meaning of the Securities Act except pursuant to either (i) the Registration Statement referred to in Section 1.1, (ii) Rule 144 under the Securities Act or any successor rule thereto (as such rule may be amended from time to time, "Rule 144"), or (iii) pursuant to an applicable exemption to registration under applicable federal and state securities laws and that it will promptly notify the Company of any changes in the information set forth in the Registration Statement regarding the Manager or the intended plan of distribution of the Registrable Shares to the extent required by applicable securities laws.

(b) The Manager and the Company agree that the Registrable Shares may be sold in one or more privately-negotiated block trades.

(c) In addition to any suspension rights under paragraph (d) below, the Company may, upon the happening of any event that, in the judgment of the Company's legal counsel, renders advisable the suspension of the disposition of Registrable Shares covered by the Registration Statement or use of the Prospectus due to pending corporate developments, public filings with the SEC or similar events, suspend the disposition of Registrable Shares covered by the Registration Statement or use of the Prospectus for a period of not more than ninety (90) days on written notice to the Manager (which notice will not disclose the content of any material non-public information) and will indicate the date of the beginning and end of the intended suspension, if known), in which case the Manager, upon receipt of such written notice, shall discontinue (or cause the Trust to discontinue) disposition of Registrable Shares covered by the Registration Statement or use of the Prospectus until copies of a supplemented or amended Prospectus are distributed to the Manager or until the Manager is advised in writing by the Company that the disposition of Registrable Shares covered by the Registration Statement or use of the applicable Prospectus may be resumed; provided, that such right to suspend the disposition of Registrable Shares covered by the Registration Statement or use of the Prospectus shall not be exercised by the Company for more than one hundred twenty (120) days in any twelve-month period. The suspension and notice thereof described in this Section 1.2(c) shall be held in confidence and not disclosed by the Manager, except as required by law.

(d) Subject to paragraph (e) below, in the event of: (i) any request by the SEC or any other federal or state governmental authority during the period of effectiveness of the Registration Statement for amendments or supplements to a Registration Statement or related Prospectus or for additional information; (ii) the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration

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Statement or the initiation of any proceedings for that purpose; (iii) the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Shares for sale in any jurisdiction or the initiation of any proceedings for such purpose; or (iv) any event or circumstance that necessitates the making of any changes in the Registration Statement or Prospectus, or any document incorporated or deemed to be incorporated therein by reference, so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, then the Company shall deliver a certificate in writing to the Manager (the "Suspension Notice") to the effect of the foregoing (which notice will not disclose the content of any material non-public information and will indicate the date of the beginning and end of the intended suspension, if known), and upon receipt of such Suspension Notice, the Manager will refrain (or cause the Trust to refrain) from selling any Registrable Shares pursuant to the Registration Statement (a "Suspension") until the Manager's receipt of copies of a supplemented or amended Prospectus prepared and filed by the Company, or until it is advised in writing by the Company that the current Prospectus may be used, and has received copies of any additional or supplemental filings that are incorporated or deemed incorporated by reference in any such Prospectus. In the event of any Suspension, the Company will use its reasonable commercial efforts to cause the use of the Prospectus so suspended to be resumed as soon as possible after delivery of a Suspension Notice to the Manager. The Suspension and Suspension Notice described in this Section 1.2(d) shall be held in confidence and not disclosed by the Manager, except as required by law.

(e) The Manager may sell Registrable Shares under the Registration Statement provided that neither a Suspension nor a suspended disposition under Section 1.2(c) hereof is then in effect, the Manager sells in accordance with the plan of distribution in the Prospectus, and the Manager arranges for delivery of a current Prospectus to any transferee receiving such Registrable Shares in compliance with the Prospectus delivery requirements of the Securities Act.

1.3 Indemnification. For the purpose of this Section 1.3, the term "Registration Statement" shall include any preliminary or final Prospectus, exhibit, supplement or amendment included in or relating to the Registration Statement referred to in Section 1.1.

(a) Indemnification by the Company. The Company agrees to indemnify and hold harmless the Manager (including, for purposes of this Section 1.3, the officers, directors, employees and agents of the Manager), and each person, if any, who controls the Manager within the meaning of either Section 15 of the Securities Act or Section 20 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), from and against any and all losses, claims, damages, liabilities or expenses, joint or several, to which the Manager or such controlling person may become subject under the Securities Act, the Exchange Act, or any other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Company, which consent shall not be unreasonably withheld or delayed), only to the extent such losses, claims, damages, liabilities or expenses (or actions in respect thereof as contemplated

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below) arise out of or are based upon (i) any failure on the part of the Company to comply with the covenants and agreements contained in this Agreement, or (ii) any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state in any of them a material fact required to be stated therein or necessary to make the statements in any of them, in light of the circumstances under which they were made, not misleading, and will reimburse the Manager and each such controlling person for any legal and other expenses as such expenses are reasonably incurred by the Manager or such controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage, liability or expense arises out of or is based upon (A) an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Prospectus or any amendment or supplement of the Registration Statement or Prospectus in reliance upon and in conformity with information furnished in writing to the Company by the Manager, (B) any untrue statement or omission of a material fact required to make such statement not misleading in any Prospectus that is corrected in any subsequent Prospectus that was delivered to the Manager before the pertinent sale or sales by the Manager, or (C) any untrue statement or alleged untrue statement or omission or alleged omission in the Registration Statement, the Prospectus, or any amendment or supplement thereto, when used or distributed by the Manager during a period in which the disposition of Registrable Shares is properly suspended under Section 1.2(c) or a Suspension is properly in effect under Section 1.2(d). The Manager hereby agrees that if the Manager or any of its controlling persons is not entitled to indemnification for any loss, claim, damage, liability or expense pursuant to this Section 1.3(a) as a result of clause (A), (B) or (C) above, then neither the Manager nor any of its controlling persons shall be entitled to indemnification for such loss, claim, damage, liability or expense pursuant to the terms of the indemnification provisions set forth in the Investment Management Agreement or that certain engagement letter dated October 15, 2009 between OfficeMax and Evercore Trust Company, N.A.

(b) Indemnification by the Manager. To the extent permitted by applicable law, the Manager will (i) indemnify and hold harmless the Company, the Retirement Funds Investment Committee of OfficeMax, each of the Company's directors, employees, and agents, and each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act (the "OfficeMax Indemnitees"), from and against any and all losses, claims, damages, liabilities or expenses to which the OfficeMax Indemnitees may become subject under the Securities Act, the Exchange Act, or any other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Manager, which consent shall not be unreasonably withheld or delayed) only to the extent such losses, claims, damages, liabilities or expenses (or actions in respect thereof as contemplated below) arise out of or are based upon (A) any failure on the part of the Manager to comply with the covenants and agreements contained in this Agreement respecting the sale of the Registrable Shares, or (B) any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state in any of them a material fact required to be stated therein or necessary to make the statements in any of them

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not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Prospectus, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of the Manager, and (ii) will reimburse the OfficeMax Indemnitees for any legal and other expenses as such expenses are reasonably incurred by the OfficeMax Indemnitees in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; provided, however, that the Manager shall not be liable for any such untrue statement or alleged untrue statement or omission or alleged omission with respect to which the Manager has delivered to the Company in writing a correction before the occurrence of the transaction from which such loss was incurred. In no event shall the liability of the Manager under this Section 1.3 be greater than the aggregate fees received by the Manager pursuant to the Investment Management Agreement.

(c) Indemnification Procedure.

(i) Promptly after receipt by an indemnified party under this Section 1.3 of written notice of the threat or commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 1.3, promptly notify the indemnifying party in writing of the claim; provided, however, that the omission so to notify the indemnifying party will not relieve the indemnifying party from any liability which it may have to any indemnified party under the indemnity agreement contained in this Section 1.3 or otherwise, to the extent it is not prejudiced as a result of such failure.

(ii) In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and to the extent that it may wish, jointly with all other indemnifying parties similarly notified, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be a conflict between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to the indemnified party or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party or other indemnified parties that are different from such indemnified party of its election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 1.3 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless:

(1) The indemnified party shall have employed such counsel in connection with the assumption of legal defenses in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (other than local counsel), approved by

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such indemnifying party representing all of the indemnified parties who are parties to such action); or

(2) The indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action.

In each such case, the reasonable fees and expenses of counsel shall be at the expense of the indemnifying party.

(d) Contribution. If the indemnification provided for in this Section 1.3 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, claim, damage, liability or expense referred to herein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage, liability or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions that resulted in such loss, claim, damage, liability or expense, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission. The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 1.3(c) hereof, any legal or other fees or expenses reasonably incurred by such party in connection with any investigation or proceeding.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 1.3(d) were determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 1.3(d), in no event shall the Manager be required to contribute any amount in excess of the aggregate fees received by the Manager pursuant to the Investment Management Agreement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

(e) Surviving Obligations. The obligations of the Company and the Manager under this Section 1.3 shall survive the completion of the disposition of the Registrable Shares under this Section 1, and otherwise.

1.4 Rule 144 Information. For such period as the Trust or the Plan holds any Registrable Shares received pursuant to the Contribution, the Company shall use its commercially reasonable efforts to file all reports required to be filed by it under the Securities Act, the Exchange Act and the rules and regulations thereunder and shall use its commercially

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reasonable efforts to take such further action to the extent required to enable the Manager to sell the Registrable Shares pursuant to Rule 144.

1.5 Rights of the Trust. All of the rights and benefits conferred on the Manager pursuant to this Agreement (other than the right to indemnification provided in Section 1.3) are intended to inure to the benefit of the Trust.

2. Miscellaneous.

2.1 Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Illinois, irrespective of the choice of laws principles of the State of Illinois, as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies.

2.2 Force Majeure. Neither party will have any liability for damages or delay due to fire, explosion, lightning, pest damage, power failure or surges, strikes or labor disputes, water or flood, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, acts or omissions of communication or other carriers, or any other cause beyond a party's reasonable control (other than that which arises from the gross negligence or willful misconduct of such party), whether or not similar to the foregoing, that prevent such party from materially performing its obligation hereunder.

2.3 Entire Agreement; Modification; Waivers. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiation, commitments and writings with respect to the matters discussed herein. This Agreement may not be altered, modified or amended except by a written instrument signed by all parties. The failure of any party to require the performance or satisfaction of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent subsequent enforcement of such term of obligation or be deemed a waiver of any subsequent breach.

2.4 Severability. The provisions of this Agreement are severable, and in the event that any one or more provisions are deemed illegal or unenforceable the remaining provisions shall remain in full force and effect unless the deletion of such provision shall cause this Agreement to become materially adverse to either party, in which event the parties shall use reasonable commercial efforts to arrive at an accommodation that best preserves for the parties the benefits and obligations of the offending provision.

2.5 Notices. Except as otherwise expressly provided, any notice, request, demand or other communication permitted or required to be given under this Agreement shall be in writing, shall be sent by one of the following means to the Company or the Manager at the addresses set forth below (or to such other address as shall be designated hereunder by notice to the other parties and persons receiving copies, effective upon actual receipt), and shall be deemed conclusively to have been given: (a) on the first business day following the day timely deposited with Federal Express (or other reputable national overnight courier) or United States Express Mail, with the cost of delivery prepaid or for the account of the sender; (b) on the fifth business day following the day duly sent by certified or registered United States mail, postage

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prepaid and return receipt requested; or (c) when otherwise actually received by the addressee on a business day (or on the next business day if received after the close of normal business hours or on any non-business day).

If to the Company:

OfficeMax Incorporated

263 Shuman Boulevard  
Naperville, Illinois 60563  
Attn: Susan Wagner-Fleming  
Fax: (630) 864-4526

If to the Manager:

Evercore Trust Company, N.A.  
1099 New York Avenue, N.W.  
6<sup>th</sup> Floor  
Washington, DC 20001  
Fax: (202) 471-3510  
Attn: Norman P. Goldberg

2.6 Title and Headings. Titles and headings to sections herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

2.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

2.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Company and the Manager and their respective successors and permitted assigns. None of the rights or obligations under this Agreement shall be assigned by the Manager without the prior written consent of the Company and the Trust in their sole discretion.

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IN WITNESS WHEREOF, each of the Company and the Manager has caused this Agreement to be duly executed on its behalf by its duly authorized officer as of the date first written above.

OFFICEMAX INCORPORATED

By: /s/ Susan Wagner-Fleming

Name: Susan Wagner-Fleming

Title: Senior Vice President, Secretary, and  
Associate General Counsel

EVERCORE TRUST COMPANY, N.A.,  
as Investment Manager of the Trust

By: /s/ Norman P. Goldberg

Name: Norman P. Goldberg

Title: Managing Director

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OfficeMax Incorporated

Shares of Common Stock of \$2.50 par value

Contribution Agreement

November 3, 2009

Evercore Trust Company, N.A.  
 As Investment Manager of  
 OfficeMax Incorporated Master Trust  
 1099 New York Avenue, N.W.  
 6<sup>th</sup> Floor  
 Washington, DC 20001

Ladies and Gentlemen:

OfficeMax Incorporated (the "Company") has agreed to make a voluntary, excess contribution to the Master Trust (the "Trust"), which is the funding vehicle for the Company's six tax-qualified employee pension benefit plans, by contributing to the Trust 8,331,722 shares of the Company's Common Stock of \$2.50 par value (the "Shares"). In order to accomplish such contribution, the Company hereby issues and sells the Shares to the Trust in consideration of the possible reduction of future funding obligations. By executing this Contribution Agreement (the "Agreement"), Evercore Trust Company, N.A. as Investment Manager (the "Manager") of the Trust, accepts the Shares on behalf of the Trust.

The Shares will be subject to the registration rights set forth in the Registration Rights Agreement, dated November 3, 2009 (the "Registration Rights Agreement"), by and between the Company and the Manager. Pursuant to the Registration Rights Agreement, and in accordance with the terms therein, the Company will agree, for the benefit of the Trust, (i) to file with the Securities and Exchange Commission (the "Commission") a registration statement (the "Registration Statement") with respect to the resale of the Shares by the Trust and (ii) to use its reasonable commercial efforts to cause the Registration Statement to be declared effective under the Securities Act of 1933, as amended (the "1933 Act"), and to maintain the effectiveness of such Registration Statement as provided in the Registration Rights Agreement.

1. The Company represents and warrants to the Manager as of the date hereof that:
  - (a) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware;
  - (b) The authorized and outstanding capital stock of the Company as of October 27, 2009 is as set forth in the Company's Quarterly Report on Form 10-Q for the third quarter of 2009 as filed with the Commission on  


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 October 30, 2009 (including any amendment thereof filed prior to the date of this Agreement);
  - (c) The Shares have been duly authorized and, when issued to and accepted by the Trust, will be fully paid and non-assessable;
  - (d) This Agreement and the Registration Rights Agreement have each been duly authorized, executed and delivered by the Company and each constitutes a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights or by public policy or general equity principles;
  - (e) The Registration Statement has been duly authorized by the Company;
  - (f) The issuance of the Shares to the Trust and the compliance by the Company with all the provisions of the Registration Rights Agreement and this Agreement and the consummation of the transactions herein and therein contemplated will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any material indenture, mortgage, deed of trust, loan agreement or other material agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound, nor will such action result in any violation of the provisions of the Company's Certificate of Incorporation, as amended, or Bylaws, as amended, or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their respective properties;
  - (g) The Company is subject to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended;
  - (h) Neither the Company nor any person acting on its behalf has offered or sold the Shares by means of any general solicitation or general advertising within the meaning of Rule 502(c) under the 1933 Act;
  - (i) No commission within the meaning of Section 408(e)(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), brokerage fee or other charge will become due or payable in connection with the execution and delivery of this Agreement and the transactions contemplated hereby, including the contribution of the Shares; and
  - (j) Subject to compliance by the Manager with Section 4 hereof and the accuracy of the Manager's representations stated herein, it is not necessary in connection with the offer, sale and delivery of the Shares by the Company to the Trust to register the Shares under the 1933 Act; and



- (k) Except for the Shares to be contributed pursuant to this Agreement, none of the pension plans funded through the Trust holds any employer securities or employer real property within the meaning of Section 407(d) of ERISA (other than through (i) a common or collective fund, insurance company separate account or other investment fund for which a prohibited transaction exemption would apply in determining such plans' holdings for purposes of Section 407(a) of ERISA, (ii) an investment company registered under the Investment Company Act of 1940, as amended, or (iii) any entity whose assets do not include the assets of any such plan under the regulations issued by the U.S. Department of Labor, 29 C.F.R. § 2510.3-101). The contribution of the Shares will not result in a violation of the 10% limitation of Section 407(a) of ERISA, regardless of whether the discount from the closing price reflected in Section 2 of the Agreement is taken into account in determining the fair market value of the Shares for purposes of such limitation.

2. The Company and the Manager agree and acknowledge that the aggregate value of the Shares on the date hereof is \$82,150,778.92, which reflects a 15% discount applied to the closing selling price of the Shares on the date hereof. The Company agrees that its valuation of the Shares as of the date of contribution for purposes of the minimum funding standards of the Internal Revenue Code of 1986, as amended (the "Code"), and ERISA (without regard to any subsequent adjustments required by such minimum funding standards with respect to interest accrual or investment experience) will not exceed the value of the Shares set forth in this paragraph. The Company hereby confirms that it is not required to make a minimum funding contribution under Section 412 of the Code with respect to any of the pension plans funded through the Trust for the plan year for which the contribution of the Shares is being made.

3. The consummation of the issuance of Shares under this Agreement shall occur coincident with execution and delivery of this Agreement.

4. The Manager, acting on behalf of the Trust:

- (a) Acknowledges that the Shares have not been registered under the 1933 Act and are being issued to the Trust in reliance upon an exemption from such registration under the 1933 Act;
- (b) Represents that the Trust is an institutional "accredited investor" within the meaning of Rule 501 under the 1933 Act;
- (c) Confirms that the Manager has been informed that the Shares are "restricted securities" under the 1933 Act and may not be resold or transferred if the Registration Statement is not effective unless an exemption from such registration is available;
- (d) Is aware of the adoption of Rule 144 under the 1933 Act ("Rule 144") by the Commission, which permits limited public resale of securities acquired in a nonpublic offering, subject to the satisfaction of certain conditions,

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including, among other things: the availability of certain current public information about the issuer, the sale being through a broker in an unsolicited "broker's transaction" and the amount of securities being sold during any three (3) month period not exceeding specified limitations;

- (e) Represents that prior to accepting the contribution of the Shares on behalf of the Trust, it acquired sufficient information about the Company to reach an informed and knowledgeable decision to accept the contribution of the Shares. The Manager has such knowledge and experience in financial and business matters as to make it capable of evaluating the risks of the prospective investment and to make an informed investment decision. The Trust is able to bear the economic risk of its investment in the Shares;
- (f) Agrees that the Trust shall make no disposition of the Shares except pursuant to an effective Registration Statement or, alternatively, if requested by the Company, the Manager shall have provided the Company an opinion of counsel (which opinion of counsel may be rendered by counsel to the Company) in form and substance reasonably satisfactory to the Company, that (i) the proposed disposition does not require registration of the Shares under the 1933 Act or (ii) all appropriate action necessary for compliance with the registration requirements of the 1933 Act or of any exemption from registration available under the 1933 Act (including Rule 144) has been taken. The Company shall not be required (i) to transfer on its books any Shares that have been sold or transferred in violation of the provisions of this Agreement nor (ii) to treat as the owner of the Shares, or otherwise to accord voting or dividend rights to, any transferee to whom the Shares have been transferred in contravention of this Agreement;
- (g) Agrees that the Trust shall make no disposition of the Shares that is contrary to the terms of the Registration Rights Agreement, as amended from time to time;
- (h) Acknowledges that, in order to reflect the restrictions on the disposition of the Shares, the Shares will be endorsed with restrictive legends, including the following legend (or substantially similar legend):

"The securities represented hereby have not been registered or qualified under the Securities Act of 1933 or the securities laws of any state, and may be offered and sold only if registered and qualified pursuant to federal and state securities laws or if, following notice to the Company of a proposed transaction, at its request, the Company is provided an opinion of counsel reasonably satisfactory to the Company that registration and qualification under federal and state laws is not required."

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If required by the authorities of any state in connection with the issuance of the Shares, the legend or legends required by such state authorities shall also be endorsed on such shares.

(i) Represents that as of the date of this Agreement, there are no selling arrangements between the Manager, acting on behalf of the Trust, and any underwriter, broker or dealer.

5. It is understood that the Trust will pay all of its own costs and expenses, including fees of counsel, except as otherwise provided in the Engagement Letter, dated October 15, 2009, by and between Evercore Trust Company, N.A. and the Company, and the Registration Rights Agreement.

6. This Agreement shall be binding upon, and inure solely to the benefit of, the Trust, the Manager, the Company and each person who controls the Company or the Trust, respectively, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any Shares from the Trust shall be deemed a successor or assign by reason merely of such purchase.

7. **This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.**

8. This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

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If the foregoing is in accordance with your understanding, please sign and return to us five counterparts hereof, and upon the acceptance hereof by the Manager, this letter and such acceptance hereof shall constitute a binding agreement between each of the Manager and the Company.

Very truly yours,

OfficeMax Incorporated

By: /s/ Susan Wagner-Fleming  
Name: Susan Wagner-Fleming  
Title: Senior Vice President, Secretary and  
Associate General Counsel

Accepted as of the date hereof:

EVERCORE TRUST COMPANY, N.A.  
as Independent Fiduciary for the  
OfficeMax Master Trust

By: /s/ Norman P. Goldberg  
Name: Norman P. Goldberg  
Title: Managing Director

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**OfficeMax**  
263 Shuman Blvd, Naperville, IL 60563

# OfficeMax

News Release

**Media Contact**

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630 864 6066

**Investor Relations Contacts**

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630 864 6826                      630 864 6820

**For Immediate Release**

**OFFICEMAX CONTRIBUTES SHARES OF OFFICEMAX COMMON STOCK TO ITS QUALIFIED PENSION PLANS**

**Voluntary excess contribution reduces underfunded balance and maintains financial flexibility**

**Company expects contribution to be accretive to earnings in 2010**

NAPERVILLE, Ill., November 3, 2009 — OfficeMax<sup>o</sup> Incorporated (NYSE: OMX), a leader in office products and services, today announced that it has completed the voluntary excess contribution of 8,331,722 shares of OfficeMax common stock to its frozen qualified pension plans. The company's intent to make the voluntary contribution was first announced on October 29, 2009.

The net effect of the contribution on earnings per share, including the impact of increased shares outstanding, is expected to be minimal in 2009 and accretive in 2010. Based on actuarial assumptions, this excess 2009 contribution is expected to reduce required pension contributions over the next five years by approximately \$100 million.

As of December 27, 2008, the pension plans were underfunded by \$435 million. According to a current estimate of plan assets including the impact of the voluntary contribution of stock and projected discounted obligations, the underfunding has decreased to approximately \$300 million. As a result, the plan's obligations are now estimated to be approximately 78% funded.

The shares were contributed to the plans in a private placement.

An independent fiduciary, Evercore Trust Company, N.A., will make all investment decisions with respect to the contributed shares.

**Forward-Looking Statements**

Certain statements made in this press release and other written or oral statements made by or on behalf of the company constitute "forward-looking statements" within the meaning of the federal securities laws, including statements regarding the company's future performance, as well as management's expectations, beliefs, intentions, plans, estimates or projections relating to the future. Management believes that these forward-looking statements are reasonable. However, the company cannot guarantee that future events will not impact the return on the company stock contributed to the pension plan and affect the future funding obligations we predict, or that its actual results will be consistent with the forward-looking statements and you should not place undue reliance on them. These statements are based on current expectations and speak only as of the date they are made. The company undertakes no obligation to publicly update or revise any forward-looking statement, whether as a result of future events, new information or otherwise. Important factors regarding the company that may cause results to differ from expectations are included in the company's Annual Report on Form 10-K for the year ended December 27, 2008, under Item 1A "Risk Factors", and in the company's other filings with the SEC.

**About OfficeMax**

OfficeMax Incorporated (NYSE: OMX) is a leader in both business-to-business office products solutions and retail office products. The OfficeMax mission is simple. We help our customers do their best work. The company provides office supplies and paper, in-store print and document services through OfficeMax ImPress<sup>®</sup>, technology products and solutions, and furniture to consumers and to large, medium and small businesses. OfficeMax customers are served by over 30,000 associates through direct sales, catalogs, e-commerce and more than 1,000 stores. To find the nearest OfficeMax, call 1-877-OFFICEMAX. For more information, visit [www.officemax.com](http://www.officemax.com).

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