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

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**FORM 8-K**

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

**Date of Report (Date of Earliest Event Reported): January 3, 2018**

**Commission file number 1-10948**

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**OFFICE DEPOT, INC.**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation or organization)

**6600 North Military Trail, Boca Raton, FL**  
(Address of principal executive offices)

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

**33496**  
(Zip Code)

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

**Former name or former address, if changed since last report: N/A**

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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))

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

Emerging growth company

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

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**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

*Appointment of Joseph T. Lower as Executive Vice President, Chief Financial Officer*

On January 3, 2018, Office Depot, Inc. (the “Company”) announced that it has appointed Mr. Joseph T. Lower (age 50) to serve as Executive Vice President, Chief Financial Officer effective January 8, 2018. Prior to joining the Company, Mr. Lower most recently served as Vice President and Chief Financial Officer at B/E Aerospace, Inc., where he oversaw all the financial reporting for the company. Prior to joining B/E Aerospace, Inc. in 2014, Mr. Lower was Vice President of Business Development and Strategy for The Boeing Company, where he spent 12 years. Among other finance positions, Mr. Lower spent six years with Credit Suisse in various investment banking roles including positions in mergers and acquisitions, and corporate finance. Mr. Lower holds a Master of Business Administration from the J.L. Kellogg Graduate School of Management at Northwestern University and a Bachelor of Arts in Finance from the Indiana University Kelley School of Business.

Further information about Mr. Lower and his appointment as Executive Vice President, Chief Financial Officer is included in the Company’s press release issued on January 3, 2018, which is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

**Description of Agreements with Mr. Lower**

Letter Agreement between the Company and Mr. Lower

The Company entered into a Letter Agreement (the “Letter Agreement”) with Mr. Lower, which sets forth the terms of Mr. Lower’s employment with the Company as Executive Vice President, Chief Financial Officer, effective January 8, 2018 (the “Effective Date”).

This summary of the Letter Agreement does not purport to be complete and is subject to and qualified in its entirety by reference to the text of the Letter Agreement filed as Exhibit 10.1 to this Current Report on Form 8-K. Exhibit 10.1 is incorporated herein by reference into this Item 5.02.

Base Salary. Mr. Lower will receive an annual base salary of \$600,000.

Bonuses. Mr. Lower will be eligible to receive an annual target bonus equal to 80% of his annual eligible earnings, subject to the terms and conditions of the Office Depot, Inc. 2018 Corporate Incentive Plan.

Sign-On Equity. Mr. Lower will receive a new hire sign-on equity award following the Effective Date equal to a value of \$2,000,000. The actual number of shares Mr. Lower will receive will be determined based on the closing stock price on the date of grant and will consist of time vested restricted stock, with vesting occurring in one-third installments on each of the first three anniversaries of the grant date as long as Mr. Lower is continuously employed by the Company through each anniversary date.

Long-Term Incentive Compensation. Mr. Lower will receive an award equal to a value of \$1,500,000 under the Company’s 2018 Long Term Incentive Plan at the time 2018 grants are made. The actual number of shares Mr. Lower will receive will be determined based on the methodology approved by the Compensation Committee of the Board of Directors for the 2018 annual grant.

Clawback Provisions. Any incentive-based compensation or other amounts paid to Mr. Lower pursuant to the Letter Agreement or any other agreements or arrangements with the Company will be subject to clawback under any applicable Company clawback policy (including any such policy adopted by the Company pursuant to applicable law, government regulation or stock exchange listing requirement).

Change in Control Agreement. Mr. Lower is eligible to participate in the Company’s Executive Change in Control Plan which provides for severance benefits in the event that he is involuntarily terminated following a Change in Control, as will be defined therein, at the Tier 1 level. The Executive Change in Control Plan is previously described and filed as Exhibit 10.1 to the Company’s Current Report on Form 8-K filed on August 7, 2014.

Termination of Employment. If Mr. Lower is involuntarily terminated by the Company without Cause (as defined in the Letter Agreement) or voluntarily resigns for Good Reason (as defined in the Letter Agreement), then the Company will pay to Mr. Lower the following as severance benefits:

- (i) 18 months of Mr. Lower’s base salary at the rate in effect on the date of his employment termination;

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- (ii) 18 times the difference between the Company's monthly COBRA charge on the date of Mr. Lower's employment termination for the type of Company-provided group health plan coverage in effect for Mr. Lower on that date and the applicable active employee charge for such coverage;
  - (iii) a bonus calculated based on actual performance under the Company's annual bonus plan for the Company's fiscal year in which the termination occurs, and Mr. Lower's annual eligible earnings in the fiscal year in which the termination occurs, with payment under this subsection (iii) being made to Mr. Lower at the same time as payments made to other participants in the corporate bonus program, as described in the Letter Agreement; and
  - (iv) any earned but unpaid annual bonus for the completed fiscal year preceding the fiscal year of termination, which unpaid bonus will be paid when annual bonuses are paid to other senior executives for such fiscal year.

Miscellaneous. Mr. Lower will be eligible to participate in the Company's Executive Car Allowance Program in accordance with its terms, as the terms may be amended from time to time (currently, a bi-weekly car allowance of \$600). The Company will also pay or will reimburse Mr. Lower for legal fees incurred in negotiating and entering into the Letter Agreement and related agreements and amendments, up to a maximum of \$10,000.

Mr. Lower's employment with the Company is also subject to the execution by him of the Company's Associate Non-Competition, Confidentiality and Non-Solicitation Agreement (the "Associate Agreement"), which agreement contains customary covenants regarding confidentiality, non-disclosure, non-competition, non-solicitation, non-disparagement, and proprietary rights. The Associate Agreement is substantially similar to the Form of Associate Agreement between the Company and certain executives of the Company previously filed as Exhibit 10.51 to its Annual Report on Form 10-K on February 22, 2011.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit 10.1 [Letter Agreement between the Company and Joseph T. Lower](#)

Exhibit 99.1 [Office Depot, Inc. Press Release dated January 3, 2018](#)



# Office DEPOT.

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December 29, 2017

Joseph Lower  
11774 Calleta Court  
Palm Beach Gardens, FL 33418

Dear Joe:

It is with great pleasure that I confirm our offer of employment with Office Depot. We are looking forward to having you as part of our team.

This letter confirms the details of the offer, which are set forth below. Please note that this offer is contingent upon the satisfactory outcome of a background check and should not be construed as a formal contract of employment. A background check may include, but is not limited to, a criminal record check, educational record check, verification of prior employment, credit check, Social Security number verification and drug screen, if required for the position.

**Position:** Executive Vice President, Chief Financial Officer, reporting to the Chief Executive Officer.

**Base Salary:** You will be paid \$600,000.00 annually, which is subject to deductions for taxes and other withholdings as required by law. This annual amount will be paid as a weekly salary which you will receive on a bi-weekly basis. As an exempt employee, your hours in this position may fluctuate, and each weekly portion of your salary will compensate you for all hours you work during that week.

**Start Date:** January 8, 2018

**Location:** Boca Raton, Florida

**Bonus Eligibility:** You will be eligible to participate in the Office Depot, Inc. 2018 Corporate Incentive Plan (the "Plan"). Any incentive payable under the Plan for 2018 will be paid in 2019, no later than March 15, 2019, and subject to the Plan's terms and conditions. The Plan currently provides an incentive target payout of 80% of your annual eligible earnings.

**Sign-On Equity:** You will receive a new hire sign-on equity award following your Start Date equal to a value of \$2,000,000.00. The actual number of shares you will receive will be determined based on the closing stock price on the date of grant and will consist of time vested restricted stock, with vesting occurring in one-third installments on each of the first three anniversaries of the grant date as long as you are continuously employed by the Company through each anniversary date.

**Long-Term Incentive Plan:** You will receive an award equal to a value of \$1,500,000.00 under the 2018 Long Term Incentive Plan at the time 2018 grants are made. The actual number of shares you will receive will be determined based on the methodology approved by the Compensation Committee of the Board of Directors for the 2018 annual grant.

**Car Allowance:** You are eligible for the Executive Car Allowance Program, which is intended to cover expenses associated with owning/leasing and maintaining a vehicle. The current allowance is a flat amount of \$600.00 which will be included in each bi-weekly paycheck.

**Paid Time-Off:** You will be eligible for paid time off in accordance with the terms of Office Depot's Paid Time Off policy, as the terms may be amended from time to time (currently, 208 hours of paid time off per year).

**Benefits:** A summary of the benefits for which you will be eligible is enclosed.

**Non-Compete Agreement:** For and in consideration of the above compensation terms, the sufficiency of which you acknowledge by your acceptance of this position, enclosed is an important document, which requires your execution – the Associate Non-Competition, Confidentiality and Non-Solicitation Agreement. Please return this document within ten (10) days hereof (a return envelope has been provided for your convenience). Your offer for employment is also conditioned upon your representation that you do not have any post-employment obligations (contractual or otherwise) that would limit in any respect your employment with Office Depot and your contemplated duties or otherwise subject Office Depot to liability for breach of any such obligations. Your acceptance of employment shall constitute your affirmation of the foregoing representation.

**Employment at Will/Severance:** All employment with Office Depot is at will, and nothing herein shall be construed to constitute an employment agreement or deemed a guarantee of continued employment. In the event that, at any time during your employment (except as provided in the CIC Plan (defined below)), you are terminated by Office Depot without Cause, or you resign for Good Reason, Office Depot will pay to you, less applicable taxes and other deductions required by law, the sum of (i) 18 months of your then-prevailing base salary at the rate in effect on the date of your employment termination, (ii) 18 times the difference between Office Depot's monthly COBRA charge on your date of employment termination for the type of Company-provided group health plan coverage in effect for you on that date and the applicable active employee charge for such coverage, (iii) bonus calculated based on actual performance under Office Depot's annual bonus plan for Office Depot's fiscal year in which the employment termination occurs, and your annual eligible earnings in the fiscal year in which the employment termination occurs, and (iv) any earned but unpaid annual bonus for the completed fiscal year preceding the fiscal year of termination, which unpaid bonus will be paid when annual bonuses are paid to other senior executives for such fiscal year. Payment due under (iii), if any, will be made at the same time as payments are made to other active participants in the annual bonus plan following determination of actual performance by the Compensation Committee. Office Depot must deliver to you a release agreement in a form substantially consistent with Office Depot's standard form of general release used for officers and not inconsistent with the terms of this letter (the "Release") within seven days following the date of your employment termination. As a condition to receipt of the severance benefits specified in this section, you must (A) sign the Release and return the signed Release to Office Depot within the time period prescribed in the Release (which will not be more than 45 days after Office Depot delivers the Release to you), and (B) not revoke the Release within any seven-day revocation period that applies to you under the Age Discrimination in Employment Act of 1967, as amended; the total period of time described in (A) and (B) above is the "Release Period." Office Depot will pay the severance benefits specified in this section to you in a lump sum within 15 days following the expiration of the Release Period. In the event you decline or fail for any reason to timely execute and deliver the Release or you revoke the Release, then you will not be entitled to the severance benefits specified in this section. Unless otherwise agreed to in writing by Office Depot, the severance benefits specified in this section shall be in lieu of any severance payment or benefit under any Office Depot severance plan, policy, program or practice (whether written or unwritten) and, therefore, such severance benefits shall be the exclusive source of any severance benefits. For purposes of this letter, other than as applies under the CIC Plan, Cause and Good Reason are defined as follows:

"Cause" means: (i) your willful failure to perform your material duties (other than any such failure resulting from incapacity due to physical or mental illness); (ii) your willful failure to comply with any valid and legal directive of the CEO; (iii) your engagement in dishonesty, illegal conduct or misconduct, which is, in each case, materially injurious to Office Depot or its affiliates; (iv) your embezzlement, misappropriation or fraud, whether or not related to your employment with Office Depot; (v) your conviction of or plea of guilty or nolo contendere to a crime that constitutes a felony (or state law equivalent) or a crime that constitutes a misdemeanor involving moral turpitude; (vi) your willful violation of a material policy of Office Depot; or (vii) your material breach of any material obligation under this letter, the Associate Non-Competition, Confidentiality and Non-Solicitation Agreement, or any other written agreement between Office Depot and you. Termination of your employment shall not be deemed to be for Cause unless and until Office Depot delivers to you a copy of a resolution duly adopted by the affirmative vote of not less than two-thirds of the

Board, finding that you are guilty of the conduct described in any of (i) through (vii) above, after having afforded you a reasonable opportunity to appear (with counsel) before the Board. Except for a failure, breach or refusal which, by its nature, cannot reasonably be expected to be cured, you shall have thirty (30) business days from the delivery of written notice by Office Depot within which to cure any acts constituting Cause; provided, however, that if Office Depot reasonably expects irreparable injury from a delay of thirty business (30) days, Office Depot may give you notice of such shorter period within which to cure as is reasonable under the circumstances, which may include the termination of your employment without notice and with immediate effect. For purposes of this "Cause" definition, no act or failure by you shall be considered "willful" if such act is done by you in the good faith belief that such act is or was in the best interests of Office Depot or one or more of its businesses.

"Good Reason" means the occurrence of any one or more of the following, in each case without your written consent: (i) a material reduction in your Base Salary (as such annual base salary may be increased from time to time), except for across-the-board annual base salary reductions affecting the executive leadership team; (ii) the relocation of Office Depot's principal executive office to a location more than fifty miles (or such longer distance that is the minimum permissible distance under the circumstances for purposes of the involuntary separation from service standards under the Treasury Regulations or other guidance under Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A")) from its location on your Start Date and that results in a material increase to your normal daily commute, except for required travel on business for Office Depot or any subsidiary; (iii) the failure of Office Depot to obtain a satisfactory agreement from any successor to assume and agree to perform this letter and the CIC Plan; or (iv) material breach by Office Depot of any material provision of this letter, unless arising from your inability to materially perform your duties contemplated hereunder; provided, however, that you will only have Good Reason if you provide notice of termination to Office Depot of the existence of the event or circumstance constituting Good Reason specified in any of the preceding clauses within ninety (90) days of the initial existence of such event or circumstances and if such event or circumstance is not cured within thirty (30) days after Office Depot's receipt of such notice of termination. If you initiate your separation from service for Good Reason, the actual separation from service must occur within sixty (60) days after the date of the notice of termination. Your failure to timely give notice of termination of the occurrence of a specific event that would otherwise constitute Good Reason will not constitute a waiver of your right to give notice of any new subsequent event that would constitute Good Reason that occurs after such prior event (regardless of whether the new subsequent event is of the same or different nature as the preceding event).

**Change in Control Plan:** You will be eligible to participate in the Executive Change in Control Plan ("CIC Plan") which provides for severance in the event that you are involuntarily terminated following a Change in Control, as defined therein, at the Tier 1 level. Enclosed you will find a copy of the CIC Plan for your reference as well as a Notice of Selection for Participation in Executive Change in Control Severance Plan ("Notice") which requires your acceptance prior to your effective participation in the CIC Plan. Please return the signed Notice to me along with your signed offer letter.

**Tax Treatment:** This letter will be construed and administered to preserve the exemption from Section 409A of the Internal Revenue Code of 1986, as amended, and the guidance thereunder ("Section 409A") of payments that qualify as short-term deferrals pursuant to Treas. Reg. § 1.409A-1(b)(4) or that qualify for the two-times compensation exemption of Treas. Reg. § 1.409A-1(b)(9)(iii). With respect to other amounts that are subject to Section 409A, it is intended, and this letter will be so construed, that any such amounts payable under this letter and Office Depot's and your exercise of authority or discretion hereunder shall comply with the provisions of Section 409A so as not to subject you to the payment of interest and additional tax that may be imposed under Section 409A. As a result, with respect to any amount that is subject to Section 409A (i) references to your termination of employment shall be deemed references to your "separation from service" within the meaning of Treas. Reg. § 1.409A-1(h), and (ii) in the event you are a "specified employee" within the meaning of Treas. Reg. § 1.409A-1(i) on the date of your separation from service (with such status determined by Office Depot in accordance with rules established by Office Depot in writing in advance of the "specified employee identification date" that relates to the date of your separation from service or in the absence of such rules established by Office Depot, under the default rules for identifying specified employees under Treas. Reg. § 1.409A-1(i)), any amount that is payable to

you in connection with your separation from service shall be paid six months after such separation from service (if you die after the date of your separation from service but before a payment has been made, such payment will be paid to your estate without regard to such six-month delay). For purposes of Section 409A, your right to receive installment payments pursuant to this letter will be treated as a right to receive a series of separate and distinct payments. To the extent that reimbursements or other in-kind benefits under this letter constitute nonqualified deferred compensation, (x) all expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by you, (y) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (z) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year. You acknowledge and agree that Office Depot has made no representation to you as to the tax treatment of the compensation and benefits provided pursuant to this letter and that you are solely responsible for all taxes due with respect to such compensation and benefits.

**Clawback Provisions:** Any incentive-based compensation or other amounts paid to you pursuant to any and all agreements or arrangements with the Company will be subject to clawback under any applicable Company clawback policy (including any such policy adopted by the Company pursuant to applicable law, government regulation or stock exchange listing requirement).

**Professional fees:** Office Depot shall pay or you shall be reimbursed for your legal fees and other costs incurred in negotiating and entering into this offer letter and related agreements and amendments up to a maximum of \$10,000.00, provided that you submit applicable invoices to Office Depot within 90 days following the Start Date. Any payment required under this provision shall be made as soon as administratively practicable after the Start Date.

**Miscellaneous:** Office Depot is required to verify your eligibility to work in the United States. Accordingly, on your first day of work at Office Depot, you must complete an Employment Eligibility Verification Form and provide original documentation establishing your identity and employment eligibility. The List of Acceptable Documents for this purpose is enclosed for your reference.

If you fail to provide the necessary documentation to establish your identity and eligibility to work in the United States by the close of business of your second day of work, you will not be permitted to work at Office Depot.

Joe, we are excited to have you join management as Executive Vice President, Chief Financial Officer. I look forward to your response as soon as practicable.

Sincerely,

/s/ Gerry P. Smith  
Gerry P. Smith  
Chief Executive Officer

Enclosures

Agreed and Accepted by:

/s/ Joseph Lower  
Joseph Lower

12/29/2017  
Date

# Office DEPOT. OfficeMax®

## NEWS RELEASE

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### OFFICE DEPOT, INC. ANNOUNCES APPOINTMENT OF NEW CHIEF FINANCIAL OFFICER

*Former B/E Aerospace, Inc. Executive Joseph Lower  
to Replace Retiring CFO Stephen Hare*

**Boca Raton, Fla., January 3, 2018** – Office Depot, Inc. (NASDAQ:ODP), a leading omnichannel provider of business services, products and technology, today announced the appointment of Joseph T. Lower as Executive Vice President and Chief Financial Officer, effective January 8, 2018.

As CFO, Lower will report directly to Chief Executive Officer Gerry Smith and be a member of the Executive Committee. He will be responsible for overseeing all financial aspects of the company, including financial planning and analysis, accounting and financial reporting, as well as managing the tax, internal audit, treasury, and investor relations functions.

“We are excited to have Joe join the company as we continue to transform for the future,” said Smith. “His operational skills, business acumen and financial markets experience will help us deliver value for our shareholders. He will also play a key role in accelerating our efforts to disrupt the market and challenge the traditional ways of thinking about our core business.”

“Office Depot is in an exciting early stage of transforming from a traditional provider of primarily office products into a broader product and business services platform, and I’m honored to be joining the team at this pivotal time,” said Lower. “The company has a strong balance sheet and a willingness to reinvest to strengthen its core while concurrently pursuing innovative opportunities to leverage its key assets and disrupt traditional retail thinking.”

Lower most recently served as Vice President and Chief Financial Officer at B/E Aerospace, Inc., where he oversaw all the financial reporting for the company. Prior to joining B/E Aerospace, Inc. in 2014, Lower was Vice President of Business Development and Strategy for The Boeing Company, where he spent 12 years. Among other finance positions, Lower spent six years with Credit Suisse in various investment banking roles including positions in mergers and acquisitions, and corporate finance.

Lower holds a Master of Business Administration from the J.L. Kellogg Graduate School of Management at Northwestern University and a Bachelor of Arts in Finance from the Indiana University Kelley School of Business.

Lower succeeds Stephen E. Hare, Executive Vice President and Chief Financial Officer, who is retiring after four years in the role. Hare will assist in the transition of duties. “I want to thank Steve for his leadership and contributions over his distinguished career and wish him all the best in his retirement,” said Smith.

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**About Office Depot, Inc.**

Office Depot, Inc. is a leading provider of office supplies, business products and services delivered through an omnichannel platform.

The company had 2016 annual sales of approximately \$11 billion, employed approximately 38,000 associates, and served consumers and businesses in North America and abroad with approximately 1,400 retail stores, award-winning e-commerce sites and a dedicated business-to-business sales organization – with a global network of wholly owned operations, franchisees, licensees and alliance partners. The company operates under several banner brands including Office Depot®, OfficeMax®, BizBox, CompuCom®, Complete Office and Grand&Toy®. The company’s portfolio of exclusive product brands include TUL®, Foray®, Brenton Studio®, Ativa®, WorkPro®, Realspace® and Highmark®.

Office Depot, Inc.’s common stock is listed on the NASDAQ Global Select Market under the symbol “ODP.”

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