

XEROX CORP  
Form S-8 POS  
February 08, 2010

As filed with the U.S. Securities and Exchange Commission on February 8, 2010

Registration No. 333-162639

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

**POST-EFFECTIVE AMENDMENT NO. 1**  
**ON**  
**FORM S-8**  
**TO**  
**FORM S-4**  
**REGISTRATION STATEMENT**

*Under*

*THE SECURITIES ACT OF 1933*

**XEROX CORPORATION**

(Exact name of registrant as specified in its charter)

|  |                                  |                               |
|--|----------------------------------|-------------------------------|
|  | <b>45 Glover Avenue</b>          |                               |
| <b>New York</b>                        | <b>Norwalk Connecticut 06856</b> | <b>16-0468020</b>             |
| <b>(State or other jurisdiction of</b> | <b>(Address of principal</b>     | <b>(I.R.S. Employer</b>       |
| <b>incorporation or organization)</b>  | <b>executive offices)</b>        | <b>Identification Number)</b> |

**Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan**

**Affiliated Computer Services, Inc. 1997 Stock Incentive Plan**

**(Full Title of the Plans)**

**Don H. Liu,**

**Secretary**

**Xerox Corporation**

**45 Glover Avenue**

**Norwalk Connecticut 06856**

**(Name and address of agent for service)**

**(203) 968-3000**

**(Telephone number, including area code, of agent for service)**

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

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

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| <b>Title of each class of securities to be registered</b> | <b>Amount to be registered (1)(2)</b> | <b>Proposed maximum offering price per share (3)</b> | <b>Proposed maximum aggregate offering price (3)</b> | <b>Amount of registration fee (3)</b> |
|---|---------------------------------------|--|--|---------------------------------------|
| Common Stock, par value \$1.00 per share                  | 96,663,350                            | N/A  | N/A  | N/A                                   |

- (1) The number of shares registered is based on an estimate of the maximum number of shares of common stock, par value \$1.00 per share, of Xerox ( Xerox Common Stock ) issuable under the Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan and the Affiliated Computer Services, Inc. 1997 Stock Incentive Plan.
- (2) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act ), this Registration Statement shall be deemed to cover an indeterminate number of additional shares that may become issuable as a result of stock splits, stock dividends or similar transactions pursuant to the anti-dilution provisions of the Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan and the Affiliated Computer Services, Inc. 1997 Stock Incentive Plan.
- (3) The proposed maximum offering price was calculated and the fee was previously paid in connection with the filing with the U.S. Securities and Exchange Commission (the Commission ) of the Registration Statement on Form S-4 of Xerox (File No. 333-162639) on October 23, 2009.

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**INTRODUCTORY STATEMENT**

Xerox Corporation, a New York corporation ( Xerox, the Company or the Registrant ), hereby amends its Registration Statement on Form S-4 (Registration No. 333-162639), as amended by Amendments No. 1, 2, 3 and 4, which was declared effective on December 23, 2009 (the Form S-4 ), by filing this Post-Effective Amendment No. 1 on Form S-8 (this Post-Effective Amendment ). Xerox filed the Form S-4 in connection with the merger (the Merger ) contemplated by the Agreement and Plan of Merger, dated as of September 27, 2009 and amended as of December 13, 2010 (the Merger Agreement ), by and among Xerox, Boulder Acquisition Corp. and Affiliated Computer Services, Inc. ( ACS ).

Under the terms of the Merger Agreement, each share of ACS Class A common stock, par value \$0.01 per share, of ACS ( ACS Common Stock ), subject to certain exceptions, was converted into the right to receive 4.935 shares of Xerox Common Stock (the Stock Consideration ) and \$18.60 in cash (together with the Stock Consideration, the Merger Consideration ). Pursuant to the terms of the Merger Agreement, at the effective time of the Merger all outstanding options to acquire shares of ACS Common Stock issued pursuant to the terms of the Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan and the Affiliated Computer Services, Inc. 1997 Stock Incentive Plan were converted into corresponding options to acquire Xerox Common Stock based on the option exchange ratio set forth in the Merger Agreement.

Xerox hereby amends the Form S-4 by filing this Post-Effective Amendment relating to 96,663,350 shares of Xerox Common Stock issuable upon the exercise of options granted pursuant to the terms of the Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan and the Affiliated Computer Services, Inc. 1997 Stock Incentive Plan. All such shares were previously registered on the Form S-4 but will be subject to issuance pursuant to this Post-Effective Amendment.

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The documents containing the information specified in Part I of this Post-Effective Amendment have been or will be sent or given to participant employees as specified by Rule 428(b)(1) of the Securities Act. These documents and the documents incorporated by reference in this Post-Effective Amendment 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 in this Registration Statement the following documents and information heretofore filed with the Commission:

- (1) Registrant's Annual Report on Form 10-K for the year ended December 31, 2008 filed with the Commission on February 13, 2009, and Form 10-K/A for the year ended December 31, 2008 filed with the Commission on March 13, 2009;
- (2) Registrant's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009, filed with the Commission on April 30, 2009, August 3, 2009 and October 22, 2009, respectively;
- (3) Registrant's Current Reports on Form 8-K filed with the Commission on April 24, 2009 (Item 1.01 only); May 11, 2009; May 21, 2009; May 28, 2009; June 15, 2009; July 1, 2009; September 28, 2009; September 28, 2009; November 23, 2009; December 1, 2009; December 8, 2009; December 14, 2009; December 14, 2009; January 8, 2010 and February 5, 2010; and

- (4) Description of Registrant's Common Stock, contained in Amendment No. 5 to Form 8-A filed with the Commission on February 8, 2000.

In addition, all reports (other than portions of Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K, unless otherwise indicated therein) filed pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers all securities then remaining unsold shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing such documents. Any statement contained in a document 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 in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

The validity of the securities has been passed upon by Don H. Liu, Esq., General Counsel of Xerox. As of the date of this Registration Statement, Mr. Liu beneficially owns shares of Xerox common stock.

**Item 6. Indemnification of Directors and Officers.**

The Registrant, a New York corporation, is empowered by Sections 721-726 of the New York Business Corporation Law, subject to the procedures and limitations therein, to indemnify and hold harmless any director or officer or other person from and against any and all claims and demands whatsoever, subject to such standards and restrictions, if any, as are set forth in its Certificate of Incorporation or By-laws.

The Registrant's Certificate of Incorporation does not contain indemnification provisions. Article VIII of the Registrant's By-laws requires the Registrant to indemnify any person made or threatened to be made a party in any civil or criminal action or proceeding, including an action or proceeding by or in the right of the Registrant to procure a judgment in its favor or by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of the Registrant served in any capacity at the request of the Registrant, by reason of the fact that he, his testator or intestate is or was a director or officer of the Registrant or serves or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, in any capacity against judgments, fines, penalties, amounts paid in settlement and reasonable expenses, including attorneys' fees, incurred in connection with such action or proceeding, or any appeal therein, provided that no such indemnification shall be required with respect to any settlement unless the Registrant shall have given its prior approval thereto.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

See Exhibits Index.

The Registrant hereby undertakes that it will submit the Plans and any amendments thereto to the Internal Revenue Services ( IRS ) in a timely manner and will make all changes required by the IRS to qualify the Plans.

**Item 9. Undertakings.**

The undersigned Registrant hereby undertakes:

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(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 of 1933, as amended (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; 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 clauses (i) and (ii) of this section 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 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.

(4) 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.

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 Securities and Exchange 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 of 1933, as amended, 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 Norwalk, State of Connecticut, on February 8, 2010.

XEROX CORPORATION

By: /s/ DON H. LIU  
 Name: **Don H. Liu**  
 Title: **Secretary**

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities indicated below on February 8, 2010.

|       | <b>Signature</b>              | <b>Title</b>                                |
|-------|-------------------------------|---|
|       | *                             | Chief Executive Officer and Director        |
| Name: | <b>Ursula M. Burns</b>        | (Principal Executive Officer)               |
|       | *                             | Vice Chairman and Chief Financial Officer   |
| Name: | <b>Lawrence A. Zimmerman</b>  | (Principal Financial Officer)               |
|       | *                             | Vice President and Chief Accounting Officer |
| Name: | <b>Gary R. Kabureck</b>       | (Principal Accounting Officer)              |
|       | *                             | Director                                    |
| Name: | <b>Glenn A. Britt</b>         |   |
|       | *                             | Director                                    |
| Name: | <b>Richard J. Harrington</b>  |   |
|       | *                             | Director                                    |
| Name: | <b>William Curt Hunter</b>    |   |
|       | *                             | Director                                    |
| Name: | <b>Robert A. McDonald</b>     |   |
|       | *                             | Director                                    |
| Name: | <b>Anne M. Mulcahy</b>        |   |
|       | *                             | Director                                    |
| Name: | <b>Charles Prince</b>         |   |
|       | *                             | Director                                    |
| Name: | <b>Ann N. Reese</b>           |   |
|       | *                             | Director                                    |
| Name: | <b>Mary Agnes Wilderotter</b> |   |



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\*By: /s/ DON H. LIU  
Name: Don H. Liu  
Title: Attorney-in-Fact

**EXHIBIT INDEX**

| <b>Exhibit Number</b> | <b>Description</b>   |
|-----------------------|--|
| 3.1                   | Restated Certificate of Incorporation of Registrant filed with the Department of State of the State of New York on November 7, 2003, as amended by Certificate of Amendment to Certificate of Incorporation filed with the Department of State of the State of New York on August 19, 2004, Certificate of Change filed with the Department of State of the State of New York on October 31, 2007, Certificate of Amendment to Certificate of Incorporation filed with the Department of State of the State of New York on May 29, 2008, Certificate of Amendment to Certificate of Incorporation filed with the Department of State of the State of New York on February 13, 2009 and Certificate of Amendment to Certificate of Incorporation filed with the Department of State of the State of New York on February 3, 2010 (incorporated by reference to Exhibit 3.1 to Registrant's Current Report on Form 8-K filed with the SEC on February 5, 2010) |
| 3.2                   | By-Laws of Registrant, as amended through May 21, 2009 (incorporated by reference to Exhibit 3(b) to Registrant's Current Report on Form 8-K filed with the SEC on May 28, 2009)   |
| 4.1                   | Affiliated Computer Services, Inc. Amended and Restated 2007 Equity Incentive Plan*  |
| 4.2                   | Affiliated Computer Services, Inc. 1997 Stock Incentive Plan*  |
| 4.3                   | Amendment No. 1 to Affiliated Computer Services, Inc. 1997 Stock Incentive Plan, dated as of October 28, 2004*   |
| 5.1                   | Opinion of Don H. Liu, Esq., Senior Vice President, General Counsel and Secretary of Xerox Corporation, as to the validity of the shares of Xerox common stock**   |
| 23.1                  | Consent of Don H. Liu, Esq., Senior Vice President, General Counsel and Secretary of Xerox Corporation (included in Exhibit 5.1 hereto)  |
| 23.2                  | Consent of PricewaterhouseCoopers LLP*   |
| 24                    | Powers of Attorney of Directors and Officers of Registrant (previously included on signature page to this Registration Statement)  |

\* Filed herewith

\*\* Previously filed as an exhibit to the Registrant's Registration Statement on Form S-4 to which this Post-Effective Amendment No. 1 relates