

XEROX CORP  
Form 8-K  
September 28, 2009

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): September 27, 2009**

**XEROX CORPORATION**

(Exact name of registrant as specified in its charter)

**New York**  
(State or other jurisdiction

of incorporation)

**001-04471**  
(Commission File Number)

**16-0468020**  
(I.R.S. Employer

Identification No.)

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45 Glover Avenue

P. O. Box 4505

Norwalk, Connecticut  
(Address of principal executive offices)

06856-4505  
(Zip Code)

Registrant's telephone number, including area code: (203) 968-3000

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 (*see* General Instruction A.2. below):

- 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 8.01. Other Events.**

On September 28, 2009, Xerox Corporation ( Xerox ) and Affiliated Computer Services, Inc. ( ACS ) issued a joint press release announcing the execution of the Agreement and Plan of Merger, dated as of September 27, 2009, among Xerox, Boulder Acquisition Corp., a wholly owned subsidiary of Xerox, and ACS. A copy of the press release is attached as Exhibit 99.1 to this report and is incorporated herein by reference.

Additional Information

This communication is being made in respect of the proposed merger transaction involving Xerox, ACS and Boulder Acquisition Corp. In connection with the proposed transaction, Xerox will file with the SEC a registration statement on Form S-4 that will include a joint proxy statement of Xerox and ACS that also constitutes a prospectus of Xerox. Each of Xerox and ACS will mail a proxy statement/prospectus to their respective stockholders, and each will be filing other documents regarding the proposed transaction with the SEC as well. BEFORE MAKING ANY VOTING OR INVESTMENT DECISION, INVESTORS ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS REGARDING THE PROPOSED TRANSACTION AND ANY OTHER RELEVANT DOCUMENTS CAREFULLY IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION. Stockholders will be able to obtain a free copy of the proxy statement/prospectus, as well as other filings containing information about Xerox and ACS, without charge, at the SEC's Internet site (<http://www.sec.gov>). Copies of the proxy statement/prospectus and the filings with the SEC that will be incorporated by reference in the proxy statement/prospectus can also be obtained, without charge, from Xerox's website, [www.xerox.com](http://www.xerox.com), under the heading "Investor Relations" and then under the heading "SEC Filings" or, without charge, from ACS's website, [www.acs-inc.com](http://www.acs-inc.com), under the tab "Investor Relations" and then under the heading "SEC Filings".

Xerox, ACS and their respective directors and executive officers and other persons may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding Xerox's directors and executive officers is available in Xerox's proxy statement for its 2009 annual meeting of stockholders and Xerox's 2008 Annual Report on Form 10-K, which were filed with the SEC on April 6, 2009 and February 13, 2009, respectively, and information regarding ACS's directors and executive officers is available in ACS's proxy statement for its 2009 annual meeting of stockholders and ACS's 2009 Annual Report on Form 10-K, which were filed with the SEC on April 14, 2009 and August 27, 2009, respectively. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the proxy statement/prospectus and other relevant materials to be filed with the SEC when they become available.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
99.1	Press Release issued by Xerox Corporation and Affiliated Computer Services, Inc., dated September 28, 2009.

**SIGNATURES**

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

Date: September 28, 2009

XEROX CORPORATION

By: /s/ Ursula M. Burns

Name: Ursula M. Burns

Title: Chief Executive Officer

**EXHIBIT INDEX**

**Exhibit No.**      **Description**  
 99.1                Press Release issued by Xerox Corporation and Affiliated Computer Services, Inc., dated September 28, 2009.  
 9); David Pendarvis (\$897); Adrian Smith (\$2,257); Christopher Roberts (\$1,317); and Paul Eisen (\$2,294). The remainder represents ResMed's contributions to defined contribution plans.

<sup>(3)</sup> Mr. Gallahue joined ResMed in January 2003. Mr. Pendarvis joined ResMed in September 2002. Mr. Roberts resigned from ResMed in January 2004. Mr. Eisen first became an executive officer in January 2004. This table does not include compensation during the periods they were not executive officers.

**Stock Options**

The following table sets forth certain information with respect to option grants made during the fiscal year ended June 30, 2004 to the Named Officers.

**Option Grants in Last Fiscal Year**

<b>Name</b>	<b>Number of Securities Underlying Options Granted <sup>(1)</sup></b>	<b>% of Total Options Granted to Employees in Fiscal Year</b>	<b>Exercise or Base Price (\$/Sh)</b>	<b>Expiration Date</b>	<b>Potential Realizable Value at Assumed Annual Rates of Share Price Appreciation for Option Term (\$) <sup>(2)</sup></b>	
					<b>5%</b>	<b>10%</b>
Peter C. Farrell	60,000	7.1	41.49	Dec. 18, 2013	1,372,476	3,380,475
Kieran Gallahue	0	0	N/A	N/A	0	0
David Pendarvis	6,000	.7	41.49	Dec. 18, 2013	137,248	338,047
Adrian Smith	10,000	1.2	41.49	Dec. 18, 2013	228,746	563,412
Christopher Roberts	0	0	N/A	N/A	0	0
Paul Eisen	15,000	1.8	41.49	Dec. 18, 2013	343,119	845,119

<sup>(1)</sup> Represents options granted under our 1997 Equity Participation Plan, which are exercisable 33% per year on the anniversary date of grant starting on the first anniversary of the grant date. Under the 1997 Plan, this exercise schedule may be accelerated in certain specific

situations. In addition, we have the right to require the surrender of outstanding options on the grant of lower priced options to the same individual.

(2) Assumed annual rates of share appreciation for illustrative purposes only. Actual share prices and realizable value will vary from time to time based on market factors and our financial performance. No assurance can be given that such rates will be achieved.

The following table sets forth information concerning the stock option exercises by our Named Officers during the fiscal year ended June 30, 2004 and the unexercised stock options held at June 30, 2004 by the Named Officers.

**Aggregate Option Exercises in Last Fiscal Year and Fiscal Year-End Option Values**

Name	Shares Acquired on Exercise	Value Realized (\$)	Number of Securities Underlying Unexercised Options at FY-End		Value of Unexercised In-the-Money Options at FY-End (\$) <sup>(1)</sup>	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Peter C. Farrell	74,374	1,848,622	180,593	126,667	4,560,328	1,600,733
Kieran Gallahue	0	0	16,666	133,334	316,487	2,532,013
David Pendarvis	0	0	10,000	26,000	184,450	425,720
Adrian Smith	19,000	796,362	53,333	21,667	1,512,250	267,025
Christopher G. Roberts	60,000	1,963,440	40,000	35,000	711,453	303,872
Paul Eisen	0	0	2,000	19,000	51,080	244,210

(1) Represents the amount by which the closing sales price of our common stock on the New York Stock Exchange on June 30, 2004 (\$50.96 per share), multiplied by the number of shares to which the in-the-money options apply, exceeded the exercise price of those options.

**Equity Compensation Plan Information**

The following table summarizes outstanding stock option plan balances as at June 30, 2004:

Plan Category	Number of securities to be issued on exercise of outstanding options	Weighted average exercise price of outstanding options	Number of securities remaining available for future issuance under equity compensation plans
1997 Equity participation plan approved by security holders	4,416,356	\$ 32.38	1,149,566 <sup>(1)</sup>
Employee stock purchase plan approved by security holders	0	0	3,250,000
	0	0	0

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Equity compensation plans not approved by security holders

Total	4,416,356	\$ 32.38	4,399,566
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- (1) The total number of authorized shares of common stock under the 1997 Equity Participation Plan was initially established at 1,000,000 and increases at the beginning of each fiscal year, commencing on July 1, 1998, by an amount equal to 4% of the outstanding common stock on the last day of the preceding fiscal year. The maximum number of shares of common stock issuable on exercise of incentive stock options granted under the 1997 Plan, however, cannot exceed 8,000,000.

### Report of the Compensation Committee

#### Introduction

Decisions regarding compensation of our executive officers are made based on recommendations by the Compensation Committee, which is composed of three independent directors. The Compensation Committee's decisions on compensation of our executive officers, other than ResMed's Chief Executive Officer, are reviewed and approved by the full board. Set forth below is a report submitted by Donagh McCarthy, Gary Pace and Christopher Bartlett, in their capacity as members of the board's Compensation Committee, addressing our compensation policies for fiscal year 2004 as they affected our executive officers, including the Chief Executive Officer and the other Named Officers.

## General Philosophy

The Compensation Committee reviews and determines salaries, bonuses and all other elements of the compensation packages offered to ResMed's executive officers, including its Chief Executive Officer, and establishes our general compensation policies. The Compensation Committee operates under a written charter adopted by our board of directors.

ResMed desires to attract, motivate and retain high quality employees who will enable ResMed to achieve its short- and long-term strategic goals and values. ResMed participates in a high-growth environment where substantial competition exists for skilled employees. ResMed's ability to attract, motivate and retain high caliber individuals depends in large part upon the compensation packages it offers.

ResMed believes that its executive compensation programs should reflect its financial and operating performance. In addition, individual contribution to ResMed's success should be supported and rewarded.

The 1993 Omnibus Budget Reconciliation Act ( OBRA ) became law in August 1993. Under the law, income tax deductions of publicly-traded companies in tax years beginning on or after January 1, 1994, may be limited to the extent total compensation (including base salary, annual bonus, stock option exercises, and non-qualified benefits) for certain executive officers exceeds \$1 million (less the amount of any excess parachute-payments as defined in Section 280G of the Internal Revenue Code of 1986) in any one year. Under OBRA, the deduction limit does not apply to payments that qualify as performance-based . To qualify as performance-based, compensation payments must be based solely on the achievement of objective performance goals and made under a plan that is administered by a committee of outside directors. In addition, the material terms of the plan must be disclosed to and approved by shareholders, and the Compensation Committee must certify that the performance goals were achieved before payments can be made. ResMed does not have any cash payment plans that qualify as performance-based ; however, option grants made under the 1997 Equity Participation Plan may qualify as performance-based compensation in part, so long as grants are made by the Compensation Committee at exercise prices that are equal to or greater than the fair market value of ResMed's common stock on the date of grant.

The Compensation Committee intends to design ResMed's compensation programs to conform to the OBRA legislation and related regulations so that total compensation paid to any employee will not exceed \$1 million in any one year, except for compensation payments that qualify as performance-based. ResMed may, however, pay compensation that is not deductible in limited circumstances when sound management of ResMed so requires.

ResMed's executive and key employee compensation program consists of a base salary component, a component providing the potential for an annual bonus based on relevant company performance and a component providing the opportunity to earn stock options linking the employee's long-term financial success to that of the shareholders.

## Compensation

### *Base Salary*

Officers are compensated with salary ranges that are generally based on similar positions in companies of comparable size and complexity to ResMed. In addition, the Compensation Committee uses industry compensation surveys, by outside consultants such as Mercer, Radford and



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Watson Wyatt, in determining compensation. The primary level of compensation is based on a combination of years of experience and performance. The salary of all executive officers is reviewed annually, with the amount of the increases based on factors such as company performance, general economic conditions, marketplace compensation trends and individual performance.

In fiscal year 2004, the Compensation Committee approved salary increases for the Named Officers as follows: Peter C. Farrell, 6%; Christopher G. Roberts, 5%; Adrian Smith 9%; Paul Eisen, 13%; David Pendarvis 15%; and Kieran Gallahue 0%.

### *Bonus*

The second compensation component is a bonus program under ResMed's Bonus Plan. Bonuses are primarily based on ResMed's annual financial performance and secondarily on the performance of the individual. Target bonuses generally range from 40% to 60% of base salary. The measures of annual financial performance used in determining the amount of bonuses include sales, expenses, and profitability. For fiscal 2004, all three measures were used. The bonus plan allows for over-achievement of the target bonus based on a formula approved in advance by the Compensation Committee. The

formula is similar to that described below for the Chief Executive Officer, but with target criteria specific to each officer's role.

### *Stock Options*

The third major component of the executive officers' compensation consists of stock options. The primary purpose of granting stock options is to link the officers' financial success to that of ResMed's shareholders. The Compensation Committee determines the exercise price of stock options at the time the option is granted, but generally the exercise price may not be less than the prevailing market price of ResMed's common stock as of the date of grant. Options become exercisable beginning 12 months after the date of grant and are exercisable for a maximum period of 10 years after the date of grant, as determined by the Compensation Committee.

Stock options were issued to ResMed's officers during fiscal year 2004 in accordance with the provisions of ResMed's 1997 Equity Participation Plan. The number of options granted by the Compensation Committee was based on company performance, the number of outstanding options available, salary and individual performance.

In order to continue to provide proper incentives to ResMed's employees and to further align the interests of the employees with its shareholders, in 2003 the Compensation Committee approved the adoption of an Employee Stock Purchase Plan, which is intended to qualify under Section 423 of the Internal Revenue Code of 1986, and which provides employees with the opportunity to purchase ResMed's common stock at a discount through payroll deductions. These purchases will initially occur through successive six-month offering periods under the plan. The Compensation Committee believes that this plan will provide an important incentive to employees to exert their best efforts on ResMed's behalf. The plan was approved by the shareholders and ratified at the 2003 Annual Meeting.

### **Chief Executive Officer Compensation**

The compensation of our Chief Executive Officer is based on ResMed's performance and the important role Dr. Farrell plays within ResMed as its founder, Chairman and Chief Executive Officer, as a member of the boards of ResMed's principal subsidiaries and as an active participant in new product and corporate development.

The CEO's target bonus during fiscal year 2004 was 60% of his base salary. Fifty percent of the CEO's target bonus was based on achieving budgeted revenue targets and 50% was based on achieving budgeted group profitability, excluding non-recurring items such as gains from debt repurchases. Budget targets are determined by the board of directors at the beginning of each fiscal year. The linear bonus formula allowed for receiving 50% of the target bonus at 75% of the budget target, 100% of the target bonus at 100% of budget, 150% of the target bonus at 125% of budget, and so on. There was no bonus paid for achievement of less than 75% of budget.

### **COMPENSATION COMMITTEE OF RESMED'S BOARD OF DIRECTORS:**

Christopher Bartlett (Chairman)

Donagh McCarthy

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Gary Pace

*The above report of the Compensation Committee will not be deemed to be incorporated by reference to any filing by ResMed under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that ResMed specifically incorporates it by reference.*

**Performance Graph**

Set forth below is a line graph comparing the cumulative shareholder return on our common stock against the cumulative total return of the S&P 500 Index and the S&P Health Care Equipment and Supplies Index for the period commencing June 30, 1999, assuming an investment of \$100 on June 30, 1999.

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