

MARINEMAX INC  
Form S-3  
February 26, 2013  
Table of Contents

As filed with the Securities and Exchange Commission on February 26, 2013

Registration No. 333-\_\_\_\_\_

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

**FORM S-3**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

**MarineMax, Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of

59-3496957  
(I.R.S. Employer

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incorporation or organization)

Identification Number)

**18167 U.S. Highway 19 North**

**Suite 300**

**Clearwater, Florida 33764**

**(727) 531-1700**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**William H. McGill, Jr.**

**Chairman, President, and Chief Executive Officer**

**18167 U.S. Highway 19 North**

**Suite 300**

**Clearwater, Florida 33764**

**(727) 531-1700**

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

**Copies to:**

**Robert S. Kant, Esq.**

**Derek J. Mirza, Esq.**

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**2375 East Camelback Road, Suite 700**

**Phoenix, Arizona 85016**

**(602) 445-8000**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of the Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

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If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

**Table of Contents**

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. "

If this form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. "

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. (Check one):

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>

**CALCULATION OF REGISTRATION FEE**

Title of each class of securities to be registered (1)	Amount to be registered (1)(2)	Proposed maximum offering price per unit (2)(3)	Proposed maximum aggregate offering price (2)(3)	Amount of registration fee (2)(4)
Common Stock, par value \$0.001 per share				
Preferred Stock, par value \$0.001 per share				
Debt Securities				
Depository Shares				
Warrants				
Purchase Contracts				
Units				
Total:	\$200,000,000		\$200,000,000	\$27,280.00

(1) There are being registered under this registration statement such indeterminate number of shares of common stock, preferred stock, and depository shares; number of warrants, purchase contracts, and units; and principal amount of debt securities, as will have an aggregate initial offering price not to exceed \$200,000,000. If any debt securities are issued at an original issue discount, then the offering price of such debt securities shall be in such greater principal amount as shall result in an aggregate initial offering price not to exceed \$200,000,000, less the aggregate dollar amount of all securities previously issued hereunder. Pursuant to Rule 457(i) under the Securities Act of 1933, as amended (the Securities Act), the securities being registered hereunder include such indeterminate number of shares of common stock and preferred stock as may be issuable upon the exercise of warrants or conversion or exchange of any preferred stock, depository shares, debt securities, warrants, or units issued under this registration statement. Separate consideration may or may not be received for securities that are issuable upon the exercise, conversion, or exchange of other securities. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.

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- (2) In United States dollars or the equivalent thereof in any other currency, currency unit, or units, or composite currency or currencies.
- (3) Not specified as to each class of securities to be registered pursuant to General Instruction II.D of Form S-3 under the Securities Act. The proposed maximum offering price per unit and proposed maximum aggregate offering price per class of security will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered under this registration statement.
- (4) Calculated pursuant to Rule 457(o) under the Securities Act.

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

**Table of Contents**

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities, in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED FEBRUARY 26, 2013**

**PROSPECTUS**

**\$200,000,000**

**Common Stock**

**Preferred Stock**

**Debt Securities**

**Depositary Shares**

**Warrants**

**Purchase Contracts**

**Units**

We may offer and sell from time to time, in one or more series or issuances and on terms that we will determine at the time of the offering, any combination of the securities described in this prospectus, up to an aggregate amount of \$200,000,000.

This prospectus provides you with a general description of the securities we may offer and sell. We will provide specific terms of any offering in a supplement to this prospectus. Any prospectus supplement may also add, update, or change information contained in this prospectus. You should carefully read this prospectus and the applicable prospectus supplement as well as the documents incorporated or deemed to be incorporated by reference in this prospectus before you purchase any of the securities offered hereby.

These securities may be offered and sold in the same offering or in separate offerings; to or through underwriters, dealers, and agents; or directly to purchasers. The names of any underwriters, dealers, or agents involved in the sale of our securities and their compensation will be described in the applicable prospectus supplement.

Our common stock is listed on the New York Stock Exchange under the symbol HZO. We will make application to list any shares of common stock sold by us under this prospectus and any prospectus supplement on the New York Stock Exchange. We will provide information in any applicable prospectus supplement regarding any listing of securities other than shares of our common stock on any securities exchange.

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This prospectus may not be used to consummate a sale of our securities unless accompanied by the applicable prospectus supplement.

**You should consider the risks that we have described in this prospectus and in the accompanying prospectus supplement before you invest. See Risk Factors beginning on page 4.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is \_\_\_\_\_, \_\_\_\_

**Table of Contents**

**TABLE OF CONTENTS**

<u>ABOUT THIS PROSPECTUS</u>	ii
<u>PROSPECTUS SUMMARY</u>	1
<u>RISK FACTORS</u>	4
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	4
<u>FORWARD-LOOKING STATEMENTS</u>	4
<u>INCORPORATION OF CERTAIN INFORMATION BY REFERENCE</u>	5
<u>PROSPECTUS SUPPLEMENTS</u>	6
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	6
<u>DILUTION</u>	6
<u>USE OF PROCEEDS</u>	6
<u>SECURITIES WE MAY OFFER</u>	6
<u>DESCRIPTION OF COMMON STOCK</u>	7
<u>DESCRIPTION OF PREFERRED STOCK</u>	8
<u>DESCRIPTION OF DEBT SECURITIES</u>	12
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	23
<u>DESCRIPTION OF WARRANTS</u>	26
<u>DESCRIPTION OF PURCHASE CONTRACTS</u>	29
<u>DESCRIPTION OF UNITS</u>	29
<u>CERTAIN PROVISIONS OF DELAWARE LAW AND OUR CHARTER AND BYLAWS</u>	31
<u>LEGAL OWNERSHIP OF SECURITIES</u>	34
<u>PLAN OF DISTRIBUTION</u>	38
<u>LEGAL MATTERS</u>	40
<u>EXPERTS</u>	40
<u>INTERESTS OF NAMED EXPERTS AND COUNSEL</u>	40

**Table of Contents**

**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf registration process, we may sell any combination of the securities described in this prospectus in one or more offerings, up to a total dollar amount of \$200,000,000. This prospectus provides you with general information regarding the securities we may offer. We will provide a prospectus supplement that contains specific information about any offering by us.

The prospectus supplement also may add, update, or change information contained in the prospectus. You should read both this prospectus and the prospectus supplement related to any offering as well as additional information described under the heading **Where You Can Find More Information**.

We have not authorized anyone to provide you with information different from that contained or incorporated by reference in this prospectus or any accompanying prospectus supplement or any free writing prospectus. We are offering to sell, and seeking offers to buy, securities only in jurisdictions where offers and sales are permitted. The information contained in this prospectus and in any accompanying prospectus supplement is accurate only as of the date of their covers, regardless of the time of delivery of this prospectus or any prospectus supplement or of any sale of our securities. Our business, financial condition, results of operations, and prospects may have changed since those dates. You should rely only on the information contained or incorporated by reference in this prospectus or any accompanying prospectus supplement. To the extent there is a conflict between the information contained in this prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement, provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference into this prospectus or any prospectus supplement—the statement in the document having the later date modifies or supersedes the earlier statement.

In this prospectus, the terms **we**, **our**, **us**, **our company**, and **MarineMax** refer to MarineMax, Inc. and its subsidiaries, unless otherwise speci

**Table of Contents**

**PROSPECTUS SUMMARY**

*The following summary does not contain all of the information that may be important to purchasers of our securities. Prospective purchasers of securities should carefully review the detailed information and financial statements, including the notes thereto, appearing elsewhere in or incorporated by reference into this prospectus.*

**Our Company**

We are the largest recreational boat dealer in the United States. Through retail locations in Alabama, Arizona, California, Connecticut, Florida, Georgia, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, and Texas, we sell new and used recreational boats, including pleasure and fishing boats, with a focus on premium brands in each segment. We also sell related marine products, including engines, trailers, parts, and accessories. In addition, we provide repair, maintenance, and slip and storage services; we arrange related boat financing, insurance, and extended service contracts; we offer boat and yacht brokerage services; and we operate a yacht charter business.

**Our Strategy**

Our goal is to enhance our position as the nation's leading recreational boat dealer. Key elements of our operating and growth strategy include the following:

emphasizing customer satisfaction and loyalty by creating an overall enjoyable boating experience, beginning with a hassle-free purchase process, customer training, superior customer service, company-led events called Getaways!, and premier facilities;

achieving efficiencies and synergies among our operations to enhance internal growth and profitability;

promoting national brand name recognition and the MarineMax connection;

offering additional marine products and services, including those with higher profit margins;

expanding our Internet marketing;

pursuing strategic acquisitions to capitalize upon the consolidation opportunities in the highly fragmented recreational boat dealer industry by acquiring additional dealers and related operations and improving their performance and profitability through the implementation of our operating strategies;

opening additional retail facilities, including mall stores, in our existing and new territories;

emphasizing employee recruitment, training, and development;

emphasizing the best practices developed by us and our acquired dealers as appropriate throughout our dealerships;

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operating with a decentralized approach to the operational management of our dealerships; and

utilizing information technology throughout operations, which facilitates the interchange of information sharing and enhances cross-selling opportunities throughout our company.

### **Our History**

MarineMax was founded in January 1998. MarineMax itself, however, conducted no operations until the acquisition of five independent recreational boat dealers on March 1, 1998, and we completed our initial public offering in June 1998. Since the initial acquisitions in March 1998, we have acquired 22 additional recreational boat dealers, two boat brokerage operations, and two full-service yacht repair operations. Acquired dealers operate under the MarineMax name.

## **Table of Contents**

### **Our Offices**

Our principal executive offices are located at 18167 U.S. Highway 19 North, Suite 300, Clearwater, Florida 33764. Our telephone number at that address is (727) 531-1700. Our website is located at [www.marinemax.com](http://www.marinemax.com). Other than as described in [Where You Can Find More Information](#) below, the information on, or that can be accessed through, our website is not incorporated by reference in this prospectus or any prospectus supplement, and you should not consider it to be a part of this prospectus or any prospectus supplement. Our website address is included as an inactive textual reference only.

### **The Securities That May Be Offered**

We may offer up to \$200,000,000 of common stock, preferred stock, debt securities, depositary shares, warrants, purchase contracts, and units in one or more offerings and in any combination. In this prospectus, we refer to the common stock, preferred stock, debt securities, depositary shares, warrants, purchase contracts, and units collectively as securities. This prospectus provides you with a general description of the securities we may offer. A prospectus supplement, which we will provide each time we offer securities, will describe the specific amounts, prices, and terms of the securities we offer. We will also include in the prospectus supplement information, when applicable, about material U.S. federal income tax considerations relating to the securities, and the securities exchange, if any, on which the securities will be listed. This prospectus may not be used to consummate a sale of securities unless it is accompanied by a prospectus supplement.

#### *Common Stock*

We may offer shares of our common stock, par value \$0.001 per share, either alone or underlying other registered securities convertible or exercisable into our common stock. All outstanding shares of our common stock are of the same class and have equal rights and attributes. The holders of our common stock are entitled to one vote per share on all matters submitted to a vote of the stockholders of our company. Our common stock does not have cumulative voting rights. Holders of our common stock are entitled to share equally in dividends, if any, as may be declared from time to time by our board of directors. In the event of liquidation, dissolution or winding up of our company, subject to the preferential liquidation rights of any series of preferred stock that we may from time to time designate, the holders of our common stock are entitled to share ratably in all of our assets remaining after payment of all liabilities and preferential liquidation rights. Holders of our common stock have no conversion, exchange, sinking fund, redemption or appraisal rights (other than such as may be determined by our board of directors in its sole discretion) and have no preemptive rights to subscribe for any of our securities.

#### *Preferred Stock*

Under the terms of our restated certificate of incorporation, as amended, our board of directors is authorized to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock. Each series of preferred stock will be more fully described in the particular prospectus supplement that will accompany this prospectus, including redemption provisions, rights in the event of our liquidation, dissolution or winding up, voting rights and rights to convert into common stock.

#### *Debt Securities*

We may offer secured or unsecured obligations in the form of one or more series of senior or subordinated debt. The senior debt securities and the subordinated debt securities are together referred to in this prospectus as the debt securities. The subordinated debt securities generally will be entitled to payment only after payment of our senior debt. Senior debt generally includes all debt for money borrowed by us, except debt that is stated in

## **Table of Contents**

the instrument governing the terms of that debt to not be senior to, or to have the same rank in right of payment as, or to be expressly junior to, the subordinated debt securities. We may issue debt securities that are convertible into shares of our common stock. If we issue debt securities at a discount from their original stated principal amount, then, for purposes of calculating the total dollar amount of all securities issued under this prospectus, we will treat the initial offering price of the debt securities as the total original principal amount of the debt securities.

The senior and subordinated debt securities will be issued under an indenture between us and a trustee. We have summarized the general features of the debt securities to be governed by the indenture. The indenture has been filed as an exhibit to the registration statement of which this prospectus forms a part. We encourage you to read the indenture. Instructions on how you can get copies of this document are provided in the section entitled *Where You Can Find More Information* on page 3 of the prospectus.

### *Depositary Shares*

We may issue receipts for depositary shares representing fractional shares of preferred stock. The shares of any series of preferred stock underlying any depositary shares that we may sell under this prospectus will be deposited under a deposit agreement between us and a depositary selected by us. The fractional share of the applicable series of preferred stock represented by each depositary share will be set forth in the applicable prospectus supplement that will accompany this prospectus.

### *Warrants*

We may issue warrants for the purchase of common stock, preferred stock, or debt securities. We may issue warrants independently or together with other securities.

### *Purchase Contracts*

We may issue purchase contracts, including purchase contracts issued as part of a unit with one or more other securities, for the purchase or sale of our common stock or preferred stock. The price per share of common stock or preferred stock, as applicable, may be fixed at the time the purchase contracts are issued or may be determined by reference to a specific formula contained in the purchase contracts. We may issue purchase contracts in such amounts and in as many distinct series as we wish.

### *Units*

We may issue units comprised of one or more of the other classes of securities issued by us as described in this prospectus in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit.

**Table of Contents**

**RISK FACTORS**

Investing in our securities involves a high degree of risk. Please see the risk factors described under the caption "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended September 30, 2012 on file with the SEC and each subsequently filed Quarterly Report on Form 10-Q, which are incorporated by reference in this prospectus and in any accompanying prospectus supplement. Before making an investment decision, you should carefully consider these risks as well as information we include or incorporate by reference in this prospectus and in any accompanying prospectus supplement. The risks and uncertainties we have described are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly, and current reports; proxy statements; and other information with the SEC under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Through our website at [www.marinemax.com](http://www.marinemax.com), you may access, free of charge, our filings, as soon as reasonably practical after we electronically file them with or furnish them to the SEC. Other information contained in our website is not incorporated by reference in, and should not be considered a part of, this prospectus or any accompanying prospectus supplement. You also may read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our SEC filings are also available to the public from the SEC's website at [www.sec.gov](http://www.sec.gov).

This prospectus is part of a registration statement on Form S-3 that we filed with the SEC to register the securities offered hereby under the Securities Act of 1933, as amended, or the Securities Act. This prospectus does not contain all of the information included in the registration statement, including certain exhibits and schedules. You may obtain the registration statement and exhibits to the registration statement from the SEC at the address listed above or from the SEC's Internet website.

**FORWARD-LOOKING STATEMENTS**

This prospectus and each prospectus supplement includes and incorporates forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. All statements, other than statements of historical fact, included or incorporated in this prospectus or any prospectus supplement regarding our strategy, prospects, plans, objectives, future operations, future revenue and earnings, projected margins and expenses, technological innovations, future products or product development, product development strategies, potential acquisitions or strategic alliances, the success of particular product or marketing programs, the amount of revenue generated as a result of sales to significant customers, financial position, and liquidity and anticipated cash needs and availability are forward-looking statements. The words "anticipates," "believes," "estimates," "expects," "intends," "may," "plans," "projects," "will," "would," and similar expressions are in this prospectus forward-looking statements.

Actual results or events could differ materially from the forward-looking statements we make. Among the factors that could cause actual results to differ materially are the factors discussed under "Risk Factors" in our Form 10-K for the fiscal year ended September 30, 2012. We also will include or incorporate by reference in each prospectus supplement important factors that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. Should one or more known or unknown risks or uncertainties materialize, or should underlying assumptions prove inaccurate, actual results could differ materially from past results and those anticipated, estimated, projected, or implied by these forward-looking statements. You should consider these factors and the other cautionary statements made in this prospectus, any prospectus supplement, or the documents we incorporate by reference in this prospectus as being applicable to all

**Table of Contents**

related forward-looking statements wherever they appear in this prospectus, any prospectus supplement or the documents incorporated by reference. While we may elect to update forward-looking statements wherever they appear in this prospectus, any prospectus supplement, or the documents incorporated by reference, we do not assume, and specifically disclaim, any obligation to do so, whether as a result of new information, future events, or otherwise. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures, or investments we may make.

**INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information that we incorporate by reference is considered to be part of this prospectus. Information that we file with the SEC in the future and incorporate by reference in this prospectus automatically updates and supersedes previously filed information as applicable.

We incorporate by reference into this prospectus the following documents filed by us with the SEC, other than any portion of any such documents that are not deemed filed under the Exchange Act in accordance with the Exchange Act and applicable SEC rules:

Annual Report on Form 10-K for the fiscal year ended September 30, 2012.

Quarterly Report on Form 10-Q for the quarter ended December 31, 2012.

Current Report on Form 8-K filed with the SEC on November 27, 2012.

The information specifically incorporated by reference into our Annual Report on Form 10-K for the fiscal year ended September 30, 2012 from our definitive proxy statement on Schedule 14A filed with the SEC on January 10, 2013.

The description of our common stock contained in the Registration Statement on Form 8-A (Registration No. 001-14173), filed with the SEC on May 28, 1998 and declared effective on June 1, 1998, including any amendments or reports filed for the purpose of updating such description.

We also incorporate by reference into this prospectus all documents (other than any portions of any such documents that are not deemed filed under the Exchange Act in accordance with the Exchange Act and applicable SEC rules) filed by us under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act after the date of the initial registration statement and before effectiveness of this registration statement, and after the date of this prospectus.

You may request a copy of these filings at no cost, by writing or telephoning us as follows:

MarineMax, Inc.

Attention: Corporate Secretary

18167 U.S. Highway 19 North

Suite 300

Clearwater, Florida 33764

(727) 531-1700

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Any statement contained in a document that is incorporated by reference will be modified or superseded for all purposes to the extent that a statement contained in this prospectus or any accompanying prospectus supplement, or in any other document that is subsequently filed with the SEC and incorporated by reference, modifies, or is contrary to that previous statement. Any statement so modified or superseded will not be deemed a part of this prospectus or any accompanying prospectus supplement, except as so modified or superseded. Since information that we later file with the SEC will update and supersede previously incorporated information, you should look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus or any accompanying prospectus supplement or in any documents previously incorporated by reference have been modified or superseded.

**Table of Contents**

**PROSPECTUS SUPPLEMENTS**

This prospectus provides you with a general description of the proposed offering of our securities. Each time that we sell securities under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may add to, update, or change information contained in this prospectus and should be read as superseding this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading **Where You Can Find More Information**.

The prospectus supplement will describe the terms of any offering of securities, including the offering price to the public in that offering, the purchase price and net proceeds of that offering, and the other specific terms related to that offering of securities.

**RATIO OF EARNINGS TO FIXED CHARGES**

Our ratio of earnings to fixed charges for each of the five most recently completed fiscal years and any required interim periods will each be specified in a prospectus supplement or in a document that we file with the SEC and incorporate by reference pertaining to the issuance, if any, by us of debt securities in the future.

**DILUTION**

We will set forth in a prospectus supplement the following information regarding any material dilution of the equity interests of investors purchasing securities in an offering under this prospectus:

the net tangible book value per share of our equity securities before and after the offering;

the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers in the offering; and

the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

**USE OF PROCEEDS**

Except as may be otherwise set forth in any prospectus supplement accompanying this prospectus, we will use the net proceeds we receive from sales of securities offered hereby for general corporate purposes, which may include the repayment of indebtedness outstanding from time to time and for working capital, capital expenditures, acquisitions, and repurchases of our common stock or other securities. Pending these uses, the net proceeds may also be temporarily invested in cash equivalents or short-term securities. When specific securities are offered, the prospectus supplement relating thereto will set forth our intended use of the net proceeds that we receive from the sale of such securities.

**SECURITIES WE MAY OFFER**

The following is a general description of the terms and provisions of the securities we may offer and sell by this prospectus. These summaries are not meant to be complete. This prospectus and the applicable prospectus supplement will contain the material terms and provisions of the various types of securities that we may offer. Any prospectus supplement may also add, update, or change information contained in this prospectus, including the material terms and provisions of the securities as described in this prospectus. We will also include in the prospectus supplement information, when applicable, about material U.S. federal income tax considerations

## **Table of Contents**

relating to the securities, and the securities exchange, if any, on which the securities will be listed. You should carefully read this prospectus and the applicable prospectus supplement as well as the documents incorporated or deemed to be incorporated by reference in this prospectus before you purchase any of the securities offered hereby.

In this prospectus, we refer to the common stock (including the associated rights), preferred stock, debt securities, depositary shares, warrants, purchase contracts, and units collectively as securities. The total dollar amount of all securities that we may issue under this prospectus will not exceed \$200,000,000.

If we issue debt securities at a discount from their original stated principal amount, then, for purposes of calculating the total dollar amount of all securities issued under this prospectus, we will treat the initial offering price of the debt securities as the total original principal amount of the debt securities.

This prospectus may not be used to consummate a sale of securities unless it is accompanied by a prospectus supplement.

## **DESCRIPTION OF COMMON STOCK**

This section describes the general terms of our common stock. A prospectus supplement may provide information that is different from this prospectus. If the information in the prospectus supplement with respect to our common stock being offered differs from this prospectus, you should rely on the information in the prospectus supplement. A copy of our restated certificate of incorporation, as amended, has been incorporated by reference from our filings with the SEC as an exhibit to the registration statement of which this prospectus forms a part. Our common stock and the rights of the holders of our common stock are subject to the applicable provisions of the Delaware General Corporation Law, which we refer to as Delaware law, our restated certificate of incorporation, as amended, our third amended and restated bylaws, the rights of the holders of our preferred stock, if any, as well as some of the terms of our credit agreement and any other outstanding indebtedness.

As of January 31, 2013 under our restated certificate of incorporation, as amended, we had the authority to issue 40,000,000 shares of common stock, par value \$0.001 per share, of which 23,841,083 shares of our common stock were outstanding as of that date.

The following description of our common stock, and any description of our common stock in a prospectus supplement may not be complete and is subject to, and qualified in its entirety by reference to, Delaware law and the actual terms and provisions contained in our restated certificate of incorporation, and our third amended and restated bylaws, each as amended from time to time.

## **Voting Rights**

Each outstanding share of our common stock is entitled to one vote per share of record on all matters submitted to a vote of stockholders and to vote together as a single class for the election of directors and in respect of other corporate matters. At a meeting of stockholders at which a quorum is present, for all matters other than the election of directors, a majority of the votes cast decides all questions, unless the matter is one upon which a different vote is required by express provision of law or our restated certificate of incorporation or our third amended and restated bylaws. Our company has a staggered board of directors divided into three classes, meaning approximately one-third of the members of our board of directors are elected as a class for a three-year term at each annual stockholder meeting. Directors will be elected by a majority of the votes of the shares present at a meeting. Holders of shares of common stock do not have cumulative voting rights with respect to the election of directors or any other matter.

## **Table of Contents**

### **Dividends**

Holders of our common stock are entitled to receive dividends or other distributions when, as, and if declared by our board of directors. The right of our board of directors to declare dividends, however, is subject to any rights of the holders of other classes of our capital stock, any indebtedness outstanding from time to time, and the availability of sufficient funds under Delaware law to pay dividends.

### **Preemptive Rights**

The holders of our common stock do not have preemptive rights to purchase or subscribe for any of our capital stock or other securities.

### **Redemption**

The shares of our common stock are not subject to redemption by operation of a sinking fund or otherwise.

### **Liquidation Rights**

In the event of any liquidation, dissolution, or winding up of our company, subject to the rights, if any, of the holders of other classes of our capital stock, the holders of shares of our common stock are entitled to receive any of our assets available for distribution to our stockholders ratably in proportion to the number of shares held by them.

### **Options and Other Stock-Based Rights**

From time to time, we have issued and expect to continue to issue options and other stock-based rights, including restricted stock units, or the RSUs, to various lenders, investors, consultants, employees, officers, and directors of our company. As of January 31, 2013, we had outstanding (i) stock options to purchase 2,732,526 shares of our common stock, of which 1,928,143 shares of common stock were issuable upon exercise of vested stock options as of that date; and (ii) 120,778 shares of common stock issuable upon vesting of RSUs.

### **Listing**

Our common stock is listed on the New York Stock Exchange under the symbol HZO.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, 59 Maiden Lane, New York, NY 11219.

## **DESCRIPTION OF PREFERRED STOCK**

This section describes the general terms of our preferred stock to which any prospectus supplement may relate. A prospectus supplement will describe the terms relating to any preferred stock to be offered by us in greater detail and may provide information that is different from terms described in this prospectus. If the information in the prospectus supplement with respect to the particular preferred stock being offered differs from this prospectus, you should rely on the information in the prospectus supplement. A copy of our restated certificate of incorporation, as amended, has been incorporated by reference from our filings with the SEC as an exhibit to the registration statement of which this prospectus forms a part. A certificate of designation or amendment to the restated certificate of incorporation, as amended, will specify the terms of the preferred stock being offered, and will be filed or incorporated by reference as an exhibit to the registration statement before the

## **Table of Contents**

preferred stock is issued. The following description of our preferred stock, and any description of the preferred stock in a prospectus supplement may not be complete and is subject to, and qualified in its entirety by reference to, Delaware law and the actual terms and provisions contained in our restated certificate of incorporation and third amended and restated bylaws, each as amended from time to time.

As of January 31, 2013 under our restated certificate of incorporation, as amended, we had the authority to issue 1,000,000 shares of preferred stock, par value \$0.001 per share, which are issuable in series on terms to be determined by our board of directors. Accordingly, our board of directors is authorized, without action by the stockholders, to issue preferred stock from time to time with such dividend, liquidation, conversion, voting, and other rights and restrictions as it may determine. All shares of any one series of our preferred stock will be identical, except that shares of any one series issued at different times may differ as to the dates from which dividends may be cumulative. All series will rank equally and will provide for other terms as described in the applicable prospectus supplement. As of January 31, 2013, there were no outstanding shares of our preferred stock.

### **Terms of Preferred Stock**

Unless provided in a prospectus supplement, the shares of our preferred stock to be issued will have no preemptive rights. Any prospectus supplement offering our preferred stock will furnish the following information with respect to the preferred stock offered by that prospectus supplement:

the title and stated value of the preferred stock;

the number of shares of preferred stock to be issued and the offering price of the preferred stock;

any dividend rights;

any dividend rates, periods, or payment dates, or methods of calculation of dividends applicable to the preferred stock;

the date from which distributions on the preferred stock will accumulate, if applicable;

the terms and conditions, if applicable, upon which the preferred stock will be convertible into our common stock, including the conversion price (or manner of calculation thereof);

any right to convert the preferred stock into a different type of security;

any voting rights attributable to the preferred stock;

any rights and preferences upon our liquidation, dissolution, or winding up of our affairs;

any terms of redemption;

the procedures for any auction and remarketing, if any, for the preferred stock;

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the provisions for a sinking fund, if any, for the preferred stock;

any listing of the preferred stock on any securities exchange;

a discussion of federal income tax considerations applicable to the preferred stock;

the relative ranking and preferences of the preferred stock as to distribution rights (including whether any liquidation preference as to the preferred stock will be treated as a liability for purposes of determining the availability of assets for distributions to holders of stock ranking junior to the shares of preferred stock as to distribution rights);

any limitations on issuance of any series of preferred stock ranking senior to or on a parity with the series of preferred stock being offered as to distribution rights and rights upon the liquidation, dissolution, or winding up of our affairs; and

any other specific terms, preferences, rights, limitations, or restrictions of the preferred stock.

## **Table of Contents**

### **Rank**

Unless otherwise indicated in the applicable prospectus supplement, shares of our preferred stock will rank, with respect to payment of distributions and rights upon our liquidation, dissolution, or winding up, and allocation of our earnings and losses as follows:

senior to all classes or series of our common stock and to all of our equity securities ranking junior to the preferred stock;

on a parity with all equity securities issued by us, the terms of which specifically provide that these equity securities rank on a parity with the preferred stock; and

junior to all equity securities issued by us, the terms of which specifically provide that these equity securities rank senior to the preferred stock.

### **Distributions**

Subject to any preferential rights of any outstanding stock or series of stock, our preferred stockholders are entitled to receive distributions when, as, and if declared by our board of directors, out of legally available funds, and to share pro rata based on the number of preferred shares, common stock, and other parity equity securities outstanding. The rates and dates of payment of dividends will be set forth in the prospectus supplement relating to the applicable series of preferred stock. Dividends will be payable to holders of record of preferred stock as they appear on our books or, if applicable, the records of the depositary referred to below on the record dates fixed by our board of directors. Dividends on a series of preferred stock may be cumulative or noncumulative.

We may not declare, pay, or set apart for payment dividends on the preferred stock unless full dividends on other series of preferred stock that rank on an equal or senior basis have been paid or sufficient funds have been set apart for payment for:

all prior dividend periods of other series of preferred stock that pay dividends on a cumulative basis; or

the immediately preceding dividend period of other series of preferred stock that pay dividends on a noncumulative basis.

Partial dividends declared on shares of preferred stock and each other series of preferred stock ranking on an equal basis as to dividends will be declared pro rata. A pro rata declaration means that the ratio of dividends declared per share to accrued dividends per share will be the same for each series of preferred stock. Similarly, we may not declare, pay, or set apart for payment non-stock dividends or make other payments on the common stock or any other of our stock ranking junior to the preferred