KROGER CO
Form 10-Q
December 13, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended November 9, 2013

OR

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

For the transition period from to

Commission file number 1-303

(Exact name of registrant as specified in its charter)

Ohio	**31-0345740**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1014 Vine Street, Cincinnati, OH 45202

(Address of principal executive offices)

(Zip Code)

(513) 762-4000

(Registrant s telephone number, including area code)

Unchanged

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

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	x	Accelerated filer	o
Non-accelerated filer (do not check if a smaller reporting company)	o	Smaller reporting company	o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x.

There were 516,526,256 shares of Common Stock ($1 par value) outstanding as of December 11, 2013.

PART I FINANCIAL INFORMATION

Item 1. Financial Statements.

THE KROGER CO.

CONSOLIDATED STATEMENTS OF OPERATIONS

(in millions, except per share amounts)

(unaudited)

	Third Quarter Ended		Three Quarters Ended	
	November 9, 2013	**November 3, 2012**	**November 9, 2013**	**November 3, 2012**
Sales	$ 22,505	$ 21,807	$ 75,270	$ 72,598
Merchandise costs, including advertising, warehousing, and transportation, excluding items shown separately below	17,889	17,383	59,832	57,757
Operating, general and administrative	3,549	3,305	11,664	11,161
Rent	138	141	466	471
Depreciation	395	382	1,301	1,265
Operating profit	534	596	2,007	1,944
Interest expense	108	103	336	350
Earnings before income tax expense	426	493	1,671	1,594
Income tax expense	125	175	567	555
Net earnings including noncontrolling interests	301	318	1,104	1,039
Net earnings attributable to noncontrolling interests	2	1	7	4
Net earnings attributable to The Kroger Co.	$ 299	$ 317	$ 1,097	$ 1,035
Net earnings attributable to The Kroger Co. per basic common share	$ 0.58	$ 0.61	$ 2.11	$ 1.90
Average number of common shares used in basic calculation	515	518	515	539
Net earnings attributable to The Kroger Co. per diluted common share	$ 0.57	$ 0.60	$ 2.09	$ 1.89
Average number of common shares used in diluted calculation	521	522	521	543
Dividends declared per common share	$ 0.165	$ 0.150	$ 0.465	$ 0.380

The accompanying Notes are an integral part of the Consolidated Financial Statements.

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THE KROGER CO.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(in millions and unaudited)

	Third Quarter Ended		Three Quarters Ended	
	November 9, 2013	**November 3, 2012**	**November 9, 2013**	**November 3, 2012**
Net earnings including noncontrolling interests	$ 301	$ 318	$ 1,104	$ 1,039
Other comprehensive income				
Unrealized gain (loss) on available for sale securities, net of income tax(1)	(1)		3	
Amortization of amounts included in net periodic pension expense, net of income tax(2)	14	13	47	44
Unrealized gains and losses on cash flow hedging activities, net of income tax(3)	(2)	3	(11)	(11)
Amortization of unrealized gains and losses on cash flow hedging activities, net of income tax(4)		1	1	3
Total other comprehensive income	11	17	40	36
Comprehensive income	312	335	1,144	1,075
Comprehensive income attributable to noncontrolling interests	2	1	7	4
Comprehensive income attributable to The Kroger Co.	$ 310	$ 334	$ 1,137	$ 1,071

(1) Amount is net of tax of $2 for the first three quarters of 2013.

(2) Amount is net of tax of $9 for the third quarter of 2013 and $8 for the third quarter of 2012. Amount is net of tax of $29 for the first three quarters of 2013 and $27 for the first three quarters of 2012.

(3) Amount is net of tax of $(3) for the third quarter of 2013 and $2 for the third quarter of 2012. Amount is net of tax of $(8) for the first three quarters of 2013 and $(7) for the first three quarters of 2012.

(4) Amount is net of tax of $1 for the third quarter and the first three quarters of 2013.

The accompanying Notes are an integral part of the Consolidated Financial Statements.

THE KROGER CO.

CONSOLIDATED BALANCE SHEETS

(in millions, except per share amounts)

The investment seeks to provide capital appreciation and current income consistent with its current asset allocation. The fund primarily invests in other Vanguard mutual funds according to an asset allocation strategy designed for investors planning to retire and leave the work force in or within a few years of 2040 (the target year).

Vanguard Target Retirement 2050 Fund

The investment seeks to provide capital appreciation and current income consistent with its current asset allocation. The fund primarily invests in other Vanguard mutual funds according to an asset allocation strategy designed for investors planning to retire and leave the work force within a few years of 2050 (the target year).

INTERDIGITAL STOCK FUND:

This fund invests in the common stock of InterDigital, Inc.

STABLE POOLED FUND:

This fund seeks to provide positive income with reduced return volatility through investment in a diversified portfolio of high quality fixed income securities. The fund invests in stable value fixed income instruments, including Guaranteed Investment Contracts (“GIC's”), Bank Investment Contracts (“BIC's”), as well as GIC alternatives, such as synthetic GIC's.

NOTE 2 - SUMMARY OF ACCOUNTING POLICIES

The following accounting policies, which conform with accounting principles generally accepted in the United States(“GAAP”), have been used consistently in the preparation of the Plan's financial statements.

Basis of Accounting

Accounting records are maintained by the custodian on the cash basis of accounting. The financial statements of the Plan reflect all material adjustments to place the financial statements on the accrual basis of accounting.

Use of Estimates
The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, as well as reported amounts of additions and deductions during the reporting period. Actual results could differ from those estimates.
Investment Contracts
As described in Financial Accounting Standards Board ("FASB") Staff Position, FSP AAG INV-1 and AICPA Statement of Position 962 (formerly 94-4-1) , Reporting of Fully Benefit Responsive Investment Contracts Held by Certain Investment Companies Subject to the AICPA Investment Company Guide and Defined Contribution Health and Welfare and Pension Plans (the “FSP”), investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for that portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the plan. As required by the FSP, the Statement of Net Assets Available for Benefits presents the fair value of the investment contracts as well as the adjustment of the fully benefit-responsive investment contracts from fair value to contract value. The Statement of Changes in Net Assets Available for Benefits is prepared on a contract value basis.
Investment Valuation and Income Recognition
Shares of registered investment companies are valued at quoted market prices that represent the net asset value of shares held by the Plan at year-end. The InterDigital Stock Fund is valued at its year-end unit closing price (comprised of common stock market price plus uninvested cash position).
Purchases and sales of investments are recorded on a trade-date basis. Interest income is accrued when earned. Dividend income is recorded on the ex-dividend date. Capital gain distributions are included in dividend income.
Notes Receivable from Participants
Notes receivable from participants are measured at their unpaid principal balance plus any accrued but unpaid interest. Interest income is recorded on the accrual basis. Related fees are recorded as administrative expenses and are expensed when they are incurred. No allowance for credit losses has been recorded as of December 31, 2014 or December 31, 2013. If a participant ceases to make loan repayments and the plan administrator deems the participant loan to be in default, the participant loan balance is reduced and a benefit payment is recorded.
Payment of Benefits
Benefits are recorded when paid.
Forfeited Accounts
At December 31, 2014 and 2013, forfeited non-vested accounts totaled $30,537 and $9,359, respectively. No amounts were used to reduce employer matching contributions in either year.
Recently Adopted Accounting Pronouncements
As of December 31, 2014 and for the period then ended, there were no recently adopted accounting pronouncements that had a material effect on the Plan's financial statements.
Recently Issued Accounting Pronouncements Not Yet Adopted
As of December 31, 2014, there were no recently issued accounting standards not yet adopted which would have a material effect on the Plan's financial statements.
NOTE 3 - FAIR VALUE MEASUREMENTS
The framework for measuring fair value provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1) and the lowest priority to unobservable inputs (level 3). The three levels of the fair value hierarchy under FASB ASC 820 are described as follows:
Level 1
Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Plan has the ability to access;

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Level 2

Inputs to the valuation methodology include:

- -Quoted prices for similar assets or liabilities in active markets;
- -Quoted prices for identical or similar assets or liabilities in inactive markets;
- -Inputs other than quoted prices that are observable for the asset or liability; and
- -Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

Level 3

Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset's or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes in the methodologies used at December 31, 2014 and 2013.

InterDigital stock : Valued at its year-end unit closing price (comprised of common stock market price plus uninvested cash position).

Registered investment companies : Valued at the quoted market prices representing the net asset value ("NAV") of shares held by the Plan at year-end.

Stable Pooled Fund : Valued at fair value by discounting the related cash flows based on current yields of similar instruments with comparable durations considering the credit worthiness of the issuer.

The methods described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Plan believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following tables set forth by level, within the fair value hierarchy, the Plan's assets at fair value as of December 31, 2014 and December 31, 2013:

	Assets at Fair Value as of December 31, 2014			
	Level 1	Level 2	Level 3	Total
Registered investment companies:				
Aggressive Bonds	$1,534,234	$—	$—	$1,534,234
Intermediate/Long-term Bonds	4,896,627	—	—	4,896,627
Large-Cap Stocks	22,597,113	—	—	22,597,113
Small/Mid-Cap Stocks	18,593,489	—	—	18,593,489
International Stocks	5,564,176	—	—	5,564,176
Multi-Asset/Other	11,295,403	—	—	11,295,403
InterDigital Stock Fund	—	4,735,622	—	4,735,622
Stable Pooled Fund	—	6,895,146	—	6,895,146
Total assets at fair value	$64,481,042	$11,630,768	$—	$76,111,810

	Assets at Fair Value as of December 31, 2013			
	Level 1	Level 2	Level 3	Total
Registered investment companies:				
Short-term Bonds	$2,308,967	$—	$—	$2,308,967
Aggressive Bonds	1,246,410	—	—	1,246,410
Intermediate/Long-term Bonds	4,624,264	—	—	4,624,264
Large-Cap Stocks	19,444,563	—	—	19,444,563
Small/Mid-Cap Stocks	18,538,954	—	—	18,538,954
International Stocks	5,753,274	—	—	5,753,274
Multi-Asset/Other	9,560,671	—	—	9,560,671
InterDigital Stock Fund	—	3,017,751	—	3,017,751
Stable Pooled Fund	—	3,871,659	—	3,871,659
Total assets at fair value	$61,477,103	$6,889,410	$—	$68,366,513

The following table summarizes investments measured at fair value based on NAV per share as of December 31, 2014 and December 31, 2013, respectively.

December 31, 2014	Fair Value	Unfunded Commitments	Redemption Frequency	Redemption Notice Period
Stable Pooled Fund	$6,895,147	n/a	Daily	30 days

December 31, 2013	Fair Value	Unfunded Commitments	Redemption Frequency	Redemption Notice Period
Stable Pooled Fund	$3,871,659	n/a	Daily	30 days

NOTE 4 - INVESTMENTS

The following table presents investments that represented five percent or more of the Plan's net assets at December 31, 2014 and 2013:

	2014	2013
Vanguard 500 Index Admiral *	$10,220,358	$—
Wells Fargo Advantage Premier Large Company Growth Fund, Class A	7,247,391	6,610,240
Stable Pooled Fund	6,895,147	3,871,659
American Beacon Mid Cap Value Institutional Fund *	5,518,296	—
Vanguard Target Retirement 2030 Fund	5,356,643	4,791,098
Vanguard Equity Income Fund Admiral *	5,129,364	—
JPMorgan Core Bond A Fund	4,896,627	4,624,264
American Funds EuroPacific Growth R4 Fund	4,839,345	4,939,757
InterDigital Stock Fund	4,735,622	3,017,751
Transamerica Partners Institutional Stock Index Fund **	—	8,004,658
Goldman Sachs Mid Cap Value Institutional Fund **	—	5,250,806
BlackRock Equity Dividend Institutional Fund **	—	4,829,665
Columbia Small Cap Index A Fund **	—	3,491,468

* This fund did not represent five percent or more of the Plan's net assets at December 31, 2013. It is shown for comparative purposes.

** This fund did not represent five percent or more of the Plan's net assets at December 31, 2014. It is shown for comparative purposes.

At December 31, 2014 and 2013, the Plan's investments, including gains and losses on investments bought and sold, as well as held during the year, appreciated (depreciated) in value as follows:

	2014	2013
Investment in common trusts	$66,125	$39,555
Registered investment companies	3,472,225	10,323,281
InterDigital Stock Fund	2,315,853	(1,007,741)
	$5,854,203	$9,355,095

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the Statement of Net Assets Available for Benefits.

NOTE 5 - SECURITY-BACKED CONTRACTS AND GUARANTEED INVESTMENT CONTRACTS

In 2004, the Plan entered into a benefit-responsive investment contract with the Stable Pooled Fund (the “Fund”). The Fund primarily invests in security-backed contracts issued by insurance companies and other financial institutions as well as traditional GICs. The Fund's principal objective is to protect principal while providing a higher rate of return than shorter maturity investments, such as money market funds or certificates of deposit. The account is credited with earnings on the underlying investments and charged for participant withdrawals and administrative expenses.

As described in Note 2, because the investment contracts are fully benefit-responsive, contract value is the relevant measurement attribute for that portion of the net assets available for benefits attributable to the investment contract. Contract value, as reported to the Plan by Transamerica, represents contributions made under the contract, plus earnings, less participant withdrawals and administrative expenses. Participants may ordinarily direct the withdrawal or transfer of all or a portion of their investment at contract value.

Risks arise when entering into any investment contract due to the potential inability of the issuer to meet the terms of the contract. In addition, security-backed contracts have the risk of default or the lack of liquidity of the underlying portfolio assets. There are no reserves against contract value for credit risk of the contract issuer or otherwise. The

crediting interest rate is based on a formula agreed upon with the issuer. Such interest rates are reviewed on a quarterly basis for resetting.

NOTE 6 - RELATED PARTY TRANSACTIONS

The Plan invests in shares of the Company's common stock through the InterDigital Stock Fund. In 2013, and for the first half of 2014, the Plan also invested in funds managed by Transamerica. Transactions in such investments qualify as party-in-interest transactions that are exempt from the prohibited transaction rules.

NOTE 7 - PLAN EXPENSES

Effective March 1, 2014, an amendment to the Pension Services Agreement between Transamerica and the Company was made to revise the way costs and expenses incurred in the administration of the Plan are paid and allocated among participants. Pursuant to Transamerica's Fund Revenue Equalization method, Transamerica uses certain revenue sharing payments it receives from the Investment Options available in the Plan to offset the costs of administration of the Plan on an individual fund basis. If the revenue Transamerica collects from a fund provider is greater than the administrative fee negotiated, Transamerica refunds the difference to the participants invested in the fund. If the revenue Transamerica collects from a fund provider is less than the negotiated fee, it collects the difference by deducting an administrative fee from the participants invested in the fund. Transamerica's Fund Revenue Equalization method ensures that all participants bear a similar percentage charge for the Plan's administrative fees irrespective of the investment funds they choose. Additional amounts in excess of its required revenue are credited to the "Expense Budget Account." If the amount received by Transamerica is less than its required revenue and the funds in the Expense Budget Account are insufficient to cover the shortfall, the Company pays the shortfall.

The amount of the credit to the Expense Budget Account in 2014 and 2013 was $97,615 and $108,902, respectively.

NOTE 8 - TAX STATUS

The Internal Revenue Service ("IRS") has determined and informed the Company by letter dated July 5, 2012 that the Plan satisfies the qualification requirements under IRC Section 401(a) and that the trust maintained in connection with the Plan satisfies the requirements for exemption under IRC Section 501(a). The Company believes the Plan is designed and is currently being operated in compliance with the applicable requirements of the IRC.

GAAP requires Plan management to evaluate tax positions taken by the Plan and recognize a tax liability (or asset) if the Plan had taken an uncertain position that more likely than not would not be sustained upon examination by the IRS. The Plan administrator has analyzed the tax positions taken by the Plan, and has concluded that, as of December 31, 2014, there are no uncertain positions taken or expected to be taken that would require recognition of a liability (or asset) or disclosure in the financial statements.

The Plan is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax period in progress. The Plan Administrator believes it is no longer subject to income tax examinations for years prior to 2012.

NOTE 9 - NON EXEMPT PARTY-IN-INTEREST TRANSACTIONS

For the Plan years 2014 and 2013, the Company has not remitted certain participant contributions and loan repayments to Transamerica in a timely manner based on when the participant contributions and loan repayments were withheld from participant paychecks as required under Department of Labor Regulation §2510.3-102.

The Company is in the process of filing IRS Form 5330 to report and pay an excise tax with respect to the 2014 and 2013 late remittances, and participant accounts will be credited with the amount of investment income that would have been earned had the participant contributions been remitted on a timely basis. Such amounts are not material to the Plan's financial statements.

INTERDIGITAL
SAVINGS AND PROTECTION PLAN
EIN 23-1882087
SCHEDULE H, LINE 4(i) - SCHEDULE OF ASSETS (HELD AT END OF YEAR)
DECEMBER 31, 2014

Identity of Issue	Investment Type	Current/Contract Value	
State Street Bank & Trust*	Cash	$57,933	
American Funds EuroPacific Growth R4 Fund	Registered investment companies	4,839,345	
American Beacon Mid Cap Value Institutional Fund	Registered investment companies	5,518,296	
Baron Small Cap Retail Fund	Registered investment companies	2,511,878	
BlackRock High Yield Institutional Bond Fund	Registered investment companies	1,534,234	
Diamond Hill Small Cap A Fund	Registered investment companies	1,185,966	
Dreyfus/The Boston Company Small/Mid Cap Growth Fund	Registered investment companies	2,346,551	
Invesco Real Estate Institutional Fund	Registered investment companies	3,282,634	
JPMorgan Core Bond A Fund	Registered investment companies	4,896,627	
Vanguard 500 Index Fund Admiral	Registered investment companies	10,220,358	
Vanguard Equity Income Fund Admiral	Registered investment companies	5,129,364	
Vanguard Small Cap Index Fund Admiral	Registered investment companies	3,748,164	
Vanguard Target Retirement 2010 Fund	Registered investment companies	776,822	
Vanguard Target Retirement 2020 Fund	Registered investment companies	1,795,722	
Vanguard Target Retirement 2030 Fund	Registered investment companies	5,356,643	
Vanguard Target Retirement 2040 Fund	Registered investment companies	2,976,507	
Vanguard Target Retirement 2050 Fund	Registered investment companies	389,709	
Wells Fargo Advantage Emerging Markets Equity Fund	Registered investment companies	724,831	
Wells Fargo Advantage Premier Large Company Growth Fund, Class A	Registered investment companies	7,247,391	
	Registered Investment Companies Total	$64,481,042	
Stable Pooled Fund*	Investments in common trusts	$6,535,690	**
InterDigital Stock Fund*	Employer Stock Fund	$4,735,622	
Notes Receivable from Participants*	Notes Receivable with Interest Rate of 4.25%	$233,063	
TOTAL ASSETS HELD AT END OF YEAR		$76,043,350	

* Transaction with party in interest
** Fair value is $6,895,146
Cost is not required for participant-directed investments.

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INTERDIGITAL
SAVINGS AND PROTECTION PLAN
EIN 23-1882087
SCHEDULE H, LINE 4(a) - SCHEDULE OF DELINQUENT PARTICIPANT CONTRIBUTIONS
DECEMBER 31, 2014

	Totals that Consitute Nonexempt Prohibited Transactions			
	Contributions Not Corrected	Contributions Corrected outside VFCP	Contributions Pending Correction in VFCP	Total Fully Corrected Under VFCP and PTE 2002-51
Participant Contributions Transferred Late to Plan for year ended 12/31/2014	$928,540	$—	$—	$—
Participant Contributions Transferred Late to Plan for year ended 12/31/2013	969,602	—	—	—

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the trustees (or other persons who administer the employee benefit plan) have duly caused this annual report to be signed on its behalf by the undersigned hereunto duly authorized.

	INTERDIGITAL SAVINGS AND PROTECTION PLAN	
	By:	InterDigital, Inc., in its capacity as Plan Sponsor and Plan Administrator
Date: June 29, 2015	By:	/s/ Richard J. Brezski Richard J. Brezski Chief Financial Officer

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EXHIBIT INDEX

The following is a list of Exhibits filed as part of this Annual Report on Form 11-K:

Exhibit Number	Exhibit Description
23.1	Consent of Morison Cogen LLP

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