

Malibu Boats, Inc.  
Form S-3  
May 08, 2015  
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As filed with the Securities and Exchange Commission on May 8, 2015

Registration Statement No. 333-

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

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

**MALIBU BOATS, INC.**  
**(Exact name of registrant as specified in its charter)**

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

**46-4024640**  
**(I.R.S. Employer**  
**Identification Number)**

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**5075 Kimberly Way**

**Loudon, Tennessee 37774**

**(865) 458-5478**

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

**Wayne R. Wilson**

**Chief Financial Officer**

**Malibu Boats, Inc.**

**5075 Kimberly Way**

**Loudon, Tennessee 37774**

**(865) 458-5478**

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

*Copy to:*

**John-Paul Motley, Esq.**

**O Melveny & Myers LLP**

**400 South Hope Street**

**Los Angeles, California 90071**

**(213) 430-6000**

**From time to time after this Registration Statement becomes effective.**

**(Approximate date of commencement of proposed sale to the public)**

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

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.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act of 1933, 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 Securities Exchange Act of 1934, as amended. (Check one):

Large accelerated filer

Accelerated filer

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

Smaller reporting company

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Title of each class of securities to be registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
<b>Primary Offering</b>				
Class A Common Stock, \$0.01 par value per share	(1)	(2)	(2)	
Preferred Stock, \$0.01 par value per share	(1)	(2)	(2)	
Debt Securities	(1)	(2)	(2)	
Warrants	(1)	(2)	(2)	
Rights	(1)	(2)	(2)	
Units	(1)	(2)	(2)	
Primary Offering Total:	(1)	(2)	\$150,000,000	\$17,430(3)
<b>Secondary Offering</b>				
Class A Common Stock, \$0.01 par value per share	5,415,349			
	shares(4)	\$21.79	\$118,000,455(5)	\$13,712(5)
<b>Total Registration Fee</b>				<b>\$31,142</b>

- (1) With respect to the primary offering, this registration statement registers such indeterminate number of shares of Class A Common Stock and preferred stock, such indeterminate principal amount of debt securities and such indeterminate number of warrants or rights to purchase Class A Common Stock, preferred stock or debt securities, and such indeterminate number of units as shall have an aggregate initial offering price not to exceed \$150,000,000 or the equivalent in foreign currencies. If any debt securities are issued at an original issue discount, then the principal amount of such debt securities shall be in such amount as shall result in an aggregate initial offering price not to exceed \$150,000,000, less the aggregate dollar amount of all securities previously issued hereunder. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder. The securities registered also include such indeterminate number of shares of Class A Common Stock and preferred stock and amount of debt securities as may be issued upon conversion of or exchange for preferred stock or debt securities that provide for conversion or exchange, upon exercise of warrants or rights or pursuant to the antidilution provisions of any such securities. In addition, pursuant to Rule 416 under the Securities Act, the shares being registered hereunder include such indeterminate number of shares of Class A Common Stock and preferred stock as may be issuable with respect to the securities being registered hereunder as a result of stock splits, stock dividends or similar transactions.
- (2) The 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 hereunder and is not specified as to each class of security pursuant to General Instruction II.D. of Form S-3 under the Securities Act of 1933, as amended, or the Securities Act.

- (3) Calculated pursuant to Rule 457(o) under the Securities Act.
- (4) With respect to the secondary offering, this registration statement registers 4,386,721 shares of Class A Common Stock of Malibu Boats, Inc. issuable upon exchange of an equivalent number of membership units of Malibu Boats Holdings, LLC, or LLC Units, (together with one share of the Class B Common Stock) and 1,028,628 shares of Class A Common Stock of Malibu Boats, Inc. that were issued in prior exchanges of LLC Units. This registration statement also relates to an indeterminate number of additional shares of Class A Common Stock which may be issued with respect to such shares of common stock by way of stock splits, stock dividends and reclassifications.
- (5) Estimated solely for the purpose of determining the registration fee in accordance with Rule 457(c) under the Securities Act based upon the average of the high and low prices of our Class A Common Stock reported on the NASDAQ Global Select Market on May 5, 2015.

**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 of 1933, as amended, 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.**

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**The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED MAY 8, 2015**

**PROSPECTUS**

**Malibu Boats, Inc.**

**\$150,000,000**

**Class A Common Stock**

**Preferred Stock**

**Debt Securities**

**Warrants**

**Rights**

**Units**

**5,415,349 Shares**

**of**

**Class A Common Stock**

**Offered by the Selling Stockholders**

From time to time, we may offer and sell up to \$150,000,000 in aggregate of the securities described in this prospectus separately or together in any combination, in one or more classes or series, in amounts, at prices and on terms that we will determine at the time of the offering.

In addition, the selling stockholders identified in this prospectus may, from time to time, offer and sell up to 4,386,721 shares of our Class A Common Stock that may be issued in exchange for membership units, or LLC Units, in Malibu Boats Holdings, LLC, or the LLC, together with one share of our Class B Common Stock pursuant to certain contractual rights of the holders of the LLC Units and 1,028,628 shares of our Class A Common Stock that were issued in prior exchanges of LLC Units. We are the sole managing member of the LLC. The registration of the shares of our Class A Common Stock covered by this prospectus does not necessarily mean that any of the holders of LLC Units will request that we exchange their LLC Units, that upon any such exchange we will elect, in our sole discretion, to exchange the LLC Units tendered for exchange for Class A Common Stock, or that any shares of our Class A Common Stock received in exchange for LLC Units will be sold by the selling stockholders. The LLC Units (and corresponding share of our Class B Common Stock) that may be exchanged by the selling stockholders were issued as part of our recapitalization that was effected on February 5, 2014, in connection with our initial public offering, or the IPO. We will not receive any proceeds from the resale of shares of Class A Common Stock from time to time by the selling stockholders, but we have agreed to pay all registration expenses other than brokerage commissions, transfer taxes or, if applicable, underwriting commissions and discounts.

This prospectus provides a general description of the securities we may offer. We may provide specific terms of securities to be offered in one or more supplements to this prospectus. We may also provide a specific plan of distribution for any securities to be offered in a prospectus supplement. Prospectus supplements may also add, update or change information in this prospectus. You should carefully read this prospectus and the applicable prospectus supplement, together with any documents incorporated by reference herein, before you invest in our securities.

Our Class A Common Stock is listed on The NASDAQ Global Select Market, or NASDAQ, under the symbol MBUU. On May 7, 2015, the last reported sale price of our Class A Common Stock was \$20.93 per share. The applicable prospectus supplement will contain information, where applicable, as to the listing of any other securities covered by the prospectus supplement other than our Class A Common Stock on NASDAQ or any other securities exchange.

**Investing in any of our securities involves a high degree of risk. Please read carefully the section entitled Risk Factors on page 5 of this prospectus, the Risk Factors section contained in the applicable prospectus supplement and the information included and incorporated by reference in this prospectus.**

**We are an emerging growth company under applicable Securities and Exchange Commission rules and will be eligible for reduced public company reporting requirements.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is \_\_\_\_\_, 2015**

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement on Form S-3 that we filed with the Securities and Exchange Commission, or the SEC, using a shelf registration or continuous offering process. Under this shelf registration process, we may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings up to a total aggregate offering price of \$150,000,000 and our selling stockholders may sell up to 5,415,349 shares of Class A Common Stock in one or more offerings.

This prospectus provides a general description of the securities we may offer. We may provide specific terms of securities to be offered in one or more supplements to this prospectus. We may also provide a specific plan of distribution for any securities to be offered in a prospectus supplement. Prospectus supplements may also add, update or change information in this prospectus. If the information varies between this prospectus and the accompanying prospectus supplement, you should rely on the information in the accompanying prospectus supplement.

Before purchasing any securities, you should carefully read both this prospectus and any prospectus supplement, together with the additional information described under the heading **Information We Incorporate by Reference**. You should rely only on the information contained or incorporated by reference in this prospectus, any prospectus supplement and any free writing prospectus prepared by or on behalf of us or to which we have referred you. Neither we, any selling stockholder, nor any underwriters have authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. You should assume that the information contained in this prospectus, any prospectus supplement or any free writing prospectus is accurate only as of the date on its respective cover, and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospects may have changed since those dates.

This prospectus contains summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been filed, will be filed or will be incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under the heading **Where You Can Find More Information**.

This prospectus and any applicable prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate. Neither we nor any selling stockholder are making offers to sell the Class A Common Stock or any other securities described in this prospectus in any jurisdiction in which an offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make an offer or solicitation.

Unless otherwise expressly indicated or the context otherwise requires, we use the terms **Malibu Boats**, **Malibu**, **the Company**, **we**, **us**, **our** or similar references to refer (i) prior to the consummation of the recapitalization transaction completed immediately prior to the closing of the IPO, or the Recapitalization, and the IPO, to the LLC and its consolidated subsidiaries and (ii) after the Recapitalization and the IPO, to Malibu Boats, Inc. and its consolidated subsidiaries. We refer to the owners of membership interests in the LLC immediately prior to the consummation of the IPO, collectively, as our **pre-IPO owners** and to owners of LLC Units, collectively, as our **LLC members**.

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**WHERE YOU CAN FIND MORE INFORMATION**

We have filed our registration statement on Form S-3 with the SEC under the Securities Act of 1933, as amended, or the Securities Act. We also file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document that we file with the SEC, including the registration statement and the exhibits to the registration statement, at the SEC's Public Reference Room located at 100 F Street, N.E., Washington D.C. 20549. You may obtain further information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Our SEC filings are also available to the public at the SEC's web site at [www.sec.gov](http://www.sec.gov). These documents may also be accessed on our web site at [www.malibuboats.com](http://www.malibuboats.com). Information contained on our web site is not incorporated by reference into this prospectus and you should not consider information contained on our web site to be part of this prospectus.

This prospectus and any prospectus supplement are part of a registration statement filed with the SEC and do not contain all of the information in the registration statement. The full registration statement may be obtained from the SEC or us as indicated above. Forms of any indenture or other documents establishing the terms of the offered securities are filed as exhibits to the registration statement or will be filed through an amendment to our registration statement on Form S-3 or under cover of a Current Report on Form 8-K and incorporated in this prospectus by reference.

**INFORMATION WE INCORPORATE BY REFERENCE**

The SEC allows us to incorporate by reference in this prospectus the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus. Any statement contained herein or in a document incorporated or deemed to be incorporated by reference into this document will be deemed to be modified or superseded for purposes of the document to the extent that a statement contained in this document or any other subsequently filed document that is deemed to be incorporated by reference into this document modifies or supersedes the statement. We incorporate by reference in this prospectus the following information (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

our Annual Report on Form 10-K for the fiscal year ended June 30, 2014 (filed with the SEC on September 25, 2014), including the information specifically incorporated by reference into such report from our Definitive Proxy Statement on Schedule 14A (filed with the SEC on October 2, 2014);

our Quarterly Reports on Form 10-Q for the quarterly periods ended September 30, 2014, December 31, 2014 and March 31, 2015 (filed with the SEC on November 7, 2014, February 9, 2015 and May 8, 2015, respectively);

our Current Reports on Form 8-K or Form 8-K/A, as applicable, filed on July 7, 2014 (with respect to Item 8.01 only), July 10, 2014 (with respect to Item 3.02 only), September 17, 2014 (with respect to Item 1.01 only), October 3, 2014, October 29, 2014, October 30, 2014, October 30, 2014, November 20, 2014, April 2, 2014 and April 15, 2015; and

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the description of our Class A Common Stock in our Registration Statement on Form S-1 (File No. 333-197095) filed with the SEC on June 27, 2014, including any amendments and reports filed for the purpose of updating such description.

We also incorporate by reference each of the documents that we file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, on or after the date of this prospectus and prior to the termination of the offerings under this prospectus and any prospectus supplement. These documents include periodic reports, such as Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as proxy statements. We will not, however, incorporate by

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reference in this prospectus any documents or portions thereof that are not deemed filed with the SEC, including any information furnished pursuant to Item 2.02 or Item 7.01 of our Current Reports on Form 8-K after the date of this prospectus unless, and except to the extent, specified in such Current Reports.

We will provide to each person, including any beneficial owner, to whom a prospectus (or a notice of registration in lieu thereof) is delivered a copy of any of these filings (other than an exhibit to these filings, unless the exhibit is specifically incorporated by reference as an exhibit to this prospectus) at no cost, upon a request to us by writing or telephoning us at the following address and telephone number:

Malibu Boats, Inc.

Attn: Chief Financial Officer

5075 Kimberly Way

Loudon, Tennessee 37774

Telephone Number: (865) 458-5478

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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus, including the documents incorporated by reference herein, may contain or incorporate forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, as amended. All statements other than statements of historical facts contained in this prospectus, including the documents incorporated by reference herein, are forward-looking statements, including statements regarding our future financial position, sources of revenue, demand for our products, our strengths, business strategy and plans, prospective products or products under development, costs, timing and likelihood of success, gross margins, financial measures not prepared in accordance with generally accepted accounting principles in the United States, and management's objectives for future operations. In some cases, you can identify forward-looking statements by terminology such as may, will, should, expects, plans, anticipates, believes, estimates, predicts, potential, continue, terms, or by other similar expressions that convey uncertainty of future events or outcomes to identify these forward-looking statements. These statements are only predictions, involving known and unknown risks, uncertainties and other factors that may cause our or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. Such factors include, but are not limited to: general economic conditions; significant fluctuations in our annual and quarterly financial results; our reliance on our network of independent dealers and increasing competition for dealers; the financial health of our dealers and their continued access to financing; our obligation to repurchase inventory of certain dealers; our failure to manage our manufacturing levels while addressing the seasonal retail pattern for our products; our large fixed cost base; intense competition within our industry; increased consumer preference for used boats or the supply of new boats by competitors in excess of demand; the successful introduction of new products; competition with other activities for consumers' scarce leisure time; the continued strength of our brands; our ability to execute our manufacturing strategy successfully; our ability to meet our manufacturing workforce needs; our reliance on third-party suppliers and ability to obtain adequate raw materials and components; our dependence on key personnel; our significant amount of debt and our debt service obligations; our ability to grow our business through acquisitions or strategic alliances and new partnerships; our ability to successfully integrate acquired businesses with our existing business; our ability to protect our intellectual property; our exposure to claims for product liability and warranty claims; risks inherent in operating in foreign jurisdictions; an increase in energy costs; any failure to comply with laws and regulations including environmental and other regulatory requirements; a natural disaster or other disruption at our manufacturing facilities; increases in income tax rates or changes in income tax laws; our status as an emerging growth company; and increased costs as a result of being a new public company.

You should not rely on forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Actual results may differ materially from those suggested by the forward-looking statements for various reasons, including those discussed under Item 1A. Risk Factors in our Annual Report on Form 10-K for the year ended June 30, 2014, as such risk factors may be amended, supplemented or superseded from time to time by other reports we file with the SEC, including subsequent Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q, and in any prospectus supplement. Forward looking statements speak only as of the date on which they are made. Except as required by law, we assume no obligation to update forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations.

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**MALIBU BOATS, INC.**

**Company Overview**

We are a leading designer, manufacturer and marketer of performance sport boats. Our boats are used for water sports, including water skiing, wakeboarding and wake surfing, as well as general recreational boating. We earn revenue and generate profits from the sale of our high performance boats under two brands Malibu and Axis. Our flagship Malibu brand boats offer our latest innovations in performance, comfort and convenience, and are designed for consumers seeking a premium boating experience. Our Axis brand of boats are designed to appeal to consumers who desire a more affordable product but still demand high performance, functional simplicity and the option to upgrade key features. We continue to focus on innovation and invest in product development to expand the market for our products by introducing consumers to new and exciting recreational activities.

We offer our boats for sale through an extensive network of independent dealers in North America and throughout the world. We offered our boats through an exclusive licensee in Australia until October 23, 2014, when we acquired it and it became a subsidiary of the Company. Following the acquisition, Malibu Boats Pty Ltd. s results are included in the Company s consolidated financial results. Our boats are the exclusive performance sport boats offered by the majority of our dealers.

**Corporate Structure and Information**

Malibu Boats, Inc. was incorporated as a Delaware corporation on November 1, 2013 in anticipation of its IPO to serve as a holding company that owns only an interest in Malibu Boats Holdings, LLC. As of April 30, 2015, Malibu Boats, Inc. held approximately 77.2% of the economic interest of the LLC. Malibu Boats, Inc., as sole managing member of the LLC, operates and controls all of the business and affairs and consolidates the financial results of the LLC.

Our principal executive offices are located at 5075 Kimberly Way, Loudon, Tennessee 37774, and our telephone number is (865) 458-5478. Our website is [www.malibuboats.com](http://www.malibuboats.com). However, the information located on, or accessible from, our website is not, and should not be deemed to be, part of this prospectus, any accompanying prospectus supplement or any free writing prospectus or incorporated into any other filing that we submit to the SEC.

**RISK FACTORS**

Investing in our securities involves a high degree of risk. Before making an investment decision, you should carefully consider any risk factors set forth in the applicable prospectus supplement and the documents incorporated by reference in this prospectus, including the factors discussed under the heading Risk Factors in our most recent Annual Report on Form 10-K and each subsequently filed Quarterly Report on Form 10-Q and any risk factors set forth in our other filings with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange. See Where You Can Find More Information and Information We Incorporate By Reference. Each of the risks described in these documents could materially and adversely affect our business, financial condition, results of operations and prospects, and could result in a partial or complete loss of your investment. Additional risks and uncertainties not presently known to us, or that we currently deem immaterial, may also adversely affect our business. In addition, past financial performance may not be a reliable indicator of future performance and historical trends should not be used to anticipate results or trends in future periods.



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The following table sets forth our ratio of earnings to fixed charges for each of the periods indicated. The following table is qualified by the more detailed information appearing in the computation table set forth in Exhibit 12.1 to the registration statement of which this prospectus is part and the historical financial statements, including the notes to those financial statements, incorporated by reference in this prospectus.

	<b>Nine Months Ended March 31, 2015</b>	<b>Year Ended June 30,</b>			
		<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
Ratio of earnings to fixed charges	78.96x	(1)	14.48x	8.75x	0.70(1)

(1) Earnings were insufficient to cover fixed charges in the amount of \$3.4 million and \$0.5 million for the fiscal years ended June 30, 2014 and June 30, 2011 respectively.

For purposes of computing the ratio of earnings to fixed charges, earnings include pre-tax income (loss) from continuing operations and fixed charges (excluding capitalized interest) and amortization of capitalized interest. Fixed charges consist of interest expense, capitalized interest (including amounts charged to income and capitalized during the period), and amortization of debt discount costs.

There was no preferred stock outstanding for any of the periods shown above. Accordingly, the ratio of earnings to combined fixed charges and preferred stock dividends was identical to the ratio of earnings to fixed charges for each period.

**USE OF PROCEEDS**

We will retain broad discretion over the use of the net proceeds from the sale of the securities offered hereby. Unless otherwise specified in any prospectus supplement, we currently intend to use the net proceeds from the sale of our securities offered under this prospectus for working capital and general corporate purposes including, but not limited to, capital expenditures, working capital and other business opportunities. Pending any specific application, we may initially invest funds in short-term marketable securities or apply them to the reduction of short-term indebtedness.

We will not receive any proceeds from the sale of shares of our Class A Common Stock that may be sold from time to time pursuant to this prospectus by the selling stockholders. We will bear the costs associated with this registration in accordance with the registration rights agreement and the LLC's limited liability company agreement. However, the selling stockholders will bear any brokerage commissions, transfer taxes, or underwriting commissions and discounts attributable to their sale of shares of our Class A Common Stock.



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**CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS WITH SELLING STOCKHOLDERS**

**Exchange Agreement**

In connection with our Recapitalization and IPO, we entered into an exchange agreement with the pre-IPO owners of the LLC, several of whom are directors and/or officers of Malibu Boats, Inc. Under the exchange agreement, each pre-IPO owner of the LLC (or its permitted transferee) has the right to exchange its LLC Units for shares of Class A Common Stock of Malibu Boats, Inc. on a one-for-one basis, subject to customary conversion rate adjustments for stock splits, stock dividends and reclassifications, or, at our option, except in the event of a change in control, for a cash payment equal to the market value of the Class A Common Stock. The exchange agreement provides, however, that such exchanges must be for a minimum of the lesser of 1,000 LLC Units, all of the LLC Units held by the holder, or such amount as we determine to be acceptable. The exchange agreement also provides that LLC members do not have the right to exchange LLC Units if Malibu Boats, Inc. determines that such exchange would be prohibited by law or regulation or would violate other agreements with Malibu Boats, Inc. to which the LLC member may be subject or any of our written policies related to unlawful or insider trading. The exchange agreement also provides that we may impose additional restrictions on exchanges that we determine to be necessary or advisable so that the LLC is not treated as a publicly traded partnership for U.S. federal income tax purposes. In addition, pursuant to the limited liability company agreement, Malibu Boats, Inc., as managing member of the LLC, has the right to require all members of the LLC to exchange their LLC Units for Class A Common Stock in accordance with the terms of the exchange agreement, subject to the consent of Black Canyon Management LLC and the holders of a majority of outstanding LLC Units other than those held by Malibu Boats, Inc.

**Tax Receivable Agreement**

As a result of exchanges of LLC Units into Class A Common Stock and purchases by the Company of LLC Units from holders of LLC Units, Malibu Boats, Inc. will become entitled to a proportionate share of the existing tax basis of the assets of the LLC at the time of such exchanges or purchases. In addition, such exchanges and purchases of LLC Units are expected to result in increases in the tax basis of the assets of the LLC that otherwise would not have been available. These increases in tax basis may reduce the amount of tax that we would otherwise be required to pay in the future. These increases in tax basis may also decrease gains (or increase losses) on future dispositions of certain capital assets to the extent tax basis is allocated to those capital assets.

In connection with our Recapitalization and IPO, we entered into a tax receivable agreement with the pre-IPO owners of the LLC that provides for the payment from time to time by us to pre-IPO owners of the LLC (or any permitted assignees) of 85% of the amount of the benefits, if any, that we are deemed to realize as a result of (1) increases in tax basis and (2) certain other tax benefits related to our entering into the tax receivable agreement, including those attributable to payments under the tax receivable agreement. These payment obligations are our obligations and not of the LLC. For purposes of the agreement, the benefit deemed realized by us will be computed by comparing our actual income tax liability (calculated with certain assumptions) to the amount of such taxes that we would have been required to pay had there been no increase to the tax basis of the assets of the LLC as a result of the purchases or exchanges, and had we not entered into the tax receivable agreement. The term of the agreement will continue until all such tax benefits have been utilized or expired, unless we exercise our right to terminate the tax receivable agreement for an amount based on the agreed payments remaining to be made under the agreement or we breach any of our material obligations under the tax receivable agreement or there is a change in control, in which case all obligations will generally be accelerated and due as if we had exercised our right to terminate the agreement. Estimating the amount of payments that may be made under the tax receivable agreement is by its nature imprecise, insofar as the calculation of amounts payable depends on a variety of factors. The actual increase in tax basis, as well as the amount

and timing of any payments under the agreement, will vary depending upon a number of factors, including:

*the timing of purchases or exchanges* for instance, the increase in any tax deductions will vary depending on the fair value, which may fluctuate over time, of the depreciable or amortizable assets of the LLC at the time of each purchase or exchange;

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*the price of shares of our Class A Common Stock at the time of the purchase or exchange* the increase in any tax deductions, as well as the tax basis increase in other assets, of the LLC is directly related to the price of shares of our Class A Common Stock at the time of the purchase or exchange;

*the extent to which such purchases or exchanges are taxable* if an exchange or purchase is not taxable for any reason, increased deductions will not be available; and

*the amount and timing of our income* the corporate taxpayer will be required to pay 85% of the deemed benefits as and when deemed realized. If we do not have taxable income, we generally will not be required (absent a change of control or other circumstances requiring an early termination payment) to make payments under the tax receivable agreement for that taxable year because no benefit will have been realized. However, any tax benefits that do not result in realized benefits in a given tax year will likely generate tax attributes that may be utilized to generate benefits in previous or future tax years. The utilization of such tax attributes will result in payments under the tax receivable agreement.

We expect that the payments that we may make under the agreement may be substantial. Assuming no material changes in the relevant tax law, and that we earn sufficient taxable income to realize all tax benefits that are subject to the agreement, as of March 31, 2015, we expect that future payments under the agreement relating to the purchase or exchange by Malibu Boats, Inc. of LLC Units to aggregate approximately \$47.7 million over the next 15 years. We estimate that our future payments under the agreement will increase by an additional \$24.2 million as a result of exchanges of LLC Units into Class A Common Stock in connection with the completion of our tender offer in April 2015. Future payments to the pre-IPO owners of the LLC (or their permitted assignees) in respect of subsequent exchanges would be in addition to these amounts and are expected to be substantial. The foregoing numbers are merely estimates and the actual payments could differ materially. It is possible that future transactions or events could increase or decrease the actual tax benefits realized and the corresponding tax receivable agreement payments. There may be a material negative effect on our liquidity if distributions to Malibu Boats, Inc. by the LLC are not sufficient to permit Malibu Boats, Inc. to make payments under the agreement after it has paid taxes. The payments under the agreement are not conditioned upon the LLC members' continued ownership of us.

The effects of the tax receivable agreement on our consolidated balance sheet as a result of our purchase of LLC Units or the exchange of LLC Units into Class A Common Stock since, and including, our IPO were as follows:

we recorded an increase of \$18.3 million in deferred tax assets for the purchase of LLC Units in our IPO and an increase of \$37.2 million in deferred tax assets for the purchase of LLC Units in our follow-on public offering of Class A Common Stock completed on July 15, 2014, or the follow-on-offering, and we estimate that we will record an increase of \$26.8 million in deferred tax assets for the exchange of LLC Units into Class A Common Stock in connection with the completion of our tender offer for Class A Common Stock in April 2015, in each case for the estimated income tax effects of the increase in the tax basis of the assets owned by Malibu Boats, Inc. based on enacted federal and state tax rates at the date of the applicable purchase or exchange of LLC Units. To the extent we estimate that we will not realize the full benefit represented by the deferred tax asset, based on an analysis of expected future earnings, we will reduce the deferred tax asset with a valuation allowance;

for the purchase of LLC Units in our IPO and follow-on offering and for the exchange of LLC Units into Class A Common Stock in connection with the completion of our tender offer in April 2015, we recorded, or will record (with respect to the tender offer), 85% of the estimated realizable tax benefit resulting from (1) the increase in tax basis resulting from the purchases or exchanges of LLC Units and (2) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement, as an increase of the payable to related parties pursuant to the tax receivable agreement. We recorded an increase to payable to related parties pursuant to the tax receivable agreement of \$13.6 million and \$34.0 million for the purchase of LLC Units in our IPO and follow-on offering and we estimate we will record approximately \$24.2 million for exchanges of LLC Units into Class A Common Stock in connection with the completion of our tender offer in April 2015; and

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we recorded for the IPO and for the follow-on offering and we will record for our tender offer in April 2015 an increase to additional paid-in capital in an amount equal to the difference between the increase in deferred tax assets and the increase in liability due to LLC members under the tax receivable agreement.

The amounts of deferred tax assets and the liability for our obligations under the tax receivable agreement for the purchase of LLC Units in our IPO and the follow-on offering and the exchanges of LLC Units into Class A Common Stock in connection with the completion of our tender in April 2015 are estimates. The effects of changes in these estimates would be recorded as an adjustment to paid-in capital.

The tax receivable agreement provides that, upon certain mergers, asset sales or other forms of business combinations or other changes of control, we (or our successor) would owe to the pre-IPO owners of the LLC (or their permitted assignees) a lump-sum payment equal to the present value of all forecasted future payments that would have otherwise been made under the tax receivable agreement which would be based on certain assumptions, including a deemed exchange of LLC Units and that we would have sufficient taxable income to fully utilize the deductions arising from the increased tax basis and other tax benefits related to entering into the tax receivable agreement. We are also entitled to terminate the tax receivable agreement, which, if terminated, would obligate us to make early termination payments to the pre-IPO owners of the LLC. A pre-IPO owner may also elect to unilaterally terminate the tax receivable agreement with respect to such pre-IPO owner, which would obligate us to pay to such pre-IPO owner certain payments for tax benefits received through the taxable year of the election.

Payments generally will be due under the tax receivable agreement within five business days following the finalization of the schedule with respect to which the payment obligation is calculated, although interest on such payments will begin to accrue at a rate equal to LIBOR plus 100 basis points from the due date (without extensions) of the applicable tax return until such payment due date. Any late payments under the tax receivable agreement generally will accrue interest at a rate of LIBOR plus 500 basis points.

Payments under the tax receivable agreement will be based on the tax reporting positions that we will determine. Although we are not aware of any issue that would cause the Internal Revenue Service to challenge a tax basis increase, the corporate taxpayer will not be reimbursed for any payments previously made under the agreement. As a result, in certain circumstances, payments could be made under the agreement in excess of the benefits that the corporate taxpayer actually realizes in respect of the tax attributes subject to the agreement.

## **Voting Agreement**

In connection with our Recapitalization and IPO, we have entered into a voting agreement with certain affiliates. Under the voting agreement, Black Canyon Management LLC is entitled to nominate to our Board of Directors a number of designees equal to (1) 20% of the total number of directors comprising our Board of Directors for so long as specified entities affiliated with Black Canyon Management LLC (and their permitted transferees) and Jack S. Springer, Wayne R. Wilson and Ritchie L. Anderson together beneficially own 15% or more of the voting power of the shares of Class A Common Stock and Class B Common Stock entitled to vote generally in the election of directors, voting together as a single class, and (2) 10% of the total number of directors comprising the Board of Directors for so long as specified entities affiliated with Black Canyon Management LLC (and their permitted transferees) and Messrs. Springer, Wilson and Anderson, together, beneficially own more than 5% but less than 15% of the voting power of the shares of Class A Common Stock and Class B Common Stock entitled to vote generally in the election of directors, voting together as a single class. For purposes of calculating the number of directors that Black Canyon Management LLC is entitled to nominate pursuant to this formula, any fractional amounts would be rounded up to the nearest whole number and the calculation would be made on a pro forma basis, taking into account any increase in the size of the Board of Directors (e.g., one and one-third (1 1/3) directors equates to two directors). In addition, Black Canyon Management LLC has the right to remove and replace its director-designees at any time and

for any reason and to

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nominate any individuals to fill any such vacancies. Messrs. Springer, Wilson and Anderson are required to vote any of their Class A Common Stock and Class B Common Stock in favor of the director or directors nominated by Black Canyon Management LLC. As of April 30, 2015, the specified entities affiliated with Black Canyon Management LLC, their permitted transferees, and Messrs. Springer, Wilson and Anderson own (as calculated pursuant to the voting agreement) approximately 15.6% of the voting power of the shares of Class A Common Stock and Class B Common Stock, voting together as a single class. Accordingly, Black Canyon Management LLC has the right to designate two of our nine directors. Mr. Hooks and Mr. Lanigan are the two designees of Black Canyon Management LLC.

### **Malibu Boats Holdings, LLC Limited Liability Company Agreement**

In connection with our Recapitalization and IPO, the limited liability company agreement of the LLC was amended and restated. As a result of our Recapitalization and IPO, Malibu Boats, Inc. holds LLC Units in the LLC and is the sole managing member of the LLC. Accordingly, Malibu Boats, Inc. operates and controls all of the business and affairs of the LLC and, through the LLC and its operating subsidiaries, conducts our business. Holders of LLC Units generally do not have voting rights under the limited liability company agreement.

Pursuant to the limited liability company agreement of the LLC, Malibu Boats, Inc. has the right to determine when distributions (other than tax distributions) will be made to the holders of LLC Units and the amount of any such distributions. If Malibu Boats, Inc. authorizes a distribution, such distribution will be made to the holders of LLC Units (including Malibu Boats, Inc.) pro rata in accordance with the percentages of their respective LLC Units.

The holders of LLC Units, including Malibu Boats, Inc., will incur U.S. federal, state and local income taxes on their proportionate share of any taxable income of the LLC. Net profits and net losses of the LLC will generally be allocated to LLC's members (including Malibu Boats, Inc.) pro rata in accordance with the percentages of their respective limited liability company interests. The limited liability company agreement of the LLC provides for cash distributions to the holders of the LLC Units if Malibu Boats, Inc. determines that the taxable income of the LLC will give rise to taxable income for its members. In accordance with the limited liability company agreement, we intend to cause the LLC to make cash distributions to the holders of LLC units for purposes of funding their tax obligations in respect of the income of the LLC that is allocated to them. Generally, these tax distributions will be computed based on our estimate of the taxable income of the LLC allocable to the holders of LLC Units multiplied by an assumed tax rate equal to the highest effective marginal combined U.S. federal, state and local income tax rate prescribed for an individual or corporate resident in Los Angeles, California (taking into account the nondeductibility of certain expenses and the character of our income). For purposes of determining the taxable income of the LLC, such determination will be made by generally disregarding any adjustment to the taxable income of any member of the LLC that arises under the tax basis adjustment rules of the Internal Revenue Code of 1986, as amended, and is attributable to the acquisition by such member of an interest in the LLC in a sale or exchange transaction.

The limited liability company agreement of the LLC also provides that substantially all expenses incurred by or attributable to Malibu Boats, Inc., but not including income tax expenses of Malibu Boats, Inc., will be borne by the LLC.

The limited liability company agreement of the LLC provides that it may be amended, supplemented, waived or modified by the written consent of Malibu Boats, Inc. in its sole discretion without the approval of any other holder of LLC Units, except that no amendment may materially and adversely affect the rights of a holder of LLC Units without the consent of such holder, other than on a pro rata basis with other holders of LLC Units. The limited liability company agreement of the LLC also provides that, for so long as specified entities affiliated with Black Canyon Management LLC and their permitted transferees own an amount of LLC Units equal to at least 5% of the LLC Units

outstanding immediately following our IPO, after giving effect to the use of proceeds therefrom, or 568,687 LLC Units, the consent of Black Canyon Management LLC will be required for any amendment to the limited liability company agreement that would (1) reduce the rights of a holder of LLC Units



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to receive tax distributions, except on a pro rata basis with other holders of LLC Units, (2) preclude or limit the rights of any member to exercise its rights under the exchange agreement, (3) require any member to make a capital contribution, (4) materially increase the obligations of any member under the limited liability company agreement, or (5) result in the LLC being treated as a corporation for tax purposes. Specified entities affiliated with Black Canyon Management LLC and their permitted transferees own (as calculated pursuant to the limited liability company agreement) 1,718,362 LLC Units as of April 30, 2015.

## **Registration Rights Agreement**

In connection with our IPO, we entered into a registration rights agreement with Black Canyon Management LLC and affiliates of Black Canyon Capital LLC that own LLC Units pursuant to which Black Canyon Management LLC may request registration under the Securities Act of shares of Class A Common Stock held by affiliates of Black Canyon Capital LLC. In addition, the agreement provides that, as soon as is practicable after the one-year anniversary of the closing of the IPO, we must use all reasonable efforts to cause a resale shelf registration statement for the sale of shares of Class A Common Stock by Black Canyon Management LLC and affiliates of Black Canyon Capital LLC to become effective and remain effective until the eighth anniversary of the IPO. The agreement will remain in effect until (1) the eighth anniversary of the IPO or (2) termination of the agreement by both (A) Black Canyon Management LLC and (B) holders owning two-thirds of the outstanding LLC Units covered by the Registration Rights Agreement. In addition, the limited liability company agreement of the LLC gives members the right to include their shares of Class A Common Stock (or shares of Class A Common Stock underlying the LLC Units) if we propose or are required to register with the SEC, pursuant to the registration rights agreement or otherwise, other shares of Class A Common Stock (or shares of Class A Common Stock underlying the LLC Units) in such registration, subject to the limitations set forth in the limited liability company agreement.

## **Management Agreement**

Pursuant to a management agreement, dated as of August 7, 2006 and amended in 2009 and 2012, a wholly-owned subsidiary of the LLC agreed to pay to Malibu Boats Investor, LLC, a member of the LLC comprised principally of affiliates of Black Canyon Capital LLC and Horizon Holdings, LLC, the following, in exchange for management and advisory services:

reimbursement of certain out-of-pocket expenses;

a one-time fee equal to \$1,250,000 in connection with the LLC's acquisition of the assets of Malibu Boats West, Inc. in 2006;

an annual management fee equal to \$500,000 payable in quarterly installments from August 6, 2006 through June 30, 2008;

a quarterly management fee equal to \$106,000 payable from July 1, 2008 through September 30, 2008;

a quarterly management fee equal to \$62,500 payable from October 1, 2008 through December 31, 2008;

a one-time fee equal to \$2,081,250 relating to the provision of management and advisory services by Malibu Boats Investor, LLC to the LLC during the period from July 1, 2008 through December 31, 2012; and

an annual management fee equal to \$750,000 payable as of each January 1st from January 1, 2013 through the remainder of the management agreement's term.

The management agreement included customary indemnification provisions in favor of Malibu Boats Investor, LLC and its affiliates. We terminated the management agreement in connection with our IPO and paid Malibu Boats Investor, LLC a one-time termination fee of \$3.8 million.

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**Purchases of LLC Units from Selling Stockholders**

On February 5, 2014, we used a portion of the net proceeds from the IPO to purchase LLC Units from the following persons at a purchase price per unit equal to the public offering price per share of Class A Common Stock in the IPO of \$14.00, after deducting underwriting discounts and commissions as follows:

1,017,463 LLC Units from certain affiliates of Black Canyon Capital LLC, which is a beneficial owner of more than 5% of our outstanding voting securities, for aggregate gross proceeds of \$14,244,482 (our directors, Mr. Hooks and Mr. Lanigan are managing directors of Black Canyon Capital LLC);

656,035 LLC Units from certain affiliates of Horizon Holdings, LLC, which is a beneficial owner of more than 5% of our outstanding voting securities, for aggregate gross proceeds of \$9,184,490 (our director, Mr. Estes, is a managing member of Horizon Holdings, LLC);

229,832 LLC Units from Merced OKR, LLC for aggregate gross proceeds of \$3,217,648;

95,191 LLC Units from Jack D. Springer, our Chief Executive Officer, for aggregate gross proceeds of \$1,332,674;

45,193 LLC Units from Wayne R. Wilson, our Chief Financial Officer, for aggregate gross proceeds of \$632,702;

37,849 LLC Units from Paul Singer for aggregate gross proceeds of \$529,886;

31,128 LLC Units from Ritchie Anderson, our Chief Operating Officer, for aggregate gross proceeds of \$435,792;

23,433 LLC Units from Dan L. Gasper, our Vice President of Product Design, for aggregate gross proceeds of \$328,062;

17,946 LLC Units from Douglas Childres for aggregate gross proceeds of \$251,244;

15,983 LLC Units from Paul Gaines for aggregate gross proceeds of \$223,762;

13,453 LLC Units from Adam McCall for aggregate gross proceeds of \$188,342;

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7,178 LLC Units from Steven Clothier for aggregate gross proceeds of \$100,492;

7,178 LLC Units from Robin Banks for aggregate gross proceeds of \$100,492;

7,178 LLC Units from Heidi Verna for aggregate gross proceeds of \$100,492;

6,500 LLC Units from Randy Woods for aggregate gross proceeds of \$91,000;

5,328 LLC Units from Lani Farmer for aggregate gross proceeds of \$74,592;

4,786 LLC Units from Chris Evans for aggregate gross proceeds of \$67,004;

2,697 LLC Units from Deborah Kent, our Vice President of Human Resources, for aggregate gross proceeds of \$37,758; and

61,502 LLC Units from holders of LLC Units other than those listed above for aggregate gross proceeds of \$861,028.

On July 15, 2014, we used a portion of the net proceeds from our follow-on offering to purchase LLC Units from the following persons at a purchase price per unit equal to the public offering price per share of Class A Common Stock in the follow-on offering of \$18.50, after deducting underwriting discounts and commissions as follows:

1,791,457 LLC Units from certain affiliates of Black Canyon Capital LLC for aggregate gross proceeds of \$33,141,955;

1,158,503 LLC Units from certain affiliates of Horizon Holdings, LLC for aggregate gross proceeds of \$21,432,306;

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415,408 LLC Units from Merced OKR, LLC for aggregate gross proceeds of \$7,685,048;

191,305 LLC Units from Jack D. Springer for aggregate gross proceeds of \$3,539,143;

107,215 LLC Units from Jewish Community Foundation for aggregate gross proceeds of \$1,983,478;

92,723 LLC Units from Wayne R. Wilson for aggregate gross proceeds of \$1,715,376;

76,063 LLC Units from Paul Singer for aggregate gross proceeds of \$1,407,166;

56,632 LLC Units from Michael K. Hooks for aggregate gross proceeds of \$1,047,692;

56,632 LLC Units from Mark W. Lanigan for aggregate gross proceeds of \$1,047,692;

51,810 LLC Units from Ritchie Anderson for aggregate gross proceeds of \$958,485;

47,093 LLC Units from Dan L. Gasper for aggregate gross proceeds of \$871,221;

46,481 LLC Units from Gateway Community Church for aggregate gross proceeds of \$859,899;