

MDC PARTNERS INC  
Form 10-K  
March 07, 2013

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

**FORM 10-K**

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

**For the Fiscal Year Ended December 31, 2012**

**Commission File Number 001-13178**

**MDC PARTNERS INC.**

(Exact Name of Registrant as Specified in Its Charter)

Canada  
(State or Other Jurisdiction of  
Incorporation or Organization)

98-0364441  
(I.R.S. Employer  
Identification Number)

**745 Fifth Avenue,  
New York, NY, 10151  
(646) 429-1800**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Securities registered pursuant to Section 12(b) of the Act:

| Title of Each Class  | Name of Each Exchange on Which Registered |
|--|---|
| Class A Subordinate Voting Shares, no par value                          | NASDAQ; Toronto Stock Exchange            |
| Securities registered pursuant to Section 12(g) of the Act: <b>None.</b> |   |

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. (Check one):

Large Accelerated Filer  Accelerated Filer  Non-Accelerated  Smaller reporting company   
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of the shares of all classes of voting and non-voting common stock of the registrant held by non-affiliates as of June 30, 2012 was approximately \$283.4 million, computed upon the basis of the closing sales

price (\$11.03/share) of the Class A subordinate voting shares on that date.

As of February 28, 2013, there were 31,840,151 outstanding shares of Class A subordinate voting shares without par value, and 2,503 outstanding shares of Class B multiple voting shares without par value, of the registrant.

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References in this Annual Report on Form 10-K to MDC Partners, MDC, the Company, we, us and our refer Partners Inc. and, unless the context otherwise requires or otherwise is expressly stated, its subsidiaries.

All dollar amounts are stated in US dollars unless otherwise stated.

## DOCUMENTS INCORPORATED BY REFERENCE

The following sections of the Proxy Statement for the Annual Meeting of Stockholders to be held on June 6, 2013, are incorporated by reference in Parts I and III: Election of Directors, Section 16(a) Beneficial Ownership Reporting Compliance, Executive Compensation, Report of the Human Resources & Compensation Committee on Executive Compensation, Outstanding Shares, Appointment of Auditors, and Certain Relationships and Related Transactions

## AVAILABLE INFORMATION

Information regarding the Company's Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to these reports, will be made available, free of charge, at the Company's website at <http://www.mdc-partners.com>, as soon as reasonably practicable after the Company electronically files such reports with or furnishes them to the Securities and Exchange Commission (SEC). The information found on, or otherwise accessible through, the Company's website is not incorporated into, and does not form a part of, this Annual Report or Form 10-K. Any document that the Company files with the SEC may also be read and copied at the SEC's public reference room located at 100 F. Street, N.E., Washington, DC 20549. Please call the SEC at 1 (800) SEC-0330 for further information on the public reference room. The Company's filings are also available to the public from the SEC's website at <http://www.sec.gov>.

The Company's Code of Conduct, Whistleblower Policy, and each of the charters for the Audit Committee, Human Resources & Compensation Committee and the Nominating and Corporate Governance Committee, are available free of charge on the Company's website at <http://www.mdc-partners.com> or by writing to MDC Partners Inc., 745 Fifth Avenue, New York, NY 10151, Attention: Investor Relations.

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## **FORWARD-LOOKING STATEMENTS**

This document contains forward-looking statements. The Company's representatives may also make forward-looking statements orally from time to time. Statements in this document that are not historical facts, including statements about the Company's beliefs and expectations, recent business and economic trends, potential acquisitions, estimates of amounts for deferred acquisition consideration and put option rights, constitute forward-looking statements. These statements are based on current plans, estimates and projections, and are subject to change based on a number of factors, including those outlined in this section. Forward-looking statements speak only as of the date they are made, and the Company undertakes no obligation to update publicly any of them in light of new information or future events, if any.

Forward-looking statements involve inherent risks and uncertainties. A number of important factors could cause actual results to differ materially from those contained in any forward-looking statements. Such risk factors include, but are not limited to, the following:

- risks associated with severe effects of international, national and regional economic conditions;
- the Company's ability to attract new clients and retain existing clients;
- the spending patterns and financial success of the Company's clients;
- the Company's ability to retain and attract key employees;
- the Company's ability to remain in compliance with its debt agreements and the Company's ability to finance its contingent payment obligations when due and payable, including but not limited to those relating to put option rights and deferred acquisition consideration;
- the successful completion and integration of acquisitions which complement and expand the Company's business capabilities; and
- foreign currency fluctuations.

The Company's business strategy includes ongoing efforts to engage in material acquisitions of ownership interests in entities in the marketing communications services industry. The Company intends to finance these acquisitions by using available cash from operations, from borrowings under its WF Credit Agreement and through incurrence of bridge or other debt financing, any of which may increase the Company's leverage ratios, or by issuing equity, which may have a dilutive impact on existing shareholders proportionate ownership. At any given time, the Company may be engaged in a number of discussions that may result in one or more material acquisitions. These opportunities require confidentiality and may involve negotiations that require quick responses by the Company. Although there is uncertainty that any of these discussions will result in definitive agreements or the completion of any transactions, the announcement of any such transaction may lead to increased volatility in the trading price of the Company's securities.

Investors should carefully consider these risk factors and the additional risk factors outlined in more detail in this Annual Report on Form 10-K under the caption "Risk Factors" and in the Company's other SEC filings.

## **SUPPLEMENTARY FINANCIAL INFORMATION**

The Company reports its financial results in accordance with generally accepted accounting principles ( GAAP ) of the United States of America ( US GAAP ). However, the Company has included certain non-US GAAP financial measures and ratios, which it believes, provide useful information to both management and readers of this report in measuring the financial performance and financial condition of the Company. These measures do not have a standardized meaning prescribed by US GAAP and, therefore, may not be comparable to similarly titled measures presented by other publicly traded companies, nor should they be construed as an alternative to other titled measures

determined in accordance with US GAAP.



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## **PART I**

### **Item 1. Business**

## **BUSINESS**

### **MDC PARTNERS INC.**

MDC was formed by Certificate of Amalgamation effective December 19, 1986, pursuant to the Business Corporations Act (Ontario). Effective December 19, 1986, MDC amalgamated with Branbury Explorations Limited, and thereby became a public company operating under the name of MDC Corporation. On January 1, 2004, MDC changed its name to its current name, MDC Partners Inc., and on June 28, 2004, MDC was continued under Section 187 of the Canada Business Corporations Act. MDC's registered address is located at 45 Hazelton Avenue, Toronto, Ontario, M5R 2E3, and head office address is located at 745 Fifth Avenue, New York, NY 10151.

MDC is a leading provider of marketing, activation, communications and marketing effectiveness solutions and services to customers globally with operating units throughout the world.

MDC's subsidiaries provide a comprehensive range of customized marketing, activation, communications and consulting services, including a wide range of advertising and consumer communication services, media management and effectiveness across all channels, interactive and mobile marketing, direct marketing, database and customer relationship management, sales promotion, corporate communications, market research, data and analytics and insights, corporate identity, design and branding, social media, marketing, product and service innovation, ecommerce and other related services.

## **Part I Business**

MDC's strategy is to build, grow and acquire market-leading businesses that deliver innovative, value-added marketing, activation, communications and strategic consulting services to their clients. MDC Partners strives to be a partnership of marketing communications and consulting companies (or Partners) whose strategic, creative and innovative solutions are media-agnostic, challenge the status quo and achieve measurable superior returns on investment and transformative growth and business performance for clients and stakeholders.

MDC's Corporate Group ensures that MDC is the most Partner-responsive marketing services network through its strategic mandate to help Partner firms find clients, talent and tuck under acquisitions, as well as cross-sell services and enhance their culture for innovation and growth. MDC's Corporate Group also works directly with Partner firms to expand their offerings through new strategic services, as well as leverage the collective expertise and scale of the group as a whole. The Corporate Group uses this leverage to provide various shared services to help reduce costs across the group.

The MDC model is driven by three key elements:

*Perpetual Partnership.* The perpetual partnership creates ongoing alignment of interests to drive performance. The perpetual partnership model functions by (1) identifying the right Partners with a sustainable differentiated position in

the marketplace; (2) creating the right Partnership structure generally by taking a majority ownership position and leaving a substantial noncontrolling equity or economic ownership position in the hands of operating management to incentivize long-term growth; (3) providing access to more strategic resources, best practices, and leveraging the network's scale; and (4) focusing on delivering financial results.

*Entrepreneurialism.* MDC's Entrepreneurial spirit and that of its Partner firms is optimized through (1) its unique perpetual partnership model that incentivizes senior-level involvement and ambition; (2) Partner access to shared resources within the Corporate Group that allow individual firms to focus on client business and company growth; and (3) MDC's collaborative creation of customized solutions to support and grow Partner businesses.

*Human and Financial Capital.* The model balances accountability with financial flexibility and meaningful incentives to support growth.

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MDC operates through Partner companies within the following reportable segments:

### **Strategic Marketing Services**

The Strategic Marketing Services segment generally consists of firms that offer a full suite of integrated marketing communication and consulting services, including advertising and media, interactive marketing, direct marketing, public relations, corporate communications, market research, corporate identity and branding, product and service innovation, and sales promotion to national and global clients. The Strategic Marketing Services segment is comprised of the following agencies: 72andSunny; Allison & Partners; Anomaly; Attention; Bruce Mau Design; Capital C; Colle + McVoy; Concentric Partners; Crispin Porter + Bogusky; Doner; Dotbox; Hello Design; henderson bas kohn; HL Group Partners; kbs+; Kwittken; Laird + Partners; The Media Kitchen; Mono Advertising; Redscout; Sloane & Company; Union; Varick Media Management; Veritas; Vitro and Yamamoto.

### **Performance Marketing Services**

The Performance Marketing Services segment includes firms that provide consumer insights and analytic solutions to satisfy the growing need for targetable, measurable solutions or cost effective means of driving return on marketing investment and growth for regional, national and global clients. The Performance Marketing Services segment is comprised of the following agencies: 6degrees Communications; Accent; AIC Publishing; Boom Marketing; Bryan Mills Iradesso; Communifx Partners; Computer Composition; Integrated Media Solutions; Kenna Communications; Northstar Research Partners; Onbrand; Relevant; RJ Palmer; Source Marketing; TargetCast; TargetCom; Team; Trade X and Maxxcom Global Media Group.

### **Ownership Information**

The following table includes certain information about MDC's operating subsidiaries as of December 31, 2012. The Put and Call Options information represents existing contractual rights. Owners of interests in certain subsidiaries have the right in certain circumstances to require MDC to acquire additional ownership interests held by them. The owners' ability to exercise any such put option right is subject to the satisfaction of certain conditions, including conditions requiring notice in advance of exercise. In addition, these rights cannot be exercised prior to specified staggered exercise dates. The exercise of these rights at their earliest contractual date would result in obligations of MDC to fund the related amounts during the periods described in the accompanying notes. It is not determinable, at this time, if or when the owners of these rights will exercise all or a portion of these rights. The amount payable by MDC in the event such rights are exercised is dependent on defined valuation formulas and on future events, such as the average earnings of the relevant subsidiary through the date of exercise, the growth rate of the earnings of the relevant subsidiary during that period, and, in some cases, the currency exchange rate at the date of payment. See also Management's Discussion and Analysis Other-Balance Sheet Commitments Put Rights of Subsidiaries Noncontrolling Shareholders for further discussion.

Put options represent puts of ownership interests by other interest holders to MDC with reciprocal call rights held by MDC for the same ownership interests with similar terms. The percentages shown represent the potential ownership interest MDC could achieve in each company assuming that the remaining equity holder(s) were to fully exercise their put option rights at the earliest opportunity.



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| Company                             | % Owned at<br>12/31/12 | Year of<br>Initial<br>Investment | Put/Call Options |            |
|-------------------------------------|------------------------|----------------------------------|------------------|------------|
|                                     |                        |                                  | 2013             | Thereafter |
|                                     |                        |                                  | (See Notes)      |            |
| Consolidated:                       |                        |                                  |                  |            |
| Strategic Marketing Services        |                        |                                  |                  |            |
| 72andSunny                          | 51.0 %                 | 2010                             |                  | Note 1     |
| Allison & Partners                  | 51.0 %                 | 2010                             |                  | Note 2     |
| Anomaly                             | 60.0 %                 | 2011                             |                  | Note 3     |
| Attention                           | 60.8 %                 | 2009                             |                  | Note 4     |
| Bruce Mau Design                    | 75.0 %                 | 2004                             | 100.0 %          | Note 5     |
| Capital C Partners                  | 82.1 %                 | 2010                             |                  | Note 6     |
| Colle + McVoy                       | 95.0 %                 | 1999                             | 100.0 %          | Note 7     |
| Concentric Partners                 | 70.0 %                 | 2011                             |                  | Note 8     |
| Crispin Porter + Bogusky            | 100.0 %                | 2001                             |                  | Note 9     |
| Hello Design                        | 49.0 %                 | 2004                             |                  |            |
| Doner                               | 30.0 %                 | 2012                             | 70.0 %           | Note 10    |
| Dotbox                              | 100.0 %                | 2012                             |                  |            |
| henderson bas kohn                  | 100.0 %                | 2004                             |                  | Note 11    |
| HL Group Partners                   | 92.8 %                 | 2007                             |                  |            |
| kirshenbaum bond senecal + partners | 100.0 %                | 2004                             |                  | Note 12    |
| The Media Kitchen                   | 100.0 %                | 2010                             |                  |            |
| Varick Media Management             | 100.0 %                | 2010                             |                  |            |
| Kwittken                            | 60.0 %                 | 2010                             |                  | Note 13    |
| Laird + Partners                    | 65.0 %                 | 2011                             |                  | Note 14    |
| Mono Advertising                    | 49.9 %                 | 2004                             | 70.0 %           | Note 15    |
| Redscout                            | 100.0 %                | 2007                             |                  |            |
| Sloane & Company                    | 70.0 %                 | 2010                             |                  |            |