

Ozark Holding Inc.  
Form S-4/A  
December 28, 2005  
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As filed with the Securities and Exchange Commission on December 27, 2005

Registration No. 333-129139

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# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## AMENDMENT NO. 3

to

## FORM S-4

## REGISTRATION STATEMENT

*UNDER*

*THE SECURITIES ACT OF 1933*

## OZARK HOLDING INC.

(Exact name of Registrant as specified in its charter)

Delaware  
(State of other jurisdiction of  
incorporation or organization)

7372  
(Primary Standard Industrial  
Classification Code Number)

54-2185193  
(I.R.S. Employer  
Identification No.)

Ozark Holding Inc.

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

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

Daniel Cooperman

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Secretary

Ozark Holding Inc.

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

*copies to:*

William M. Kelly, Esq.	George T. Shaheen	Eric C. Jensen, Esq.
William Aaronson, Esq.	Chief Executive Officer	Cooley Godward LLP
Davis Polk & Wardwell	Siebel Systems, Inc.	Five Palo Alto Square
1600 El Camino Real	2207 Bridgepointe Parkway	3000 El Camino Real
Menlo Park, California 94025	San Mateo, California 94404	Palo Alto, California 94306
Telephone: (650) 752-2000	Telephone: (650) 477-5000	Telephone: (650) 843-5000

**Approximate Date of commencement of proposed sale to the public:** as soon as practicable after the effective date of this registration statement and all conditions of the proposed transaction have been satisfied or waived as described in the Agreement and Plan of Merger dated as of September 12, 2005, as amended.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, 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, 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(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

**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 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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**SIEBEL SYSTEMS MERGER PROPOSED YOUR VOTE IS VERY IMPORTANT**

Dear Stockholder,

After careful consideration, the board of directors of Siebel Systems, Inc. ( Siebel Systems ) has unanimously approved an agreement and plan of merger with Oracle Corporation ( Oracle ). As part of the transaction and unless holders of less than six percent of the outstanding common stock of Siebel Systems make the stock election described below, Siebel Systems and Oracle will become subsidiaries of a new Oracle holding corporation named Ozark Holding Inc. The new Oracle holding corporation will trade under Oracle's current ticker symbol, ORCL, on the Nasdaq Stock Market and current Oracle stockholders will receive shares of common stock in the new Oracle holding corporation to replace their current Oracle shares. Any shares issued to Siebel Systems stockholders in the transaction will be shares of the new Oracle holding corporation.

You may elect to receive for each of your shares of Siebel Systems, either \$10.66 in cash or a number of shares of common stock of the new Oracle holding corporation determined by dividing \$10.66 by the greater of \$10.72 or the average Oracle stock price over the ten trading days immediately preceding the date on which the merger involving Siebel Systems becomes effective. If you do not elect to receive stock, you will be deemed to have elected to receive your consideration entirely in cash. If the holders of more than 30% of Siebel Systems common stock elect to receive stock, the stock portion of the merger consideration will be allocated pro rata among the holders electing to receive stock of the new Oracle holding corporation. A maximum of 182,826,501 shares of common stock of the new Oracle holding corporation could be issued in the merger in exchange for shares of Siebel Systems common stock. However, the number of shares of common stock of the new Oracle holding corporation to be received by Siebel Systems stockholders that elect to receive stock will not be known at the time Siebel Systems stockholders are asked to vote for the adoption of the merger agreement. Investing in the common stock of the new Oracle holding corporation involves a high degree of risk. See **Risk Factors** beginning on page 22. If the holders of less than six percent of Siebel Systems common stock outstanding prior to the completion of the transaction elect to receive stock, the transaction will be restructured and the merger consideration will consist only of \$10.66 in cash per each Siebel Systems share.

**After careful consideration, the Siebel Systems board of directors has unanimously determined that the merger agreement and the merger transactions are advisable and in the best interests of Siebel Systems stockholders and recommends that you vote For the adoption of the merger agreement.** The transaction is conditioned upon the adoption of the merger agreement by the Siebel Systems stockholders, receipt of applicable regulatory approvals and other conditions described in the attached proxy statement/prospectus.

Siebel Systems stockholders representing approximately seven percent of the outstanding shares of Siebel Systems common stock as of the date of the merger agreement have entered into an agreement with Oracle pursuant to which they have agreed to vote all of their shares in favor of the adoption of the merger agreement.

It is important that your shares are represented at the special meeting, whether or not you plan to attend the meeting. Abstentions and failures to vote will have the same effect as votes Against the proposal to adopt the merger agreement. **Accordingly, please submit a proxy by telephone or the Internet or complete, date, sign and return promptly your proxy card in the enclosed postage pre-paid envelope.** You may attend the special meeting and vote your shares in person if you wish, even though you have previously returned your proxy.

Sincerely,

/s/ GEORGE T. SHAHEEN

George T. Shaheen

Chief Executive Officer, Siebel Systems, Inc.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved the common stock of the new Oracle holding corporation to be issued under this proxy statement/prospectus or determined if this proxy statement/prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Proxy statement/prospectus dated December 27, 2005, and first mailed to stockholders on December 29, 2005.

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**REFERENCES TO ADDITIONAL INFORMATION**

This proxy statement/prospectus incorporates important business and financial information from other documents that are not included in or delivered with this proxy statement/prospectus. This information is available to you without charge upon your written or oral request. You can obtain those documents incorporated by reference in this proxy statement/prospectus or other information about the companies that is filed with the SEC under the Securities and Exchange Act of 1934, as amended, by requesting them in writing or by telephone from the appropriate company at the following addresses and telephone numbers:

if you are a Oracle stockholder:

By Mail: Oracle Corporation

500 Oracle Parkway

Redwood City, California 94065

By Telephone: (650) 506-7000

if you are a Siebel Systems stockholder:

By Mail: Siebel Systems, Inc.

2207 Bridgepointe Parkway

San Mateo, California 94404 Attn: Investor  
Relations

By Telephone: (650) 477-5000

*If you would like to request documents, please do so by January 23, 2006 in order to receive them before the special meeting.*

For additional information on documents incorporated by reference in this proxy statement/prospectus, please see [Where You Can Find More Information](#) .

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2207 Bridgepointe Parkway San Mateo, California 94404

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON January 30, 2006**

Dear Stockholder:

You are cordially invited to attend the Special Meeting of Stockholders of Siebel Systems, Inc., a Delaware corporation ( Siebel Systems ). The meeting will be held on Monday, January 30, 2006 at 11 A.M. Pacific Time, at the Sofitel Hotel, 223 Dolphin Drive, Redwood City, CA 94065, for the following purposes:

1. To consider and vote upon the adoption of the Agreement and Plan of Merger, dated as of September 12, 2005, as amended, by and among Oracle Corporation, Siebel Systems, Ozark Holding Inc., Ozark Merger Sub Inc. and Sierra Merger Sub Inc., all Delaware corporations.
2. To consider and vote upon an adjournment of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the special meeting to vote in favor of Proposal No. 1.
3. To transact such other business as may properly come before the special meeting and any adjournment or postponement thereof.

The board of directors of Siebel Systems has fixed December 15, 2005 as the record date for the determination of stockholders entitled to notice of, and to vote at, the special meeting and any adjournment or postponement thereof. Only holders of record of shares of Siebel Systems common stock at the close of business on the record date are entitled to notice of, and to vote at, the special meeting. At the close of business on the record date, Siebel Systems had outstanding and entitled to vote 533,683,557 shares of common stock.

**Your vote is important. The affirmative vote of the holders of a majority of the voting power of the shares of Siebel Systems common stock outstanding on the record date for the special meeting is required for approval of Proposal No. 1 regarding the adoption of the merger agreement. The affirmative vote of the holders of a majority of the votes represented and entitled to vote at the special meeting is required to approve Proposal No. 2 regarding an adjournment of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the special meeting to vote in favor of Proposal No. 1.**

Please do not send any certificates representing your Siebel Systems common stock at this time.

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BY ORDER OF THE BOARD OF DIRECTORS

/s/ JEFFREY T. AMANN

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Jeffrey T. Amann

Secretary

San Mateo, California

December 29, 2005

You are cordially invited to attend the special meeting in person. Whether or not you expect to attend the special meeting in person, please submit a proxy by telephone or over the Internet as instructed in these materials, or complete, date, sign and return the enclosed proxy card, as promptly as possible in order to ensure we receive your proxy with respect to your shares. A return envelope (which is postage pre-paid if mailed in the United States) is enclosed for your convenience. If you sign, date and mail your proxy card without indicating how you wish to have your shares voted, the shares represented by the proxy will be voted in favor of the adoption of the merger agreement and an adjournment of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the special meeting to vote in favor of Proposal No. 1. If you fail to submit your proxy by telephone or over the Internet or return your proxy card, or if your shares are held in street name and you do not instruct your broker how to vote your shares, the effect will be as though you cast a vote

Against the adoption of the merger agreement. If you attend the special meeting and wish to vote in person, you may withdraw your proxy and vote in person prior to the close of voting at the special meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the special meeting, you must obtain a proxy issued in your name from that recordholder.

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Annex B	<u>Opinion of Goldman, Sachs &amp; Co.</u>
Annex C	<u>Text of Section 262 of the Delaware General Corporation Law.</u>
Annex D	<u>Oracle Corporation's Annual Report on Form 10-K/A for the year ended May 31, 2005.</u>
Annex E	<u>Oracle Corporation's Quarterly Report on Form 10-Q/A for the quarterly period ended August 31, 2005.</u>
Annex F	<u>Oracle Corporation's Current Report on Form 8-K filed November 14, 2005.</u>
Annex G	<u>Oracle Corporation's Current Report on Form 8-K filed November 9, 2005.</u>
Annex H	<u>Oracle Corporation's Current Report on Form 8-K filed November 3, 2005.</u>
Annex I	<u>Oracle Corporation's Current Report on Form 8-K filed October 13, 2005.</u>
Annex J	<u>Oracle Corporation's Current Report on Form 8-K filed September 15, 2005.</u>
Annex K	<u>Oracle Corporation's Current Report on Form 8-K filed September 12, 2005.</u>
Annex L	<u>Oracle Corporation's Current Report on Form 8-K filed September 9, 2005.</u>
Annex M	<u>Oracle Corporation's Current Report on Form 8-K filed August 30, 2005.</u>
Annex N	<u>Oracle Corporation's Current Report on Form 8-K filed August 8, 2005.</u>
Annex O	<u>Oracle Corporation's Current Report on Form 8-K filed June 27, 2005.</u>

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**QUESTIONS AND ANSWERS ABOUT THE TRANSACTION**

**Why am I receiving these materials?**

We sent you this proxy statement/prospectus and the enclosed proxy card because the board of directors of Siebel Systems, Inc. ( Siebel Systems ) is soliciting your proxy to vote at a special meeting of stockholders. You may submit a proxy by telephone or over the Internet as further described in these materials or you may complete, date, sign and return the enclosed proxy card. We strongly encourage stockholders to submit a proxy by telephone or over the Internet. You are also invited to attend the special meeting in person, although you do not need to attend the special meeting to have your shares voted at the special meeting. We intend to mail this proxy statement/prospectus and accompanying proxy card on or about December 29, 2005 to all stockholders of record entitled to vote at the special meeting.

**When is the special meeting?**

The special meeting will take place on Monday, January 30, 2006 at 11:00 a.m., Pacific Time at The Sofitel Hotel, 223 Twin Dolphin Drive, Redwood City, CA 94065.

**Why is my vote important?**

If you do not submit your proxy by telephone or over the Internet, return your proxy card or vote in person at the special meeting, it will be more difficult for Siebel Systems to obtain the necessary quorum to hold the special meeting. In addition, the adoption of the merger agreement requires the affirmative vote of a majority of the outstanding shares of the Siebel Systems common stock. As a result, **your failure to vote will have the same effect as a vote Against the adoption of the merger agreement.**

**What am I voting on?**

There are two matters scheduled for a vote:

Adoption of the merger agreement, as described in The Proposed Transaction .

Approval of a proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to adopt the merger agreement.

In addition, you are entitled to vote on any other matters that are properly brought before the special meeting.

**What are the recommendations of the Siebel Systems Board of Directors?**

The Siebel Systems Board of Directors:

Recommends a vote ***For*** the adoption of the merger agreement.

Recommends a vote ***For*** the approval of a proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes to adopt the merger agreement.

**Will you be webcasting the special meeting?**

Yes. To access the webcast of the special meeting, go to the Investor Relations page on our website, [www.siebel.com/investor](http://www.siebel.com/investor), and follow the directions provided. Please note that information on, or that can be accessed through, our website, other than the proxy statement/prospectus and form of proxy, is not part of the proxy soliciting materials, is not deemed filed with the SEC, and is not to be incorporated by reference into any of our filings under the Securities Act of 1933, as amended, or Securities Exchange Act of 1934, as amended.

**Will I be able to listen to a replay of the special meeting?**

Yes, we will retain and post an audio-only replay of the webcast on the Investor Relations page on its website at [www.siebel.com/investor](http://www.siebel.com/investor) for one week following the special meeting.

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### **What do I need to do now?**

After you carefully read this document, submit your proxy by telephone or over the Internet or mail your signed proxy card in the enclosed return envelope, as soon as possible, but in any event no later than 11:59 p.m. Eastern Time on January 27, 2006, so that your shares may be represented at the special meeting. In order to assure that your shares are voted, please submit your proxy as instructed on your proxy card even if you currently plan to attend the special meeting in person.

You have the right to elect to receive shares of stock in a new Oracle holding corporation, which is referred to in this proxy statement/prospectus as New Oracle. To make an election to receive shares of New Oracle common stock, you must follow the directions set forth in the election form included with this proxy statement/prospectus. The deadline to make a stock election is January 27, 2006. If any conditions to complete the mergers have not been satisfied at the time of the election deadline and we are not reasonably certain that the mergers will be consummated within twenty business days following the election deadline, we will delay the election deadline by issuing a press release and filing that press release on Form 8-K with the SEC. In addition, Siebel Systems stockholders may call toll-free (888) 666-2580 at any time to confirm the date of the election deadline.

### **Who can vote at the special meeting?**

Only Siebel Systems stockholders of record at the close of business on December 15, 2005 will be entitled to vote at the special meeting. On the record date, there were 533,683,557 shares of Siebel Systems common stock outstanding and entitled to vote.

### **How many votes do I have?**

Each holder of Siebel Systems common stock will be entitled to one vote for each share held on all matters to be voted upon at the special meeting. The holders of record of Siebel Systems common stock will vote on all matters to be voted upon at the special meeting.

### **What is the quorum requirement?**

A quorum of at least a majority of the outstanding shares of common stock of Siebel Systems represented by proxy or in person at the special meeting is necessary to hold a valid special meeting. On the record date, there were an aggregate of 533,683,557 shares of Siebel Systems common stock outstanding. Thus, 266,841,779 shares of Siebel Systems common stock must be represented by proxy or present in person at the special meeting to have a quorum. The inspector of elections will determine whether or not a quorum is present.

Your shares will be counted towards the quorum only if you are present in person at the special meeting or submit a valid proxy in accordance with the procedures set forth in How do I vote? below. Abstentions and broker non-votes will also be counted towards the quorum requirement. If there is no quorum, a majority of the shares present in person or by proxy at the special meeting may vote to adjourn the special meeting to another date.

**How many votes are needed to approve the transaction?**

Proposal No. 1 (adoption of the merger agreement) requires the affirmative vote of a majority of the outstanding shares of Siebel Systems common stock.

Proposal No. 2 (approval of the proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies) requires the affirmative vote of a majority of the outstanding shares of Siebel Systems common stock represented at the special meeting and entitled to vote thereon.

Unless otherwise indicated, the discussions relating to the procedures for voting stock are applicable to holders of Siebel Systems common stock, present in person (or by remote communication) or represented by proxy and entitled to vote at the special meeting.

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### **How many shares are beneficially owned by Siebel Systems directors and executive officers as of the record date?**

Siebel Systems directors and executive officers beneficially owned 61,124,268 shares of Siebel Systems common stock on the record date, including options exercisable within 60 days of the record date. These shares represent in total approximately 11.0% of the total voting power of Siebel Systems' voting securities.

### **What effect do abstentions and broker non-votes have on the outcome of the proposals?**

Abstentions are treated as shares present and entitled to vote and since an affirmative "For" vote is required to approve each of the proposals, an abstention has the same effect as a vote "Against" each of the proposals.

A "broker non-vote" occurs when a broker or bank cannot vote for a proposal because the broker or bank did not receive instructions from the beneficial owner on how to vote and does not have discretionary authority to vote on the beneficial owner's behalf in the absence of instructions. Broker non-votes are counted as present for the purpose of determining the existence of a quorum, and also have the same effect as a vote "Against" the proposal to adopt the merger agreement. Broker non-votes will have no effect on the proposal to adjourn the meeting to permit further solicitation of proxies.

### **Who is paying for this proxy solicitation?**

Oracle and Siebel Systems will pay for the entire cost of soliciting proxies. In addition to the Siebel Systems proxy materials, Siebel Systems directors, officers, other employees and any other solicitors that Siebel Systems may retain may also solicit proxies personally, by telephone or by other means of communication. Directors and employees will not be paid any additional compensation for soliciting proxies. We will provide copies of our solicitation materials to banks, brokerage houses, fiduciaries and custodians that hold beneficially owned shares of our common stock for distribution to such beneficial owners. Siebel Systems has retained Georgeson Shareholder Communications, Inc. to aid in Siebel Systems' proxy solicitation process. Siebel Systems estimates that its proxy solicitor fees will be approximately \$15,000. We may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

### **How do I vote?**

You may vote "For," "Against" or abstain from voting for either proposal. Votes will be counted by the inspector of elections appointed for the special meeting. The procedures for voting are as follows:

*Submitting a Proxy Prior to the Special Meeting.*



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Whether or not you plan to attend the special meeting, we urge you to submit a proxy prior to the special meeting to ensure that your shares are voted. The deadline for submitting a proxy prior to the special meeting is 11:59 p.m. Eastern Time on January 27, 2006. We strongly encourage you to submit a proxy by telephone or over the Internet prior to the special meeting, as further described below. Submitting a proxy by telephone or over the Internet will assist in ensuring that your vote is timely recorded and in reducing the costs related to the return of paper proxies.

If you have elected to receive your special meeting materials over the Internet, please submit a proxy over the Internet by following the instructions indicated in the email communication that you receive.

If you have not yet elected to receive your special meeting materials over the Internet, you may submit a proxy by telephone or over the Internet by following the instructions included on your proxy card. We strongly encourage you to submit a proxy by telephone or over the Internet. Alternatively, you may submit a proxy by promptly returning your completed, signed and dated proxy card in the envelope provided (which is postage pre-paid if mailed in the United States).

Please submit a proxy to vote in only one of the above ways. If you submit a proxy to vote in more than one way, the proxy received later in time will revoke your earlier proxy and be the only proxy by which your shares are voted.

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### *Voting During the Special Meeting*

If you hold shares directly in your name, you may vote during the special meeting in person prior to the close of voting.

If your shares are held in street name through a bank, broker or other nominee, in order to vote during the special meeting you must request and obtain a new, valid proxy card from such nominee prior to the meeting (please contact them for further information). Once you have obtained and properly completed this new proxy card, you may vote in person prior to the close of voting.

### **What if I return a proxy card but do not make specific choices?**

If we receive a signed and dated proxy card and the proxy card does not specify how your shares are to be voted, your shares will be voted For the adoption of the merger agreement and For the approval of the proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes to adopt the merger agreement. If any other matter is properly presented at the special meeting, your proxy (i.e., one of the individuals named on your proxy card) will vote your shares using his best judgment.

### **Can I revoke my proxy after I have mailed my proxy card or submitted my proxy by telephone or Internet?**

Yes. You can revoke your proxy at any time before the close of voting at the special meeting. You may revoke your proxy in any of the following ways:

Prior to the special meeting, you may:

submit another properly completed proxy card with a later date by following the return instructions on the proxy card;

submit another proxy by telephone or over the Internet after you have already provided an earlier proxy (please refer to How do I vote? above for instructions on how to do so); or

send a written notice that you are revoking your proxy to our Corporate Secretary at our principal offices at 2207 Bridgepointe Parkway, San Mateo, California 94404.

During the special meeting, you may vote in person prior to the close of voting. Simply attending the special meeting will not, by itself, revoke your proxy.

If you have instructed a broker, bank or other nominee to vote your shares, you must follow directions from such nominee to change those instructions.

**What does it mean if I receive more than one proxy card or more than one email instructing me to vote?**

If you receive more than one proxy card or more than one email instructing you to vote, your shares are registered in more than one name or are registered in different accounts. Please complete, date, sign and return each proxy card, and respond to each email, to ensure that all of your shares are voted.

**What does it mean if multiple members of my household are stockholders but we only received one set of proxy materials?**

If you hold shares in street name, in accordance with a notice sent to certain brokers, banks or other nominees, we are sending only one proxy statement/prospectus to an address unless we received contrary instructions from any stockholder at that address. This practice, known as householding, is designed to reduce our printing and postage costs. If you hold shares in your name rather than in street name and you would like to receive only one proxy statement/prospectus for your household, please contact Mellon Investor Services LLC, our transfer agent, at (800) 522-6645, or by email at [shrrelations@mellon.com](mailto:shrrelations@mellon.com).

However, if any stockholder residing in your household wishes to receive a separate proxy statement/prospectus for future special meetings, they may call our Investor Relations department at (650) 477-5000 or

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write to Investor Relations at investor.relations@siebel.com or 2207 Bridgepointe Parkway, San Mateo, California 94404. Please see the The Special Meeting Siebel Systems Householding Information section at the end of this proxy statement/prospectus.

### **Am I entitled to exercise any appraisal rights in connection with the transaction?**

Under Delaware law, Siebel Systems stockholders are entitled to exercise appraisal rights in connection with the transaction provided they follow all of the legal requirements. You should review the section of this document entitled Appraisal Rights for further information.

### **When do you expect the transaction to be completed?**

Oracle and Siebel Systems are working to complete the transaction in early 2006. However, it is possible that the transaction will not be completed during that timeframe.

### **How can I find out the results of the vote?**

Preliminary and final voting results will be publicly announced as promptly as practicable. Preliminary voting results may be announced at the special meeting.

### **Should I send in my stock certificates now?**

No. After the transaction is completed, New Oracle will send Siebel Systems stockholders written instructions for exchanging their stock certificates. Please follow the instructions when you receive them.

## **WHO CAN HELP ANSWER YOUR QUESTIONS**

If you have questions about the special meeting or would like additional copies of this document, you should contact:

Siebel Systems, Inc.

2207 Bridgepointe Parkway

San Mateo, California 94404

## Edgar Filing: Ozark Holding Inc. - Form S-4/A

Attention: Investor Relations

Phone Number: (650) 477-5000

E-mail: investor.relations@siebel.com

If you have questions about your shares or the proxy card, you should contact:

Mellon Investor Services LLC

480 Washington Boulevard

Jersey City, New Jersey 07310-1900

Phone Number: (800) 356-2017

If you have questions about the Siebel Systems merger, the Election Deadline or the current Conversion Ratio (each as defined herein), you should contact:

Georgeson Shareholder Communications, Inc

17 State Street - 10th Floor

New York, New York 10004

Phone Number: (888) 666-2580

If you have questions about the Election Form, you should contact:

Wells Fargo Bank, N.A.

Shareowner Services

Corporate Actions Department

P.O. Box 64854

St. Paul, Minnesota 55164-0854

Phone Number: (800) 380-1372

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**SUMMARY**

*This summary contains selected information from this proxy statement/prospectus and may not contain all of the information that is important to you. To understand the transaction fully and to obtain a more complete description of the legal terms of the merger agreement, you should carefully read this entire document, including the Annexes, and the documents to which we refer you. Please see [Where You Can Find More Information](#).*

**The Companies**

**Oracle Corporation**

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

Oracle is the world's largest enterprise software company. Oracle develops, manufactures, markets, distributes, and services database and middleware software as well as applications software designed to help its customers manage and grow their business operations. Oracle's goal is to offer customers scalable, reliable, secure and integrated database, middleware and applications software that provides transactional efficiencies, adapts to an organization's unique needs, and allows better ways to access and manage information at a low total cost of ownership.

**Siebel Systems, Inc.**

2207 Bridgepointe Parkway

San Mateo, California 94404

Telephone: (650) 477-5000

Siebel Systems is a leading provider of customer facing solutions that deliver demonstrable business results and long-term competitive advantage. Siebel Systems' multichannel offerings allow organizations to intelligently manage and coordinate all customer interactions across the Internet, contact center, field sales/service force, branch/retail network and indirect and partner distribution channels. Siebel Systems' solutions draw upon Siebel Systems' industry-leading capabilities in customer relationship management, business intelligence and customer data integration and can be deployed as licensed software or as a hosted service. Siebel Systems' solutions are tailored to the particular needs of 23 industries and incorporate industry-specific business processes, best practices and business insight. They are the product of more than \$2 billion in R&D investments and reflect over 11 years of experience with more than 4,000 organizations. Together with its extensive global network of alliance partners, Siebel Systems provides the people, process and technology expertise critical in driving business value from the deployment of customer-facing solutions.

**Ozark Holding Inc.**

## Edgar Filing: Ozark Holding Inc. - Form S-4/A

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

Ozark Holding Inc., or New Oracle, is a direct wholly owned subsidiary of Oracle formed solely to effect the transaction and has not conducted any business. Pursuant to the merger agreement, Siebel Systems and Oracle will survive as wholly owned subsidiaries of New Oracle and New Oracle will be renamed Oracle Corporation.

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### **Ozark Merger Sub Inc.**

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

Ozark Merger Sub Inc. is a direct wholly owned subsidiary of New Oracle formed solely to effect the Oracle merger and has not conducted and will not conduct any business during any period of its existence. Pursuant to the merger agreement, Ozark Merger Sub will merge with and into Oracle with Oracle continuing as the surviving corporation and a wholly owned subsidiary of New Oracle.

### **Sierra Merger Sub Inc.**

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

Sierra Merger Sub Inc. is a direct wholly owned subsidiary of New Oracle formed solely to effect the Siebel Systems merger and has not conducted and will not conduct any business during any period of its existence. Pursuant to the merger agreement, Sierra Merger Sub will merge with and into Siebel Systems with Siebel Systems continuing as the surviving corporation and a wholly owned subsidiary of New Oracle.

### **The Proposed Transaction (see page 29)**

To complete the acquisition, Oracle has formed New Oracle and New Oracle has formed Sierra Merger Sub Inc. and Ozark Merger Sub Inc. Upon satisfaction or waiver of the conditions to the transactions specified in the merger agreement, Sierra Merger Sub Inc. will merge with and into Siebel Systems, which we refer to in this proxy statement/prospectus as the Siebel Systems merger, and Ozark Merger Sub Inc. will merge with and into Oracle, which we refer to in this proxy statement/prospectus as the Oracle merger. Each of Siebel Systems and Oracle will survive its respective merger and become a wholly owned subsidiary of New Oracle, the new public company resulting from the transaction. New Oracle will be renamed Oracle Corporation upon completion of the transaction and trade under Oracle's current ticker symbol, ORCL. Current Oracle stockholders will receive shares in New Oracle to replace their current Oracle shares, and any shares issuable to Siebel Systems stockholders in the transaction will be of New Oracle. The officers and directors of New Oracle immediately after the closing of the transaction will be the same as the officers and directors of Oracle immediately prior to the closing of the transaction. As a result of the structure of the transaction, the vote of the Oracle stockholders will not be required under applicable law to adopt the merger agreement.

As part of the business negotiations regarding the material terms of the transaction, Oracle and Siebel Systems agreed that New Oracle would only have to issue shares of New Oracle common stock with respect to up to 30% of Siebel Systems' common stock. Because it was agreed that the amount of cash in the transaction would equal or exceed approximately 70% of the total consideration, the transaction could not be structured on a tax-free basis as a more conventional reorganization (such as a reverse triangular merger or a forward triangular merger). Using a new holding company to implement the acquisition allows Siebel Systems stockholders who receive New Oracle common stock in the transaction only to recognize gain for U.S. federal income tax purposes to the extent of any cash received, despite the amount of cash



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consideration paid to all Siebel Systems stockholders. Please see **Material U.S. Federal Income Tax Consequences** below for a discussion of the material U.S. federal income tax consequences of the transaction.

### **What Siebel Systems Stockholders Will Receive (see page 80)**

Upon completion of the Siebel Systems merger, each Siebel Systems stockholder will be entitled to receive \$10.66 per share in cash or a number of shares of New Oracle common stock for each share of Siebel Systems common stock held by such stockholder as follows. If such Siebel Systems stockholder has made a stock election

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with respect to all of such stockholder's Siebel Systems shares, subject to the exceptions described in the next three paragraphs, such stockholder will be entitled to receive for each share of Siebel Systems common stock a number of shares of New Oracle common stock equal to \$10.66 divided by (i) the average closing price of Oracle Common Stock on the Nasdaq Stock Market over the ten trading days immediately preceding (but not including) the date on which the Siebel Systems merger becomes effective (the "Average Oracle Stock Price") or (ii) \$10.72, whichever is greater (the "Conversion Ratio"). The Conversion Ratio represents the actual number of shares of New Oracle common stock to be exchanged for one share of Siebel Systems common stock.

Oracle and Siebel Systems have agreed that New Oracle will only have to issue shares of New Oracle common stock with respect to up to 30% of Siebel Systems' common stock. If holders of more than 30% of Siebel Systems' common stock elect to receive shares of New Oracle common stock for their shares of Siebel Systems common stock, each of such Siebel Systems stockholders electing stock will receive a prorated portion of the Siebel Systems merger consideration to which it is entitled in New Oracle common stock and the remaining portion will be paid in cash at a price of \$10.66 per share. There is no cap on the portion of the Siebel Systems merger consideration that can be paid in cash.

Oracle and Siebel Systems have further agreed that if holders of less than six percent of Siebel Systems common stock outstanding immediately prior to the Siebel Systems merger elect to receive shares of New Oracle common stock for their shares of Siebel Systems common stock, the transaction described above will be restructured as a reverse triangular merger, in which a wholly owned subsidiary of Oracle would merge with and into Siebel Systems, with Siebel Systems surviving the merger and each Siebel Systems stockholder receiving cash consideration of \$10.66 per share of Siebel Systems' common stock.

No fractional shares of New Oracle common stock will be issued in the Siebel Systems merger. If any Siebel Systems stockholder is otherwise entitled to a fractional share, such holder will receive, in lieu thereof, an amount in cash, without interest, determined by multiplying such fractional share by the closing price of Oracle common stock on the trading day immediately preceding the closing date of the transaction.

For example, if the Siebel Systems merger became effective on December 9, 2005, the Conversion Ratio would be 0.8455 (\$10.66 divided by the Average Oracle Stock Price as of December 9, 2005 of \$12.608). If holders of more than six percent and less than 30% of Siebel Systems common stock elect to receive shares of New Oracle common stock, then a Siebel Systems stockholder who has made a stock election with respect to 100 shares of Siebel Systems common stock would be entitled to receive 84 shares of New Oracle common stock and \$6.84 in cash. The number of shares is determined by multiplying the Conversion Ratio by 100 shares. The \$6.84 in cash is determined by multiplying the remaining fractional share (0.55) by the closing price of Oracle common stock on December 8, 2005 (\$12.44).

As described above, if holders of more than 30% of Siebel Systems common stock elected to receive New Oracle common stock, the number of shares of New Oracle common stock received will be prorated. For example, if elections are made with respect to 50% of Siebel Systems common stock, then a stockholder who has made a stock election with respect to 100 shares would be eligible to convert 60 shares of Siebel Systems common stock into New Oracle common stock. That number is determined by multiplying such stockholder's 100 shares by the maximum percentage eligible for conversion into New Oracle common stock (30%) and dividing that result by the percentage of common stock with respect to which elections are made (50%). Accordingly, the stockholder would receive 50 shares of New Oracle common stock, which is determined by multiplying the number of eligible shares for stock consideration (60) by the assumed Conversion Ratio (.8455). The stockholder would also receive \$435.49 in cash, which is determined by multiplying the number of shares that were not eligible for stock consideration (40) by \$10.66, and adding that to the product of the number of fractional shares (0.73) and the closing price of Oracle common stock on December 8, 2005 (\$12.44).

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By way of another example, if elections are made with respect to 100% of Siebel Systems common stock, then a stockholder who has made an election with respect to 100 shares would be eligible to convert 30 shares of Siebel Systems common stock into New Oracle common stock. That number is determined by multiplying such stockholder's 100 shares by the maximum percentage eligible for conversion into New Oracle common stock (30%) and dividing that result by the percentage of common stock with respect to which elections are made (100%). Accordingly, the stockholder would receive 25 shares of New Oracle common stock, which is determined by multiplying the number of eligible shares for stock consideration (30) by the assumed Conversion Ratio (.8455). The stockholder would also receive \$750.75 in cash, which is determined by multiplying the number of shares that were not eligible for stock consideration (70) by \$10.66, and adding that to the product of the number of fractional shares (0.365) and the closing price of Oracle common stock on December 8, 2005 (12.44).

Finally, if elections are made with respect to 6% or less of Siebel Systems common stock, then a stockholder who owns 100 shares, irrespective of whether that stockholder has made a stock election, would have 100 shares of Siebel Systems common stock converted into cash at \$10.66 per share.

Siebel Systems stockholders may call toll-free (888) 666-2580 at any time prior to the election deadline to receive the latest Conversion Ratio information.

### **Election To Receive Shares of New Oracle Common Stock (see page 83)**

An election form, pursuant to which Siebel Systems stockholders of record may elect to receive the merger consideration in shares of New Oracle common stock, is included with this proxy statement/prospectus. The election record date is December 15, 2005, the same date as the record date for the special meeting. If you are a holder of record of Siebel Systems common stock on such date, you should carefully review and follow the instructions included in the election form.

The merger agreement provides that Oracle must fix a deadline for Siebel Systems stockholders that want to elect to receive shares of New Oracle common stock for their shares of Siebel Systems common stock upon completion of the Siebel Systems merger. Such election deadline must occur between two and 20 business days prior to completion of the Siebel Systems merger. To make a stock election, you must properly complete, sign and send the election form to Wells Fargo Bank, N.A., the exchange agent, at the address listed in the election form. Subject to the next sentence, the exchange agent must receive your properly completed election form, by January 27, 2006, the election deadline. If any conditions to complete the mergers have not been satisfied at the time of the election deadline and we are not reasonably certain that the mergers will be consummated within twenty business days following the election deadline, we will delay the election deadline by issuing a press release and filing that press release on Form 8-K with the SEC. In addition, Siebel Systems stockholders may call toll-free (888) 666-2580 at any time to confirm the date of the election deadline.

Siebel Systems stockholders who hold their shares in street name through a bank, broker or other nominee and want to make a stock election should request instructions from the bank, broker or other nominee holding their shares on how to make such an election. Street name holders may have to submit their stock election to their bank, broker or other nominee prior to the election deadline and should therefore carefully read any materials they receive from their bank, broker or other nominee.

**A Siebel Systems stockholder may make a stock election only with respect to all of such stockholder's shares of Siebel Systems common stock. A Siebel Systems stockholder that does not make a stock election or attempts to make a stock election with respect to less than all of such stockholder's shares of Siebel Systems common stock will receive cash consideration.**



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### **What Oracle Stockholders Will Receive**

Upon completion of the Oracle merger, each Oracle stockholder will be entitled to receive for each of its shares of Oracle common stock one share of New Oracle common stock. Oracle stockholders may not elect to receive cash for their shares.

### **Recommendation to Siebel Systems Stockholders (see page 33)**

Siebel Systems board of directors believes the transaction is advisable and in the best interests of Siebel Systems stockholders and recommends that you vote FOR the proposal to adopt the merger agreement. Siebel Systems board of directors also recommends that you vote FOR the proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies on the proposal to adopt the merger agreement. When you consider the Siebel Systems board of directors recommendation, you should be aware that Siebel Systems directors may have interests in the transaction that may be different from, or in addition to, your interests. These interests are described in Interests of Certain Persons in the Siebel Systems Merger.

### **Siebel Systems Board of Directors Reasons for the Merger (see page 33)**

In the course of reaching its decision to approve the merger agreement and the transactions contemplated thereby, the Siebel Systems board of directors considered a number of factors in its deliberations. Those factors are described in The Proposed Transaction Siebel Systems Board of Directors Reasons for the Merger.

### **Opinion of Siebel Systems Financial Advisor (see page 36)**

Goldman, Sachs & Co. ( Goldman Sachs ) has rendered its opinion to the Siebel Systems board of directors that, as of September 12, 2005 and based upon and subject to the factors, assumptions, procedures, limitations and qualifications set forth therein, the consideration to be received by the holders of Siebel Systems common stock, taken in the aggregate, pursuant to the merger agreement was fair from a financial point of view to such holders.

The full text of the opinion of Goldman Sachs, which sets forth assumptions made, procedures followed, factors considered and limitations and qualifications on the review undertaken in connection with the opinion, is attached as Annex B to this document. The opinion should be read in its entirety. Goldman Sachs provided its opinion for the information and assistance of the Siebel Systems board of directors in connection with its consideration of the Siebel Systems merger. The Goldman Sachs opinion is neither a recommendation as to how any holder of shares of Siebel Systems common stock should vote with respect to the Siebel Systems merger, nor a recommendation as to whether any Siebel Systems stockholder should elect to receive shares of New Oracle common stock in the Siebel Systems merger.

### **Oracle Board of Directors Reasons for the Merger (see page 45)**

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In the course of reaching its decision to approve the merger agreement and the transactions contemplated thereby, the Oracle board of directors considered a number of factors in its deliberations. Those factors are described in The Proposed Transaction Oracle Board of Directors Reasons for the Merger.

### **Siebel Systems Stockholder Vote Required (see page 92)**

Adoption of the merger agreement requires the affirmative vote of a majority of the outstanding shares of Siebel Systems common stock. Approval of the proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies requires the affirmative vote of a majority of the shares represented at the special meeting and entitled to vote.

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### **Treatment of Siebel Systems Stock Options, Restricted Stock and Other Equity-Based Awards (see page 84)**

At the effective time of the Siebel Systems merger, Siebel Systems stock options, restricted stock and other equity-based awards will be assumed by Oracle and become awards with respect to New Oracle common stock, as set forth in the merger agreement. These assumed awards will have substantially the same terms and conditions as before completion of the Siebel Systems merger, except that the number of shares and exercise price, if any, of each award will be adjusted to reflect the merger consideration.

### **Ownership of New Oracle After the Siebel Systems Merger**

Since the number of shares of New Oracle common stock to be issued in the Siebel Systems merger to Siebel Systems stockholders depends on the percentage of Siebel Systems common stock with respect to which stock elections are made and the Average Oracle Stock Price, and there are certain circumstances described in this proxy statement/prospectus in which the Siebel Systems merger will be restructured as an all-cash transaction, we cannot determine prior to completion of the Siebel Systems merger the number of shares of New Oracle common stock that will be issued to Siebel Systems stockholders pursuant to the Siebel Systems merger. However, assuming (1) that stock elections are made in respect of 30% of Siebel Systems outstanding shares; (2) the largest possible Conversion Ratio (i.e., .9944 of a New Oracle share for each Siebel Systems share); and (3) that the number of New Oracle shares and Siebel Systems shares outstanding immediately prior to completion of the Siebel Systems merger equals the number of Oracle shares and Siebel Systems shares outstanding on the record date (5,154,815,536 and 533,683,557 shares, respectively), a total of 159,208,479 shares of New Oracle common stock would be issued in the Siebel Systems merger to Siebel Systems stockholders and Siebel Systems stockholders would hold a total of approximately 3% of the outstanding shares of New Oracle common stock immediately after the closing of the Siebel Systems merger.

### **Conditions to the Completion of the Mergers (see page 87)**

The completion of the Siebel Systems merger depends upon the satisfaction or waiver of a number of conditions described below in this proxy statement/prospectus, including, among other things:

adoption of the merger agreement by the Siebel Systems stockholders;

absence of any legal prohibition on completion of the transaction;

expiration or termination of the relevant waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended;

expiration or termination of any applicable waiting period or merger review period under the antitrust laws of the European Commission, Brazil, Canada, South Africa and South Korea;

receipt of opinions of counsel to Oracle (with respect to Oracle common stock) and Siebel Systems (with respect to Siebel Systems common stock) to the effect that the exchanges of Oracle common stock or Siebel Systems common stock for New Oracle common stock will qualify for tax-free treatment for U.S. federal income tax purposes;

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material accuracy, as of the closing, of the representations and warranties made by the parties and material compliance by the parties with their respective obligations under the merger agreement; and

the fact that neither party has suffered any change since the date of the merger agreement that would reasonably be expected to have a Material Adverse Effect, subject to certain exceptions, on that party.

The company entitled to assert the condition to the transaction may waive certain of such conditions. In the event that either Oracle or Siebel Systems waives its tax opinion condition and there are any material adverse



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changes in the U.S. federal income tax consequences to the Siebel Systems stockholders, we will inform you of this decision and ask you to vote on the transaction taking this into consideration.

### **Termination of the Merger Agreement (see page 89)**

The merger agreement may be terminated at any time prior to the effective time in any of the ways described below in this proxy statement/prospectus, including:

by mutual written consent;

by either company:

if the transaction has not been completed on or before March 31, 2006; *provided* that if on such date all conditions other than those relating to antitrust or other governmental approvals have been satisfied or waived, this date may be extended by either party to September 30, 2006, and *provided further* that neither Oracle nor Siebel Systems can terminate the merger agreement pursuant to this provision if its breach of any of its obligations under the merger agreement has resulted in the failure of the transaction to occur on or before that date;

if there is a permanent legal prohibition on completing the transaction;

if Siebel Systems stockholders do not approve the adoption of the merger agreement at the special meeting or any adjournment thereof; or

if (1) there occurs a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the other party that would cause the related closing condition not to be satisfied, (2) the party seeking to terminate gives written notice to the other party of such other party's breach or failure and such breach or failure is not cured in all material respects within 15 days of delivery of such notice and (3) the other party is incapable of correcting the inaccuracy or remedying the failure by March 31, 2006;

by Oracle:

if, prior to the Siebel Systems special meeting, the Siebel Systems board of directors withdraws its recommendation to the Siebel Systems stockholders to adopt the merger agreement or modifies its recommendation in a manner adverse to Oracle; *provided* that Oracle will only have the right to terminate the merger agreement pursuant to this provision for a period of 20 business days after the change in recommendation by the Siebel Systems board of directors; or

by Siebel Systems:

if prior to the special meeting the Siebel Systems board of directors authorizes Siebel Systems to accept, or enter into a written agreement concerning, a transaction with a third party that the Siebel Systems board of directors has determined in accordance

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with the terms of the merger agreement is a superior proposal (as described in this proxy statement/prospectus) to the transaction contemplated by the merger agreement, except that Siebel Systems cannot terminate the merger agreement for this reason unless (1) Siebel Systems notifies Oracle at least three business days prior to such termination of its intention to terminate the merger agreement, (2) prior to such termination Oracle does not make a binding, unconditional offer that the Siebel Systems board of directors determines is at least as favorable to the Siebel Systems stockholders as the superior proposal Siebel Systems received from the third party and (3) Siebel Systems pays Oracle the termination fee described below; or

if at any time after the date of the merger agreement any governmental authority initiates any suit, litigation, arbitration or court or administrative proceeding, obtains any judgment or obtains any

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injunction with respect to the transaction, and Oracle fails to use its reasonable best efforts to defend against such suit, litigation, arbitration or court or administrative proceeding, appeal such judgment or contest any such injunction.

### **Termination Fees and Expenses (see page 90)**

Siebel Systems has agreed to pay Oracle a termination fee in the amount of \$140 million in cash in the following circumstances:

the merger agreement is (1) terminated by Oracle or Siebel Systems because the Siebel Systems stockholders fail to adopt the merger agreement, (2) prior to the special meeting, a third party publicly announces and does not withdraw an alternative acquisition proposal for Siebel Systems and (3) within 12 months of the termination of the merger agreement Siebel Systems completes an alternative acquisition proposal or enters into an agreement providing for an alternative acquisition proposal which transaction is ultimately completed;

the merger agreement is terminated by Oracle because the Siebel Systems board of directors withdraws its recommendation to the Siebel Systems stockholders to adopt the merger agreement or modifies its recommendation in a manner adverse to Oracle; or

the merger agreement is terminated because Siebel Systems accepts or enters into a written agreement for a transaction constituting a superior proposal made by a third party.

### **Regulatory Matters (see page 56)**

Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the HSR Act ), the transaction cannot be completed until the companies have made required notifications, given certain information and materials to the Federal Trade Commission and the Antitrust Division of the United States Department of Justice and the specified waiting period requirements have expired or been terminated. Oracle and Siebel Systems both filed the required Notification and Report forms with the Antitrust Division and the Federal Trade Commission on September 22, 2005. On November 15, 2005, the Antitrust Division of the United States Department of Justice informed the parties that its investigation of the proposed transaction was closed. The applicable waiting period under the HSR Act expired on November 18, 2005.

Oracle and Siebel Systems each conduct substantial business in member states of the European Union and the Siebel Systems merger therefore also requires the review of the European Commission. On November 18, 2005, the parties duly notified the transaction pursuant to the EU Merger Regulation (Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings). On December 22, 2005, the Commission of the European Communities provided to Oracle its decision approving the transaction pursuant to the EU Merger Regulation.

Oracle and Siebel Systems also have made regulatory filings in Brazil, South Africa and South Korea. On December 7, 2005, the antitrust authority of Brazil, CADE, approved the transaction without any conditions or restrictions. Oracle and Siebel Systems expect to make additional regulatory filings in Canada and South Korea, as required.

Oracle and Siebel Systems are not permitted to complete the Siebel Systems merger unless the regulatory conditions to completion of the Siebel Systems merger described above are satisfied, or in certain cases, waived.

**Material U.S. Federal Income Tax Consequences**

Subject to the limitations and qualifications described in Material U.S. Federal Income Tax Consequences below, it is the opinion of Davis Polk & Wardwell, counsel to Oracle, and Cooley Godward LLP ( Cooley

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Godward ), counsel to Siebel Systems, that unless the mergers are restructured as an all-cash transaction under the circumstances described in this proxy statement/prospectus, the mergers will constitute exchanges to which Section 351 of the Internal Revenue Code of 1986, as amended (the Code ) applies. As a result, (1) holders of Siebel Systems common stock who do not make a stock election will generally be taxed on any gain or loss recognized in connection with the receipt of cash in exchange for their Siebel Systems common stock, (2) holders of Siebel Systems common stock who make a stock election generally will not recognize any loss for U.S. federal income tax purposes on the exchange of their Siebel Systems common stock for New Oracle common stock in the Siebel Systems merger, and generally will recognize gain on the exchange only to the extent of any cash received and (3) no gain or loss will be recognized by New Oracle, Oracle, Siebel Systems, Ozark Merger Sub or Sierra Merger Sub as a result of the mergers. Unless the mergers are restructured as an all-cash transaction, it is a condition to the merger agreement that (1) Oracle receive an opinion of Davis Polk & Wardwell to the effect that the Oracle merger will not be a taxable transaction for U.S. federal income tax purposes and (2) Siebel Systems receive an opinion from Cooley Godward to the effect that the mergers will constitute exchanges to which Section 351 of the Internal Revenue Code applies.

**The U.S. federal income tax consequences described above may not apply to all holders of Siebel Systems common stock, including certain holders specifically referred to on page 53. Your tax consequences will depend on your own situation. You should consult your tax advisor to fully understand the tax consequences of the mergers to you.**

### **Listing of New Oracle Common Stock**

New Oracle common stock to be issued in the Siebel Systems merger will be listed on the Nasdaq Stock Market under the ticker symbol ORCL.

### **Appraisal Rights (see page 57)**

Under Delaware law, Siebel Systems stockholders will be entitled to appraisal rights with respect to the Siebel Systems merger. To preserve their appraisal rights, Siebel Systems stockholders who wish to exercise these rights must: (1) deliver a written demand for appraisal to Siebel Systems at or before the time the vote is taken at the special meeting, (2) not vote their shares for the adoption of the merger agreement, (3) continuously hold their shares from the date they make the demand for appraisal through the effective time of the Siebel Systems merger and (4) comply with the other procedures set forth in Section 262 of the Delaware General Corporation Law. Under Delaware law, Oracle stockholders will not have appraisal rights in connection with the Oracle merger.

The text of Section 262 of the Delaware General Corporation Law governing appraisal rights is attached to this document as Annex C. **Failure to comply with the procedures described in Annex C will result in the loss of appraisal rights. We urge you to carefully read the text of Section 262 governing appraisal rights and to consult your legal advisor.**

### **Comparison of Oracle/Siebel Systems Stockholder Rights (see page 95)**

The rights of Siebel Systems stockholders are currently governed by the Delaware General Corporation Law and Siebel Systems' certificate of incorporation and bylaws. The rights of Oracle stockholders are currently governed by the Delaware General Corporation Law and Oracle's certificate of incorporation and bylaws. Upon completion of the transaction, Siebel Systems stockholders that receive New Oracle common stock in the Siebel Systems merger and Oracle stockholders will all be stockholders of New Oracle, and their rights will be governed by the Delaware General Corporation Law and New Oracle's certificate of incorporation and bylaws, which after completion of the transaction will be the same in

all material respects as the Oracle certificate of incorporation and bylaws that are currently in effect.

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**Interests of Certain Persons in the Siebel Systems Merger (see page 46)**

When Siebel Systems stockholders consider the Siebel Systems board of directors' recommendation that they vote in favor of the adoption of the merger agreement, Siebel Systems stockholders should be aware that Siebel Systems executive officers and directors may have interests in the Siebel Systems merger that may be different from, or in addition to, their interests. In particular, the merger agreement provides the present and former directors and officers of Siebel Systems with indemnification rights and continued coverage under existing directors' and officers' liability insurance policies for a period of six years after the merger. In addition, if the employment of an executive officer, other than Mr. Shaheen, is terminated without cause or if the executive officer voluntarily resigns for good reason within 12 months following the consummation of the Siebel Systems merger, then such officer would be entitled to receive cash payments based on the officer's annual base salary and target bonus, immediate acceleration of unvested stock awards held by the officer and the removal of any applicable holding periods, and continued health, welfare and other benefits. Mr. Shaheen will be entitled to receive such benefits upon the consummation of the Siebel Systems merger. Furthermore, Thomas M. Siebel, the Siebel Systems Chairman of the Board of Directors, has also agreed to provide consulting services to Oracle during the period beginning on the closing of the Siebel Systems merger and ending on April 30, 2008. In addition, on April 12, 2004, Pamela Plotkin filed a derivative action purportedly on behalf of Siebel Systems in San Mateo County Superior Court against the company and certain current and former members of the board of directors. Once the merger is complete, Ms. Plotkin would most likely lose standing to continue to pursue the derivative claims asserted in that action. As a result, the claims against the defendants would likely be dismissed.

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### **SELECTED HISTORICAL AND PRO FORMA FINANCIAL DATA**

#### **How the Financial Statements Were Prepared**

The following information is provided to aid you in your analysis of the financial aspects of the transaction. The information of Oracle was derived from the audited financial statements of Oracle for the years ended May 31, 2001 through 2005 and the unaudited financial statements of Oracle for the three months ended August 31, 2004 and 2005. The information of Siebel Systems was derived from the audited financial statements of Siebel Systems for the years ended December 31, 2000 through 2004 and the unaudited financial statements of Siebel Systems for the six months ended June 30, 2004 and 2005. The information is only a summary and you should read it together with Oracle's and Siebel Systems' historical financial statements and related notes contained in the annual and quarterly reports and other information that Oracle and Siebel Systems have filed with the Securities and Exchange Commission (the "SEC"), which in the case of Oracle may be found in its SEC filings attached as Annexes hereto and in the case of Siebel Systems are incorporated by reference. Please see "Where You Can Find More Information."

#### **Pro Forma Data**

The unaudited pro forma condensed combined financial information is presented to give you a better picture of what Oracle's and Siebel Systems businesses might have looked like had they been combined on the dates indicated. The unaudited pro forma condensed combined statements of operations give effect to the transaction as if it had occurred on June 1, 2004. The unaudited pro forma condensed combined balance sheet gives effect to the transaction as if it had occurred on August 31, 2005. Oracle and Siebel Systems did not make adjustments to the unaudited pro forma condensed combined financial statements to conform the accounting policies of the combining companies. You should not rely on the unaudited pro forma condensed combined financial information as being indicative of the historical results that Oracle and Siebel Systems would have had or the future results that Oracle shall experience after the transaction. Please see "Unaudited Pro Forma Condensed Combined Financial Statements."

In preparing the unaudited pro forma condensed combined financial statements, Oracle and Siebel Systems have assumed that holders of 30% of Siebel Systems common stock will elect to receive New Oracle common stock and have assumed that the Conversion Ratio will be 0.79, which was calculated as \$10.66 divided by \$13.49 (the closing price of Oracle common stock on September 12, 2005, the date the signing of the merger agreement was announced). Depending on the actual number of Siebel Systems shares outstanding as of the acquisition date, the percentage of Siebel Systems stockholders that do not elect to receive New Oracle common stock and the actual Conversion Ratio, the cash paid, short-term borrowings required and New Oracle common stock issued may differ significantly from the information in the unaudited pro forma condensed combined financial statements.

#### **Merger-Related Expenses**

Oracle and Siebel Systems will also incur transaction fees and other costs related to the Siebel Systems merger, anticipated to be approximately \$75 million. Acquisition related transaction costs of \$75 million includes Oracle's estimates for investment banking fees of \$41 million, legal and accounting fees of \$29 million and other external costs directly related to the mergers of \$5 million. Please see Note 2 of Notes to Oracle Corporation Unaudited Pro Forma Condensed Combined Financial Statements.

#### **Integration-Related Expenses**



Oracle may incur charges for severance and other integration-related expenses, including the elimination of duplicate facilities and excess capacity, operational realignment and related workforce reductions of both pre-merger Oracle and Siebel Systems operations, however, Oracle has not yet completed its initial assessment of the number of employees, facilities and other restructuring costs that may be incurred. Therefore, no restructuring charges are reflected in the unaudited pro forma condensed combined financial statements.

**Table of Contents****Selected Historical Financial Data of Oracle**

The following selected historical financial data for, and as of the end of, each of the five years in the period ended May 31, 2005 have been derived from Oracle's audited consolidated financial statements. The data as of August 31, 2005 and 2004 and for the three months then ended are derived from Oracle's unaudited consolidated financial statements that include, in management's opinion, all adjustments, consisting of normal recurring adjustments, necessary to present fairly the results of operations and financial position of Oracle for the periods and dates presented.

You should read this data together with the audited and unaudited consolidated financial statements of Oracle, including the notes thereto, which may be found in Oracle's SEC filings attached as Annexes hereto. Operating results for the three-month period ended August 31, 2005 do not necessarily indicate the results that can be expected for the year ending May 31, 2006.

	As of and for the		Three Months Ended				
	August 31,		As of and for the Year Ended May 31,				
	2005	2004	2005	2004	2003	2002	2001
(In millions, except per share amounts)							
<b>Results of Operations:</b>							
Total revenues	\$ 2,768	\$ 2,215	\$ 11,799	\$ 10,156	\$ 9,475	\$ 9,673	\$ 10,961
Operating income	712	715	4,022	3,864	3,440	3,571	3,777
Net income	519	509	2,886	2,681	2,307	2,224	2,561
Basic earnings per share	0.10	0.10	0.56	0.51	0.44	0.40	0.46
Diluted earnings per share	0.10	0.10	0.55	0.50	0.43	0.39	0.44
Basic weighted average common shares outstanding	5,148	5,154	5,136	5,215	5,302	5,518	5,597
Diluted weighted average common shares outstanding	5,244	5,241	5,231	5,326	5,418	5,689	5,865
<b>Balance Sheet Data (end of period):</b>							
Cash, cash equivalents and marketable securities	\$ 4,632	\$ 9,445	\$ 4,771	\$ 8,587	\$ 6,519	\$ 5,841	\$ 5,887
Working capital	642	7,030	385 <sup>(1)</sup>	7,064	5,069	4,768	5,046
Total assets	19,596	12,688	20,687 <sup>(2)</sup>	12,763	10,967	10,800	11,030
Short-term borrowings and current portion of long-term debt	1,522	9	2,693 <sup>(3)</sup>	9	153	0	3
Long-term debt, net of current portion	157	163	159	163	175	298	301
Stockholders' equity	11,331	8,016	10,837	7,995	6,320	6,117	6,277

<sup>(1)</sup> Total working capital decreased as of May 31, 2005 primarily due to cash paid to acquire PeopleSoft, Inc. ( PeopleSoft ) and an increase in short-term borrowings.

<sup>(2)</sup> Total assets increased as of May 31, 2005 due to goodwill of \$6,962 and intangible assets of \$3,334 arising from business combinations.

<sup>(3)</sup> Short-term borrowings increased due to amounts borrowed under Oracle's commercial paper program and a loan facility borrowed by Oracle Technology Company, a wholly owned subsidiary of Oracle.

**Selected Historical Financial Data of Siebel Systems**

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The following selected historical financial data for, and as of the end of, each of the five years in the period ended December 31, 2004 have been derived from Siebel Systems' audited consolidated financial statements.

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The data as of June 30, 2005 and 2004 and for the six months then ended are derived from Siebel Systems' unaudited consolidated financial statements that include, in management's opinion, all adjustments, consisting of normal recurring adjustments, necessary to present fairly the results of operations and financial position of Siebel Systems for the periods and dates presented.

You should read this data together with the audited and unaudited consolidated financial statements of Siebel Systems, including their notes, incorporated herein by reference. For documents incorporated by reference please see the heading "Where You Can Find More Information." Operating results for the six-month period ended June 30, 2005 do not necessarily indicate the results that can be expected for the year ending December 31, 2005.

(in millions, except per share amounts)	Six Months Ended		Years Ended December 31,				
	June 30,						
	2005	2004	2004	2003	2002	2001	2000
<b>Results of Operations:</b>							
Total revenues	\$ 613	\$ 630	\$ 1,340	\$ 1,354	\$ 1,635	\$ 2,085	\$ 1,820
Operating income (loss)	(93)	39	129	(37)	(99)	353	320
Net income (loss)	(54)	39	111	(5)	(39)	252	221
Basic earnings (loss) per share	(0.10)	0.08	0.22	(0.01)	(0.08)	0.55	0.29
Diluted earnings (loss) per share	(0.10)	0.07	0.20	(0.01)	(0.08)	0.48	0.23
Basic weighted average common shares outstanding	516	503	505	492	476	457	423
Diluted weighted average common shares outstanding	516	544	541	492	476	523	522
<b>Balance Sheet Data (end of period):</b>							
Cash and short-term investments	\$ 2,242	\$ 2,121	\$ 2,246	\$ 2,023	\$ 2,162	\$ 1,657	\$ 1,153
Working capital	1,826	1,689	1,867	1,659	1,856	1,530	1,202
Total assets	3,043	2,923	3,087	2,851	3,037	2,748	2,163
Long-term debt	0	0	0	0	300	300	300
Total stockholders' equity	2,229	2,110	2,247	2,041	1,950	1,832	1,278

**Selected Unaudited Pro Forma Condensed Combined Financial Data**

The following selected unaudited pro forma condensed combined financial data was prepared using the purchase method of accounting and was based on the historical financial statements of Oracle, PeopleSoft and Siebel Systems. Oracle and Siebel Systems have different fiscal year ends. Accordingly, the unaudited pro forma condensed combined statement of operations data for the year ended May 31, 2005 combines Oracle's historical consolidated statement of operations data for the year then ended with Siebel Systems' historical consolidated statement of operations data for the twelve months ended March 31, 2005. The unaudited pro forma condensed combined statement of operations data for the three months ended August 31, 2005 combines Oracle's historical consolidated statement of operations data for the three months then ended with Siebel Systems' historical consolidated statement of operations data for the three months ended June 30, 2005. The unaudited pro forma condensed combined statement of operations data gives effect to the transaction as if it had occurred on June 1, 2004. The unaudited pro forma condensed combined balance sheet data combines Oracle's historical consolidated balance sheet data as of August 31, 2005 with Siebel Systems' historical consolidated balance sheet data as of June 30, 2005, giving effect to the transaction as if it had occurred on August 31, 2005.

The selected unaudited pro forma condensed combined financial data is based on estimates and assumptions that are preliminary. The data is presented for informational purposes only and is not intended to represent or be indicative of the consolidated results of operations or financial condition of Oracle that would have been reported had the proposed merger been completed as of the dates presented, and should not be taken as

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representative of future consolidated results of operations or financial condition of Oracle. Please also read the section in this proxy statement/prospectus entitled **Cautionary Statement Regarding Forward-Looking Statements** for more information on the statements made in this section.

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This selected unaudited pro forma condensed combined financial data should be read in conjunction with the selected historical financial data, the unaudited pro forma condensed combined financial statements and accompanying notes contained elsewhere in this proxy statement/prospectus, Siebel Systems' historical financial statements and accompanying notes incorporated by reference in this proxy statement/prospectus and Oracle's historical consolidated financial statements and accompanying notes, which may be found in its SEC filings attached as Annexes to this joint proxy statement/prospectus. Please see the section entitled "Where You Can Find More Information."

### Pro Forma Condensed Combined Statement of Operations Data:

	For the Three Months Ended	For the Year Ended
(in millions, except per share data)	Aug 31, 2005	May 31, 2005
Total revenues	\$ 3,081	\$ 14,914
Operating income	573	3,565
Net income	385	2,452
Basic earnings per share	0.07	0.47
Diluted earnings per share	0.07	0.45
Basic weighted average common shares outstanding	5,272	5,260
Diluted weighted average common shares outstanding	5,387	5,390

### Pro Forma Condensed Combined Balance Sheet Data:

	As of
(in millions)	Aug 31, 2005
Cash, cash equivalents and marketable securities	\$ 7,983
Working capital	(1,338)
Total assets	28,048
Short-term borrowings and current portion of long-term debt	6,522
Long-term debt, net of current portion	157
Stockholders' equity	13,349

### Comparative Per Share Data

The unaudited pro forma per share data for Oracle has been based upon the historical average number of outstanding shares of Oracle common stock adjusted to include the number of shares of Oracle common stock that would be issued in the Siebel Systems merger under the assumed Conversion Ratio of 0.79 and the assumption that holders of 30% or greater of the outstanding Siebel Systems common stock have elected to receive the merger consideration in New Oracle common stock. The assumed Conversion Ratio of .79 was calculated as \$10.66 divided by \$13.49 (the closing price of Oracle common stock on September 12, 2005, the date the signing of the merger agreement was announced). If Siebel Systems stockholders holding more than 30% of Siebel Systems common stock elect to receive New Oracle common stock, the equity consideration will be prorated. The unaudited pro forma equivalent per share data for Siebel Systems has been based on the unaudited pro forma amounts per share for Oracle, multiplied by the assumed Conversion Ratio of 0.79.

You should read the information set forth below with the historical consolidated financial data of Oracle and Siebel Systems contained in the annual reports and other information that have been filed with the SEC. For documents incorporated by reference or attached as Annexes hereto, please see "Where You Can Find More Information." You should also read this information with the unaudited pro forma condensed combined financial information set forth on page 66 to page 79. You should not rely on the pro forma combined financial information as indicating either the historical results that Oracle and Siebel would have had or the future results that Oracle will experience after the merger.



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The following table sets forth selected historical and unaudited pro forma per share data for Oracle and historical and equivalent unaudited pro forma per share data for Siebel Systems. The unaudited pro forma financial data assumes that the Siebel Systems merger was completed on June 1, 2004.

(in millions, except per share data)	Historical		Pro Forma	
			For the Year Ended	
			May 31, 2005	
	For the Year Ended	For the Twelve Months Ended	Oracle, PeopleSoft and Siebel Systems	For the Year Ended
	May 31, 2005	Mar 31, 2005	Combined	May 31, 2005
	Oracle	Siebel Systems		Siebel Systems Equivalent
Earnings per share				
Basic	\$ 0.56	\$ 0.15	\$ 0.47	\$ 0.37
Diluted	\$ 0.55	\$ 0.14	\$ 0.45	\$ 0.36
Weighted average shares outstanding				
Basic	5,136	508	5,260	
Diluted	5,231	532	5,390	

(in millions, except per share data)	Historical		Pro Forma	
			As of and for the	
			Three Months Ended	
	As of and for the	As of and for the	Aug 31, 2005	As of and for the
	Three Months Ended	Three Months Ended	Oracle and Siebel Systems Combined	Three Months Ended
	Aug 31, 2005	Jun 30, 2005		Aug 31, 2005
	Oracle	Siebel Systems		Siebel Systems Equivalent
Earnings per share				
Basic	\$ 0.10	\$ (0.10)	\$ 0.07	\$ 0.06
Diluted	\$ 0.10	\$ (0.10)	\$ 0.07	\$ 0.06
Weighted average shares outstanding				
Basic	5,148	519	5,272	
Diluted	5,244	519	5,387	
Book value per share	\$ 2.20	\$ 4.28	\$ 2.53	\$ 2.00
	5,149	521	5,273	



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Shares used to compute book value  
per share

The maximum conversion ratio is 0.9944, which is 26% higher than the conversion ratio of 0.79 used in the table above and in unaudited pro forma condensed combined financial statements. The table below discloses the effect on pro forma basic and diluted earnings per share from the respective amounts presented in the unaudited pro forma condensed combined financial statements if the maximum conversion ratio was required and if a correspondingly divergent minimum ratio was required.

	Effect on Oracle Pro Forma Earnings Per Share		Effect on Siebel Systems Equivalent Pro Forma Earnings Per Share	
	Basic	Diluted	Basic	Diluted
<b>For the Year Ended May 31, 2005:</b>				
26% increase in conversion ratio	\$ (0.01)	\$ 0.00	\$ 0.09	\$ 0.09
26% decrease in conversion ratio	\$ 0.00	\$ 0.01	\$ (0.10)	\$ (0.09)
<b>For the Three Months Ended August 31, 2005:</b>				
26% increase in conversion ratio	\$ 0.00	\$ 0.00	\$ 0.01	\$ 0.01
26% decrease in conversion ratio	\$ 0.00	\$ 0.00	\$ (0.02)	\$ (0.02)

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Additionally, Oracle pro forma book value per share would decrease by \$0.01 if the conversion ratio increased 26% and would increase by \$0.02 if the conversion ratio decreased by 26% at August 31, 2005. Siebel Systems equivalent pro forma book value per share would increase by \$0.50 if the conversion ratio increased 26% and would decrease by \$0.51 if the conversion ratio decreased by 26% at August 31, 2005.

**Comparative Market Price Information**

The following table sets forth the closing sales prices per share of Oracle common stock and Siebel Systems common stock on the Nasdaq Stock Market on September 9, 2005, the last trading day prior to the public announcement of the proposed transaction, and on December 22, 2005, the most recent date for which prices were practically available prior to printing this document. The table also sets forth the value of the Oracle common stock that a Siebel Systems stockholder would have received for one Siebel Systems common share, assuming that the transaction had taken place on those dates. These numbers have been calculated by multiplying 0.79, the assumed Conversion Ratio of Oracle common stock for each Siebel Systems common share, by the closing sales price per Oracle common share on those dates. The actual value of the Oracle common stock a stockholder will receive on the date of the transaction may be higher or lower than the prices set forth below.

	<b>Closing Sales Price of Oracle Common Stock</b>	<b>Closing Sales Price of Siebel Systems Common Stock</b>	<b>Value of Oracle Common Stock Received</b>
September 9, 2005	\$ 13.28	\$ 9.13	\$ 10.49
December 22, 2005	12.32	10.57	9.73

Please see [Comparative Per Share Market Price and Dividend Information](#) for additional market price information.

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### **RISK FACTORS**

In addition to the other information included in, incorporated by reference in, and found in the Annexes attached to, this proxy statement/prospectus, including the matters addressed in the Cautionary Statement Regarding Forward-Looking Statements, you should carefully consider the following risks before deciding how to cast your vote. Other than risks that could apply to any issuer or any offering, all material risks relating to the transaction are discussed below. In addition, you should read and consider the risks associated with the businesses of Oracle and Siebel Systems. Risks relating to Oracle can be found in Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations Factors That May Affect Our Future Results or the Market Price of Our Stock in Oracle's Quarterly Report on Form 10-Q/A for the quarter ended August 31, 2005, which has been filed with the SEC and is attached as Annex E to this proxy statement/prospectus. Risks relating to Siebel Systems can be found in Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations Risk Factors in Siebel Systems' Quarterly Report on Form 10-Q for the quarter ended September 30, 2005, which has been incorporated by reference in this proxy statement/prospectus. You should also read and consider the other information in this proxy statement/prospectus and the other documents incorporated by reference in this proxy statement/prospectus. Please see Where You Can Find More Information. Additional risks and uncertainties not presently known to Oracle or Siebel Systems or that are not currently believed to be important also may adversely affect the transaction and New Oracle following the Siebel Systems merger.

**If you elect to receive shares of New Oracle common stock, you cannot be certain of the form of merger consideration that you will receive.**

Under the terms of the merger agreement, in certain circumstances, a Siebel Systems stockholder may receive all or a portion of the merger consideration in cash even if such stockholder made an election to receive shares of New Oracle common stock. If holders of more than 30% of the shares of Siebel Systems common stock outstanding immediately prior to completion of the Siebel Systems merger make stock elections, each electing Siebel Systems stockholder will receive only a prorated portion of the merger consideration to which it is entitled in New Oracle common stock. The remaining portion will be paid in cash at a price of \$10.66 per share. In addition, if holders of less than six percent of the shares of Siebel Systems common stock outstanding immediately prior to the completion of the mergers make stock elections, the mergers will be changed into an all-cash transaction in which all Siebel Systems stockholders will receive \$10.66 per share in cash notwithstanding any previously made stock elections. Accordingly, if you make a stock election, you may receive all or a portion of the merger consideration in cash, which could result in tax consequences that differ from those that would have resulted had you received stock, including the recognition of taxable gain to the extent cash is received.

**Siebel Systems stockholders who elect to receive New Oracle common stock cannot be sure of the number or value of the shares of New Oracle common stock they will receive upon completion of the Siebel Systems merger, and the value of such shares could be less than the value of the cash they would have received if they had not made a stock election.**

Siebel Systems stockholders who make stock elections will not know at the time of such election the number or value of the shares of New Oracle common stock they will receive upon completion of the Siebel Systems merger. That value could be less than the value of the cash they would have received if they had not made a stock election. Under the terms of the merger agreement, (1) Oracle must select a deadline for making stock elections that occurs between two and 20 business days prior to the completion of the Siebel Systems merger, and (2) the averaging period for determining the number of shares of New Oracle common stock that will be issued in exchange for Siebel Systems shares will be the 10 trading days prior to completion of the Siebel Systems merger. Accordingly, the deadline for making stock elections may occur prior to the commencement of, and will occur prior to the completion of, the averaging period for determining the number of shares of New Oracle common stock. Siebel Systems stockholders therefore will not know the Conversion Ratio for such stockholder's shares of Siebel Systems common stock at the time they must make their stock election. In addition, since the Average Oracle Stock Price will be used to calculate the Conversion Ratio, the aggregate value of the shares of New Oracle common stock received by an electing stockholder may, on the actual date of receipt by such electing stockholder, have a greater or lesser value than the deal price of \$10.66. Furthermore, since the Conversion Ratio will be fixed at .9944 if the



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Average Oracle Stock Price is less than \$10.72, an electing stockholder may receive per share consideration of less than \$10.66 for each of such stockholder's shares of Siebel Systems common stock.

### **If we do not integrate our products, we may lose customers and fail to achieve our financial objectives.**

Achieving the benefits of the mergers will depend in part on the integration of Oracle's and Siebel Systems' products in a timely and efficient manner. In order for us to provide enhanced and more valuable products to our customers after the mergers, we will need to integrate our product lines and development organizations. This may be difficult, unpredictable, and subject to delay because our products are highly complex, have been developed independently and were designed without regard to such integration. If we cannot successfully integrate our products and continue to provide customers with products and new product features in the future on a timely basis, we may lose customers and our business and results of operations may be harmed.

### **Integrating our companies may divert management's attention away from our operations.**

Successful integration of Oracle's and Siebel Systems' operations, products and personnel may place a significant burden on our management and our internal resources. The diversion of management attention and any difficulties encountered in the transition and integration process could harm our business, financial condition and operating results.

### **We expect to incur significant costs integrating the companies into a single business.**

We expect to incur significant costs integrating Siebel Systems' operations, products and personnel. These costs may include costs for:

employee redeployment, relocation or severance;

integration of information systems;

combining research and development teams and processes; and

reorganization or closures of facilities.

In addition, we expect to incur significant costs in connection with the consummation of the mergers. We do not know whether we will be successful in these integration efforts or in consummating the mergers.

### **The combined company may not realize the anticipated benefits from the Siebel Systems merger.**

The Siebel Systems merger involves the integration of two companies that have previously operated independently. Oracle expects the combined company to result in financial and operational benefits, including increased revenues, cost savings and other financial and operating benefits from the Siebel Systems merger. There can be no assurance regarding when or the extent to which the combined company will be able to realize increased revenues, cost savings or benefits. This integration may also be difficult, unpredictable, and subject to delay because of possible cultural conflicts and different opinions on technical decisions and product roadmaps. The companies must integrate or, in some cases, replace, numerous systems, including those involving management information, purchasing, accounting and finance, sales, billing, employee benefits, payroll and regulatory compliance, many of which are dissimilar. In some instances, Oracle and Siebel Systems serve the same customers, and some of these customers may decide that it is desirable to have additional or different suppliers. Difficulties associated with integrating Oracle and Siebel Systems could have a material adverse effect on the combined company and the market price of New Oracle common stock.

**Officers and directors of Siebel Systems have certain interests in the Siebel Systems merger that are different from, or in addition to, interests of Siebel Systems stockholders. These interests may be perceived to have affected their decision to support or approve the Siebel Systems merger.**

Siebel Systems officers and directors have certain interests in the Siebel Systems merger that are different from, or in addition to, interests of Siebel Systems stockholders. These interests include indemnification rights

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and continued coverage under existing directors' and officers' liability insurance policies, cash payments and accelerated vesting of stock awards to executive officers upon certain terminations and resignations following the consummation of the Siebel Systems merger (or in the case of Mr. Shaheen, upon the consummation of the Siebel Systems merger), and continued health, welfare and other benefits. Thomas M. Siebel, the Siebel Systems Chairman of the Board of Directors, has also agreed to provide consulting services to Oracle during the period beginning on the closing of the Siebel Systems merger and ending on April 30, 2008. In addition, on April 12, 2004, Pamela Plotkin filed a derivative action purportedly on behalf of Siebel Systems in San Mateo County Superior Court against the company and certain current and former members of the board of directors. Once the merger is complete, Ms. Plotkin would most likely lose standing to continue to pursue the derivative claims asserted in that action. As a result, the claims against the defendants would likely be dismissed. (On December 1, 2005, Ms. Plotkin filed a motion for leave to file an amended complaint in that action to assert direct class action claims relating to the proposed acquisition of Siebel Systems by Oracle. See discussion on pages 26 and 27.) As a result of these interests, these directors and officers have interests different from or in addition to the interests of stockholders. These interests may be perceived to have affected their decision to support or approve the Siebel Systems merger. Siebel Systems stockholders should be aware of these interests when considering the Siebel Systems board of directors' recommendation to adopt the merger agreement. Please see "The Proposed Transaction - Interests of Certain Persons in the Siebel Systems Merger."

### **The combined company will incur significant transaction and merger-related costs in connection with the Siebel Systems merger and will remain liable for significant transaction costs, including legal, accounting, financial advisory and other costs.**

Oracle and Siebel Systems expect to incur a number of non-recurring costs associated with combining the operations of the two companies, which cannot be estimated accurately at this time. Oracle and Siebel Systems will also incur transaction fees and other costs related to the Siebel Systems merger, anticipated to be approximately \$75 million. Acquisition related transaction costs of \$75 million includes Oracle's estimates for investment banking fees of \$41 million, legal and accounting fees of \$29 million and other external costs directly related to the mergers of \$5 million. This amount is a preliminary estimate and subject to change. Additional unanticipated costs may be incurred in the integration of the businesses of Oracle and Siebel Systems. Although Oracle and Siebel Systems expect that the elimination of duplicative costs, as well as the realization of other efficiencies related to the integration of the businesses, may offset incremental transaction and transaction-related costs over time, this net benefit may not be achieved in the near term, or at all. Also, speculation regarding the likelihood of the closing of the mergers could increase the volatility of Siebel Systems' and Oracle's share prices.

### **If Oracle cannot obtain the necessary funding to complete the Siebel Systems merger in a timely manner, the merger could be delayed or jeopardized. Oracle's incurrence of additional debt to pay the cash portion of the merger consideration will significantly increase Oracle's interest expense, leverage and debt service requirements.**

Oracle anticipates borrowing between US\$3.5 billion to US\$5.0 billion in order to pay for Siebel Systems common stock and acquisition related transaction costs. The actual amounts borrowed will depend upon the percentage of Siebel Systems common stock held by Siebel Systems stockholders electing to receive New Oracle common stock (if the holders of more than six percent of Siebel Systems common stock elect to receive New Oracle common stock, New Oracle will issue shares of its common stock with respect to up to 30% of Siebel Systems common stock), the amount of Siebel Systems common stock outstanding and the amount of available cash and investments as of the acquisition date. This assumption excludes additional borrowings Oracle may need to finance restructuring activities.

Oracle believes it could fund the Siebel Systems acquisition with its internally available cash and investments, cash generated from operations, amounts available under its commercial paper program, additional borrowings or from the issuance of additional securities. While Oracle expects to be able to borrow any

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necessary funds on terms and conditions typical for this type of transaction prior to completion of the Siebel Systems merger, Oracle currently does not have any commitments from third parties to provide such funds. If Oracle has difficulty obtaining or cannot obtain the necessary funding in a timely manner, the completion of the Siebel Systems merger could be delayed or jeopardized. Alternatively, Oracle could obtain the funding but at a higher cost than anticipated.

Incurrence of this new debt will significantly increase the combined company's leverage. While management believes Oracle's cash flows will be more than adequate to service this debt, there may be circumstances in which required payments of principal and/or interest on this new debt could adversely affect Oracle's cash flows and operating results, and therefore the market price of New Oracle common stock.

### **Charges to earnings resulting from past acquisitions may adversely affect our operating results.**

Under purchase accounting, Oracle allocates the total purchase price to an acquired company's net tangible assets, amortizable intangible assets and in-process research and development based on their fair values as of the date of the acquisition and record the excess of the purchase price over those fair values as goodwill. Oracle management's estimates of fair value are based upon assumptions believed to be reasonable but which are inherently uncertain. Going forward, the following factors could result in material charges that would adversely affect our results:

impairment of goodwill;

charges for the amortization of identifiable intangible assets and for stock-based compensation;

accrual of newly identified pre-merger contingent liabilities that are identified subsequent to the finalization of the purchase price allocation; and

charges to income to eliminate certain Oracle pre-merger activities that duplicate those of the acquired company or to reduce our cost structure.

Oracle expects to incur additional costs associated with combining the operations of Siebel Systems as well as Oracle's previously acquired companies, which may be substantial. Additional costs may include costs of employee redeployment, relocation and retention, including salary increases or bonuses, accelerated amortization of deferred equity compensation and severance payments, reorganization or closure of facilities, taxes and termination of contracts that provide redundant or conflicting services. Some of these costs may have to be accounted for as expenses that would decrease Oracle's net income and earnings per share for the periods in which such costs are incurred.

### **The mergers could cause Siebel Systems and Oracle to lose key personnel, which could materially affect the respective company's business and require the companies to incur substantial costs to recruit replacements for lost personnel.**

As a result of the mergers, current and prospective Siebel Systems and Oracle employees could experience uncertainty about their future roles within Oracle. This uncertainty may adversely affect the ability of New Oracle or Oracle, as the case may be, to attract and retain key management, sales, marketing and technical personnel. Following the public announcement of the proposed Siebel Systems merger in September, Siebel Systems experienced employee attrition at levels that were higher than levels prior to the announcement of the Siebel Systems merger. Siebel Systems believes that such attrition may continue at such levels. Any failure to attract and retain key personnel could have a



material adverse effect on the business of Oracle after completion of the mergers.

**General customer uncertainty related to the mergers could harm Siebel Systems and Oracle.**

Siebel Systems or Oracle's customers may, in response to the announcement of the proposed mergers, delay or defer purchasing decisions. If Siebel Systems or Oracle's customers delay or defer purchasing decisions, the revenues of Siebel Systems and Oracle, respectively, and the revenues of the combined company, could materially decline or any anticipated increases in revenue could be lower than expected.

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**Siebel Systems and Oracle may not be able to obtain the regulatory approvals required to consummate the mergers unless they agree to material restrictions or conditions.**

Completion of the Siebel Systems merger is conditioned upon the receipt of all required governmental consents and authorizations, including under the HSR Act and by the applicable governmental authorities of the European Commission and in Brazil, Canada, South Africa and South Korea. Oracle and Siebel Systems intend to pursue all of these consents and authorizations as required by and in accordance with the terms of the merger agreement. Complying with requests from such governmental agencies, including requests for additional information and documents, could delay consummation of the transaction. In connection with granting these consents and authorizations, governmental authorities may require divestitures of Oracle or Siebel Systems assets or seek to impose conditions on New Oracle's operations after completion of the Siebel Systems merger. Such divestitures or conditions may jeopardize or delay completion of the Siebel Systems merger or may reduce the anticipated benefits of the transaction. Under the terms of the merger agreement, although Oracle is required to use reasonable best efforts to obtain all necessary governmental approvals, Oracle is not required to agree to any divestitures or conditions in connection with such efforts. Please see The Proposed Transaction Regulatory Matters, The Merger Agreement Covenants Reasonable Best Efforts Covenant, and The Merger Agreement Conditions to Completion of the Mergers.

**In certain instances, the merger agreement requires payment of a termination fee of \$140 million by Siebel Systems. This payment could affect the decisions of a third party considering making an alternative acquisition proposal to the Siebel Systems merger.**

Under the terms of the merger agreement, Siebel Systems will be required to pay to Oracle a termination fee of \$140 million if the merger agreement is terminated under certain circumstances. This payment could affect the structure, pricing and terms proposed by a third party seeking to acquire or merge with Siebel Systems and could deter such third party from making a competing acquisition proposal. Please see The Merger Agreement Termination and The Merger Agreement Termination Fees Payable by Siebel Systems.

**Purported stockholder class action complaints have been filed against Siebel Systems and members of its board of directors challenging the mergers, and an unfavorable judgment or ruling in these lawsuits could prevent or delay the consummation of the mergers, result in substantial costs or both.**

Siebel Systems and members of its board of directors were named in three purported stockholder class action complaints filed in California in the San Mateo County Superior Court. These cases are captioned *Showers v. Siebel et al.*, No. CIV 449535, *Sheldon Miller, PC Deferred Benefits Plan v. Siebel Systems, Inc. et al.*, No. CIV 449534, both filed on September 12, 2005, and *Corwin v. Siebel Systems, Inc. et al.*, No. CIV 449608, filed on September 15, 2005. Oracle is also named as a defendant in the *Miller* and *Corwin* complaints. Each of the complaints alleges, among other things, that the consideration being paid by Oracle for the purchase of Siebel Systems is inadequate and that the directors have breached their fiduciary duties by entering into the agreement without seeking to maximize stockholder value. The *Miller* and *Corwin* complaints allege that Oracle aided and abetted the Siebel Systems directors' alleged breaches of fiduciary duty.

In addition, in April 2004, Pamela Plotkin filed a derivative action purportedly on behalf of Siebel Systems in San Mateo County Superior Court against the company and certain current and former members of the board of directors relating to predicted adoption rates of Siebel v7.0 and certain customer satisfaction surveys. The action is captioned *Plotkin, derivatively on behalf of Siebel Systems, Inc. v. T. Siebel et al.*, No. CIV 438635. (A description of this action and a related federal class action is contained in the Form 10-Q filed by the company for the quarter ending September 30, 2005, which is incorporated herein by reference.) On December 1, 2005, Ms. Plotkin filed a motion for leave to file an amended complaint in that action to assert class action claims relating to the proposed Siebel Systems merger. The proposed amended complaint alleges, among other things, that the current directors have violated their fiduciary duties by failing to maximize shareholder value and by putting their personal interests ahead of the interests of Siebel's shareholders in negotiating the terms of the proposed merger. Ms. Plotkin asserts that the directors structured the transaction to ensure that, among other



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things, they would obtain indemnification for past misconduct including that alleged in the derivative case and related federal class action, they would retain certain of their positions with the surviving company and the benefits flowing there from and that they would circumvent the claims asserted in the derivative action by depriving current shareholders of the company standing to bring the claims. The proposed amended complaint also alleges that the defendants failed to adequately disclose information related to the derivative action and names Oracle as a defendant for allegedly aiding and abetting the breaches of fiduciary duties by the other defendants. The motion for leave to file the amended complaint is currently scheduled to be heard on January 6, 2006.

On December 8, the San Mateo County Superior Court consolidated the *Showers*, *Miller* and *Corwin* actions, but refused to appoint lead counsel in the consolidated action. On December 21, 2005, plaintiffs in the *Showers*, *Miller* and *Corwin* actions filed what purports to be an amended consolidated complaint. The complaint alleges, among other things, that the directors breached their fiduciary duties by entering into the merger agreement without seeking to maximize shareholder value, that the termination fee of \$140 million in the merger agreement is excessive and that the directors breached their fiduciary duties by agreeing in the merger agreement not to solicit a higher bid for Siebel Systems. The complaint also alleges that the earlier versions of this proxy statement/prospectus omit material facts relating to Siebel Systems' forecasts or projections, Oracle's projected earnings, Goldman Sachs' analysis of the transaction, the negotiations leading to the transaction, the terms of the consulting agreements to be entered into between Oracle and Thomas M. Siebel and George Shaheen and other matters. Finally, the complaint alleges that the directors breached their duties in connection with the administration of Siebel Systems' 1996 and 1998 Equity Incentive Plans, which allegedly resulted in options being granted at a lower exercise price than they should have been. The complaint alleges that, as a result, the recipients of those options are receiving a greater share of the consideration being paid by Oracle and the alleged options repricing increased the expenses to be incurred by Oracle. According to the complaint, these alleged increased expenses have purportedly resulted in Oracle offering a lower price per share to Siebel Systems' shareholders. The complaint alleges that Oracle aided and abetted the directors' breaches of duties.

On December 22, 2005, plaintiffs in the *Showers*, *Miller* and *Corwin* actions informed Siebel Systems and Oracle that if they did not meet their demands they would seek expedited discovery and move for a preliminary injunction to enjoin the merger. On December 23, 2005, plaintiffs in the *Showers*, *Miller* and *Corwin* actions served notices of depositions of four senior executives of Siebel Systems and Oracle and one senior executive of Perseus to take place during the week of January 2, 2006. Included in the notices of depositions are requests for documents from all deponents.

Siebel Systems has obligations under certain circumstances to hold harmless and indemnify each of the defendant directors against judgments, fines, settlements and expenses related to claims against such directors and otherwise to the fullest extent permitted under Delaware law and Siebel Systems' bylaws and certificate of incorporation. An unfavorable outcome in any of these lawsuits could prevent or delay the consummation of the mergers, or result in substantial costs to Siebel Systems and/or Oracle. It is also possible that other similar lawsuits may be filed in the future. Siebel Systems cannot estimate any possible loss from current or future litigation at this time.

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**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

New Oracle and Siebel Systems have made forward-looking statements in this document, in documents that are incorporated by reference and in the Annexes attached to this document that are subject to risks and uncertainties. These statements are based on the beliefs and assumptions of each company's management. Generally, forward-looking statements include information concerning possible or assumed future actions, events or results of operations of Oracle, Siebel Systems and the combined company. Forward-looking statements specifically include, without limitation, the information in this document regarding: projections; efficiencies/cost avoidance; cost savings; income and margins; earnings per share; growth; economies of scale; combined operations; the economy; future economic performance; conditions to, and the timetable for, completing the transaction; future acquisitions and dispositions; litigation; potential and contingent liabilities; management's plans; business portfolios; taxes; and merger and integration-related expenses.

Forward-looking statements may be preceded by, followed by or include the words "believes," "expects," "anticipates," "intends," "plans," "estimates" or similar expressions. Siebel Systems claims the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 for all forward-looking statements.

Forward-looking statements are not guarantees of performance. You should understand that the following important factors, in addition to those discussed in "Risk Factors" above and elsewhere in this document, and in the documents which are incorporated by reference and attached as Annexes to this document, could affect the future results of Oracle and Siebel Systems, and of the combined company after the completion of the transaction, and could cause those results or other outcomes to differ materially from those expressed or implied in the forward-looking statements:

the ability to complete the transaction considering the various closing conditions described in this proxy statement/prospectus, including those conditions related to antitrust regulations;

the ability to achieve business plans and cost efficiencies and grow existing sales and volume profitably despite high levels of competitive activity in which the combined company has chosen to focus;

the ability to better maintain and manage key customer and partner relationships and the benefits such customers and partners will enjoy as a result of the transaction;

the ability to successfully manage regulatory, tax and legal matters (including product liability, patent and other intellectual property matters);

the ability to successfully implement, achieve and sustain cost improvement plans in development and overhead areas; and

the ability to manage the combined company in light of continued global political and/or economic uncertainty and disruptions, especially in the combined company's significant geographical markets, as well as any political and/or economic uncertainty and disruptions due to terrorist activities.

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**THE PROPOSED TRANSACTION**

**General**

Siebel Systems' board of directors is using this document to solicit proxies from the holders of Siebel Systems common stock for use at the special meeting.

**Proposals**

At the special meeting, holders of Siebel Systems common stock will be asked to vote upon a proposal to adopt the merger agreement and a proposal to adjourn the special meeting, if necessary, to permit further solicitation of proxies in the event there are not sufficient votes at the time of the special meeting to adopt the merger agreement.

The Siebel Systems merger will not be completed unless Siebel Systems' stockholders adopt the merger agreement. As a result of the structure of the transaction, the vote of the Oracle stockholders will not be required under applicable law to adopt the merger agreement.

**Background of the Transaction**

Over the past several years, Siebel Systems has from time to time considered a diverse range of strategic opportunities to maximize stockholder value, including potential acquisitions by Siebel Systems, restructurings of its equity, equity repurchases, strategic alliances and the possible sale of Siebel Systems. Consistent with the fiduciary duties of Siebel Systems' directors and officers to act in the best interests of Siebel Systems stockholders, such strategic opportunities were regularly considered by management in the course of the company's business. To assist it in evaluating certain of those opportunities, Siebel Systems from time to time engaged outside financial and legal advisors. In that regard, Perseus Group (Perseus) began acting as Siebel Systems' financial advisor beginning in June 2003. In May 2005, Siebel Systems also engaged Goldman Sachs to act as its financial advisor in connection with the possible sale of Siebel Systems. Other than the discussions referred to below, Siebel Systems did not receive any other acquisition proposals from potential acquirors in 2005.

Prior to November 2003, Oracle and Siebel Systems had from time to time discussed but not pursued the possibility of a business combination. In November 2003, a representative of Perseus contacted Charles Phillips, then Oracle's Executive Vice President, Strategy, Partnerships and Business Development, to discuss whether Oracle would be interested in exploring a business combination with Siebel Systems. Following this conversation Oracle and Siebel entered into a non-disclosure agreement.

On November 24, 2003, David Schmaier, Executive Vice President of Siebel Systems, Edward Abbo, Senior Vice President, Technology and Chief Technology Officer of Siebel Systems, Kenneth Goldman, Chief Financial Officer and Senior Vice President of Finance and Administration of Siebel Systems, and a representative of Perseus met with Mr. Phillips and others from Oracle to explore the possibility of a business combination between Oracle and Siebel Systems. Ultimately, Oracle and Siebel Systems elected not to pursue such discussions since Oracle was then pursuing the acquisition of PeopleSoft. From time to time following the November 2003 meeting, representatives of the two

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companies and Perseus contacted each other to discuss whether the parties should explore a business combination.

In April and May of 2005, Siebel Systems engaged in discussions with a potential acquisition group consisting of two private investment partnerships that contacted Siebel Systems regarding a possible acquisition of Siebel Systems and provided certain non-public information to such group in accordance with the terms of a non-disclosure agreement entered into between the parties. The discussions ended in late May 2005 when the potential acquisition group concluded that it would not be able to propose a price that would be attractive to Siebel Systems.

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On June 8, 2005, following the annual meeting of Siebel Systems stockholders, Mr. Phillips and Safra Catz, both co-Presidents of Oracle, contacted Thomas Siebel, Chairman of the Board of Directors of Siebel Systems, to discuss the possibility of Oracle acquiring Siebel Systems at a price, to be paid in cash and/or stock, of approximately \$11.00 per share. Mr. Siebel stated that in light of the fact that Siebel Systems' market price was then approximately \$9.00 per share, he felt that the Siebel Systems board of directors would be more receptive to a higher per share price. Mr. Phillips and Ms. Catz contacted Mr. Siebel later that day, indicating that Oracle might be willing to pay a price in the range of \$11.00 to \$12.60 per share, subject to further business and financial analysis and due diligence.

On June 10, 2005, Mr. Siebel discussed this proposal with James Gaither (a member of the Siebel Systems board of directors and its executive committee), a representative of Perseus, representatives of Goldman Sachs and representatives of Cooley Godward, outside counsel to Siebel Systems. Following these discussions, the parties determined to enter into merger discussions and conduct due diligence subject to the execution of a revised confidentiality agreement. The parties executed such an agreement (the "NDA") on June 15, 2005.

Between June 10, 2005 and the execution of the merger agreement, Mr. Siebel had a number of conversations with members of the Siebel Systems board of directors to discuss and review the potential transaction with Oracle. Mr. Siebel also worked closely with George Shaheen, the Chief Executive Officer of Siebel Systems, and other members of Siebel Systems' management throughout this period to analyze and review the transaction. In addition, during that period, a number of meetings of the Siebel Systems board of directors and its executive committee (a committee comprised of Mr. Siebel, Mr. Gaither, Patricia House and Mr. Shaheen) were held, as referenced throughout this section.

On June 15, 2005, Mr. Siebel and other executives of Siebel Systems met with Mr. Phillips, Ms. Catz and other executives of Oracle to discuss Siebel Systems' business and operations and commence Oracle's due diligence review of Siebel Systems. Representatives of Cooley Godward and Davis Polk & Wardwell, outside counsel to Oracle, participated in portions of this meeting. Over the next several weeks, Oracle and its advisors engaged in a due diligence review and discussed with Siebel Systems and its advisors the valuation and timing of the proposed transaction.

In late June 2005, Oracle indicated that based on further discussion and analysis, it was not willing to enter into a transaction at the high end of the range previously discussed, and that it likely would not be able to execute a definitive agreement by the end of June.

On June 29, 2005, Siebel Systems' executive committee met to review and discuss the status of the proposed transaction. A representative of Cooley Godward reviewed with the executive committee the fiduciary obligations of the directors of Siebel Systems in connection with a transaction of the type under discussion with Oracle.

On or about July 1, 2005, Mr. Phillips called Mr. Siebel and indicated that Oracle was not prepared to commence negotiations at that time but wanted to continue its due diligence investigation of Siebel Systems. At a meeting of Siebel Systems' executive committee on July 5, 2005, Mr. Siebel updated the committee members on the status and timing of the potential transaction with Oracle. After discussion, the executive committee determined that in the absence of active negotiations, Siebel Systems should terminate discussions with Oracle. This result was communicated to Oracle following the meeting.

On July 6, 2005, Cooley Godward sent a letter to Oracle on behalf of Siebel Systems instructing Oracle to return Siebel Systems' confidential information that had been provided pursuant to the NDA. Oracle complied with Siebel Systems' request and returned certain Siebel Systems confidential information to Cooley Godward.



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On July 7, 2005, Siebel Systems announced its preliminary earnings and revenues for the quarter ended June 30, 2005. License revenues were expected to be \$78 million, which amount was below analyst consensus

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expectations of \$90 million by 13%. Total revenues were expected to be between \$312 million and \$314 million, which range was below analyst consensus expectations of \$319 million. On July 29, 2005, Siebel Systems announced its final quarterly financial results which were in-line with the preliminary financial results presented on July 7, 2005. On July 8, 2005, the first trading day following the earnings announcement, the price of Siebel Systems common stock declined and closed at \$8.59.

Following Siebel Systems' report of its quarterly financial results, on or about August 9, 2005, Mr. Phillips called a representative of Perseus to discuss the possibility of reopening the discussions with respect to a possible business combination. On or about August 10, 2005, Mr. Phillips called Mr. Siebel to discuss this topic further and, during this call, Mr. Phillips and Mr. Siebel discussed a price of \$11.00 per share, to be paid in cash or stock. At executive committee meetings on August 11 and 12, 2005, the committee members discussed the potential transaction with Oracle and determined that, given Oracle's renewed interest in engaging in active negotiations, Siebel Systems should re-engage in discussions with Oracle. At various times from August 12, 2005 through the execution of the merger agreement, the parties and their advisors discussed the terms of the proposed transaction. Among other terms discussed was the percentage of the merger consideration that would be paid in stock. Siebel Systems and its advisors wanted the Siebel Systems stockholders to have the option to receive stock that would qualify for tax-free treatment for U.S. federal income tax purposes or cash, while Oracle sought to limit the amount of stock that would be issued in the transaction.

The Siebel Systems board of directors and its advisors met on August 14, 2005 to discuss the potential transaction. Representatives of Cooley Godward advised the Siebel Systems board of directors on its fiduciary duties in connection with such a transaction. The Siebel Systems board of directors determined that, given Oracle's renewed interest in engaging in active negotiations, Siebel Systems should continue to engage in discussions with Oracle.

Also on August 14, 2005, after the Siebel Systems board meeting had concluded, Davis Polk & Wardwell provided to Cooley Godward a non-binding written summary of terms of the proposed acquisition, which contemplated a price of \$11.00 per share, to be paid in cash or Oracle stock, as elected by the Siebel Systems stockholders, provided that Oracle would not be required to issue stock in respect of more than 30% of the outstanding shares of Siebel Systems common stock. The summary of terms contemplated the acquisition of Siebel Systems by a new holding company, which would allow Siebel Systems stockholders who received the new holding company's common stock in the transaction only to recognize gain for U.S. federal income tax purposes to the extent of any cash received, despite the proposed amount of cash consideration that would be paid to Siebel Systems stockholders.

On August 15, 2005, representatives of Cooley Godward and Davis Polk & Wardwell negotiated, and exchanged drafts of, the summary of terms and, following such negotiations, conveyed that their respective clients were willing to proceed with due diligence and negotiation of a definitive agreement based on those terms, which included the price terms discussed on August 14, 2005.

From August 16, 2005 through September 7, 2005, Oracle and its advisors re-engaged in a due diligence review of Siebel Systems.

On August 18, 2005, Mr. Siebel discussed with the Siebel Systems board of directors the status of discussions during a regular board meeting.

On August 19, 2005, Davis Polk & Wardwell provided to Cooley Godward certain sections of a draft acquisition agreement, not including provisions regarding price or structure (which structure would depend upon whether the consideration included stock). At various times through the execution of the merger agreement, Cooley Godward and Davis Polk & Wardwell negotiated the draft merger agreement and related documents and agreements. These negotiations included meetings and discussions regarding, and the exchange of drafts of and comments on, these agreements and documents. In addition to price, material terms of the draft merger



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agreement the parties focused on during negotiations included the percentage of the merger consideration that would be paid in stock, the conditions of each of the parties to consummate the mergers, the parties' respective rights to terminate the merger agreement and the related termination fees. Siebel Systems negotiated throughout this process to limit the conditions to Oracle's obligation to close the proposed transaction, limit the ability of Oracle to terminate the merger agreement, limit the circumstances in which a break-up fee would be paid by Siebel Systems and limit the amount of the break-up fee. Siebel Systems also negotiated for an ability to terminate the merger agreement in certain instances to enter into a definitive agreement with respect to a superior proposal. Siebel Systems' positions were consistent with the summary of terms exchanged on August 15, 2005. Conversely, Oracle sought to maximize its flexibility to terminate the merger agreement, constrict Siebel Systems' ability to terminate the merger agreement to accept a superior offer and obtain the highest possible termination fee. For example, at various times during the negotiations, Oracle proposed that the termination fee be as high as 4.0% of the equity value of the proposed transaction, while Siebel Systems proposed that the termination fee be as low as 2% of the equity value of the proposed transaction. The parties ultimately agreed on a termination fee of \$140,000,000, which is approximately 2.4% of the equity value of the proposed transaction. As another example, the parties discussed extensively the extent to which the merger agreement would require Oracle to litigate against governmental antitrust authorities if enforcement proceedings were commenced. Oracle sought, and the merger agreement provides, that Oracle not be required to litigate in this situation. As part of this agreement, however, Oracle agreed that Siebel Systems would have the right to terminate the merger agreement if Oracle failed to use its reasonable best efforts to defend against such enforcement proceedings. The final negotiated terms of the merger agreement are more fully described in The Merger Agreement.

On August 28, 2005, Mr. Siebel and Mr. Phillips discussed the timing and structure of the proposed transaction. Mr. Siebel informed Mr. Phillips that while limited due diligence could continue, Siebel Systems would not engage in further negotiations until Oracle confirmed a deal price and structure and provided Siebel Systems with a draft definitive agreement reflecting price and structure and a target announcement date.

On September 6, 2005, Mr. Phillips informed Mr. Siebel that, based upon, among other things, its continuing business and financial analysis and due diligence investigation, Oracle was reducing its proposal to \$10.50 per share to be paid only in cash.

Also on September 6, 2005, Siebel Systems' executive committee met and Mr. Siebel updated the committee on the status of discussions. The executive committee determined that Siebel Systems should inform Oracle that it would not proceed with further discussions given Oracle's revised proposed price, failure to deliver a draft definitive agreement reflecting price, structure and a commitment to a stock component of up to 30% that would qualify for tax-free treatment for U.S. federal income tax purposes (as contemplated by the August 15, 2005 summary of terms) and Oracle's failure to set a timetable towards a target announcement date. These communications were part of an overall strategy to get the best price and other terms for Siebel Systems stockholders. This decision was communicated to Oracle following the meeting.

On September 7, 2005, Cooley Godward sent a letter to Oracle on behalf of Siebel Systems instructing Oracle to return Siebel Systems confidential information that had been provided pursuant to the NDA.

On September 9, 2005, Mr. Siebel had separate conversations with Larry Ellison, Oracle's Chief Executive Officer, and Mr. Phillips regarding a proposed transaction at \$10.75 per share to be paid in cash or Oracle stock, as elected by the Siebel Systems stockholders, provided that not more than 30% of the deal consideration would be paid in Oracle stock. During these conversations, Oracle committed to deliver a complete draft of the merger agreement that day and to a target of announcing the transaction before the market opened on September 12, 2005. After those conversations, Davis Polk & Wardwell provided to representatives of Cooley Godward a complete draft merger agreement, and negotiations and due diligence activities resumed.

On September 10, 2005, Mr. Phillips told a representative of Perseus that based upon, among other things, its continuing business and financial analysis and due diligence investigation, Oracle was proposing to reduce the price to \$10.70 per share.



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At a meeting of Siebel Systems' executive committee on September 10, 2005, Mr. Siebel updated the committee members on the status of discussions with Oracle. Following the meeting, the Siebel Systems board of directors held a special meeting. Mr. Siebel updated the board of directors on the status of discussions with Oracle. In light of Oracle's commitment to a target announcement date and a 30% stock component, their delivery of a complete draft of the merger agreement, and after determining that continuing discussions with Oracle would be in the best interests of Siebel Systems' stockholders, the Siebel Systems board of directors authorized the executive committee and its advisors to continue discussions with Oracle at a price of \$10.75 per share.

On September 11, 2005, the parties and their advisors engaged in a number of discussions regarding valuation, with Oracle proposing a range of prices over the course of the conversations, as low as \$10.35 per share. Mr. Phillips indicated that the price reductions were the product of, among other things, Oracle's continued financial analysis and due diligence investigation. The last price proposed by Oracle prior to the special meeting of the Siebel Systems board of directors that afternoon was \$10.65 per share.

During the afternoon of September 11, 2005, the Siebel Systems board of directors held a meeting, also attended by representatives of Cooley Godward and, for portions of the meeting, representatives of Perseus and Goldman Sachs. Mr. Siebel updated the Siebel Systems board of directors on the negotiations. Representatives of Cooley Godward discussed the terms of the proposed merger agreement and the terms of the proposed voting and consulting agreement to be entered into by Mr. Siebel, drafts of each of which had been circulated to the Siebel Systems board of directors prior to the meeting. Representatives of Goldman Sachs then made a financial presentation regarding the proposed transaction. Following these discussions and presentations and a full discussion thereof by the Siebel Systems board of directors, the Siebel Systems board of directors authorized proceeding with discussions at \$10.67 per share and adjourned the meeting.

After the Siebel Systems board meeting was adjourned, the parties and their advisors continued to engage in price negotiations, and Mr. Phillips proposed a price of \$10.66 per share. Following that conversation, the Siebel Systems board of directors convened another special meeting, with representatives of Cooley Godward, Perseus and Goldman Sachs in attendance. Mr. Siebel updated the Siebel Systems board of directors on the status of negotiations. Representatives of Goldman Sachs then discussed the effect of the \$10.66 price on their financial analysis of the transaction. Goldman Sachs then delivered to the Siebel Systems board of directors its opinion, subsequently confirmed in writing, that subject to the various assumptions and limitations set forth in its opinion, as of September 12, 2005, the consideration to be paid to Siebel Systems stockholders, pursuant to the merger agreement, taken in the aggregate, was fair, from a financial point of view, to those stockholders. The board of directors again deliberated regarding the terms of the proposed acquisition and then unanimously determined that the merger agreement and the Siebel Systems merger were advisable and in the best interests of Siebel Systems and its stockholders, approved the merger agreement and the Siebel Systems merger and recommended that Siebel Systems stockholders adopt the merger agreement.

In the early morning of September 12, 2005, Oracle and Siebel Systems executed and delivered the merger agreement and issued a joint press release announcing the transaction.

## **Recommendation of the Siebel Systems Board of Directors**

**The Siebel Systems board of directors has unanimously determined that the merger agreement, the Siebel Systems merger and the related transactions are advisable, fair to and in the best interests of Siebel Systems and its stockholders and unanimously recommends that its stockholders vote For the proposal to adopt the merger agreement.**

## **Siebel Systems Board of Directors' Reasons for the Merger**

The Siebel Systems board of directors approved the merger agreement and the Siebel Systems merger after determining that the Siebel Systems merger, the merger agreement and the related transactions are advisable, fair

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to and in the best interests of Siebel Systems and its stockholders. In the course of reaching that determination and the decision to recommend that the Siebel Systems stockholders vote For the proposal to adopt the merger agreement, the Siebel Systems board of directors considered a number of factors and risks in its deliberations, ultimately concluding that the potentially favorable factors outweighed the negative factors and risks. The Siebel Systems board of directors viewed the following factors as generally supporting its decision to approve the business combination with Oracle:

the Siebel Systems board of directors belief that the Siebel Systems merger represented the highest and best value reasonably available to Siebel Systems stockholders for their Siebel Systems shares;

the opinion of Goldman Sachs, Siebel Systems financial advisor, that, as of September 12, 2005, and based upon and subject to the factors and assumptions set forth in the opinion, the stock consideration and the cash consideration to be received by the holders of Siebel Systems common stock, taken in the aggregate, pursuant to the merger agreement was fair from a financial point of view to holders of Siebel Systems common stock, and Goldman Sachs related financial analyses including the fact that the \$10.66 per share price reflected a premium of 25.6% or, if calculated on a net of cash basis, 49.9% over the market price for Siebel Systems common stock over the 10 trading day period prior to the announcement of the Siebel Systems merger;

the fact that Siebel Systems stockholders could elect to receive all cash or, as long as holders of not less than six percent of Siebel Systems common stock outstanding prior to completion of the transaction elect to receive stock, shares of New Oracle common stock, subject to the limitation that not more than 30% of the outstanding shares of Siebel Systems common stock can be converted into shares of New Oracle common stock;

the likelihood that the Siebel Systems merger will be completed on a timely basis;

Siebel Systems business, financial performance and condition, operations, management, competitive position and prospects, including its recent financial results and projected financial results;

the business, financial and execution risks associated with remaining independent;

the fact that no potential acquiror or strategic partner had expressed an interest in engaging in a business combination or other strategic transaction that would likely be on terms as favorable to Siebel Systems stockholders as those contained in the merger agreement;

the competitive and market environments in which Siebel Systems and Oracle operate;

historical and current information concerning Oracle s business, financial performance and condition, operations, management, competitive position and prospects, before and after giving effect to the Siebel Systems merger and the Siebel Systems merger s potential effect on stockholder value;

the board of directors and management s assessment that the Siebel Systems merger and Oracle s operating strategy were consistent with Siebel Systems long-term operating strategy to seek to profitably grow its business by expanding its geographic scope, platform coverage and product offerings to serve customer needs;

the potential opportunity for the two companies to combine their technological resources to develop new products with increased functionality and bring them to market faster;



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the potential availability of greater resources for customer support, product development and distribution;

the fact that customers served by the combined company would benefit from greater resources and opportunities;

the terms and conditions of the merger agreement, including:

the cash and stock election provisions described above;

the limited number and nature of the conditions to Oracle's obligation to close the Siebel Systems merger;

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the fact that any shares of New Oracle common stock issued to Siebel Systems stockholders in the Siebel Systems merger will be registered on Form S-4 and will be unrestricted for Siebel Systems stockholders who are not affiliates of Oracle;

the fact that, subject to specified conditions, Siebel Systems can terminate the merger agreement to enter into a definitive agreement with respect to a superior proposal in the manner provided in the merger agreement;

the conclusion of the Siebel Systems board of directors that the \$140 million termination fee, and the circumstances when such fee may be payable, were reasonable in light of the benefits of the Siebel Systems merger and commercial practice; and

the facts that the Siebel Systems merger is subject to the adoption of the merger agreement by Siebel Systems stockholders.

The Siebel Systems board of directors also considered a number of potentially countervailing factors and risks. These countervailing factors and risks included the following:

the fact that the \$10.66 per share price reflected a premium that, if calculated on a basis that did not net out Siebel Systems' substantial cash position, was lower than the mean and median premiums paid in selected transactions described below;

the fact that Siebel Systems will no longer exist as an independent company and, except to the extent its stockholders elect and receive shares of New Oracle common stock in the Siebel Systems merger, its stockholders will not participate in Siebel Systems' growth or benefit from any future increase in the value of Siebel Systems or from any synergies that may be created by the Siebel Systems merger;

the fact that under the terms of the merger agreement, Siebel Systems is restricted in its ability to solicit other acquisition proposals;

the \$140 million termination fee payable to Oracle upon the occurrence of certain events, and the potential effect of such termination fee in deterring other potential acquirers from proposing an alternative transaction that may be more advantageous to Siebel Systems stockholders;

the fact that the merger agreement prohibits Siebel Systems from taking a number of actions relating to the conduct of its business prior to the closing without the prior consent of Oracle;

the risk that the Siebel Systems merger might not be consummated in a timely manner or at all;

the negative impact of any customer confusion or delay in purchase commitments, the potential loss of one or more large customers as a result of any such customer's unwillingness to do business with the combined company;

the potential disruption to partner and/or channel relationships;

the possible loss of key management, technical or other personnel;

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the fact that Siebel Systems officers and employees will have expended extensive efforts attempting to complete the Siebel Systems merger and will experience significant distractions from their work during the pendency of the Siebel Systems merger and Siebel Systems will have incurred substantial transaction costs in connection with the Siebel Systems merger even if the Siebel Systems merger is not consummated;

the risk to Siebel Systems' business, sales, operations and financial results in the event that the Siebel Systems merger is not consummated;

the potential conflicts of interest of Siebel Systems directors and officers in connection with the Siebel Systems merger. Please see "The Proposed Transaction - Interests of Certain Persons in the Siebel Systems Merger" ;

the challenges and costs of combining the operations of two major software companies and the substantial expenses to be incurred in connection with the Siebel Systems merger, including the risks that delays or difficulties in completing the integration could adversely affect the combined company's operating results and preclude the achievement of some benefits anticipated from the Siebel Systems merger;

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the possibility that the reactions of existing and potential competitors to the combination of the two businesses could adversely impact the competitive environment in which the companies operate;

the risk of diverting management's attention from other strategic priorities to implement merger integration efforts;

the risk that anticipated product synergies, cost savings, product integration and interoperability will not be realized; and

various other applicable risks associated with the combined company and the Siebel Systems merger, including those described in the section of this proxy statement/prospectus entitled "Risk Factors."

In view of the wide variety of factors and risks considered in connection with its evaluation of the Siebel Systems merger and the complexity of these matters, the Siebel Systems board of directors did not find it useful, and did not attempt to, quantify, rank or otherwise assign relative weights to these factors and risks. In considering the factors and risks described above, individual members of the Siebel Systems board of directors may have given different weight to different factors. The Siebel Systems board of directors conducted an overall analysis of the factors described above, including discussions with, and questioning of, Siebel Systems' management and Siebel Systems' legal and financial advisors, and considered the factors overall to be favorable to, and to support, its determination.

## **Opinion of Siebel Systems' Financial Advisor**

On September 11, 2005, Goldman Sachs rendered its oral opinion, subsequently confirmed by delivery of its written opinion, dated September 12, 2005, to the Siebel Systems board of directors that, as of such date and based upon and subject to the factors and assumptions set forth therein, the stock consideration and the cash consideration to be received by the holders of Siebel Systems common stock, taken in the aggregate, pursuant to the merger agreement was fair from a financial point of view to such holders.

**The full text of the written opinion of Goldman Sachs, dated September 12, 2005, which sets forth assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as Annex B to this proxy statement/prospectus. Goldman Sachs provided its opinion for the information and assistance of the Siebel Systems board of directors in connection with its consideration of the Siebel Systems merger. The Goldman Sachs opinion is neither a recommendation as to how any holder of Siebel Systems common stock should vote with respect to the Siebel Systems merger nor a recommendation as to how any holder of Siebel Systems common stock should make an election with respect to the consideration to be received in the Siebel Systems merger.**

In connection with rendering the opinion described above and performing its related financial analyses, Goldman Sachs reviewed, among other things:

the merger agreement;

annual reports to stockholders and Annual Reports on Form 10-K of Siebel Systems and Oracle for the most recent preceding five fiscal years;

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certain interim reports to stockholders and Quarterly Reports on Form 10-Q of Siebel Systems and Oracle;

certain other communications from Siebel Systems and Oracle to their respective stockholders; and

certain internal financial analyses and forecasts for Siebel Systems prepared by Siebel Systems management.

Goldman Sachs held discussions with members of Siebel Systems senior management regarding their assessment of the strategic rationale for, and the potential benefits of, the Siebel Systems merger and the past and current business operations, financial condition and future prospects of Siebel Systems. Goldman Sachs also held

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discussions with members of the senior management of Oracle regarding their assessment of the past and current business operations and financial performance of Oracle, including results of the quarter ended August 31, 2005. In addition, Goldman Sachs reviewed the reported price and trading activity for Siebel Systems common stock and Oracle common stock, compared certain financial and stock market information for Siebel Systems and Oracle with similar information for certain other companies the securities of which are publicly traded, reviewed the financial terms of certain recent business combinations in the technology industry specifically and in other industries generally and performed such other studies and analyses, and considered such other factors, as it considered appropriate.

Goldman Sachs relied upon the accuracy and completeness of all of the financial, accounting, legal, tax and other information discussed with or reviewed by it and assumed such accuracy and completeness for purposes of rendering the opinion described above. In that regard, Goldman Sachs assumed, with Siebel Systems' consent, that the internal financial forecasts prepared by Siebel Systems management were reasonably prepared on a basis reflecting Siebel Systems' best currently available estimates and judgments. Oracle would not make available to Goldman Sachs, nor would Oracle discuss with Goldman Sachs, Oracle's projections of its expected future financial performance. Accordingly, with Siebel Systems' consent, Goldman Sachs' review of such matters was limited to a review of certain research analyst estimates of future financial performance of Oracle. Goldman Sachs also assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the Siebel Systems merger will be obtained without any adverse effect on Siebel Systems, Oracle or New Oracle or on the expected benefits of the Siebel Systems merger in any way meaningful to Goldman Sachs' analysis. In addition, Goldman Sachs did not make an independent evaluation or appraisal of the assets and liabilities (including any contingent, derivative or off-balance-sheet assets and liabilities) of Siebel Systems, Oracle or any of their respective subsidiaries, nor was Goldman Sachs furnished any such evaluation or appraisal. The Goldman Sachs opinion does not address Siebel Systems' underlying business decision to engage in the Siebel Systems merger nor did Goldman Sachs express any opinion as to the prices at which shares of Siebel Systems common stock, Oracle common stock or New Oracle common stock will trade at any time.

The following is a summary of the material financial analyses presented by Goldman Sachs on September 11, 2005 to the Siebel Systems board of directors in connection with rendering the opinion described above. The following summary, however, does not purport to be a complete description of the financial analyses performed by Goldman Sachs. The order of analyses described does not represent relative importance or weight given to those analyses by Goldman Sachs. Some of the summaries of the financial analyses include information presented in tabular format. The tables must be read together with the full text of each summary and are alone not a complete description of Goldman Sachs' financial analyses. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as it existed on or before September 11, 2005 and is not necessarily indicative of current market conditions.

*Implied Transaction Multiples Analysis.* In performing an implied transaction multiples analysis, Goldman Sachs first derived the implied enterprise value of Siebel Systems, the implied equity consideration in the Siebel Systems merger and the implied ex-cash equity consideration in the Siebel Systems merger. The implied enterprise value of Siebel Systems is the implied equity consideration in the Siebel Systems merger plus the book value of Siebel Systems' outstanding debt less Siebel Systems' cash and cash equivalents. The implied equity consideration in the Siebel Systems merger is the aggregate consideration to be received by holders of Siebel Systems common stock in the Siebel Systems merger and is based on the implied \$10.66 per share Siebel Systems merger consideration. The implied ex-cash equity consideration is the implied equity consideration in the Siebel Systems merger less Siebel Systems' cash and cash equivalents. Goldman Sachs then calculated:

the implied enterprise value of Siebel Systems as a multiple of Siebel Systems' revenue for each of calendar years 2005 and 2006 and Siebel Systems' operating income for each of calendar years 2005 and 2006, in each case based on estimates provided by Siebel Systems management and median consensus estimates as of September 9, 2005 provided by Institutional Brokers Estimate System, or IBES (a data service that compiles estimates issued by securities research analysts);

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the implied equity consideration in the Siebel Systems merger as a multiple of Siebel Systems cash net income for each of calendar years 2005 and 2006, in each case based on estimates provided by Siebel Systems management and consensus estimates as of September 9, 2005 provided by IBES; and

the implied ex-cash equity consideration in the Siebel Systems merger as a multiple of Siebel Systems net income, excluding cash, for each of calendar years 2005 and 2006, in each case based on estimates provided by Siebel Systems management and consensus estimates as of September 9, 2005 provided by IBES.

For purposes of this analysis, Goldman Sachs assumed that the estimates prepared by Siebel Systems management relating to Siebel Systems financial data for each of calendar years 2005 and 2006 were reasonably prepared on a basis reflecting Siebel Systems best currently available estimates and judgments.

The results of these analyses are as follows:

	Siebel Systems	Siebel Systems
	(based on management estimates)	(based upon IBES estimates)
Implied Enterprise Value/Revenue		
CY2005	2.7x	2.8x
CY2006	2.4x	2.7x
Implied Enterprise Value/Operating Income		
CY2005	33.5x	134.0x
CY2006	14.5x	38.6x
Implied Equity Consideration/Cash Net Income		
CY2005	59.0x	109.9x
CY2006	29.1x	58.7x
Implied Ex-Cash Equity Consideration/Net Income Excluding Cash		
CY2005	57.6x	214.8x
CY2006	21.9x	57.1x

Goldman Sachs prepared the implied transaction multiples analysis for purposes of providing the Siebel Systems board of directors with an illustration of how:

the implied enterprise value compares as a multiple to revenue and operating income for calendar years 2005 and 2006;

the implied equity consideration compares as a multiple to cash net income for calendar years 2005 and 2006, and

the implied ex-cash equity consideration compares as a multiple to net income excluding cash for calendar years 2005 and 2006.

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The foregoing multiples provide context as to how the various implied values derived from the implied \$10.66 per share Siebel Systems merger consideration compare to the estimated financial data for calendar years 2005 and 2006, and was presented to the Siebel Systems board of directors as general reference material for the consideration of the relationship between the implied enterprise value, equity consideration and ex-cash equity consideration based upon the \$10.66 per share Siebel Systems merger consideration and the referenced financial data. The results were not intended to be direct comparisons of the multiples in the Siebel Systems merger against any extrinsic, corresponding data.

*Historical Stock Trading Analysis.* Goldman Sachs reviewed the historical trading prices for Siebel Systems common stock for the six-month period ended September 9, 2005, the trading day prior to announcement of the Siebel Systems merger. In addition, Goldman Sachs analyzed the consideration to be received by holders of Siebel Systems common stock pursuant to the merger agreement in relation to the closing price of Siebel Systems common stock on September 9, 2005 and the average market price of Siebel Systems common stock for the 5 trading day, 10 trading day, 20 trading day, 30 trading day, 60 trading day, 90 trading day and 180 trading day periods ending September 9, 2005.



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This analysis indicated that the price per share to be received by the holders of Siebel Systems common stock pursuant to the merger agreement represented:

a premium of 16.8%, based on the market price of \$9.13 per share as of September 9, 2005;

a premium of 23.7%, based on the average market price of \$8.62 per share for the 5 trading day period ended September 9, 2005;

a premium of 25.6%, based on the average market price of \$8.49 per share for the 10 trading day period ended September 9, 2005;

a premium of 26.7%, based on the average market price of \$8.42 per share for the 20 trading day period ended September 9, 2005;

a premium of 26.9%, based on the average market price of \$8.40 per share for the 30 trading day period ended September 9, 2005;

a premium of 24.7%, based on the average market price of \$8.55 per share for the 60 trading day period ended September 9, 2005;

a premium of 21.4%, based on the average market price of \$8.78 per share for the 90 trading day period ended September 9, 2005; and

a premium of 20.2%, based on the average market price of \$8.87 per share for the 180 trading day period ended September 9, 2005.

Goldman Sachs also analyzed the consideration to be received by holders of Siebel Systems common stock pursuant to the merger agreement in relation to the closing price of Siebel Systems common stock net of cash on September 9, 2005 and the average market prices of Siebel Systems common stock net of cash for the 5 trading day, 10 trading day, 20 trading day, 30 trading day, 60 trading day, 90 trading day and 180 trading day periods ending September 9, 2005. Goldman Sachs assumed cash per share of \$4.13 based on a cash balance on June 30, 2005 of \$2.24 billion and 542.7 million fully diluted shares at September 9, 2005 at the current share price resulting in a total consideration of \$6.53 per share net of cash. Goldman Sachs prepared the historical stock trading analysis based on the closing price of Siebel Systems common stock net of cash to isolate the component of the trading price that is attributable to the enterprise value of the company's operations excluding the effect of Siebel Systems then-existing cash balance. The following analysis was performed by Goldman Sachs to assist the Siebel Systems board of directors in its comparison of the consideration to be received by holders of Siebel Systems common stock relative to the closing trading prices of that common stock for the time frames indicated below.

This analysis indicated that the price per share to be received by the holders of Siebel Systems common stock pursuant to the merger agreement represented:

a premium of 30.6%, based on the market price net of cash of \$5.00 per share as of September 9, 2005;

a premium of 45.6%, based on the average market price net of cash of \$4.49 per share for the 5 trading day period ended September 9, 2005;

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a premium of 49.9%, based on the average market price net of cash of \$4.36 per share for the 10 trading day period ended September 9, 2005;

a premium of 52.4%, based on the average market price net of cash of \$4.29 per share for the 20 trading day period ended September 9, 2005;

a premium of 53.0%, based on the average market price net of cash of \$4.27 per share for the 30 trading day period ended September 9, 2005;

a premium of 47.9%, based on the average market price net of cash of \$4.42 per share for the 60 trading day period ended September 9, 2005;

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a premium of 40.4%, based on the average market price net of cash of \$4.65 per share for the 90 trading day period ended September 9, 2005; and

a premium of 37.7%, based on the average market price net of cash of \$4.74 per share for the 180 trading day period ended September 9, 2005.

*Selected Companies Analysis.* Goldman Sachs reviewed and compared certain financial information for Siebel Systems to corresponding financial information, ratios and public market multiples for the following public companies in the software industry:

BEA Systems Inc.;

Business Objects S.A.;

Cognos Incorporated;

Hyperion Solutions Corporation;

Lawson Software, Inc.;

Microsoft Corporation;

Oracle Corporation; and

SAP AG.

Although none of the selected companies is directly comparable to Siebel Systems, the companies included were chosen because they are publicly traded companies with operations that, for purposes of analysis, may be considered similar to certain operations of Siebel Systems. In particular, each of the selected software companies provides software that helps their customers enhance their business operations.

Goldman Sachs calculated the equity market capitalization for Siebel Systems and each of the selected companies by multiplying the closing market price of each as of September 9, 2005 by the number of each company's diluted shares outstanding using the treasury method. Siebel Systems' diluted share amounts and the selected companies' diluted share amounts were obtained from Siebel Systems' Quarterly Report on Form 10-Q for the quarter ended June 30, 2005 and from each of the selected companies' latest quarterly reports on Form 10-Q. Each company's enterprise value was calculated by adding to its equity market capitalization the amount of its debt and subtracting its cash, which amounts were obtained from each company's most recent quarterly report on Form 10-Q on file with the Securities Exchange Commission, as of September 11, 2005. Goldman Sachs then calculated and compared financial multiples based on estimated financial data for calendar years 2005, 2006 and 2007. Siebel Systems' data and the selected companies' data were obtained from IBES estimates. The five year forecasted compounded annual growth rate, or CAGR, of earnings per share, or EPS, which is the forecasted rate at which EPS grows year over year, based on a five year projection of EPS, was obtained from IBES estimates. For purposes of this analysis, Goldman Sachs assumed that the estimates prepared by Siebel Systems management relating to Siebel Systems' financial data for calendar years 2005, 2006 and 2007 were reasonably prepared on a basis reflecting Siebel Systems' best currently available estimates and judgments.

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Based on IBES estimates and using the closing price as of September 9, 2005, Goldman Sachs calculated one or more of the following for Siebel Systems and the selected companies:

enterprise value as a multiple of estimated revenue for calendar years 2005, 2006 and 2007;

enterprise value as a multiple of estimated earnings before interest and tax, or EBIT, for calendar years 2005, 2006 and 2007;

the ratio of stock price to estimated earnings for calendar years 2005, 2006 and 2007; and

the ratio of stock price to estimated EPS for calendar year 2006 as a multiple of the five-year forecasted CAGR of EPS, or price earnings growth, or PEG.

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The results of these analyses are summarized as follows:

	Enterprise			Enterprise			Calendarized			2006
	Value/Revenue Multiple <sup>(1)</sup>			Value/EBIT Multiple <sup>(1)</sup>			P/E Multiples <sup>(1)</sup>			
	2005E	2006E	2007E	2005E	2006E	2007E	2005E	2006E	2007E	PEG Multiples
Siebel Systems	2.2x	2.1x	2.0x	NM	30.0x	23.3x	91.3x	48.1x	34.5x	4.8x
Mean <sup>(2)</sup>	3.4x	3.2x	3.1x	16.4x	15.5x	14.3x	32.8x	24.8x	20.6x	2.1x
Median <sup>(2)</sup>	3.1x	2.9x	2.8x	15.4x	12.8x	14.0x	27.2x	23.9x	20.0x	1.8x

<sup>(1)</sup> Estimates have been calendarized for companies with a fiscal year end other than December 31.

<sup>(2)</sup> Includes Siebel Systems.

*Selected Transactions Analysis.* Goldman Sachs analyzed certain information relating to the following acquisitions in the software industry (Acquirer / Target    Announcement Date):

BEA Systems, Inc. / Plumtree Software    August 22, 2005;

SSA Global Technologies, Inc. / Epiphany, Inc.    August 4, 2005;

Oracle Corporation / i-flex Solutions Limited    August 3, 2005;

The Carlyle Group / SS&C Technologies, Inc.    July 28, 2005;

Sun Microsystems, Inc. / SeeBeyond Technology Corporation    June 28, 2005;

Computer Associates International, Inc. / Niku Corporation    June 9, 2005;

Lawson Software, Inc. / Intenia International AB    June 2, 2005;

Sun Microsystems, Inc. / Storage Technology Corp.    June 2, 2005;

ScanSoft, Inc. / Nuance Communications, Inc.    May 9, 2005;

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Adobe Systems Incorporated / Macromedia, Inc. April 18, 2005;

Computer Associates International, Inc. / Concord Communications, Inc. April 7, 2005;

Investor Consortium consisting of Silver Lake Partners, Bain Capital, Kolberg Kravis Roberts & Co., L.P., The Blackstone Group, Texas Pacific Group, Providence Equity Partners and Goldman Sachs Capital Partners / SunGard Data Systems Inc. March 28, 2005;

Avid Technology, Inc. / Pinnacle Systems, Inc. March 21, 2005;

International Business Machines Corporation / Ascential Software Corporation March 14, 2005;

Oracle Corporation / Retek Inc. March 8, 2005;

International Business Machines Corporation / Corio, Inc. January 25, 2005;

Cadence Design Systems, Inc. / Verisity Ltd. January 12, 2005;

UGS Corp. / Tecnomatix Technologies Ltd. January 4, 2005;

Symantec Corporation / VERITAS Software Corporation December 16, 2004;

Oracle Corporation / PeopleSoft, Inc. December 13, 2004;

Computer Associates International, Inc. / Netegrity, Inc. December 6, 2004;

Synopsys, Inc. / Nassda Corporation December 1, 2004;

Cognos Incorporated / Frango August 24, 2004;

Tektronix, Inc. / INet Technologies, Inc. June 29, 2004;

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BMC Software, Inc. / Marimba, Inc. April 29, 2004;

Bain Capital, Silver Lake Partners and Warburg Pincus / UGS PLM Solutions March 14, 2004;

Hewlett-Packard Company / Novadigm, Inc. February 4, 2004;

Ariba, Inc. / Free-Markets News Network, Corp. January 23, 2004;

Symantec Corporation / ON Technology Corporation October 27, 2003;

SafeNet Inc. / Rainbow Technologies, Inc. October 22, 2003;

EMC Corporation / Documentum, Inc. October 14, 2003;

Interwoven Inc. / iManage, Inc. August 6, 2003;

Ascential Software / Mercator Software, Inc. August 4, 2003;

Hyperion Solutions Corporation / Brio Software, Inc. July 23, 2003;

EMC Corporation / Legato Systems, Inc. July 8, 2003; and

PeopleSoft, Inc. / J.D. Edwards June 16, 2003.

In selecting the transactions identified above, Goldman Sachs used its experience and professional judgment.

For each of the selected acquisitions, Goldman Sachs calculated and compared the aggregate consideration as a multiple of last twelve months revenues, or LTM Revenue, next twelve months estimated revenue, or NTM Revenue, and next twelve months estimated earnings, or NTM P/E. NTM revenue estimates were derived from Wall Street research at the time the transaction was announced, while NTM P/E estimates were calculated per the IBES median at the time the transaction was announced. The following table presents the results of these analyses:

<b>Aggregate Capitalization as a Multiple of:</b>	<b>Range</b>	<b>Mean</b>	<b>Median</b>
<b>LTM Revenue</b>	1.0x 8.9x	3.3x	2.6x
<b>NTM Revenue</b>	1.0x 5.9x	2.7x	2.4x
<b>NTM P/E</b>	20.1x 85.8x	44.3x	36.9x

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Goldman Sachs prepared the foregoing analysis for purposes of providing the Siebel System board of directors with an illustration of the aggregate consideration in the selected acquisitions as a multiple of each of LTM Revenue, NTM Revenue and NTM P/E. The foregoing multiples provide context as to how the aggregate consideration in the selected transactions relates to the specifically-identified financial data, and was presented to the Siebel Systems board of directors as general reference material for their consideration of the relationship between aggregate consideration paid by acquirers and the enumerated financial data. The analysis findings were not intended to be direct comparisons of the multiples in the Siebel System merger against the referenced financial data.

For each of the selected transactions, Goldman Sachs calculated and compared the premium paid by the acquirer to the undisturbed stock price of the target company. The following table presents the results of this analysis.

	<b>Range</b>		<b>Mean</b>	<b>Median</b>	<b>Siebel Systems</b>
<b>Premium to undisturbed price</b>	(10.5%)	87.5%	34.4%	27.1%	16.8
<b>Premium to:</b>					
<b>5-day prior price</b>	(11.0%)	93.6%	36.0%	32.8%	23.7
<b>10-day prior price</b>	(9.2%)	101.2%	38.6%	36.4%	25.6
<b>20-day prior price</b>	(4.5%)	106.4%	46.1%	40.1%	26.7

Goldman Sachs also calculated the premiums above for Siebel Systems net of cash for the periods presented above. Goldman Sachs did not analyze the premiums paid, on a net of cash basis, in the comparable transactions



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because an analysis of premiums paid on an ex-cash basis is meaningful only for target companies that have significantly high cash balances as a percentage of their equity values, such as Siebel Systems, unlike the majority of other target companies in the comparable transactions.

*Pro Forma Merger Analysis.* Goldman Sachs prepared pro forma analyses of the financial impact of the Siebel Systems merger using estimates of calendar years 2005 and 2006 cash earnings for Siebel Systems and Oracle, as estimated based on (i) publicly available information about Oracle, (ii) IBES consensus median estimates of calendar years 2005 and 2006 cash earnings for Siebel Systems and Oracle as of September 9, 2005 and (iii) estimates prepared by Siebel Systems management as of August 26, 2005. For calendar year 2006, Goldman Sachs compared estimated cash earnings per fully diluted shares of Oracle common stock, on an Oracle stand alone basis, to pro forma cash earnings per fully diluted shares of Oracle common stock, after giving effect to the completion of the Siebel Systems merger. Goldman Sachs performed the pro forma merger analyses using both a 100% cash consideration scenario and a 30% stock and 70% cash consideration scenario. For purposes of this analysis, Goldman Sachs assumed that the estimates prepared by Siebel Systems management relating to Siebel Systems cash earnings for the calendar year 2006 were reasonably prepared on a basis reflecting Siebel Systems best currently available estimates and judgments. Goldman Sachs also assumed that all regulatory and other consents and approvals necessary for the consummation of the Siebel S