

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

March 14, 2005

Date of Report (date of earliest event reported)

Overstock.com, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

000-49799
(Commission
File Number)

87-0634302
(I.R.S. Employer
Identification Number)

6322 South 3000 East, Suite 100
Salt Lake City, Utah 84121
(Address of principal executive offices)

(801) 947-3100
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On March 14, 2005, in connection with its previously announced \$50,000,000 share repurchase program, Overstock.com, Inc. (the "Company") entered into a generally non-binding term sheet with IXIS Derivatives Inc. ("IXIS") and/or IXIS Securities North America Inc. The term sheet contemplates a series of transactions between the Company and IXIS that will allow the Company to determine, in advance, the prices at which it may repurchase up to 500,000 shares of its common stock in transactions to be effected by IXIS from time to time. Although the term sheet does not require the Company to enter into any of the contemplated transactions, it does require the Company to indemnify IXIS against losses, claims, damages, liabilities and expenses IXIS incurs under certain circumstances if the Company (i) does not enter into the transactions contemplated by the term sheet, including the cost to IXIS of unwinding any hedging transactions IXIS may enter into in preparation for the execution of the transactions contemplated by the term sheet, or (ii) fails to execute definitive documentation relating to the transactions.

On March 14, 2005 the Company entered into several transactions with IXIS as contemplated by the term sheet, pursuant to which the Company may be required to purchase up to a maximum of 500,000 shares of its common stock. However, the number of shares that the Company will actually be required to purchase, if any, cannot be determined at present. In connection with these transactions the Company has paid or agreed to pay to IXIS approximately \$16.7 million. IXIS has agreed to repay all or a portion of this amount, plus a premium, to the Company, to the extent that the Company is not required to purchase the maximum number of shares.

To the extent that IXIS delivers shares of common stock to the Company as a result of the transactions described above, the aggregate amount the Company pays or paid to IXIS for the repurchase of the shares as a result of these transactions will reduce the amount the Company might otherwise have spent to directly repurchase shares from time to time under its stock repurchase program.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits.

Exhibit 99.1 Term sheet executed March 14, 2005 with IXIS Derivatives Inc.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

OVERSTOCK.COM, INC.

By: /s/ DAVID K. CHIDESTER

David K. Chidester
Vice President, Finance

Date: March 16, 2005

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[SIGNATURE](#)

[IXIS LOGO]

Call Spread Transaction
Summary of Indicative Terms as of 03/14/05

Seller: IXIS Derivatives Inc.

Buyer: Overstock.com, Inc. ("Client")

Agent: IXIS Securities North America Inc. ("IXIS SNA") is acting as agent on behalf of IXIS Derivatives Inc. ("IXIS DI") and the Client for this Transaction. IXIS SNA has no obligations, by guarantee, endorsement or otherwise, with respect to the performance of this Transaction by IXIS DI.

Trade Dates: Each date on or after **TBD** on which the Buyer notifies the Seller that it desires to execute a portion of the Transaction (a "Tranche"), such notice (a "Notice") to contain (i) the Number of Lower Call Options and the Number of Upper Call Options subject to such Tranche (in each case which shall be a multiple of 100,000), and (ii) the Expiration Date of such Tranche.

Selected Security: Class A Common stock of Overstock.com, Inc. (Bloomberg Ticker: "**OSTK**")

Exercise Style: European

Expiration Date: For each Tranche as provided by the Buyer in the applicable Notice

Number of Lower Call Options: For each Tranche, as provided by the Buyer in the applicable Notice; *provided that* the total Number of Lower Call Options subject to all Tranches shall not exceed 500,000; *and provided further that*, the Number of Lower Call Options shall equal the Number of Upper Call Options.

Number of Upper Call Options: For each Tranche, as provided by the Buyer in the applicable Notice; *provided that* the total Number of Upper Call Options subject to all Tranches shall not exceed 500,000.

Lower Strike Price: For each Tranche, 0.00% of the price of the Selected Security at which the Tranche is established on the applicable Trade Date.

Upper Strike Price: For each Tranche, a percentage of the price of the Selected Security at which the Tranche is established on the applicable Trade Date as provided by the Buyer to the Seller.

Premium: For each Tranche, (i) a percentage of the price of the Selected Security at which the Tranche is established on the applicable Trade Date as *multiplied by* (ii) the Number of Lower Call Options subject to such Tranche as provided by the Buyer to the Seller

Premium Payment Date: For each Tranche, Two Exchange Business Days after the applicable Trade Date

Settlement Date: For each Tranche, Three Exchange Business Days after the applicable Expiration Date

Settlement Type: For each Tranche, Cash, Physical, or Net Share Settlement at the Buyer's discretion, with written notice of settlement election required at least two Exchange Business Days prior to the applicable Expiration Date. If no notice is given, Physical Settlement shall apply to such Tranche.

Option Payout: **For each Tranche, if Cash Settlement is applicable:**

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than** the Lower Strike Price and **less than** the Upper Strike Price, the Seller will pay the Buyer (the difference between the Settlement Price and the Lower Strike Price) multiplied by the Number of Lower Call Options.

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than or equal to** the Upper Strike Price, the Seller will pay the Buyer the difference between ((the Settlement Price less the Lower Strike Price) multiplied by the Number of Lower Call Options) and ((the Settlement Price less the Upper Strike Price) multiplied by the Number of Upper Call Options).

For each Tranche, if Physical Settlement is applicable:

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than** the Lower Strike Price and **less than** the Upper Strike Price, the Seller

will deliver to the Buyer a number of Selected Securities equal to the Number of Upper Call Options

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than or equal to** the Upper Strike Price, on the relevant Settlement Date the Seller will pay the Buyer the Upper Strike Price multiplied by the Number of Upper Call Options

For each Tranche, if Net Share Settlement is applicable:

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than** the Lower Strike Price and **less than** the Upper Strike Price, on the relevant Settlement Date the Seller will deliver to the Buyer a number of Selected Securities with value equal to ((the difference between the Settlement Price and the Lower Strike Price) divided by the Settlement Price) multiplied by (the Number of Lower Call Options).

If the Closing Price of the Selected Security on the Expiration Date ("Settlement Price") is **greater than or equal to** the Upper Strike Price, on the relevant Settlement Date the Seller will deliver to the Buyer a number of Selected Securities with value equal to the difference between ((the Settlement Price less the Lower Strike Price) multiplied by the Number of Lower Call Options) and ((the Settlement Price less the Upper Strike Price) multiplied by the Number of Upper Call Options), divided by the Settlement Price

Additional Provisions:

The Calculation Agent may terminate or adjust this Transaction if a Nationalization, Insolvency, Merger or Tender Event (10% threshold) occurs with respect to the Selected Security.

The Buyer's entry into the Transaction complies with and is not in any way limited by any contractual, legal, regulatory or other restrictions to which the Buyer may be subject.

The Buyer represents that each of its required filings under all applicable securities laws have been filed, it is not entering into this transaction while in possession of any material non-public information, and it is not limited (by law, contract or policy) from effecting any of the settlement types hereunder.

Notwithstanding anything in the Master Agreement to the contrary, Second Method and Loss shall apply.

Calculation Agent:

IXIS DI

Documentation:

Transaction Confirmation and an executed ISDA Master Agreement

Additional Acknowledgement:

The Buyer acknowledges and agrees that the terms set forth herein are indicative and are subject to market conditions as of the date hereof. If due to market conditions at the time of actual hedge execution, the Seller's entire hedge cannot be achieved consistent with the indicative terms herein, then the Buyer acknowledges and agrees that the final terms (i) will vary from those set out herein and (ii) may include an additional payment obligation of the Buyer to reflect any increased costs to the Seller.

Accepted and Agreed:

IXIS Securities North America Inc.,

OVERSTOCK.COM, INC.

By **its agent, IXIS Derivatives Inc.**

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

This material has been prepared for discussion purposes only and is not an offer to buy or sell or a solicitation of an offer to buy or sell any security or financial instrument or to participate in any trading strategy. This material is based on information from sources believed to be reliable. No representation is made that it is accurate or complete. All terms and conditions are provided as indications only, should not be considered as binding or complete, and are subject to change without notice. All over-the-counter ("OTC") derivative transactions involve numerous risks including, among others, market risk, counterparty default risk, and illiquidity risk. In certain transactions, you could lose your entire investment or incur an unlimited loss. Before engaging in any OTC derivative, you should understand, and discuss with your professional tax, legal, accounting and such other advisor(s) as you deem appropriate, how such derivative may affect you. In any discussion of a proposed transaction we would act at arm's length and not in any advisory or fiduciary capacity. We or our affiliates may from time to time otherwise trade instruments identical or economically related to, or have other commercial relationships with the issuer of a security or instrument underlying an OTC derivative entered into with you. THIS STATEMENT DOES NOT DISCLOSE ALL OF THE RISKS AND OTHER SIGNIFICANT ASPECTS OF OTC DERIVATIVES.

QuickLinks

[Call Spread Transaction Summary of Indicative Terms as of 03/14/05](#)