

SIRIUS XM RADIO INC.

Form DEF 14A

November 04, 2008

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A
Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

Sirius XM Radio Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

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**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON THURSDAY, DECEMBER 18, 2008**

To our Stockholders:

You are cordially invited to attend our Annual Meeting of Stockholders, which will be held on Thursday, December 18, 2008, at 9:00 a.m., New York City time, in The Auditorium at The Equitable Center, 787 Seventh Avenue, New York, New York 10019. The annual meeting is being held to:

1. Elect twelve directors.
2. To approve an amendment to our certificate of incorporation to increase the number of authorized shares of our common stock from 4,500,000,000 to 8,000,000,000 shares.
3. To approve an amendment to our certificate of incorporation to (i) effect a reverse stock split of our common stock by a ratio of not less than one-for-ten and not more than one-for-fifty at any time prior to December 31, 2009, with the exact ratio to be set at a whole number within this range to be determined by our board of directors in its discretion, and (ii) reduce the number of authorized shares of our common stock as set forth in the proxy statement.
4. Ratify the appointment of KPMG LLP as our independent registered public accountants for 2008.
5. Transact any other business that may properly come before the meeting and any adjournments thereof.

Only stockholders of record at the close of business on October 20, 2008 are entitled to vote at the annual meeting. A list of stockholders entitled to vote will be available for examination for the ten days prior to the annual meeting, between the hours of 9:00 a.m. and 4:00 p.m., New York City time, at our offices at 1221 Avenue of the Americas, 36th Floor, New York, New York 10020.

In accordance with new rules approved by the Securities and Exchange Commission, we sent a Notice of Internet Availability of Proxy Materials on or about November 4, 2008 to certain stockholders of record at the close of business on October 20, 2008. We also provided access to our proxy materials over the Internet beginning on that date. On or about November 4, 2008 we also began delivering the proxy statement and the accompanying proxy card to the remaining stockholders of record. If you received a Notice of Internet Availability of Proxy Materials by mail and did not receive, but would like to receive, a printed copy of our proxy materials, you should follow the instructions for requesting such materials included in the notice or on page one of this proxy statement.

Whether or not you expect to attend in person, we urge you to vote your shares via the Internet, by phone, or by signing, dating, and returning the enclosed proxy card at your earliest convenience. This will ensure the presence of a quorum at the meeting. If you wish to vote your shares by mail, an addressed envelope for which no postage is required if mailed in the United States is enclosed.

Voting over the Internet or by telephone is fast, convenient, and your vote is immediately confirmed and tabulated. Most important, by using the Internet or telephone, you help us reduce postage and proxy tabulation

costs. If you received a paper copy of the proxy materials, please do not return the enclosed paper ballot if you are voting over the Internet or by telephone.

If You Plan to Attend

Please note that space limitations make it necessary to limit attendance to stockholders. Admission to the meeting will be on a first-come, first-served basis. Stockholders holding stock in brokerage accounts (street name holders) will need to bring a copy of a brokerage statement reflecting stock ownership as of the record date to enter the meeting. Cameras, recording devices and other electronic equipment will not be permitted in the meeting.

By Order of the Board of Directors,

PATRICK L. DONNELLY

*Executive Vice President, General Counsel and Secretary
New York, New York*

November 4, 2008

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PROXY STATEMENT

This proxy statement contains information related to the annual meeting of stockholders of Sirius XM Radio Inc. to be held on Thursday, December 18, 2008, beginning at 9:00 a.m., New York City time, in The Auditorium at The Equitable Center, 787 Seventh Avenue, New York, New York 10019, and at any postponements or adjournments thereof. This proxy statement is being distributed or made available, as the case may be, to stockholders on or about November 4, 2008.

On July 28, 2008, XM Satellite Radio Holdings Inc. merged with and into Vernon Merger Corporation, a wholly-owned subsidiary of us. As a result of the merger, XM Satellite Radio Holdings and its subsidiary, XM Satellite Radio Inc., became wholly owned subsidiaries of us. The merger was effected pursuant to an Agreement and Plan of Merger, dated as of February 19, 2007, entered into by and among us, XM Satellite Radio Holdings Inc. and Vernon Merger Corporation. The Executive Compensation section, including the data on our directors' compensation, in this proxy statement reflects information for the year ended December 31, 2007 and does not give effect to the merger. The balance of the information contained in this proxy statement, including the information regarding stock ownership, corporate governance and our directors, has been updated to give effect to the merger.

A copy of our Annual Report on Form 10-K for the year ended December 31, 2007, as amended by Amendment No. 1 filed on April 29, 2008, as filed with the Securities and Exchange Commission, except for exhibits, will be furnished without charge to any stockholder upon written request to Sirius XM Radio Inc., Attention: Corporate Secretary, 1221 Avenue of the Americas, 36th Floor, New York, New York 10020.

ABOUT THE MEETING

What is the purpose of the annual meeting?

At our annual meeting, stockholders will be asked to:

elect twelve directors to our board (Joan L. Amble, Leon D. Black, Lawrence F. Gilberti, Eddy W. Hartenstein, James P. Holden, Chester A. Huber, Jr., Mel Karmazin, John W. Mendel, James F. Mooney, Gary M. Parsons, Jack Shaw and Jeffrey D. Zients);

approve an amendment to our certificate of incorporation to increase the number of authorized shares of our common stock from 4,500,000,000 to 8,000,000,000 shares;

approve an amendment to our certificate of incorporation which will effect a reverse stock split of our common stock and reduce the number of authorized shares of our common stock as set forth in Item 3 below; and

ratify the appointment of KPMG LLP as our independent registered public accountants for 2008.

Why did I receive a one-page notice in the mail regarding the Internet availability of proxy materials this year instead of a full set of proxy materials?

Pursuant to the new rules recently adopted by the Securities and Exchange Commission, we have elected to provide certain stockholders access to our proxy materials over the Internet. We believe that this new e-proxy process will expedite our stockholders receipt of proxy materials and lower the costs, and reduce the

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environmental impact, of our annual meeting. Accordingly, we sent a Notice of Internet Availability of Proxy Materials (the Notice) on or about November 4, 2008 to certain stockholders of record entitled to vote at the annual meeting. All stockholders will have the ability to access the proxy materials on a website referred to in the Notice and to download printable versions of the proxy materials or to request and receive a printed set of the proxy materials from us. Instructions on how to access the proxy materials over the Internet or to request a printed copy from us may be found on the Notice.

Who is entitled to vote and how many votes do they have?

Holders of our common stock and our Series A Convertible Preferred Stock as of the close of business on October 20, 2008 (the Record Date) are entitled to vote at the annual meeting. Each share of our common stock is entitled to one vote. Each share of our Series A Convertible Preferred Stock is entitled to one-fifth of a vote. As of the Record Date, 3,240,011,797 shares of our common stock were outstanding, and 24,808,959 shares of Series A Convertible Preferred Stock were outstanding.

Who can attend the annual meeting?

Subject to space availability, all stockholders as of the Record Date, or their duly appointed proxies, may attend the meeting. Since seating is limited, admission to the meeting will be on a first-come, first-served basis. Registration and seating will begin at 8:30 a.m., New York City time.

What constitutes a quorum?

Shares representing the majority of votes, present or represented by proxy, constitute a quorum. If you vote, your shares will be considered part of the quorum.

Proxies received but marked as abstentions or broker non-votes will be included in the calculation of the number of votes considered to be present at the meeting.

How do I vote?

Stockholders of record can vote as follows:

Via the Internet: Stockholders may vote through the Internet at www.proxyvote.com by following the instructions included with your Notice or proxy card. You will need the 12-digit Control Number included on your Notice or proxy card to obtain your records and to create an electronic voting instruction form.

By Telephone: Stockholders may vote by telephone 1-800-579-1639 by following the instructions included with your Notice or proxy card. You will need the 12-digit Control Number included on your Notice or proxy card in order to vote by telephone.

By Mail: Stockholders who received a proxy card along with a proxy statement from us or who have requested a proxy card from us by following the instructions on the Notice, may sign, date and return their proxy cards in the pre-addressed, postage-paid envelope that is provided.

At the Meeting: If you attend the annual meeting, you may vote in person by ballot, even if you have previously returned a proxy card or otherwise voted.

If your shares are held in street name through a broker, bank or other nominee, that institution will send you separate instructions describing the procedure for voting your shares. Street name stockholders who wish to vote in person at the meeting will need to obtain a proxy form from the institution that holds their shares.

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Can I vote by telephone or electronically?

If your shares are held in street name, please check your Notice or proxy card or contact your broker or nominee to determine whether you will be able to vote by telephone or electronically. The deadline for voting by telephone or electronically is 5:00 p.m., New York City time, on Wednesday, December 17, 2008.

If you are a registered stockholder (that is, if you hold your stock in certificate form or participate in the Sirius Satellite Radio Inc. 401(k) Savings Plan, you may vote by telephone 1-800-579-1639, or electronically through the Internet at www.proxyvote.com, by following the instructions included with your proxy card.

What is householding?

As permitted by the Securities Exchange Act of 1934, as amended, only one copy of this proxy statement and annual report and one copy of the Notice is being delivered to stockholders residing at the same address, unless the stockholders have notified us of their desire to receive multiple copies of our proxy statement or the Notice. This is known as householding.

We will promptly deliver, upon oral or written request, a separate copy of the Notice or this proxy statement and annual report to any stockholder residing at an address to which only one copy was mailed. Requests for additional copies for this year or future years should be directed to: Sirius XM Radio Inc., Attention: Corporate Secretary, 1221 Avenue of the Americas, 36th Floor, New York, New York 10020.

Stockholders of record residing at the same address and currently receiving multiple copies of this proxy statement or the Notice may contact our Corporate Secretary to request that only a single copy of our proxy statement be mailed in the future.

Can I change my vote?

Yes. You may change your vote at any time before your shares are voted at the annual meeting by:

Notifying our Corporate Secretary, Patrick L. Donnelly, in writing at Sirius XM Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, New York 10020 that you are revoking your proxy; or

Executing and delivering a later dated proxy card or submitting a later dated vote by telephone or the Internet; or

Voting in person at the annual meeting.

However, if you have shares held through a brokerage firm, bank or other custodian, you may revoke your instructions only by informing the custodian in accordance with any procedures it has established.

What vote is required to approve each item?

The affirmative vote of a plurality of the votes cast at the meeting is required for the election of directors. A properly executed proxy marked "Withhold Authority" with respect to the election of one or more directors will not be voted with respect to the director or directors indicated, although it will be counted for purposes of determining whether there is a quorum.

Approval to amend our certificate of incorporation to increase the number of authorized shares of our common stock from 4,500,000,000 to 8,000,000,000 shares requires the affirmative vote of a majority of the outstanding shares of common stock. As a result, abstentions and broker non-votes will have the same effect as negative votes.

Approval to amend our certificate of incorporation to effect a reverse stock split of our outstanding common stock at a ratio of not less than one-for-ten and not more than one-for-fifty, with the exact ratio to be set at a whole number within this range to be determined by our board of directors, together with the reduction in the number of authorized shares of our common stock as set forth in Item 3 below, requires the affirmative vote of a majority of the outstanding shares of common stock. As a result, abstentions and broker non-votes will have the same effect as negative votes.

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An affirmative vote of a majority of all the votes cast is needed to ratify the appointment of KPMG LLP as our independent registered public accountants.

Who will count the votes?

A representative of MacKenzie Partners will tabulate the votes and act as inspector of election.

What is a proxy?

A proxy is a person you appoint to vote on your behalf. We are soliciting your vote so that all shares of our common stock may be voted at the annual meeting.

Who am I designating as my proxy?

You will be designating Patrick L. Donnelly, our Executive Vice President, General Counsel and Secretary, and Ruth A. Ziegler, our Senior Vice President and Deputy General Counsel, as your proxies. However, you may appoint a person (who need not be a stockholder) other than Patrick L. Donnelly and Ruth A. Ziegler to represent you at the meeting by completing another proper proxy.

How will my proxy vote my shares?

Your proxy will vote according to your instructions. If you complete your proxy card but do not indicate your vote on one or all of the business matters, your proxy will vote FOR these items. Also, your proxy is authorized to vote on any other business that properly comes before the annual meeting in accordance with the recommendation of our board of directors.

What happens if a nominee for director is unable to serve as a director?

If any of the nominees becomes unavailable for election, which we do not expect, votes will be cast for such substitute nominee or nominees as may be designated by our board of directors, unless our board of directors reduces the number of directors on our board.

Who is soliciting my proxy, and who will pay the costs of the solicitation?

SIRIUS XM is soliciting your proxy. The cost of soliciting proxies will be borne by SIRIUS XM, which has engaged MacKenzie Partners, Inc. to assist in the distribution and solicitation of proxies. We have agreed to pay MacKenzie \$10,000 plus reimburse the firm for its reasonable out-of-pocket expenses. SIRIUS XM will also reimburse brokerage firms, banks and other custodians for their reasonable out-of-pocket expenses for forwarding these proxy materials to you. Our directors, officers and employees may solicit proxies on our behalf by telephone or in writing.

When, and how, do I submit a proposal for next year's annual meeting of stockholders?

To be eligible for inclusion in our proxy statement and form of proxy for next year's annual meeting, stockholder proposals must be submitted in writing by the close of business on December 24, 2008, which would be at least 120 days prior to the anticipated 2009 meeting, to Patrick L. Donnelly, Executive Vice President, General Counsel and Secretary, Sirius XM Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, New York 10020.

If any proposal that is not submitted for inclusion in next year's proxy statement (as described in the preceding paragraph) is instead sought to be presented directly at next year's annual meeting, the proxies may vote in their discretion if (a) we receive notice of the proposal before the close of business on March 9, 2009 and advise stockholders in next year's proxy statement about the nature of the matter and how management intends to vote on such matter or (b) we do not receive notice of the proposal prior to the close of business on March 9, 2009. Notices of intention to present proposals at next year's annual meeting should be addressed to Patrick L. Donnelly, Executive Vice President, General Counsel and Secretary, Sirius XM Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, New York 10020.

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The following table shows the number of shares of common stock beneficially owned by each of our directors, our Chief Executive Officer, our Chief Financial Officer and the three other most highly compensated executive officers as of September 30, 2008. The table also shows common stock beneficially owned by all of our directors and executive officers as a group as of September 30, 2008. To our knowledge, no person or group owns more than 5% of our outstanding common stock.

Name of Beneficial Owner	Number of Shares Beneficially Owned(1)	Percent of Class	Shares Acquirable within 60 days
Joan L. Amble	92,000	*	
Leon D. Black(2)	104,876	*	
Lawrence F. Gilberti	219,161	*	
Eddy W. Hartenstein	138,000	*	
James P. Holden	238,123	*	
Chester A. Huber, Jr.(3)		*	
John W. Mendel(4)	400	*	
James F. Mooney(5)	158,621	*	
Gary M. Parsons(6)	13,404,403	*	
Jack Shaw	491,082	*	
Jeffrey D. Zients	1,334,000	*	
Mel Karmazin	26,533,823	*	6,000,000
Scott A. Greenstein	3,850,291	*	
James E. Meyer	2,175,513	*	
Dara F. Altman	428,138	*	
Patrick L. Donnelly	2,891,279	*	
David J. Frear(7)	2,778,629	*	
All Executive Officers and Directors as a Group (17 persons)(8)	54,838,339	1.9%	6,000,000

* Less than 1% of our outstanding shares of common stock.

(1) These amounts include shares of common stock, restricted shares of common stock and restricted stock units which the individuals hold and shares of common stock they have a right to acquire within the next 60 days through the exercise of stock options as shown in the last column. Also included are the shares of common stock acquired under our 401(k) savings plan as of September 30, 2008: Mr. Karmazin 33,823 shares; Mr. Greenstein 18,234 shares; Mr. Meyer 17,368 shares; D. Altman 0; Mr. Donnelly 12,177 shares; and Mr. Frear 19,189 shares.

(2)

Mr. Black is the founding partner of Apollo Management, L.P., an affiliate of Apollo Investment Fund IV, L.P. and Apollo Overseas Partners IV, L.P. The number of shares shown in the table includes shares that Mr. Black owns directly. Mr. Black disclaims beneficial ownership of shares owned by Apollo Investment Fund IV, L.P. and Apollo Overseas Partners IV, L.P.

- (3) Mr. Huber is an employee of General Motors, which beneficially owns 25,808,959 shares of our common stock. Mr. Huber disclaims beneficial ownership of the shares of our common stock owned by General Motors.

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- (4) Mr. Mendel is an employee of American Honda, which beneficially owns 93,835,676 shares of our common stock. Mr. Mendel disclaims beneficial ownership of the shares of our common stock owned by American Honda.
- (5) Includes 9,100 shares held as custodian for a child.
- (6) Includes 74,423 shares held as custodian for a child.
- (7) Includes 1,900 shares held by spouse.
- (8) Does not include 18,299,015 shares issuable under stock options that are not exercisable within 60 days.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires our directors and executive officers and persons who own more than 10% of our common stock to file reports of ownership of our common stock and changes in such ownership with the Securities and Exchange Commission, or the SEC. Based on our records and other information, we believe that all Section 16(a) forms required to be filed during 2007 were filed on a timely basis and in compliance with the requirements of Section 16(a).

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GOVERNANCE OF THE COMPANY

What are the responsibilities of the board of directors?

The business and affairs of our company are managed by or under the direction of our board of directors. Our board reviews and ratifies senior management selection and compensation, monitors overall corporate performance and ensures the integrity of our financial controls. Our board of directors also oversees our strategic and business planning processes.

What are the current committees of the board of directors and who are the members of these committees?

Our board of directors maintains an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee.

A copy of the charters for the Audit Committee and the Nominating and Corporate Governance Committee are available on our website at www.sirius.com. The Compensation Committee has not adopted a charter.

The number of committee meetings held during 2007 are as follows: 13 audit committee meetings, 3 compensation committee meetings and 2 nominating and corporate governance committee meetings.

The following table shows the current members and chairman of each committee and the principal functions performed by each committee:

Committee	Functions
<p>Audit Members: Joan L. Amble* Eddy W. Hartenstein James P. Holden James F. Mooney</p>	<p>Selects our independent registered public accounting firm Reviews reports of our independent registered public accounting firm Reviews and approves the scope and cost of all services, including all non-audit services, provided by the firm selected to conduct the audit Monitors the effectiveness of the audit process Reviews adequacy of financial and operating controls Monitors corporate compliance program</p>
<p>Compensation Members: Lawrence F. Gilberti* James P. Holden Jack Shaw Jeffrey D. Zients</p>	<p>Reviews our executive compensation policies and strategies Oversees and evaluates our overall compensation structure and programs</p>
<p>Nominating and Corporate Governance Members: James P. Holden James F. Mooney* Jack Shaw</p>	<p>Develops and implements policies and practices relating to corporate governance Reviews and monitors implementation of our policies and procedures Assists in developing criteria for open positions on the board of directors Reviews background information on potential candidates and makes recommendations to the board of directors</p>

Jeffrey D. Zients

Makes recommendations to the board of directors with respect to committee assignments

* Chair

How often are directors elected to the board?

All directors stand for election annually. Our board reaffirms its accountability to stockholders through this annual election process.

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How are nominees for the board of directors selected?

Our Nominating and Corporate Governance Committee reviews possible candidates for the board and is responsible for overseeing matters of corporate governance, including the evaluation of performance and practices of the board of directors, the board's committees, management succession plans and executive resources. The Nominating and Corporate Governance Committee considers suggestions from many sources, including stockholders, for possible directors. Such suggestions, together with appropriate biographical information, should be submitted to our Corporate Secretary, Sirius XM Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, New York 10020. Candidates who are suggested by our stockholders are evaluated by the Nominating and Corporate Governance Committee in the same manner as are other possible candidates. During 2007, our board of directors did not retain any third parties to assist in the process of identifying and evaluating potential nominees for our board of directors.

In its assessment of each potential candidate, including those recommended by stockholders, the Nominating and Corporate Governance Committee takes into account all factors it considers appropriate, which may include (a) ensuring that the board of directors, as a whole, is diverse and consists of individuals with various and relevant career experience, relevant technical skills, industry knowledge and experience, financial expertise (including expertise that could qualify a director as a financial expert, as that term is defined by the rules of the SEC), local or community ties and (b) minimum individual qualifications, including strength of character, mature judgment, familiarity with our business and related industries, independence of thought and an ability to work collegially. The Nominating and Corporate Committee also may consider the extent to which the candidate would fill a present need on the board of directors. After conducting an initial evaluation of a candidate, the Nominating and Corporate Governance Committee will interview that candidate if it believes the candidate might be suitable to be a director and may also ask the candidate to meet with other directors and management. If the Nominating and Corporate Governance Committee believes a candidate would be a valuable addition to the board of directors, it will recommend to the full board that candidate's election.

Who is the board's chairman?

Upon completion of the merger of XM Satellite Radio Holdings Inc. into a wholly-owned subsidiary of us, Gary M. Parsons became the chairman of our board of directors. The chairman of our board organizes the work of the board and ensures that the board has access to sufficient information to enable the board to carry out its functions, including monitoring our performance and the performance of management. The chairman, among other things, presides over meetings of the board of directors, establishes the agendas of each meeting of the board in consultation with our Chief Executive Officer, oversees the distribution of information to directors, and performs other duties or assignments as agreed with either the board or our Chief Executive Officer.

How does the board determine which directors are considered independent?

Our board reviews the independence of our directors annually. The provisions of our *Corporate Governance Guidelines* regarding director independence meet, and in some areas exceed, the listing standards of the NASDAQ Global Select Market. A copy of the *Guidelines* is available on our website at www.sirius.com.

Pursuant to the *Guidelines*, the board undertook a review of director independence in September 2008. As part of this review, we reviewed written questionnaires submitted by each director. The questionnaires disclose transactions and relationships between each director or members of his immediate family and SIRIUS XM, other directors, members of our senior management and our affiliates.

As a result of this review, the board determined that all of our directors and nominees are independent of the company and its management under the standards set forth in our *Guidelines*, with the exception of Mel Karmazin and Gary M. Parsons, each of whom is an employee of SIRIUS XM, and Chester A. Huber, Jr. and John W. Mendel, who are employees of General Motors and American Honda, respectively. With respect to Joan L. Amble, the board evaluated ordinary course transactions during the last three fiscal years between us and the American Express Company for which she serves as an executive officer and found that the amount

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paid by us to American Express was less than 5% of American Express consolidated gross revenues during its last three fiscal years.

The board has also determined that all of the members of the Audit Committee are financially literate and meet the independence requirements mandated by the applicable NASDAQ listing standards, Section 10A(m)(3) of the Securities and Exchange Act of 1934 and our *Guidelines*. The board has determined that all of the members of the Compensation Committee meet the independence requirements mandated by the applicable NASDAQ listing standards, the rules of the SEC and the Internal Revenue Service applicable to serving on the Compensation Committee and our *Guidelines*. The board has determined that all of the members of the Nominating and Corporate Governance Committee meet the independence requirements mandated by the NASDAQ listing standards applicable to serving on the Nominating and Corporate Governance Committee and our *Guidelines*.

What are our policies and procedures for related party transactions?

We have adopted a written policy and written procedures for the review, approval and monitoring of transactions involving the company and related persons. For the purposes of the policy, related persons include executive officers, directo