

SIRIUS SATELLITE RADIO INC

Form S-4

July 25, 2007

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**As filed with the Securities and Exchange Commission on July 25, 2007**

**Registration No. 333-**

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

**Form S-4**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933  
SIRIUS SATELLITE RADIO INC.**

*(Exact name of registrant as specified in its charter)*

**Delaware**

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

**4832**

*(Primary Standard Industrial  
Classification Code Number)*

**52-1700207**

*(I.R.S. Employer  
Identification Number)*

**1221 Avenue of the Americas, 36th Floor  
New York, New York 10020  
(212) 584-5100**

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

**Patrick L. Donnelly**

**Executive Vice President, General Counsel & Secretary  
Sirius Satellite Radio Inc.**

**1221 Avenue of the Americas, 36th Floor  
New York, New York 10020  
(212) 584-5100**

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

***Copies to:***

**Gary L. Sellers, Esq.  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
(212) 455-2000**

**Joseph M. Titlebaum  
General Counsel and Secretary  
XM Satellite Radio Holdings Inc.  
1500 Eckington Place, NE  
Washington, DC 20002  
(202) 380-4000**

**Thomas H. Kennedy, Esq.  
Skadden, Arps, Slate, Meagher  
& Flom LLP  
Four Times Square  
New York, New York 10036  
(212) 735-3000**

**Approximate date of commencement of proposed sale of the securities to the public:** As soon as practicable after this registration statement becomes effective and all other conditions to the proposed merger described herein have been satisfied or waived.

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.

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value \$0.001 per share	1,701,908,350(1)	N/A	\$4,510,057,126(2)	\$138,458.75

- (1) The number of shares of common stock of the registrant being registered is based upon (x) an estimate of the maximum number of shares of Class A common stock, par value \$0.01 per share, of XM Satellite Radio Holdings Inc. ( XM ) presently outstanding or issuable or expected to be issued in connection with the merger of XM with a wholly-owned subsidiary of the registrant multiplied by (y) the exchange ratio of 4.6 shares of common stock, par value \$0.001 per share, of the registrant, for each such share of Class A common stock of XM.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(f) under the Securities Act of 1933, as amended. The proposed maximum aggregate offering price for the common stock is the product of (x) \$12.19, the average of the high and low sales prices of XM Class A common stock, as quoted on the NASDAQ Global Select Market, on July 24, 2007, and (y) 369,980,076, the estimated maximum number of shares of XM Class A common stock that may be exchanged for the shares of common stock of the registrant being registered.

**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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The information in this joint proxy statement/prospectus is not complete and may be changed. We may not sell the securities offered by this joint proxy statement/prospectus until the registration statement filed with the Securities and Exchange Commission is effective. This joint proxy statement/prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities in any jurisdiction where an offer, solicitation or sale is not permitted.

**PRELIMINARY SUBJECT TO COMPLETION DATED JULY 25, 2007**

**PROPOSED MERGER YOUR VOTE IS VERY IMPORTANT**

Each of the boards of directors of Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc. has approved a strategic merger, combining SIRIUS and XM in what we intend to be a merger of equals. We believe that the proposed merger will allow XM and SIRIUS to provide more choices for their respective subscribers and that the combined company will be better positioned to compete in the rapidly evolving audio entertainment marketplace.

XM and SIRIUS have entered into an agreement and plan of merger pursuant to which XM and SIRIUS will combine their businesses through the merger of XM with a newly formed, wholly-owned subsidiary of SIRIUS, with XM thereupon becoming a wholly-owned subsidiary of SIRIUS.

In the proposed merger, XM stockholders will receive 4.6 shares of SIRIUS common stock for each share of XM Class A common stock, referred to as XM common stock. This exchange ratio is fixed and will not be adjusted to reflect stock price changes prior to the closing. SIRIUS stockholders will continue to own their existing shares, which will not be affected by the merger. Upon completion of the merger, XM's former stockholders will own approximately % of the then outstanding SIRIUS common stock, based on the number of shares of SIRIUS and XM outstanding on , 2007. The value of the merger consideration to be received in exchange for each share of XM common stock will fluctuate with the market price of SIRIUS common stock.

Based on the closing sale price for SIRIUS common stock on February 16, 2007, the last trading day before public announcement of the merger, the 4.6 exchange ratio represented approximately \$17.02 in value for each share of XM common stock. Based on the closing sale price for SIRIUS common stock on , 2007, the last trading day before the printing of this joint proxy statement/prospectus, which we refer to as this Proxy Statement, the 4.6 exchange ratio represented approximately \$ in value for each share of XM common stock.

SIRIUS common stock is listed on the NASDAQ Global Select Market under the symbol SIRI. XM common stock is listed on the NASDAQ Global Select Market under the symbol XMSR. We urge you to obtain current market quotations for the shares of SIRIUS and XM.

**Your vote is very important.** The merger cannot be completed unless SIRIUS stockholders approve the amendment to SIRIUS certificate of incorporation and the issuance of SIRIUS capital stock in the merger and XM stockholders adopt the merger agreement. Each of XM and SIRIUS is holding a special meeting of its stockholders to vote on the proposals necessary to complete the merger. Information about these meetings, the merger and the other business to be considered by stockholders is contained in this Proxy Statement. We urge you to read this Proxy Statement carefully. **You should also carefully consider the risk factors beginning on page 15.**

**Whether or not you plan to attend your respective company's special meeting of stockholders, please submit your proxy as soon as possible to make sure that your shares are represented at that meeting.**

**The SIRIUS board of directors recommends that SIRIUS stockholders vote FOR the proposals to approve the amendment to SIRIUS' certificate of incorporation and the issuance of SIRIUS capital stock in the merger, both of which are necessary to effect the merger.**

**The XM board of directors recommends that XM stockholders vote FOR the proposal to adopt the merger agreement.**

Mel Karmazin  
Chief Executive Officer  
Sirius Satellite Radio Inc.

Gary M. Parsons  
Chairman of the Board of Directors  
XM Satellite Radio Holdings Inc.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities to be issued in connection with the merger or determined if this Proxy Statement is accurate or complete. Any representation to the contrary is a criminal offense.**

This Proxy Statement is dated \_\_\_\_\_, 2007, and is first being mailed to stockholders of XM and SIRIUS on or about \_\_\_\_\_, 2007.

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**ADDITIONAL INFORMATION**

This Proxy Statement incorporates by reference important business and financial information about SIRIUS and XM from other documents that are not included in or delivered with this Proxy Statement. For a listing of the documents incorporated by reference into this Proxy Statement, see Where You Can Find More Information . This information is available to you without charge upon your written or oral request. You can obtain the documents incorporated by reference into this document through the Securities and Exchange Commission website at <http://www.sec.gov> or by requesting them in writing or by telephone at the appropriate address below:

By Mail: Sirius Satellite Radio Inc.  
1221 Avenue of the Americas  
36th Floor  
New York, New York 10020  
Attention: Investor Relations

By Telephone: (212) 584-5180

By Mail: XM Satellite Radio Holdings Inc.  
1500 Eckington Place, NE  
Washington, DC 20002  
Attention: Investor Relations

By Telephone: (202) 380-4000

You may also obtain documents incorporated by reference into this Proxy Statement by requesting them in writing or by telephone from \_\_\_\_\_, SIRIUS proxy solicitor, or \_\_\_\_\_, XM's proxy solicitor, at the following addresses and telephone numbers:

**To receive timely delivery of the documents in advance of the meetings, you should make your request no later than \_\_\_\_\_, 2007.**

**VOTING ELECTRONICALLY OR  
BY TELEPHONE**

SIRIUS stockholders of record on the close of business on \_\_\_\_\_, 2007, the record date for the SIRIUS special meeting, may submit their proxies by telephone or Internet by following the instructions on their proxy card or voting form. If you have any questions regarding whether you are eligible to submit your proxy by telephone or by Internet, please contact \_\_\_\_\_ by telephone at \_\_\_\_\_ (toll free) or via the Internet at \_\_\_\_\_.

XM stockholders of record on the close of business on \_\_\_\_\_, 2007, the record date for the XM special meeting, may submit their proxies by telephone or Internet by following the instructions on their proxy card or voting form. If you have any questions regarding whether you are eligible to submit your proxy by telephone or by Internet, please contact \_\_\_\_\_ by telephone at (toll free) or via the Internet at \_\_\_\_\_.

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**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS  
TO BE HELD ON \_\_\_\_\_, 2007**

To the Stockholders of Sirius Satellite Radio Inc.:

A special meeting of stockholders of Sirius Satellite Radio Inc. will be held at \_\_\_\_\_, on \_\_\_\_\_, 2007 at \_\_\_\_\_ a.m., local time, for the following purposes:

1. To amend SIRIUS certificate of incorporation to increase the number of authorized shares of SIRIUS common stock (the Charter Amendment ).
2. To approve the issuance of SIRIUS common stock, par value \$0.001 per share, and SIRIUS Series A convertible preferred stock, par value \$0.001 per share, a new series of SIRIUS preferred stock, pursuant to the Merger Agreement, dated as of February 19, 2007, by and among Sirius Satellite Radio Inc., Vernon Merger Corporation and XM Satellite Radio Holdings Inc., as the same may be amended from time to time (the Share Issuance ).
3. To approve any motion to adjourn or postpone the special meeting to a later date or dates, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting.
4. To transact such other business as may properly come before the special meeting or any adjournment or postponement thereof.

Proposals 1 and 2 are conditioned on each other and approval of each is required for completion of the merger.

The accompanying Proxy Statement further describes the matters to be considered at the meeting. A copy of the merger agreement has been included as Annex A to the Proxy Statement.

The SIRIUS board of directors has set \_\_\_\_\_, 2007 as the record date for the special meeting. Only holders of record of SIRIUS common stock at the close of business on \_\_\_\_\_, 2007 will be entitled to notice of and to vote at the special meeting and any adjournments or postponements thereof. Any stockholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote on such stockholder's behalf. Such proxy need not be a holder of SIRIUS common stock. **To ensure your representation at the special meeting, please complete and return the enclosed proxy card or submit your proxy by telephone or through the Internet.** Please vote promptly whether or not you expect to attend the special meeting. Submitting a proxy now will not prevent you from being able to vote at the special meeting by attending in person and casting a vote.

**The SIRIUS board of directors recommends that you vote FOR the proposal to amend SIRIUS certificate of incorporation to increase the number of authorized shares of common stock, FOR the proposal to approve the issuance of SIRIUS common stock and SIRIUS Series A convertible preferred stock in the merger and FOR the proposal to approve any motion to adjourn or postpone the special meeting to a later date or dates if necessary to solicit additional proxies.**

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By Order of the Board of Directors,

PATRICK L. DONNELLY

*Executive Vice President, General Counsel and Secretary*

*New York, New York*

, 2007

**PLEASE VOTE YOUR SHARES PROMPTLY. YOU CAN FIND INSTRUCTIONS FOR VOTING ON THE ENCLOSED PROXY CARD. IF YOU HAVE QUESTIONS ABOUT THE PROPOSALS OR ABOUT VOTING YOUR SHARES, PLEASE CALL AT (TOLL FREE) OR VIA THE INTERNET AT .**

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**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS  
TO BE HELD ON \_\_\_\_\_, 2007**

To the Stockholders of XM Satellite Radio Holdings Inc.:

A special meeting of stockholders of XM Satellite Radio Holdings Inc. will be held at \_\_\_\_\_, on \_\_\_\_\_, 2007 at \_\_\_\_\_ a.m., local time, for the following purposes:

1. To adopt the Merger Agreement, dated as of February 19, 2007, by and among Sirius Satellite Radio Inc., Vernon Merger Corporation and XM Satellite Radio Holdings Inc. as the same may be amended from time to time.
2. To approve any motion to adjourn or postpone the special meeting to a later date or dates, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting to approve the proposal to adopt the merger agreement.
3. To transact such other business as may properly come before the special meeting or any adjournment or postponement thereof.

The accompanying Proxy Statement further describes the matters to be considered at the special meeting. A copy of the merger agreement has been included as Annex A to this Proxy Statement.

The XM board of directors has set \_\_\_\_\_, 2007 as the record date for the special meeting. Only holders of record of shares of XM common stock at the close of business on \_\_\_\_\_, 2007 will be entitled to notice of and to vote at the special meeting and any adjournments or postponements thereof. **To ensure your representation at the special meeting, please complete and return the enclosed proxy card or submit your proxy by telephone or through the Internet.** Please vote promptly whether or not you expect to attend the special meeting. Submitting a proxy now will not prevent you from being able to vote at the special meeting by attending in person and casting a vote.

**The board of directors of XM recommends that you vote FOR the proposal to adopt the merger agreement and FOR the proposal to approve any motion to adjourn or postpone the Special Meeting to a later date or dates if necessary to solicit additional proxies.**

By Order of the Board of Directors,

Gary M. Parsons  
*Chairman of the Board of Directors*

\_\_\_\_\_, 2007

**PLEASE VOTE YOUR SHARES PROMPTLY. YOU CAN FIND INSTRUCTIONS FOR VOTING ON THE ENCLOSED PROXY CARD. IF YOU HAVE QUESTIONS ABOUT THE PROPOSALS OR ABOUT VOTING YOUR SHARES, PLEASE CONTACT \_\_\_\_\_ BY TELEPHONE AT \_\_\_\_\_ (TOLL FREE) OR VIA**

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**QUESTIONS AND ANSWERS ABOUT THE MEETINGS**

The following questions and answers briefly address some commonly asked questions about the SIRIUS and the XM special meetings. They may not include all the information that is important to stockholders of XM and SIRIUS. We urge stockholders to read carefully this entire Proxy Statement, including the annexes and the other documents referred to herein.

**Q: Why am I receiving these materials?**

A: We are sending you these materials to help you decide how to vote your shares of XM or SIRIUS stock with respect to their proposed merger.

The merger cannot be completed unless XM stockholders adopt the merger agreement, and SIRIUS stockholders approve the amendment of SIRIUS' certificate of incorporation and the issuance of SIRIUS capital stock in the merger. Each of SIRIUS and XM is holding its special meeting of stockholders to vote on the proposals necessary to complete the merger. Information about these meetings, the merger and the other business to be considered by stockholders is contained in this Proxy Statement.

We are delivering this document to you as both a joint proxy statement of XM and SIRIUS and a prospectus of SIRIUS. It is a joint proxy statement because each of our boards of directors is soliciting proxies from its stockholders. It is a prospectus because SIRIUS will exchange shares of its common stock for shares of XM in the merger.

**Q: What will stockholders receive in the merger?**

A: In the proposed merger, XM stockholders will receive 4.6 shares of SIRIUS common stock for each share of XM common stock. This exchange ratio is fixed and will not be adjusted to reflect stock price changes prior to the closing. SIRIUS' stockholders will continue to own their existing shares, which will not be affected by the merger.

**Q: When do XM and SIRIUS expect to complete the merger?**

A: XM and SIRIUS expect to complete the merger after all conditions to the merger in the merger agreement are satisfied or waived, including after stockholder approvals are received at the special meetings of XM and SIRIUS and all required regulatory approvals are received. SIRIUS and XM currently expect to complete the merger by the end of 2007. However, it is possible that factors outside of either company's control could require SIRIUS or XM to complete the merger at a later time or not to complete it at all.

**Q: How do the boards of directors of SIRIUS and XM recommend that I vote?**

A: The SIRIUS board of directors recommends that holders of SIRIUS common stock vote FOR the proposal to amend SIRIUS' certificate of incorporation and FOR the proposal to approve the issuance of SIRIUS common stock and preferred stock in the merger.

The XM board of directors recommends that XM stockholders vote FOR the proposal to adopt the merger agreement.

**Q: What do I need to do now?**

A: After carefully reading and considering the information contained in this Proxy Statement, please vote your shares as soon as possible so that your shares will be represented at your respective company's special meeting. Please follow the instructions set forth on the proxy card or on the voting instruction form provided by the record holder if your shares are held in the name of your broker or other nominee.

**Q: How do I vote?**

A: You may vote before your company's special meeting in one of the following ways:

use the toll-free number shown on your proxy card;

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visit the website shown on your proxy card to vote via the Internet; or

complete, sign, date and return the enclosed proxy card in the enclosed postage-paid envelope.

You may also cast your vote in person at your company's special meeting.

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 at the meeting will need to obtain a proxy form from the institution that holds their shares.

**Q: When and where are the SIRIUS and XM special meetings of stockholders?**

A: The special meeting of SIRIUS stockholders will be held at \_\_\_\_\_ at \_\_\_\_\_ a.m., local time, on \_\_\_\_\_, 2007. 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 \_\_\_\_\_ a.m., local time.

The special meeting of XM stockholders will be held at the \_\_\_\_\_ at \_\_\_\_\_ a.m., local time, on \_\_\_\_\_, 2007. 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 \_\_\_\_\_ a.m., local time.

**Q: If my shares are held in street name by a broker or other nominee, will my broker or nominee vote my shares for me?**

A: Your broker or other nominee does not have authority to vote on the proposals described in this Proxy Statement. Your broker or other nominee will vote your shares held by it in street name with respect to these matters ONLY if you provide instructions to it on how to vote. You should follow the directions your broker or other nominee provides.

**Q: What constitutes a quorum?**

Stockholders who hold a majority in voting power of the SIRIUS common stock issued and outstanding as of the close of business on the record date and who are entitled to vote must be present or represented by proxy in order to constitute a quorum to conduct business at the SIRIUS special meeting.

Stockholders who hold a majority in voting power of the XM common stock issued and outstanding as of the close of business on the record date and who are entitled to vote must be present or represented by proxy in order to constitute a quorum to conduct business at the XM special meeting.

**Q: What vote is required to approve each proposal?**

A: *To amend the certificate of incorporation of SIRIUS:* the affirmative vote of a majority of the outstanding shares of common stock of SIRIUS entitled to vote is required to approve the amendment to the certificate of incorporation to increase the authorized number of shares of common stock, which is referred to in this Proxy Statement as the Charter Amendment.

*To issue SIRIUS common stock and Series A convertible preferred stock in the merger:* the affirmative vote of a majority of the SIRIUS shares voting on the proposal is required to approve the issuance of SIRIUS common stock and Series A convertible preferred stock in the merger, which is referred to in this Proxy Statement as the Share Issuance.

*To approve the merger agreement:* the affirmative vote of a majority of the outstanding shares of XM common stock entitled to vote is required to approve the merger agreement, which is referred to in this Proxy Statement as the Merger Proposal.

**Q: What if I do not vote on the matters relating to the merger?**

A: If you are a SIRIUS stockholder and you fail to vote or fail to instruct your broker or other nominee how to vote on the Charter Amendment, your failure to vote will have the same effect as a vote against the Charter Amendment. If you respond with an abstain vote, your proxy will have the same effect as a vote against this

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proposal. If you respond but do not indicate how you want to vote on the Charter Amendment, your proxy will be counted as a vote in favor of the Charter Amendment.

If you are a SIRIUS stockholder and you fail to vote or fail to instruct your broker or other nominee how to vote on the Share Issuance, it will have no effect on the outcome of the vote for this proposal. Similarly, if you respond with an abstain vote, your proxy will have no effect on the outcome of the vote for this proposal. If you respond but do not indicate how you want to vote on the Share Issuance, your proxy will be counted as a vote in favor of the Share Issuance.

The approval of the Charter Amendment and the Share Issuance are conditioned on each other, and approval of each is required for completion of the merger.

If you are an XM stockholder and you fail to vote or fail to instruct your broker or other nominee how to vote on the Merger Proposal, it will have the same effect as a vote against the Merger Proposal. If you respond with an abstain vote on the Merger Proposal, your proxy will have the same effect as a vote against the Merger Proposal. If you respond but do not indicate how you want to vote on the Merger Proposal, your proxy will be counted as a vote in favor of the Merger Proposal.

**Q: What if I hold shares in both XM and SIRIUS?**

A. If you are a stockholder of both XM and SIRIUS, you will receive two separate packages of proxy materials. A vote as an XM stockholder for the Merger Proposal will not constitute a vote as a SIRIUS stockholder for the Charter Amendment or the Share Issuance, or vice versa. Therefore, please sign, date and return all proxy cards that you receive, whether from XM or SIRIUS, or vote as both a XM and SIRIUS stockholder by internet or telephone.

**Q: May I change my vote after I have delivered my proxy or voting instruction card?**

A: Yes. You may change your vote at any time before your proxy is voted at your special meeting. You may do this in one of four ways:

by sending a notice of revocation to the corporate secretary of SIRIUS or XM, as applicable;

by sending a completed proxy card bearing a later date than your original proxy card;

by logging onto the Internet website specified on your proxy card in the same manner you would to submit your proxy electronically or by calling the telephone number specified on your proxy card, in each case if you are eligible to do so and following the instructions on the proxy card; or

by attending your special meeting and voting in person. Your attendance alone will not revoke any proxy.

If you choose any of the first three methods, you must take the described action no later than the beginning of the applicable special meeting.

If your shares are held in an account at a broker or other nominee, you should contact your broker or other nominee to change your vote.

**Q: What are the material U.S. federal income tax consequences of the merger?**

A: SIRIUS and XM intend for the merger to qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, which we refer to as the Code, for U.S. federal income tax purposes. Assuming the merger qualifies for such treatment, a holder of XM common stock generally will not recognize any gain or loss for U.S. federal income tax purposes upon the exchange of the holder's shares of XM common stock for shares of SIRIUS common stock pursuant to the merger.

**Q: Do I have appraisal rights?**

A: Holders of XM common stock or SIRIUS common stock will not be entitled to exercise any appraisal rights in connection with the merger.

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**Q: Should I send in my stock certificates now?**

A: No. Please do not send your stock certificates with your proxy card.

If you are a holder of XM common stock, you will receive written instructions from the exchange agent after the merger is completed on how to exchange your stock certificates for SIRIUS common stock. SIRIUS stockholders will not be required to exchange their stock certificates in connection with the merger. SIRIUS stockholders holding stock certificates should keep their stock certificates both now and after the merger is completed.

**Q: What if I hold XM and SIRIUS stock options or other stock-based awards?**

A: SIRIUS stock options and other equity-based awards, including restricted stock units, will remain outstanding and will not be affected by the merger.

In the merger, all outstanding XM employee stock options and other stock-based awards will be converted into options and stock-based awards of SIRIUS, and those options and awards will entitle the holder to receive SIRIUS common stock. The number of shares issuable under those options and awards, and, if applicable, the exercise prices for those options and awards, will be adjusted based on the exchange ratio.

**Q: Who should I contact if I have any questions about the proxy materials or voting power?**

A: If you have any questions about the merger or if you need assistance in submitting your proxy or voting your shares or need additional copies of the Proxy Statement or the enclosed proxy card, you should contact the proxy solicitation agent for the company in which you hold shares.

If you are a SIRIUS stockholder, you should contact \_\_\_\_\_, the proxy solicitation agent for SIRIUS. If you are an XM stockholder, you should contact \_\_\_\_\_, the proxy solicitation agent for XM. If your shares are held in a stock brokerage account or by a bank or other nominee, you should call your broker or other nominee for additional information.

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**SUMMARY**

*This summary highlights selected information contained in this joint proxy statement/prospectus, referred to as this Proxy Statement, and does not contain all the information that may be important to you. SIRIUS and XM urge you to read carefully this Proxy Statement in its entirety, as well as the annexes. Additional, important information is also contained in the documents incorporated by reference into this Proxy Statement; see *Where You Can Find More Information* beginning on page 91. Unless stated otherwise, all references in this Proxy Statement to SIRIUS are to Sirius Satellite Radio Inc., all references to XM are to XM Satellite Radio Holdings Inc. and all references to the merger agreement are to the Merger Agreement, dated as of February 19, 2007, by and among SIRIUS, Vernon Merger Corporation and XM, a copy of which is attached as Annex A to this Proxy Statement.*

**The Merger**

Each of the boards of directors of XM and SIRIUS has approved a strategic merger, combining XM and SIRIUS in what the parties intend to be a merger of equals. SIRIUS and XM have entered into an agreement and plan of merger pursuant to which SIRIUS and XM will combine their businesses through the merger of XM with a newly formed, wholly-owned subsidiary of SIRIUS, with XM thereupon becoming a wholly-owned subsidiary of SIRIUS. In the proposed merger, XM stockholders will receive 4.6 shares of SIRIUS common stock for each share of XM common stock. This exchange ratio is fixed and will not be adjusted to reflect stock price changes prior to the closing. SIRIUS stockholders will continue to own their existing shares, which will not be affected by the merger.

**The Parties**

**SIRIUS**

SIRIUS is a satellite radio provider in the United States. It offers over 130 channels to its subscribers 69 channels of 100% commercial-free music and 65 channels of sports, news, talk, entertainment, traffic, weather and data content. The core of the SIRIUS enterprise is programming; SIRIUS is committed to creating the best programming in all of radio.

SIRIUS broadcasts through its proprietary satellite radio system, which currently consists of three orbiting satellites, 127 terrestrial repeaters that receive and retransmit SIRIUS signal, a satellite uplink facility and its studios. Subscribers receive their service through SIRIUS radios, which are sold by automakers, consumer electronics retailers, mobile audio dealers and through SIRIUS website. Subscribers can also receive SIRIUS music channels and certain other channels over the Internet. As of March 31, 2007, SIRIUS had 6,581,045 subscribers.

For the year ended December 31, 2006, SIRIUS had revenues of approximately \$637 million and a net loss of approximately \$1.1 billion.

SIRIUS was incorporated in the State of Delaware as Satellite CD Radio Inc. on May 17, 1990. SIRIUS principal offices are located at 1221 Avenue of the Americas, 36th Floor, New York, New York 10020, and its telephone number is (212) 584-5100.

**XM**

XM is a satellite radio provider in the United States. It offers over 170 channels to its subscribers 69 channels of 100% commercial-free music and over 100 channels of news, talk, information, entertainment and sports

programming. XM believes that it appeals to consumers because of its innovative and diverse programming, nationwide coverage, many commercial-free music channels and digital sound quality.

XM broadcasts through its proprietary satellite radio system, which currently consists of two orbiting satellites, two in-orbit spare satellites, terrestrial repeaters that receive and retransmit XM's signal, satellite uplink facilities and its studios. Subscribers receive their service through XM radios, which are sold by automakers, consumer electronics retailers, mobile audio dealers and through XM's website. Subscribers can also receive XM music channels and certain other channels over the Internet. XM currently has over 8 million subscribers.

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For the year ended December 31, 2006, XM had revenues of approximately \$933 million and a net loss of approximately \$719 million.

XM is a holding company and was incorporated in the State of Delaware as AMRC Holdings, Inc. on May 16, 1997. XM's principal offices are located at 1500 Eckington Place, NE, Washington, DC 20002, and XM's telephone number at that location is (202) 380-4000.

## **Merger Sub**

Vernon Merger Corporation, or Merger Sub, a wholly-owned subsidiary of SIRIUS, is a Delaware corporation formed on February 15, 2007, for the purpose of effecting the merger. Upon completion of the merger, Merger Sub will merge with and into XM, and XM will become a wholly-owned subsidiary of SIRIUS.

Merger Sub has not conducted any activities other than those incidental to its formation and the matters contemplated by the merger agreement, including the preparation of applicable regulatory filings in connection with the merger.

## **The Merger**

A copy of the merger agreement is attached as Annex A to this Proxy Statement. We encourage you to read the entire merger agreement carefully because it is the principal document governing the merger. For more information on the merger agreement, see "The Merger Agreement" beginning on page 50.

## **Consideration to be Received in the Merger by XM Stockholders**

Each outstanding share of XM common stock will be converted into the right to receive 4.6 shares of SIRIUS common stock in the merger, which we refer to as the exchange ratio. Each outstanding share of Series A convertible preferred stock of XM will be similarly converted into the right to receive 4.6 shares of SIRIUS Series A convertible preferred stock, a newly-designated series of preferred stock of SIRIUS, in the merger, having substantially the same powers, designations, preferences, rights and qualifications, limitations and restrictions as the stock so converted.

Holders of XM common stock will not receive any fractional SIRIUS shares in the merger. Instead, the total number of shares that each holder of XM common stock will receive in the merger will be rounded down to the nearest whole number, and SIRIUS will pay cash for any resulting fractional share that an XM stockholder otherwise would be entitled to receive. The amount of cash payable for a fractional share of SIRIUS common stock will be determined by multiplying the fraction by the average closing price for SIRIUS common stock on the last trading day immediately prior to the merger.

The merger agreement provides for adjustments to the exchange ratio to reflect fully the effect of any stock split, reverse stock split, stock dividend (including any dividend or distribution of securities convertible into XM Series A convertible preferred stock, common stock or SIRIUS common stock), reorganization, recapitalization, reclassification or other like change with respect to XM Series A convertible preferred stock, SIRIUS common stock or XM common stock with a record date prior to the merger. For a more complete description of the merger consideration, see "The Merger Agreement" "Consideration to be Received in the Merger" beginning on page 50.

## **Treatment of Stock Options and Other Stock-based Awards**

## ***SIRIUS***

SIRIUS stock options and other equity-based awards, including restricted stock units, will remain outstanding and will not be affected by the merger.

***XM***

In the merger, all outstanding XM employee stock options and other stock-based awards will be converted into options and stock-based awards of SIRIUS, and those options and awards will entitle the holder to receive SIRIUS

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common stock. The number of shares issuable under those options and awards, and the exercise prices for those options and awards, will be adjusted based on the exchange ratio.

For a more complete discussion of the treatment of XM options and other stock-based awards, see *The Merger Agreement – Treatment of XM Options and Other Stock-based Awards* beginning on page 59.

## **Directors and Executive Management Following the Merger**

The SIRIUS board of directors after the merger will initially consist of 12 directors. Mel Karmazin, SIRIUS Chief Executive Officer, or CEO, and a member of the SIRIUS board of directors, will remain CEO of the combined company and a member of the board of directors. Gary M. Parsons, XM's Chairman, will become chairman of the board of directors of the combined company. Of the remaining 10 directors, XM and SIRIUS will each designate four directors, who will qualify as independent directors, and XM will designate two additional directors (one will be a designee of General Motors and the other will be a designee of American Honda).

For a more complete discussion of the directors and management of SIRIUS, see *The Merger – Interests of Directors and Executive Officers in the Merger* beginning on page 41.

## **Recommendations of the SIRIUS Board of Directors**

After careful consideration, the SIRIUS board of directors recommends that holders of SIRIUS common stock vote FOR the Charter Amendment and the Share Issuance.

For a more complete description of SIRIUS reasons for the merger and the recommendations of the SIRIUS board of directors, see *The Merger – Reasons for the Merger* and *SIRIUS Board of Directors Recommendations* beginning on pages 21 and 23, respectively.

## **Recommendation of the XM Board of Directors**

After careful consideration, the XM board of directors recommends that holders of XM common stock vote FOR the Merger Proposal.

For a more complete description of XM's reasons for the merger and the recommendation of the XM board of directors, see *The Merger – Reasons for the Merger* and *XM Board of Directors Recommendation* beginning on pages 21 and 24, respectively.

## **Opinions of Financial Advisor**

### ***SIRIUS Financial Advisor***

SIRIUS board of directors considered the analyses of Morgan Stanley & Co. Incorporated, and Morgan Stanley rendered an opinion that, as of February 18, 2007 and based upon and subject to the factors and assumptions set forth in the opinion, the exchange ratio pursuant to the merger agreement was fair, from a financial point of view, to SIRIUS. The full text of the Morgan Stanley opinion, dated February 18, 2007, is attached as Annex B to this Proxy Statement. You are urged to read the opinion carefully in its entirety for a description of the assumptions on the review undertaken.

Morgan Stanley provided its opinion for the use and benefit of the SIRIUS board of directors in connection with its consideration of the merger. The Morgan Stanley opinion is not intended to be and does not constitute a

recommendation to any stockholder as to how that stockholder should vote or act with respect to the proposed merger or any other matter described in this Proxy Statement. Morgan Stanley was not requested to opine as to, and its opinion does not in any manner address, SIRIUS' underlying business decision to proceed with or effect the merger. The summary of the Morgan Stanley opinion in this Proxy Statement is qualified in its entirety by reference to the full text of the opinion.

Pursuant to the terms of the engagement letter with Morgan Stanley, SIRIUS has agreed to pay Morgan Stanley a transaction fee of \$10 million for services rendered in connection with the merger, which will be paid only if the merger is successfully completed. Also, pursuant to the engagement letter, Morgan Stanley will be eligible to

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receive an incentive fee of up to \$7.5 million, payable at the sole discretion of the SIRIUS board of directors. In the event that the merger agreement is terminated, Morgan Stanley is entitled to receive 15% of any breakup fee paid to SIRIUS as a result of such termination, up to a maximum amount of \$10 million. In addition, SIRIUS has agreed to indemnify Morgan Stanley and its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates against certain liabilities and expenses, including certain liabilities under the federal securities laws, related to or arising out of Morgan Stanley's engagement.

For a more complete description of Morgan Stanley's opinion, see *The Merger Opinion of Financial Advisor to the SIRIUS Board of Directors* beginning on page 25. See also Annex B to this Proxy Statement.

### ***XM Financial Advisor***

The XM board of directors considered the analyses of J.P. Morgan Securities Inc., and JPMorgan rendered its oral opinion that, as of February 18, 2007 and based upon and subject to the factors and assumptions set forth in its opinion, the exchange ratio in the merger was fair, from a financial point of view, to the holders of XM common stock. JPMorgan subsequently confirmed its oral opinion by delivering its written opinion, dated February 20, 2007, the full text of which is attached as Annex C to this Proxy Statement. You are urged to read the opinion carefully in its entirety for a description of the assumptions on the review undertaken.

JPMorgan provided its opinion for the use and benefit of the XM board of directors in connection with its consideration of the merger. The JPMorgan opinion is not intended to be and does not constitute a recommendation to any stockholder as to how that stockholder should vote or act with respect to the proposed merger or any other matter described in this Proxy Statement. JPMorgan was not requested to opine as to, and its opinion does not in any manner address, XM's underlying business decision to proceed with or effect the merger. The summary of the JPMorgan opinion in this Proxy Statement is qualified in its entirety by reference to the full text of the opinion.

For services rendered in connection with the merger (including the delivery of its opinion), XM has agreed to pay JPMorgan \$12,500,000, a substantial portion of which is dependent on completion of the merger. In addition, XM has agreed to reimburse JPMorgan for its expenses incurred in connection with its services, including the fees and disbursements of counsel, and will indemnify JPMorgan against certain liabilities, including liabilities arising under the federal securities laws.

For a more complete description of the JPMorgan opinion, see *The Merger Opinion of Financial Advisor to the XM Board of Directors* beginning on page 34. See also Annex C to this Proxy Statement.

### **Interests of Directors and Executive Officers in the Merger**

You should be aware that some of the directors and officers of SIRIUS and XM have interests in the merger that are different from, or are in addition to, the interests of stockholders generally. These interests relate to the treatment of equity-based compensation awards held by directors and executive officers of XM in the merger, the appointment of Gary M. Parsons, currently XM's chairman, as chairman of the board of directors of the combined company, the appointment of Mel Karmazin, currently CEO and member of the board of directors of SIRIUS, as CEO of the combined company, the appointment of six designees of XM (which may be existing XM directors) and four SIRIUS designees (which may be existing SIRIUS directors) as directors of the combined company after the merger, change-in-control severance arrangements covering XM's executive officers and one SIRIUS executive officer, general severance provisions for other SIRIUS executive officers and the indemnification of XM's and SIRIUS directors and officers by SIRIUS.

For a further discussion of interests of directors and executive officers in the merger, see *The Merger* *Interests of Directors and Executive Officers in the Merger* beginning on page 41.

**Material U.S. Federal Income Tax Consequences of the Merger**

XM and SIRIUS intend for the merger to qualify as a reorganization within the meaning of Section 368(a) of the Code for U.S. federal income tax purposes. Assuming the merger qualifies for such treatment, a holder of XM common stock generally will not recognize any gain or loss for U.S. federal income tax purposes upon the exchange of the holder's shares of XM common stock for shares of SIRIUS common stock pursuant to the merger. It is a

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condition to each of XM's and SIRIUS' respective obligations to complete the merger that it receives a separate legal opinion, at the effective time of the merger, that the merger will be treated as a reorganization within the meaning of Section 368(a) of the Code for U.S. federal income tax purposes.

For a more complete description of the material U.S. federal income tax consequences of the merger, see "Material U.S. Federal Income Tax Consequences" beginning on page 48.

The tax consequences of the merger to you may depend on your own situation. In addition, you may be subject to state, local or foreign tax laws that are not addressed in this Proxy Statement. You are urged to consult with your own tax advisor for a full understanding of the tax consequences of the merger to you.

## **Accounting Treatment of the Merger**

The merger will be accounted for as an acquisition by SIRIUS of XM under the purchase method of accounting according to U.S. generally accepted accounting principles.

## **No Appraisal Rights**

Under Section 262 of the General Corporation Law of the State of Delaware, the holders of SIRIUS common stock and the holders of XM common stock do not have appraisal rights in connection with the merger. However, the holder of XM Series A convertible preferred stock will have the right to seek appraisal of the fair value of its shares under the Delaware General Corporation Law.

## **Regulatory Matters**

*FCC Approval.* Both XM and SIRIUS are subject to regulation by the Federal Communications Commission, which we refer to as the FCC, and the FCC must approve the transfer to the combined company of control of certain licenses held by XM and SIRIUS or their respective subsidiaries as a result of the merger. As part of the approval process, the FCC released a public notice seeking comments on the consolidated application for authority to transfer control that SIRIUS and XM filed on March 20, 2007 and released a notice of proposed rule making seeking public comments on whether language prohibiting the transfer of control of both satellite radio licenses to a single entity in a 1997 order is a rule and if so whether the rule should be changed to allow the merger. While we believe that this approval will be obtained, there can be no assurance of this or that burdensome conditions will not be imposed as a condition of this approval. If such conditions would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the combined company following the merger, the parties may determine not to proceed with the merger. This FCC approval may not be obtained before our stockholders vote on the merger. Each party's obligations to complete the merger are subject to receipt of FCC approval.

*United States Antitrust Approval.* The merger is also subject to the expiration or termination of the applicable waiting period under the U.S. antitrust laws. The merger agreement requires SIRIUS and XM to satisfy any conditions or divestiture requirements imposed upon them by regulatory authorities, unless the conditions or divestitures would reasonably be expected to have a material adverse effect on the combined company after completion of the merger. Subject to the terms and conditions of the merger agreement, each party will use its reasonable best efforts to prepare and file as promptly as practicable all documentation to effect all necessary applications, notices, filings and other documents and to obtain, as promptly as practicable, the required regulatory approvals in order to consummate the merger or any of the other transactions contemplated by the merger agreement.

For a more complete discussion of regulatory matters relating to the merger, see "The Merger - Regulatory Approvals Required for the Merger" beginning on page 45.

**Conditions to Completion of the Merger**

We expect to complete the merger after all the conditions to the merger in the merger agreement are satisfied or waived, including after we receive stockholder approvals at the special meetings of SIRIUS and XM and receive all required regulatory approvals. We currently expect to complete the merger by the end of 2007. However, it is

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possible that factors outside of our control could require us to complete the merger at a later time or not to complete it at all.

Each party's obligation to complete the merger is subject to the satisfaction or waiver of various conditions, including the following:

receipt of the required stockholder approvals;

receipt of NASDAQ authorization for listing of SIRIUS common stock to be issued in the merger or reserved for issuance upon exercise of converted XM equity awards;

receipt of FCC approval for the merger;

expiration or termination of the waiting period under U.S. antitrust laws;

receipt of any other required regulatory approvals;

the SEC declaring effective the registration statement, of which this Proxy Statement is a part, and the registration statement not being subject to any stop order or threatened stop order;

no injunctions, restraints, legal restraints or prohibitions preventing the consummation of the merger;

no action taken by any governmental entity, or other circumstance, which imposes any restriction upon SIRIUS or the combined company which would have a material adverse effect on SIRIUS after the effective time of the merger;

accuracy of the other party's representations and warranties in the merger agreement, including their representation that no material adverse change has occurred;

the other party's compliance with its obligations under the merger agreement; and

receipt of opinions of counsel relating to the U.S. federal income tax treatment of the merger.

The merger agreement provides that any or all of these conditions may be waived, in whole or in part, by SIRIUS or XM, to the extent legally allowed. Neither XM nor SIRIUS currently expects to waive any material condition to the completion of the merger. If either SIRIUS or XM determines to waive any condition to the merger that would result in a material and adverse change in the terms of the merger to XM or SIRIUS stockholders (including any change in the tax consequences of the transaction to XM stockholders), proxies would be resolicited from the SIRIUS or XM stockholders, as applicable. For a more complete discussion of the conditions to the merger, see "The Merger Agreement - Conditions to Completion of the Merger" beginning on page 54.

## **Debt Restructuring**

As a result of the merger, an offer to repurchase a significant portion of XM's outstanding debt at 101% of the principal amount thereof may be required and additional funds to finance the repurchase may not be available on terms favorable to the combined company or at all. Any required repurchase offers would likely be financed with other debt. At March 31, 2007, the aggregate principal amount of XM's outstanding notes was \$1,464 million and none of XM's outstanding notes were trading above 101% of the outstanding principal amount. We believe that if the notes are trading above 101% at the time of any repurchase offer, a large majority of the holders would be unlikely to sell

their notes to XM in the repurchase offer. Moreover, SIRIUS may consider repurchasing outstanding debt in connection with the merger. Any repurchase would likely be financed with other debt. At March 31, 2007, the aggregate principal amount of SIRIUS outstanding notes was \$1,493 million.

**Timing of the Merger**

The merger is expected to be completed by the end of 2007, subject to the receipt of necessary regulatory approvals and the satisfaction or waiver of other closing conditions. For a discussion of the timing of the merger, see The Merger Agreement Closing and Effective Time of the Merger beginning on page 50.

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**No Solicitation of Other Offers**

In the merger agreement, each of XM and SIRIUS has agreed that it will not directly or indirectly:

solicit, initiate, encourage or knowingly facilitate any acquisition proposal;

participate in any discussions or negotiations regarding, or furnish to any person any confidential information in connection with, or knowingly facilitate any effort or attempt to make or implement, an acquisition proposal; or

approve or recommend, or enter into, any letter of intent, merger agreement, option agreement or other similar agreement related to any acquisition proposal or propose or agree to do any of the foregoing.

The merger agreement does not, however, prohibit either party from considering a bona fide acquisition proposal from a third party if certain specified conditions are met. For a discussion of the prohibition on solicitation of acquisition proposals from third parties, see [The Merger Agreement - No Solicitation](#) beginning on page 56.

**Termination of the Merger Agreement**

Generally, the merger agreement may be terminated and the merger may be abandoned at any time prior to the completion of the merger (including after stockholder approval):

by mutual written consent of SIRIUS and XM; or

by either party, if:

a governmental entity that must grant a requisite regulatory approval has denied approval of the merger and the denial has become final and non-appealable, or any governmental entity issues an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the merger, and such order, decree, ruling or other action has become final and non-appealable;

the merger is not consummated on or before March 1, 2008;

the other party breached any of the agreements or representations in the merger agreement, in a way that the related condition to closing would not be satisfied, and this breach is either incurable or not cured within 45 days;

the required approval by the stockholders of SIRIUS or XM has not been obtained at the respective stockholders meeting or any adjournment or postponement thereof; or

the board of directors of the other party changes its recommendation that its stockholders vote in favor of the merger.

In several circumstances involving a termination after a change in the recommendation of the board of directors of SIRIUS or XM to their stockholders, either of XM or SIRIUS may be required to pay a termination fee to the other of \$175 million. The termination fee could discourage other companies from seeking to acquire or merge with either XM or SIRIUS. See [The Merger Agreement - Termination](#), [Effect of Termination](#) and [Termination Fees and Expenses](#)

beginning on pages 57 and 58, respectively.

**Matters to be Considered at the Special Meetings**

**SIRIUS**

SIRIUS stockholders will be asked to vote on the following proposals:

to amend SIRIUS certificate of incorporation to increase the number of authorized shares of SIRIUS common stock in connection with the merger, which is referred to in this Proxy Statement as the Charter Amendment;

to approve the issuance of SIRIUS common stock, par value \$0.001 per share, and a new series of SIRIUS preferred stock in the merger, which is referred to in this Proxy Statement as the Share Issuance;

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to approve any motion to adjourn or postpone the SIRIUS special meeting to another time or place, if necessary, to solicit additional proxies; and

to conduct any other business that properly comes before the SIRIUS special meeting or any adjournment or postponement thereof.

The first two proposals listed above relating to the merger are conditioned upon each other and the approval of each such proposal is required for completion of the merger.

The SIRIUS board of directors recommends that SIRIUS stockholders vote FOR all of the proposals set forth above, as more fully described under SIRIUS Special Meeting beginning on page 62.

**XM**

XM stockholders will be asked to vote on the following proposals:

to adopt the merger agreement, which is referred to in this Proxy Statement as the Merger Proposal;

to approve any motion to adjourn or postpone the XM special meeting to another time or place, if necessary, to solicit additional proxies; and

to conduct any other business that properly comes before the XM special meeting and any adjournment or postponement thereof.

The XM board of directors recommends that XM stockholders vote FOR all of the proposals set forth above, as more fully described under XM Special Meeting beginning on page 67.

**Voting by SIRIUS and XM Directors and Executive Officers**

On \_\_\_\_\_, 2007, the record date set by the SIRIUS board of directors, directors and executive officers of SIRIUS and their affiliates owned and were entitled to vote \_\_\_\_\_ shares of SIRIUS common stock, or approximately \_\_\_\_\_ %, of the total voting power of the shares of SIRIUS common stock outstanding on that date. On \_\_\_\_\_, 2007, the record date set by the XM board of directors, directors and executive officers of XM and their affiliates owned and were entitled to vote \_\_\_\_\_ shares of XM common stock, or approximately \_\_\_\_\_ % of the shares of XM common stock outstanding on that date.

**Table of Contents****SELECTED HISTORICAL FINANCIAL DATA OF SIRIUS**

The following table sets forth certain of SIRIUS' consolidated financial data as of and for each of the periods indicated. The financial information for the year ended December 31, 2002, 2003, 2004, 2005 and 2006, and as of December 31, 2002, 2003, 2004, 2005 and 2006 is derived from SIRIUS' audited consolidated financial statements which are incorporated by reference into this Proxy Statement. The consolidated financial information as of and for the three-month periods ended March 31, 2006 and 2007 is derived from SIRIUS' unaudited consolidated financial statements incorporated by reference into this Proxy Statement. In SIRIUS' opinion, such unaudited consolidated financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of our financial position and results of operations for such periods. Interim results for the three months ended March 31, 2007 are not necessarily indicative of, and are not projections for, the results to be expected for the full year ending December 31, 2007.

The selected historical financial data below should be read in conjunction with the consolidated financial statements that are incorporated by reference into this document and their accompanying notes.

	<b>Year Ended December 31,</b>					<b>Three Months Ended</b>	
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2006</b>	<b>2007</b>
	<b>(In thousands, except per share amounts)</b>						
<b>Statements of Operations Data:</b>							
Total revenue	\$ 805	\$ 12,872	\$ 66,854	\$ 242,245	\$ 637,235	\$ 126,664	\$ 204,030
Loss from operations	(313,127)	(437,530)	(678,304)	(829,140)	(1,067,724)	(446,169)	(135,040)
Net loss(1)	(422,481)	(226,215)	(712,162)	(862,997)	(1,104,867)	(458,544)	(144,740)
Net loss applicable to common stockholders(1)	(468,466)	(314,423)	(712,162)	(862,997)	(1,104,867)	(458,544)	(144,740)
Net loss per share applicable to common stockholders (basic and diluted)	\$ (6.13)	\$ (0.38)	\$ (0.57)	\$ (0.65)	\$ (0.79)	\$ (0.33)	\$ (0.14)
Weighted average common shares outstanding (basic and diluted)	76,394	827,186	1,238,585	1,325,739	1,402,619	1,386,982	1,457,010
<b>Balance Sheet Data:</b>							
Cash and cash equivalents	\$ 18,375	\$ 520,979	\$ 753,891	\$ 762,007	\$ 393,421	\$ 630,831	\$ 259,160
Marketable securities	155,327	28,904	5,277	117,250	15,500	84,400	4,650
Restricted investments	7,200	8,747	97,321	107,615	77,850	108,315	78,160
Total assets	1,340,940	1,617,317	1,957,613	2,085,362	1,658,528	1,908,104	1,506,140
Long-term debt, net of current portion	670,357	194,803	656,274	1,084,437	1,068,249	1,083,929	1,067,330
	46,914						

accrued interest, net of								
current portion								
preferred stock	531,153							
accumulated deficit	(927,479)	(1,153,694)	(1,865,856)	(2,728,853)	(3,833,720)	(3,187,397)	(3,978,460)	
common stockholders' equity (deficit)	36,846	1,325,194	1,000,633	324,968	(389,071)	134,703	(421,910)	

(1) Net loss and net loss applicable to common stockholders for the year ended December 31, 2003 included other income of \$256,538 related to our debt restructuring.

(2) No cash dividends were declared or paid in any of the periods presented.

**Table of Contents****SELECTED HISTORICAL FINANCIAL DATA OF XM**

The following table sets forth certain of XM's consolidated financial data as of and for each of the periods indicated. The financial information for the year ended December 31, 2002, 2003, 2004, 2005 and 2006, and as of December 31, 2002, 2003, 2004, 2005 and 2006 is derived from XM's audited consolidated financial statements which are incorporated by reference into this Proxy Statement. The consolidated financial information as of and for the three-month periods ended March 31, 2006 and 2007 is derived from XM's unaudited consolidated financial statements incorporated by reference into this Proxy Statement. In XM's opinion, such unaudited consolidated financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of XM's financial position and results of operations for such periods. Interim results for the three months ended March 31, 2007 are not necessarily indicative of, and are not projections for, the results to be expected for the full year ending December 31, 2007.

The selected historical financial data below should be read in conjunction with the consolidated financial statements that are incorporated by reference into this document and their accompanying notes.

	<b>Year Ended December 31,</b>					<b>Three Months Ended</b>	
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2006</b>	<b>2007</b>
	<b>(In thousands, except per share amounts)</b>						
<b>Statements of Operations Data:</b>							
Total revenue	\$ 20,181	\$ 91,781	\$ 244,443	\$ 558,266	\$ 933,417	\$ 207,966	\$ 264,112
Loss from operations	(438,780)	(454,458)	(461,041)	(555,535)	(403,098)	(100,796)	(88,046)
Net loss(1)	(495,012)	(584,535)	(642,368)	(666,715)	(718,872)	(149,221)	(122,438)
Net loss applicable to common stockholders(1)	(515,871)	(604,880)	(651,170)	(675,312)	(731,692)	(151,370)	(122,438)
Net loss per share applicable to common stockholders (basic and diluted)	\$ (5.95)	\$ (4.83)	\$ (3.30)	\$ (3.07)	\$ (2.70)	\$ (0.60)	\$ (0.40)
Weighted average common shares outstanding (basic and diluted)	86,735	125,176	197,318	219,620	270,587		