

NEKTAR THERAPEUTICS

Form DEF 14A

April 29, 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

Nektar Therapeutics
(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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4) Proposed maximum aggregate value of transaction:

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1) Amount Previously Paid:

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NEKTAR THERAPEUTICS
201 Industrial Road
San Carlos, California 94070

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON JUNE 6, 2008

Dear Stockholder:

You are cordially invited to attend the 2008 Annual Meeting of Stockholders of Nektar Therapeutics, a Delaware corporation. The 2008 Annual Meeting will be held on Friday, June 6, 2008, at 2:00 p.m. local time at the Hyatt Regency San Francisco Airport, The Sandpebble Room, located at 1333 Bayshore Highway, Burlingame, California 94010 for the following purposes:

1. To elect three directors with terms to expire at the 2011 Annual Meeting of Stockholders.
2. To approve the 2008 Equity Incentive Plan and the reservation of 9,000,000 shares of common stock under the plan.
3. To ratify the selection of Ernst & Young LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2008.
4. To conduct any other business properly brought before the 2008 Annual Meeting.

These items of business are more fully described in the Proxy Statement accompanying this Notice. The record date for the 2008 Annual Meeting is April 11, 2008. Only stockholders of record at the close of business on that date are entitled to notice of, and to vote at, the 2008 Annual Meeting or any adjournment thereof.

Your vote is very important. Whether or not you attend the 2008 Annual Meeting in person, it is important that your shares be represented. You may vote your proxy by mail, telephone or the Internet.

On behalf of the Board of Directors, thank you for your participation in this important annual process.

By Order of the Board of Directors

Gil M. Labrucherie
*Senior Vice President, General Counsel and
Secretary*

San Carlos, California
April 29, 2008

You are cordially invited to attend the meeting in person. Whether or not you expect to attend the meeting, please complete, date, sign and return the enclosed proxy, or vote over the telephone or the internet as instructed in these

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materials, as promptly as possible in order to ensure your representation at the meeting. A return envelope (which is postage prepaid if mailed in the united states) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must obtain a proxy issued in your name from that record holder.

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NEKTAR THERAPEUTICS
201 Industrial Road
San Carlos, California 94070

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON JUNE 6, 2008

QUESTIONS AND ANSWERS ABOUT THESE PROXY MATERIALS AND VOTING PROCEDURES

Why am I receiving these materials?

We sent you this proxy statement and the enclosed proxy card because the board of directors of Nektar Therapeutics (Nektar, the Company, we or us) is soliciting your proxy to vote at our 2008 annual meeting of stockholders (the Annual Meeting) to be held on June 6, 2008 at 2:00 p.m. local time at the Hyatt Regency San Francisco Airport, The Sandpebble Room, located at 1333 Bayshore Highway, Burlingame, California 94010. We invite you to attend the Annual Meeting to vote on the proposals described in this proxy statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions below to submit your proxy over the telephone or on the Internet.

We intend to mail this proxy statement and accompanying proxy card on or about April 29, 2008 to all stockholders of record entitled to vote at the annual meeting.

Who can vote at the annual meeting?

Only stockholders of record at the close of business on April 11, 2008 will be entitled to vote at the Annual Meeting. On this record date, there were 92,361,799 shares of common stock outstanding and entitled to vote.

Stockholder of Record: Shares Registered in Your Name

If, on April 11, 2008, your shares were registered directly in your name with our transfer agent, BNY Mellon Shareowner Services LLC, then you are a stockholder of record. The printed version of these proxy materials will be sent to you by mail directly by us. As a stockholder of record, you may vote in person at the Annual Meeting or vote by proxy. Whether or not you plan to attend the Annual Meeting, we urge you to vote by proxy by mail, over the telephone or on the Internet as instructed below to ensure your vote is counted.

Beneficial Owner: Shares Registered in the Name of a Broker, Bank or Other Agent

If, on April 11, 2008, your shares were held in an account at a brokerage firm, bank or other agent, then you are the beneficial owner of shares held in street name and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct your broker, bank or other agent on how to vote the shares in your account. You are also invited to attend the Annual Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the Annual Meeting unless you request and obtain a valid proxy from your broker, bank or other agent.

What am I voting on?

There are three matters scheduled for a vote:

Proposal 1: To elect three directors with terms to expire at the 2011 Annual Meeting of Stockholders.

Proposal 2: To approve the 2008 Equity Incentive Plan and the reservation of 9,000,000 shares of common stock under the plan.

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Proposal 3: To ratify the selection of Ernst & Young LLP as our independent registered public accounting firm for our fiscal year ending December 31, 2008.

How do I vote?

You may either vote For all the nominees to the board of directors or you may abstain from voting for any nominee you specify. For each of the other matters to be voted on, you may vote For or Against or abstain from voting. The procedures for voting are:

Stockholder of Record: Shares Registered in Your Name

If you are a stockholder of record, you may vote in person at the Annual Meeting, vote by proxy using the enclosed proxy card, vote by proxy over the telephone or vote by proxy on the Internet. Whether or not you plan to attend the meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the Annual Meeting and vote in person if you have already voted by proxy.

1. To vote in person, come to the Annual Meeting and we will give you a ballot when you arrive.
2. To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to us before the Annual Meeting, we will vote your shares as you direct.
3. To vote over the telephone, dial toll-free (800) 690-6903 using a touch-tone phone and follow the recorded instructions. You will be asked to provide the Company number and control number from the enclosed proxy card. Your vote must be received by 11:59 p.m., Eastern Time on June 5, 2008 to be counted.
4. To vote on the Internet, go to www.proxyvote.com to complete an electronic proxy card. You will be asked to provide the Company number and control number from the enclosed proxy card. Your vote must be received by 11:59 p.m., Eastern Time on June 5, 2008 to be counted.

Beneficial Owner: Shares Registered in the Name of Broker, Bank or Other Agent

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from us. Simply complete and mail the proxy card to ensure that your vote is counted. Alternatively, you may vote by telephone or over the Internet as instructed by your broker or bank. To vote in person at the Annual Meeting, you must obtain a valid proxy from your broker, bank or other agent. Follow the instructions from your broker, bank or other agent included with these proxy materials, or contact your broker or bank to request a proxy form.

We provide Internet proxy voting to allow you to vote your shares on-line, with procedures designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers and telephone companies.

How many votes do I have?

On each matter to be voted upon, you have one vote for each share of common stock you owned as of April 11, 2008.

What is the quorum requirement?

A quorum of stockholders is necessary to hold a valid meeting. The presence, in person or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote will constitute a quorum. On the record date, there were 92,361,799 shares outstanding and entitled to vote.

Your shares will be counted towards the quorum only if you submit a valid proxy or vote in person at the Annual Meeting. Abstentions and broker non-votes will be counted towards the quorum requirement. If there is no quorum, the chairman of the Annual Meeting or a majority of the votes present at the Annual Meeting may adjourn the Annual Meeting to another date.

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

If you are a stockholder of record and you return a signed and dated proxy card without marking any voting selections, your shares will be voted:

1. Proposal 1: For election of all three nominees for director;
2. Proposal 2: For approval of the 2008 Equity Incentive Plan and the reservation of 9,000,000 shares of common stock under the 2008 Equity Incentive Plan; and
3. Proposal 3: For the ratification of the audit committee's selection of Ernst & Young LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2008.

If any other matter is properly presented at the meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his best judgment.

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, your shares are held by your broker, bank or other agent as your nominee (that is, in street name) and you will need to obtain a proxy form from the organization that holds your shares and follow the instructions included on that form regarding how to instruct the organization to vote your shares. If you do not give instructions to your broker, bank or other agent, it can vote your shares with respect to discretionary items but not with respect to non-discretionary items. Discretionary items are proposals considered routine under the rules of the New York Stock Exchange, and, in the absence of your voting instructions, your broker, bank or other agent may vote your shares held in street name on such proposals. Non-discretionary items are proposals considered non-routine under the rules of the New York Stock Exchange, and, in the absence of your voting instructions, your broker, bank or other agent may not vote your shares held in street name on such proposals and the shares will be treated as broker non-votes. Proposal 1 and Proposal 3 involve matters we believe to be routine. Accordingly, no broker non-votes are expected to exist in connection with Proposal 1 and Proposal 3. Broker non-votes are expected in connection with Proposal 2.

How are votes counted?

Votes will be counted by the inspector of election appointed for the Annual Meeting, who will count For votes, abstentions and broker non-votes and, with respect to Proposals 2 and 3, Against votes.

How many votes are needed to approve each proposal?

For Proposal 1 electing three members of the board of directors, the three nominees receiving the most For votes among votes properly cast either in person or by proxy will be elected.

For Proposal 2 approving the 2008 Equity Incentive Plan and the reservation of 9,000,000 shares of common stock under the 2008 Equity Incentive Plan, the proposal must receive a For vote from the majority of the shares present and entitled to vote either in person or by proxy.

For Proposal 3 ratifying the audit committee's selection of Ernst & Young LLP as our independent registered public accounting firm for our fiscal year ending December 31, 2008, the proposal must receive a For vote from the majority of the shares present and cast either in person or by proxy.

Who is paying for this proxy solicitation?

We will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, our directors and employees may also solicit proxies in person, by telephone or by other means of communication. We will not pay our directors and employees any additional compensation for soliciting proxies. We may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

What does it mean if I receive more than one proxy card?

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

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Can I change my vote after submitting my proxy?

Yes, you can revoke your proxy at any time before the final vote at the Annual Meeting. You may revoke your proxy in any one of three ways:

1. A duly executed proxy card with a later date or time than the previously submitted proxy;
2. A written notice that you are revoking your proxy to our Secretary, care of Nektar Therapeutics, at 201 Industrial Road, San Carlos, California 94070; or
3. A later-dated vote by telephone or Internet or a ballot cast in person at the Annual Meeting. Simply attending the Annual Meeting will not, by itself, revoke your proxy.

When are stockholder proposals due for next year's Annual Meeting?

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the Exchange Act), some stockholder proposals may be eligible for inclusion in our 2009 proxy statement. Any such proposal must be submitted in writing by December 26, 2008, to our Secretary, care of Nektar Therapeutics, 201 Industrial Road, San Carlos, California 94070. If we change the date of our 2009 annual meeting by more than 30 days from the date of the previous year's annual meeting, the deadline is a reasonable time before we begin to print and send our proxy materials. Stockholders interested in submitting such a proposal are advised to contact knowledgeable counsel with regard to the detailed requirements of the applicable securities laws. The submission of a stockholder proposal does not guarantee that it will be included in our proxy statement.

Alternatively, under our bylaws, if you wish to submit a proposal that is not to be included in next year's proxy statement or nominate a director, you must provide specific information to us no earlier than March 8, 2009 and no later than the close of business on April 7, 2009. If we change the date of our 2009 annual meeting by more than 30 days from the date of the previous year's annual meeting, the deadline is changed to not earlier than the sixtieth day prior to such annual meeting and no later than the close of business on the ninetieth day prior to such annual meeting. In the event we provide less than 70 days' notice or prior public disclosure of the date of the annual meeting, the stockholder proposal or nomination must be received not later than the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure was made. You are advised to review our bylaws, which contain additional requirements with respect to advance notice of stockholder proposals and director nominees.

A stockholder's submission must include certain specific information concerning the proposal or nominee, as the case may be, and information as to the stockholder's ownership of our common stock. Proposals or nominations not meeting these requirements will not be entertained at any annual meeting.

In relation to stockholder proposals and nominations, in certain instances we may exercise discretionary voting authority under proxies held by the board of directors. For instance, if we do not receive a stockholder proposal by March 11, 2009, we may exercise discretionary voting authority under proxies held by the board of directors on such stockholder proposal. If we change the date of our 2009 annual meeting by more than 30 days from the date of the previous year's annual meeting, the deadline will change to a reasonable time before we begin to print and send our proxy materials. In addition, even if we are notified of a stockholder proposal within the time requirements discussed above, if the stockholder does not comply with certain requirements of the Exchange Act, we may exercise discretionary voting authority under proxies held by the board of directors on such stockholder proposal if we include advice in our proxy statement on the nature of the matter and how we intend to exercise our discretion to vote on the matter.

What is householding and how does it affect me?

We have adopted a procedure approved by the Securities and Exchange Commission (the SEC) called householding. Under this procedure, stockholders who have the same address may receive only one copy of the printed version of these proxy materials, unless one or more of these stockholders notifies us that they wish to receive individual copies. This process potentially means extra convenience for stockholders and cost savings for companies.

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If you are a beneficial owner of our common stock, once you receive notice from your broker, bank or other agent that they will be householding communications to your address, householding will continue until you are notified otherwise or until you revoke your consent. If, at any time, you no longer wish to participate in householding and would prefer to receive separate proxy materials, please notify your broker, bank or other agent, direct your written request to Nektar Therapeutics, Secretary, 201 Industrial Road, San Carlos, California 94070 or contact our Secretary at (650) 631-3100. Stockholders who currently receive multiple copies of our proxy materials at their address and would like to request householding of their communications should contact their broker, bank or other agent.

How can I find out the results of the voting at the annual meeting?

Preliminary voting results will be announced at the Annual Meeting. Final voting results will be published in our quarterly report on Form 10-Q for the quarter ending June 30, 2008.

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PROPOSAL 1

ELECTION OF DIRECTORS

Our board of directors is presently comprised of eleven (11) directors and is divided into three (3) classes. Each class consists, as nearly as possible, of one third of the total number of directors, and each class has a three (3) year term. There are three (3) current directors in Class I, whose term of office expires in 2008: Michael A. Brown, Joseph J. Krivulka and Howard W. Robin. Each of the current directors in Class I has been nominated for reelection at the Annual Meeting. Messrs. Brown and Krivulka were previously elected by the stockholders and Mr. Robin was appointed to a newly created vacancy by the board of directors on February 14, 2007. Vacancies on the board, including vacancies created by an increase in the number of directors, are filled only by persons elected by a majority of the remaining directors. A director elected by the board to fill a vacancy in a class serves for the earlier of the remainder of the full term of that class, that director's successor is elected and qualified or their death, resignation or removal.

Directors are elected by a plurality of the votes of the shares present in person or represented by proxy at the Annual Meeting and entitled to vote on the election of directors. The three nominees receiving the highest number of affirmative votes will be elected. Shares represented by executed proxies will be voted for the election of the three nominees named below, unless the "abstain" voting selection has been marked on the proxy card. If any nominee becomes unavailable for election as a result of an unexpected occurrence, shares that would otherwise be voted for such nominee will be voted for the election of a substitute nominee proposed by the nominating and corporate governance committee. Each person nominated for election has agreed to serve if elected. Our management has no reason to believe that any nominee will be unable to serve. If elected at the Annual Meeting, each of the nominees will serve until the earlier of the 2011 annual meeting, their successors are elected and qualified or their death, resignation or removal.

The following is a brief biography of each nominee.

Michael A. Brown

Michael A. Brown, age 49, has served as our director since September 2002 and serves on the organization and compensation committee. Mr. Brown serves as Chairman of Line 6, a private company supplying musical instruments, amplifiers and audio gear. Mr. Brown was Chairman of the Board of Quantum Corporation, a computer storage device company, from 1998 through 2003 and continues to serve as a director of Quantum. He served as Quantum's Chief Executive Officer from September 1995, until his retirement in September 2002. Mr. Brown was President of Quantum's Desktop Storage Division from 1993 to 1995 and Executive Vice President and Chief Operating Officer from 1992 to 1993. Previously, Mr. Brown held senior positions in product and marketing management after he joined Quantum's marketing organization in August 1984. Before joining Quantum, Mr. Brown served in the marketing organization at Hewlett-Packard, Inc., a computer products company. Mr. Brown holds a B.A. in economics from Harvard University and an M.B.A. from Stanford University. Mr. Brown is also a director of Symantec Corp., a security and storage management software company.

Joseph J. Krivulka

Joseph J. Krivulka, age 56, has served as our director since March 2005. Mr. Krivulka is founder and President of Triax Pharmaceuticals, a dermatology products company, a position he has held since November 2004. Mr. Krivulka is also the founder and Chairman of Akrimax Pharmaceuticals, LLC, an emerging branded and contract manufacturing

pharmaceutical company. Mr. Krivulka was a co-founder and President of Reliant Pharmaceuticals, LLC, a company that markets pharmaceutical products, from 1999 until 2004. Mr. Krivulka was formerly Chief Executive Officer of Bertek, Inc., a generic pharmaceutical products company that is a subsidiary of Mylan Laboratories Inc., and Corporate Vice President of Mylan Laboratories, a generic pharmaceutical products company. Mr. Krivulka is also a director of Aeolus Pharmaceuticals Inc., a drug development services company. He holds a B.S. from West Virginia Wesleyan College.

Howard W. Robin

Howard W. Robin, age 55, has served as our President and Chief Executive Officer since January 2007 and was appointed as a member of our board of directors in February 2007. Mr. Robin served as Chief Executive Officer,

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President and a director of Sirna Therapeutics, Inc., a biotechnology company, from July 2001 to November 2006 and served as their Chief Operating Officer, President and a director from January 2001 to June 2001. From 1991 to 2001, Mr. Robin was Corporate Vice President and General Manager at Berlex Laboratories, Inc., a pharmaceutical products company that is a subsidiary of Schering, AG, and served as their Vice President of Finance and Business Development and Chief Financial Officer from 1987 to 1991. From 1984 to 1987, Mr. Robin was Director of Business Planning and Development at Berlex. He was a Senior Associate with Arthur Andersen & Co. prior to joining Berlex. Mr. Robin is also a director of Acologix, a biopharmaceutical company. He received his B.S. in Accounting and Finance from Fairleigh Dickinson University in 1974.

**THE BOARD OF DIRECTORS RECOMMENDS
A VOTE IN FAVOR OF EACH NAMED NOMINEE.**

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PROPOSAL 2

APPROVAL OF THE 2008 EQUITY INCENTIVE PLAN

At the Annual Meeting, stockholders will be asked to approve the Company's 2008 Equity Incentive Plan (the "2008 Plan"), which was approved by our board of directors on March 20, 2008.

We believe that incentives and stock-based awards focus employees on the objective of creating stockholder value and promoting our success and that incentive compensation plans like the proposed 2008 Plan are an important attraction, retention and motivation tool for participants in the plan.

We currently maintain the 2000 Equity Incentive Plan (the "2000 Plan"), which is scheduled to expire on February 9, 2010. As of April 1, 2008, a total of 7,220,526 shares of our common stock were then subject to outstanding awards granted under the 2000 Plan, and an additional 3,820,054 shares of our common stock were then available for new award grants under the 2000 Plan. We also maintain a 2000 Non-Officer Equity Incentive Plan (the "Non-Officer Plan"). As of April 1, 2008, a total of 8,335,287 shares of our common stock were then subject to outstanding awards granted under the Non-Officer Plan, and an additional 390,554 shares of our common stock were then available for new award grants under the Non-Officer Plan. Our outstanding options generally may not be transferred to third parties for value and do not include dividend equivalent rights.

Our board of directors approved the 2008 Plan based, in part, on a belief that the number of shares currently available under the 2000 Plan and Non-Officer Plan does not give us sufficient authority and flexibility to adequately provide for future incentives. If stockholders approve the 2008 Plan, a maximum of 9,000,000 shares will be available for award grants under the 2008 Plan. Whether the stockholders approve or do not approve the 2008 Plan, the 2000 Plan and Non-Officer Plan will remain in full force and effect and we will continue to have authority to grant new awards under these plans.

The principal terms of the 2008 Plan are summarized below. The following summary is qualified in its entirety by the full text of the 2008 Plan, which appears as Exhibit A to this proxy statement.

Purpose

The purpose of the 2008 Plan is to attract and retain qualified personnel, to provide additional incentives to our employees, officers, consultants and directors and to promote the success of our business.

Administration

Our board of directors or one or more committees appointed by the board of directors will administer the 2008 Plan. Our board of directors has delegated general administrative authority for the 2008 Plan to the organization and compensation committee of our board of directors. A committee may delegate some or all of its authority with respect to the 2008 Plan to another committee of directors. (The appropriate acting body, be it our board of directors or a committee within its delegated authority, is referred to in this proposal as the "Committee.")

The Committee has broad authority under the 2008 Plan with respect to award grants, including, without limitation, the authority:

to select participants and determine the type(s) of award(s) that they are to receive;

to determine the number of shares that are to be subject to awards and the terms and conditions of awards, including the price (if any) to be paid for the shares or the award;

to cancel, modify or waive the Company's rights with respect to, or modify, discontinue, suspend or terminate any or all outstanding awards, subject to any required consents;

to accelerate or extend the vesting or exercisability or extend the term of any or all outstanding awards;

subject to the other provisions of the 2008 Plan, to make certain adjustments to an outstanding award and to authorize the conversion, succession or substitution of an award; and

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to allow the purchase price of an award of shares of our common stock to be paid in the form of cash, by the delivery of already-owned shares of our common stock or by a reduction of the number of shares deliverable pursuant to the award, a deferred payment or other arrangement on such terms as the Committee may authorize or any other form permitted by law.

Authorized Shares; Limits on Awards

The maximum number of shares of our common stock that may be issued or transferred pursuant to awards under the 2008 Plan is 9,000,000 shares. Shares issued in respect of any stock bonus award or restricted stock purchase award granted under the 2008 Plan will be counted against the share limit as 1.5 shares for every one share actually issued in connection with the award. For example, if we granted 100 shares of our common stock as a stock bonus award under the 2008 Plan, 150 shares would be charged against the share limit with respect to that award.

The following other limits are also contained in the 2008 Plan:

The maximum number of shares that may be delivered pursuant to options qualified as incentive stock options granted under the plan is 9,000,000 shares.

The maximum number of shares subject to options that are granted during any calendar year to any individual under the plan is 3,000,000 shares for purposes of making a qualifying grant under Section 162(m) of the U.S. Internal Revenue Code.

To the extent that shares are delivered pursuant to the exercise of an option, the number of underlying shares as to which the exercise related shall be counted against the applicable share limits, as opposed to only counting the shares actually issued. (For purposes of clarity, if an option relates to 100,000 shares and is exercised at a time when the payment due to the participant is 15,000 shares, 100,000 shares shall be charged against the applicable share limits with respect to such exercise.) Shares that are subject to or underlie awards which expire, for any reason are cancelled or terminated, are forfeited, fail to vest or for any other reason are not paid or delivered under the 2008 Plan will again be available for subsequent awards under the 2008 Plan. However, any shares subject to a stock award that is forfeited or reacquired or repurchased by us will be available for subsequent awards other than incentive stock options.

Eligibility

Persons eligible to receive awards under the 2008 Plan include officers or employees of us or any of our subsidiaries, members of our board of directors and certain consultants and advisors to us or any of our subsidiaries. Currently, approximately 500 officers and employees of us and our subsidiaries (including all of our Named Executive Officers), each of our 9 non-employee directors and approximately 50 consultants (with the number of consultants fluctuating from time to time) are considered eligible under the 2008 Plan.

Types of Awards

The 2008 Plan authorizes stock options (incentive and nonqualified), stock bonuses and restricted stock awards.

A stock option is the right to purchase shares of our common stock at a future date at a specified price per share (the exercise price). The per share exercise price of an option generally may not be less than the fair market value of a share of our common stock on the date of grant. The maximum term of an option is eight years from the date of grant. An option may either be an incentive stock option or a nonqualified stock option. Incentive stock option benefits are taxed differently from nonqualified stock options, as described under Federal Income Tax Consequences of Awards

Under the 2008 Plan below. Incentive stock options are also subject to more restrictive terms and are limited in amount by the U.S. Internal Revenue Code and the 2008 Plan. Incentive stock options may only be granted to employees of us or a subsidiary. Options generally vest in monthly installments from the date of grant (one year from date of grant in the case of new hire options), with the effect that such options are fully vested after four years from the date of grant although the actual vesting schedule for stock options is determined at the discretion of the Committee. In addition, options granted under the 2008 Plan may permit exercise prior to vesting, but in such event the participant may be required to enter into an early exercise

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stock purchase agreement that allows us to repurchase shares not yet vested at their exercise price should the participant's service to us or our affiliates end before vesting.

A stock bonus typically represents a bonus in shares of common stock for services rendered. The Committee may grant stock bonuses to reward continued services, contributions or achievements, in such manner and on such terms and conditions (including any restrictions on the shares) as the Committee may determine from time to time.

A restricted stock award is an award typically for a fixed number of shares of common stock, which is subject to vesting or other restrictions. The Committee must specify the price, if any, or services the recipient must provide for the shares of restricted stock, the conditions on vesting (which may include, among others, the passage of time or specified performance objectives or both) and any other restrictions (for example, restrictions on transfer) imposed on the shares. Unless the Committee otherwise provides in an award agreement, a restricted stock award usually confers voting and dividend rights prior to vesting.

Adjustments

If there is any change in the stock subject to the 2008 Plan or subject to any award granted under the 2008 Plan (through merger, consolidation, reorganization, recapitalization, stock dividend, dividend in property other than cash, stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or otherwise), the 2008 Plan and awards outstanding there under will be appropriately adjusted as to the type of security and the maximum number of shares subject to the 2008 Plan, the type of security and the maximum number of shares which may be granted to an employee during a calendar year and the type of security, number of shares and price per share of stock subject to such outstanding awards.

No Repricing

In no case (except due to an adjustment to reflect a stock split or similar event or any repricing that may be approved by stockholders) will any adjustment be made to a stock option award under the 2008 Plan (by amendment, cancellation and regrant, exchange or other means) that would constitute a repricing of the per share exercise price of the award.

Effect of Certain Corporate Events

If we dissolve or liquidate, outstanding awards will terminate if not exercised prior to such event. Generally, and subject to limited exceptions set forth in the 2008 Plan, if we undergo certain corporate transactions such as a merger, business combination or other reorganization, or a sale of substantially all of our assets, all awards then-outstanding under the 2008 Plan will become fully vested or paid, as applicable, and will terminate or be terminated in such circumstances, unless the awards are assumed, substituted or otherwise continued. If there is an acquisition of a majority of our voting power and such event does not constitute a corporate transaction described above, then all awards then-outstanding under the 2008 Plan by participants who are then in service to us or our subsidiaries will become fully vested. The Committee also has the discretion to establish other change of control provisions with respect to awards granted under the 2008 Plan. For example, the Committee could provide for the acceleration of vesting or payment of an award in connection with a corporate event that is not described above and provide that any such acceleration shall be automatic upon the occurrence of any such event.

Duration, Amendment and Termination

The board may amend or terminate the 2008 Plan at any time and in any manner. Stockholder approval for an amendment will be required only to the extent then required by applicable law or any applicable listing agency or

required under Sections 162, 422 or 424 of the U.S. Internal Revenue Code to preserve the intended tax consequences of the plan. For example, stockholder approval will be required for any amendment that proposes to increase the maximum number of shares that may be delivered with respect to awards granted under the 2008 Plan. (Adjustments as a result of stock splits or similar events will not, however, be considered an amendment requiring stockholder approval.) Unless terminated earlier by the board of directors, the authority to grant new awards under the 2008 Plan will terminate on March 20, 2018. Outstanding awards, as well as the Committee's authority with respect thereto, generally will continue following the expiration or termination of the

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plan. Generally speaking, outstanding awards may be amended by the Committee (except for a repricing), but the consent of the award holder is required if the amendment (or any plan amendment) impairs the holder.

Restrictions on Transfer

Under the 2008 Plan, an incentive stock option may not be transferred by the optionholder other than by will or by the laws of descent and distribution. A nonstatutory stock option may be transferred to the extent permitted in the individual optionholder's agreement. During the lifetime of an optionholder, only the optionholder may exercise an option. No rights under a stock bonus or restricted stock purchase agreement are transferable except as expressly authorized by the terms of the applicable stock bonus or restricted stock purchase agreement. In addition, shares subject to our repurchase under an early exercise stock purchase agreement may be subject to restrictions on transfer that the Committee deems appropriate.

Federal Income Tax Consequences of Awards under the 2008 Plan

The U.S. federal income tax consequences of the 2008 Plan under current federal law, which is subject to change, are summarized in the following discussion of the general tax principles applicable to the 2008 Plan. This summary is not intended to be exhaustive and, among other considerations, does not describe the deferred compensation provisions of Section 409A of the U.S. Internal Revenue Code to the extent an award is subject to and does not satisfy those rules, nor does it describe state, local or international tax consequences. **THIS SUMMARY IS NOT INTENDED AS TAX ADVICE TO ANY PERSON AND RECIPIENTS OF INCENTIVE STOCK OPTIONS, NONQUALIFIED OPTIONS AND/OR RESTRICTED STOCK SHOULD CONSULT THEIR OWN TAX ADVISORS FOR ANY FEDERAL, STATE, LOCAL AND FOREIGN TAX EFFECTS ON THEIR INDIVIDUAL CIRCUMSTANCES.**

With respect to nonqualified stock options, we are generally entitled to deduct, and the participant recognizes taxable income in an amount equal to, the difference between the option exercise price and the fair market value of the shares at the time of exercise. With respect to incentive stock options, we are generally not entitled to a deduction nor does the participant recognize income at the time of exercise, although the participant may be subject to the U.S. federal alternative minimum tax.

With respect to nontransferable restricted stock subject to a substantial risk of forfeiture, the award results in income recognition equal to the excess of the fair market value over the price paid, if any, only at the time the restrictions lapse (unless the recipient elects to accelerate recognition as of the date of grant) and stock bonuses are generally subject to tax at the time of payment. In each of the foregoing cases, we will generally have a corresponding deduction at the time the participant recognizes income.

If an award is accelerated under the 2008 Plan in connection with a "change in control" (as this term is used under the U.S. Internal Revenue Code), we may not be permitted to deduct the portion of the compensation attributable to the acceleration ("parachute payments") if it exceeds certain threshold limits under the U.S. Internal Revenue Code (and certain related excise taxes may be triggered). Furthermore, the aggregate compensation in excess of \$1,000,000 attributable to awards that are not "performance-based" within the meaning of Section 162(m) of the U.S. Internal Revenue Code may not be permitted to be deducted by us in certain circumstances.

Specific Benefits under the 2008 Equity Incentive Plan

We have not approved any awards that are conditioned upon stockholder approval of the 2008 Plan. We are not currently considering any other specific award grants under the 2008 Plan. If the 2008 Plan had been in existence in 2007, we expect that our award grants for 2007 would not have been substantially different from those actually made

in that year under the 2000 Plan. For information regarding stock-based awards granted to our Named Executive Officers during 2007, see the material under the heading Information About the Executive Officers below.

The closing market price for a share of our common stock as of April 1, 2008 was \$6.89 per share.

Table of Contents**Vote Required for Approval of the 2008 Equity Incentive Plan**

The board of directors believes that the adoption of the 2008 Plan will promote the interests of us and our stockholders and will help us and our subsidiaries continue to be able to attract, retain and reward persons important to our success.

All members of our board of directors are eligible for awards under the 2008 Plan and thus have a personal interest in the approval of the 2008 Plan.

Approval of the 2008 Plan requires the affirmative vote of a majority of the common stock present, or represented, and entitled to vote at the Annual Meeting.

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR APPROVAL OF THE 2008 EQUITY INCENTIVE PLAN AS DESCRIBED ABOVE AND SET FORTH IN EXHIBIT A HERETO.

INFORMATION ABOUT OUR EQUITY COMPENSATION PLANS**Securities Authorized for Issuance Under Equity Compensation Plans**

We currently maintain 4 equity compensation plans: the 2000 Plan, the Non-Officer Plan, the Employee Stock Purchase Plan (the ESPP) and the Non-Employee Directors Stock Option Plan (the Directors Plan). With the exception of the Non-Officer Plan, these plans have each been approved by our stockholders. Stockholders are also being asked to approve a new equity compensation plan, the 2008 Plan, as described above in this proxy statement.

The following table sets forth, for each of our equity compensation plans, the number of shares of common stock subject to outstanding options and restricted stock units, the weighted-average exercise price of outstanding options and the number of shares remaining available for future award grants as of December 31, 2007 (share number in thousands).

Plan Category	Number of securities to be issued upon exercise of outstanding options and rights (a) (1) (2)	Weighted-average exercise price of outstanding options (b) (3)	Number of securities remaining available for issuance under equity compensation plans (excluding securities reflected in column(a)) (c)(4)
Equity compensation plans approved by security holders	6,014	\$ 15.37	5,340
Equity compensation plans not approved by security holders			