

Fresh Market, Inc.  
Form DEF 14A  
May 02, 2012

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

**SCHEDULE 14A INFORMATION**

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934  
(Amendment No. )**

Filed by the Registrant ☒ x  
Filed by a Party other than the Registrant ☐ o  
Check the appropriate box:

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

**The Fresh Market, Inc.**

(Name of Registrant as Specified in Its Charter)

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

Payment of Filing Fee (Check the appropriate box):

☒ x No fee required.  
☐ o Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.  
1) Title of each class of securities to which transaction applies:  
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☐ Fee paid previously with preliminary materials.

☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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Dear Stockholder:

May 2, 2012

You are cordially invited to attend the Annual Meeting of Stockholders of The Fresh Market, Inc. (the "Company") to be held on June 6, 2012 at 2:00 p.m. Eastern Time at the O.Henry Hotel, 624 Green Valley Road, Greensboro, North Carolina 27408.

At this Annual Meeting, the agenda includes:

the election of four (4) Class II directors for three-year terms, and the election of one (1) additional director to each of Class I and Class III for the remainder of the current Class I and Class III terms, respectively, the ratification of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year,

an advisory vote on executive compensation, and  
the approval of the Company's currently effective 2010 Omnibus Incentive Compensation Plan.

The Board of Directors unanimously recommends that you vote FOR election of the director nominees, FOR ratification of the appointment of Ernst & Young LLP, FOR approval of the executive compensation described herein, and FOR approval of the 2010 Omnibus Incentive Compensation Plan.

Your vote is important regardless of the number of shares you own. Please read the proxy statement and vote your shares. Instructions for Internet and telephone voting are attached to your proxy card. If you prefer, you can vote by mail by completing and signing your proxy card and returning it in the enclosed envelope.

Very truly yours,

Craig Carlock  
President and Chief Executive Officer

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**THE FRESH MARKET, INC.  
628 Green Valley Road  
Suite 500  
Greensboro, North Carolina 27408**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS  
To Be Held on June 6, 2012**

To the Stockholders of The Fresh Market, Inc.:

The Annual Meeting of Stockholders of The Fresh Market, Inc., a Delaware corporation (the Company), will be held on June 6, 2012 at 2:00 p.m. Eastern Time at the O.Henry Hotel, 624 Green Valley Road, Greensboro, North Carolina 27408, for the following purposes:

- to elect four (4) Class II members to the Board of Directors as directors, to serve for three-year terms and until their successors have been duly elected and qualified or until their earlier resignation or removal, and to elect one (1) additional Class I member and one (1) additional Class III member to the Board of Directors as directors, to serve for the remainder of the current Class I term and Class III term, respectively, and until their successors have been duly elected and qualified or until their earlier resignation or removal;
- to ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year;
- to hold a non-binding advisory vote to approve the compensation paid to the Company's executive officers in 2011;
- to approve the Company's currently effective 2010 Omnibus Incentive Compensation Plan; and
- to transact such other business as may properly come before the Annual Meeting or any adjournments or postponements thereof.

The proposal for the election of directors relates solely to the election of the specified Class I, Class II, and Class III directors nominated by the Board of Directors and does not include any other matters relating to the election of directors, including, without limitation, the election of directors nominated by any stockholder of the Company.

Only stockholders of record at the close of business on April 13, 2012 are entitled to notice of and to vote at the Annual Meeting and at any adjournment or postponement thereof.

To attend the Annual Meeting, you must present a valid, government issued photo identification (such as a drivers license or a passport) and demonstrate that you were a stockholder of the Company as of the close of business on April 13, 2012, or hold a valid proxy for the Annual Meeting from such a stockholder. If you are not a stockholder of record but hold shares through a broker, trustee or nominee, you will need to bring proof of your beneficial ownership as of April 13, 2012, such as a brokerage account statement showing your ownership on that date or similar evidence of such ownership. Only stockholders who own common stock of the Company, or hold a valid proxy, as of the close of business on April 13, 2012 will be permitted to attend the Annual Meeting.

By Order of the Board of Directors,

SCOTT F. DUGGAN  
Secretary

Greensboro, North Carolina  
May 2, 2012

**WHETHER OR NOT YOU PLAN TO ATTEND THE ANNUAL MEETING, PLEASE PROMPTLY COMPLETE YOUR PROXY AS INDICATED IN THE ENCLOSED MATERIALS. YOU MAY VOTE ON THE INTERNET, BY TELEPHONE OR BY MAIL.**

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**628 Green Valley Road**  
**Suite 500**  
**Greensboro, North Carolina 27408**

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**628 Green Valley Road**  
**Suite 500**  
**Greensboro, North Carolina 27408**

**PROXY STATEMENT**  
**For the Annual Meeting of Stockholders**  
**To Be Held on June 6, 2012**

**Why did I receive this Proxy Statement?**

This Proxy Statement is being furnished in connection with the solicitation of proxies by The Fresh Market, Inc., a Delaware corporation (the "Company"), for use at the 2012 Annual Meeting of Stockholders or at any adjournments or postponements thereof (the "Annual Meeting"). An Annual Report to Stockholders, containing financial statements for the year ended January 29, 2012, this Proxy Statement and the form of proxy are first being mailed to all stockholders entitled to vote at the Annual Meeting on or about May 2, 2012.

**When and where will the Annual Meeting be held?**

The Annual Meeting will be held on June 6, 2012 at 2:00 p.m. Eastern Time at the O.Henry Hotel, 624 Green Valley Road, Greensboro, North Carolina 27408.

**What is the purpose of the Annual Meeting?**

The purposes of the Annual Meeting are to:

elect four (4) Class II directors for three-year terms and elect one (1) additional director to each of Class I and Class III for the remainder of the current Class I and Class III terms, respectively,  
ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year,

hold an advisory vote on executive compensation, and  
approve the Company's currently effective 2010 Omnibus Incentive Compensation Plan.

**Who may vote at the Annual Meeting?**

Only stockholders of record at the close of business on April 13, 2012 (the "Record Date") will be entitled to receive notice of and to vote at the Annual Meeting. As of the Record Date, 48,057,055 shares of common stock, \$.01 par value per share, of the Company (the "Common Stock") were issued and outstanding. Stockholders are entitled to one

vote per share on any proposal presented at the Annual Meeting.

## How do I vote?

You may vote on the Internet, using the procedures and instructions described on the proxy card. You may vote by telephone using the toll-free telephone number on the proxy card. Both Internet and telephone voting provide easy-to-follow instructions and have procedures designed to authenticate your identity and permit you to confirm that your voting instructions are accurately reflected. Street name holders may be able to vote by Internet or telephone if their banks or brokers make those methods available, in which case the banks or brokers will enclose the instructions with the proxy statement.

All stockholders may vote by signing and returning the enclosed proxy card.

If you attend the Annual Meeting, you may vote in person even if you have previously voted by phone or via the Internet or returned a proxy card by mail, and your in-person vote will supersede any vote previously cast.



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## **How can I revoke a previously submitted proxy?**

Any proxy given pursuant to this solicitation may be revoked by the person giving it at any time before it is voted. Proxies may be revoked by: (a) filing with the Secretary of the Company, before the taking of the vote at the Annual Meeting, a written notice of revocation bearing a later date than the proxy; (b) properly casting a new vote via the Internet or by telephone at any time before the closure of the Internet or telephone voting facilities; (c) duly completing a later-dated proxy relating to the same shares and delivering it to the Secretary of the Company before the taking of the vote at the Annual Meeting; or (d) attending the Annual Meeting and voting in person (although attendance at the Annual Meeting will not in and of itself constitute a revocation of a proxy). Any written notice of revocation or subsequent proxy should be sent so as to be delivered to The Fresh Market, Inc., 628 Green Valley Road, Suite 500, Greensboro, North Carolina 27408, Attention: Secretary, before the taking of the vote at the Annual Meeting.

## **How many shares must be present at the Annual Meeting?**

The representation in person or by proxy of at least a majority of the outstanding shares of Common Stock entitled to vote at the Annual Meeting is necessary to constitute a quorum for the transaction of business. Abstentions and broker non-votes are counted as present or represented for purposes of determining the presence or absence of a quorum for the Annual Meeting. A non-vote occurs when a nominee holding shares for a beneficial owner votes on one proposal but does not vote on another proposal because, with respect to such other proposal, the nominee does not have discretionary voting power and has not received instructions from the beneficial owner.

## **How many votes are required to approve each proposal?**

For Proposal 1, the election of directors by class, directors are elected by a plurality of the votes cast for each class, either in person or represented by proxy. Therefore, the four nominees who receive the greatest number of affirmative votes cast for Class II, and the one nominee who receives the greatest number of affirmative votes cast for each of Class I and Class III, shall be elected as directors. Stockholders cannot cumulate votes in the election of directors.

For each of Proposal 2, the ratification of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year, Proposal 3, the advisory vote on executive compensation, and Proposal 4, the approval of the currently effective 2010 Omnibus Incentive Compensation Plan, an affirmative vote of a majority of the shares present, in person or represented by proxy, and voting on such matter is required for approval.

The vote on each matter submitted to stockholders is tabulated separately. Broadridge Financial Solutions, or a representative thereof, tabulates the votes. Abstentions are included in the number of shares present or represented and voting on each matter. Broker non-votes are not considered voted for the particular matter and have the effect of reducing the number of affirmative votes required to achieve a majority for such matter by reducing the total number of shares from which the majority is calculated.

If the appointment of Ernst & Young LLP as our independent registered public accounting firm for our 2012 fiscal year is not ratified by the stockholders, the adverse vote will be considered a direction to the Audit Committee to consider another independent registered public accounting firm for next year. However, because of the difficulty in making any substitution of our independent registered public accounting firm so long after the beginning of the current year, the appointment for our 2012 fiscal year will stand, unless the Audit Committee finds other good reason

for making a change.

Because the vote on approval of executive compensation is advisory, this vote will not be binding on us or our Board of Directors, overrule any decision made by the Board of Directors or create or imply any additional duty for the Board. We recognize, nonetheless, that our stockholders have a fundamental interest in the Company's executive compensation practices. Thus, the Compensation Committee may take into account the outcome of this vote when considering future executive compensation arrangements.

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## **Who are the proxy holders and how will they vote?**

The persons named as attorneys-in-fact in the proxies, Lisa K. Klinger, Sean M. Crane and Scott F. Duggan, were selected by the Board of Directors and are officers of the Company. All properly executed proxies submitted in time to be counted at the Annual Meeting will be voted by such persons at the Annual Meeting. Where a choice has been specified on the proxy with respect to the foregoing matters, the shares represented by the proxy will be voted in accordance with the specifications. **If no such specifications are indicated, such proxies will be voted FOR the election of each of the director nominees, FOR ratification of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year, FOR the approval of executive compensation, and FOR approval of the currently effective 2010 Omnibus Incentive Compensation Plan.**

## **Is there other business to come before the Annual Meeting?**

Aside from the election of directors, the ratification of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for our 2012 fiscal year, the advisory vote on executive compensation, and the approval of the currently effective 2010 Omnibus Incentive Compensation Plan, the Board of Directors knows of no other matters to be presented at the Annual Meeting. If any other matter should be presented at the Annual Meeting upon which a vote properly may be taken, shares represented by all proxies received by the Board of Directors will be voted with respect thereto in accordance with the judgment of the persons named as attorneys-in-fact in the proxies.

## **How does the Board of Directors recommend that I vote?**

The Board of Directors unanimously recommends that you vote FOR the election of each of the director nominees, FOR ratification of the appointment of Ernst & Young LLP, FOR approval of the executive compensation described herein, and FOR approval of the currently effective 2010 Omnibus Incentive Compensation Plan.

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## **OVERVIEW OF OUR TRANSITION FROM A CONTROLLED COMPANY**

We are providing the additional information below to our stockholders in order to assist them in understanding our evolution from a controlled public company (one where a majority of the voting power for the election of directors is owned by one stockholder or a group of stockholders) to a public company that is no longer controlled .

We completed our initial public offering in November 2010. At that time, we availed ourselves of the controlled company exception under the corporate governance rules of The NASDAQ Stock Market, which permitted us to have a Board of Directors that was not composed of a majority of independent directors, as defined under the rules of The NASDAQ Stock Market, and compensation and nominating committees/functions that were not composed entirely of independent directors for so long as we were a controlled company. In addition, in compliance with the Sarbanes-Oxley Act of 2002 (the Sarbanes-Oxley Act ), we completed our initial public offering with an audit committee that was composed of a majority of independent directors.

In May 2011, following a public offering of our common stock by the Berry family (as defined below), we no longer qualified for the controlled company exception. Under the controlled company transition rules, we were required to have majority independent compensation and nominating committees/functions within ninety days of the loss of our controlled company status and a board of directors composed of a majority of independent directors and compensation and nominating committees/functions composed entirely of independent directors, in each case, within one year of the loss of the controlled company status. On August 18, 2011, the Board of Directors first became composed of a majority of independent directors, and subsequently each of the standing committees of the Board of Directors became composed entirely of independent directors.

## **TERMS USED IN THIS PROXY STATEMENT**

As used in this Proxy Statement, the term the Berry family means (1) Ray Berry and the Estate of Beverly Berry; (2) various lineal descendants of Ray Berry and spouses and adopted children of such descendants; (3) various trusts for the benefit of individuals described in clauses (1) and (2) and their trustees; and (4) various entities owned or controlled, directly or indirectly, by the individuals and trusts described in clauses (1), (2) and (3).

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# PROPOSAL 1

## ELECTION OF CLASS II DIRECTORS AND ELECTION OF NEW DIRECTORS TO CLASS I AND CLASS III

Our Board of Directors currently consists of seven members. Our certificate of incorporation and bylaws divide our Board of Directors into three classes. One class is elected each year for a term of three years. As part of our continued evolution from a privately held company, the Board of Directors, upon the recommendation of the Nominating and Corporate Governance Committee, has identified three additional candidates for election to the Board of Directors: Steven Tanger, Jane Thompson, and Craig Carlock, our President and Chief Executive Officer. Our Certificate of Incorporation provides that any increase in the number of directors shall be apportioned by the Board of Directors among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected as a result of an increase in that class shall hold office for a term that shall coincide with the remaining term of that class. Consequently, the three proposed candidates have been apportioned equally among the three classes, as follows: Craig Carlock Class I; Steven Tanger Class II; Jane Thompson Class III. In addition, the Board of Directors, upon the recommendation of the Nominating and Corporate Governance Committee, has nominated the existing members of Class II, Brett Berry, David Rea, and Bob Sasser, to new three-year terms.

Assuming all nominees are elected at the Annual Meeting, the following table sets forth the class that each member of the Board of Directors is or will be a member of, the year in which he or she first became a director, if applicable, and whether or not he or she is independent as defined under the rules of The NASDAQ Stock Market. The sections of this Proxy Statement below entitled *Directors and Executive Officers*, *Our Board of Directors and Its Committees* and *Corporate Governance* provide additional detail about our Board of Directors and its committees and our corporate governance.

Class	Director/Nominee's Name and Year First Became a Director (if applicable)	Independent
Class I (term expires 2014)	Richard Noll (2011)	Yes
	Michael Tucci (2011)	Yes
	Craig Carlock (nominee)	No
Class II (term expires 2012)	Brett Berry (1985)	No
	David Rea (2010)	Yes
	Bob Sasser (2012)	Yes
	Steven Tanger (nominee)	Yes
Class III (term expires 2013)	Ray Berry, Chairman of the Board (1981)	No
	Jeffrey Naylor (2010)	Yes
	Jane Thompson (nominee)	Yes

### Election of Class II Directors

The terms of office of our Class II directors will expire at the Annual Meeting. The Board of Directors, upon the recommendation of the Nominating and Corporate Governance Committee, has nominated Brett Berry, David Rea, Bob Sasser, and Steven Tanger, and recommended that each of them be elected to the Board of Directors as Class II

directors, to hold office until the annual meeting of stockholders to be held in the year 2015 and until his successor has been duly elected and qualified or until his earlier death, resignation or removal. The Board of Directors has determined that Mr. Rea, Mr. Sasser, and Mr. Tanger are independent within the meaning of the director independence standards of The NASDAQ Stock Market. In making this determination, the Board of Directors solicited and considered information from each of Mr. Rea, Mr. Sasser, and Mr. Tanger regarding whether he, or any member of his immediate family, had a direct or indirect material interest in any transactions involving the Company, was involved in a commercial or investment relationship with the Company or received personal benefits from or on behalf of the Company outside the scope of such person's normal compensation. Mr. Berry is not independent under the rules of the NASDAQ Stock Market.

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Messrs. Berry, Rea, and Sasser are standing for re-election to the Board. Mr. Tanger was one of the potential nominees identified by Spencer Stuart, an independent search firm specializing in recruiting directors for public companies that was engaged by the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee selected and recommended Mr. Tanger from the potential nominees identified by Spencer Stuart.

### **Election of one Class I Director**

The Board of Directors, upon the recommendation of the Nominating and Corporate Governance Committee, has nominated Craig Carlock, and recommended that Mr. Carlock be elected to the Board of Directors as a Class I director, to hold office until the annual meeting of stockholders to be held in the year 2014 and until his successor has been duly elected and qualified or until his earlier death, resignation or removal. Mr. Carlock is the President and Chief Executive Officer of the Company and, thus, is not independent under the rules of The NASDAQ Stock Market.

### **Election of one Class III Director**

The Board of Directors, upon the recommendation of the Nominating and Corporate Governance Committee, has nominated Jane Thompson, and recommended that Ms. Thompson be elected to the Board of Directors as a Class III director, to hold office until the annual meeting of stockholders to be held in the year 2013 and until her successor has been duly elected and qualified or until her earlier death, resignation or removal. The Board of Directors has determined that Ms. Thompson is independent within the meaning of the director independence standards of The NASDAQ Stock Market. In making this determination, the Board of Directors solicited and considered information from Ms. Thompson regarding whether she, or any member of her immediate family, had a direct or indirect material interest in any transactions involving the Company, was involved in a commercial or investment relationship with the Company or received personal benefits from or on behalf of the Company outside the scope of such person's normal compensation.

Ms. Thompson was one of the potential nominees identified by Spencer Stuart. The Nominating and Corporate Governance Committee selected and recommended Ms. Thompson from the potential nominees identified by Spencer Stuart.

### **Conclusion**

The Board of Directors knows of no reason why any of Messrs. Berry, Rea, Sasser, Tanger, or Carlock or Ms. Thompson would be unable or unwilling to serve, but if any of them should for any reason be unable or unwilling to serve, the proxies will be voted for the election of such other person for the office of director as the Board of Directors may recommend in the place of such nominee. Unless otherwise instructed, the proxy holders will vote the proxies received by them for Messrs. Berry, Rea, Sasser, Tanger, and Carlock, and Ms. Thompson.

This proposal for the election of directors relates solely to the election of four (4) Class II directors, one (1) Class I director, and one (1) Class III director nominated by the Board of Directors and does not include any other matters relating to the election of directors, including, without limitation, the election of directors nominated by any stockholder of the Company.

## Recommendation of the Board

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE *FOR* ELECTION OF THE FOREGOING NOMINEES TO SERVE AS MEMBERS OF THE DESIGNATED CLASSES OF THE BOARD OF DIRECTORS**

Unless a proxy is marked to give a different direction, the persons named in the proxy will vote *FOR* each of the foregoing nominees to serve as a member of the designated class of the Board of Directors.



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## **PROPOSAL 2**

# **RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Audit Committee of the Board of Directors has retained the firm of Ernst & Young LLP ( Ernst & Young ), to serve as the Company's independent registered public accounting firm for the fiscal year ending January 27, 2013.

Ernst & Young has served as the Company's independent registered public accounting firm since 2009. The Audit Committee reviewed and discussed the performance of Ernst & Young for the fiscal year ending January 29, 2012 and its selection of Ernst & Young to serve as the Company's independent registered public accounting firm for our 2012 fiscal year. As a matter of good corporate governance, the Audit Committee has determined to submit its selection to the Company's stockholders for ratification. Even if the selection of Ernst & Young is ratified, the Audit Committee in its discretion may select a different independent registered public accounting firm at any time during the year, if it determines that such a change would be in the best interests of the Company and its stockholders.

If the appointment of Ernst & Young as our independent registered public accounting firm for our 2012 fiscal year is not ratified by the stockholders, the adverse vote will be considered a direction to the Audit Committee to consider another independent registered public accounting firm for next year. However, because of the difficulty in making any substitution of our independent registered public accounting firm so long after the beginning of the current year, the appointment for our 2012 fiscal year will stand, unless the Audit Committee finds other good reason for making a change.

### **Pre-Approval Policy**

The Audit Committee of the Board of Directors has implemented procedures under the Company's Audit Committee Pre-Approval Policy for Audit and Non-Audit Services (the Pre-Approval Policy ) to ensure that all audit and permitted non-audit services to be provided to the Company have been pre-approved by the Audit Committee. Specifically, the Audit Committee pre-approves the use of the Company's independent registered public accounting firm for specific audit and non-audit services, within approved monetary limits. If a proposed service has not been pre-approved pursuant to the Pre-Approval Policy, then it must be specifically pre-approved by the Audit Committee before the service may be provided by the Company's independent registered public accounting firm. Any pre-approved services exceeding the pre-approved monetary limits require specific approval by the Audit Committee. For the 2011 fiscal year, all of the Audit Fees were approved by the Audit Committee pursuant to the Pre-Approval Policy. All of the other fees billed by Ernst & Young to the Company for the 2011 fiscal year were approved by the Audit Committee by means of specific pre-approvals. All non-audit services provided in the 2011 fiscal year were reviewed with the Audit Committee, which concluded that the provision of such services by Ernst & Young was compatible with the maintenance of that firm's independence in the conduct of its auditing functions. For additional information concerning the Audit Committee and its activities with Ernst & Young, see *Our Board of Directors and its Committees* and *Report of the Audit Committee of the Board of Directors*.

### **Fees Paid to Ernst & Young**

The following table shows the aggregate fees for professional services rendered by Ernst & Young to the Company

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during the fiscal year ended January 29, 2012 (fiscal 2011), during the thirty-day Transition Period from January 1 to January 30, 2011 ( 2011T ), and during the fiscal year ended December 31, 2010.

	2011	2011T	2010
Audit Fees	\$ 884,974	\$ 106,641	\$ 921,758
Audit-Related Fees	\$	\$	\$ 156,227
Tax Fees	\$	\$	\$
All Other Fees	\$ 1,995	\$	\$
Total	\$ 886,969	\$ 106,641	\$ 1,077,985

**Audit Fees**

Audit Fees for both years consist of fees for professional services associated with the annual financial statements audit and accounting consultations. Audit Fees for 2011 also include services in connection with regulatory filings, including filings associated with the Company's public offering completed in May, 2011.

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**Audit-Related Fees**

There were no Audit-Related Fees for 2011.

**Tax Fees**

There were no tax fees for the periods presented.

**All Other Fees**

All Other Fees for 2011 consist of \$1,995 for access to an on-line research tool provided by Ernst & Young.

**Attendance of Representative of Ernst & Young at the Annual Meeting**

We expect that a representative of Ernst & Young will attend the Annual Meeting, and the representative will have an opportunity to make a statement if he or she so desires. The representative will also be available to respond to appropriate questions from stockholders.

**Recommendation of the Board**

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR  
THE RATIFICATION OF THE APPOINTMENT OF ERNST & YOUNG AS  
THE COMPANY'S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM  
FOR OUR 2012 FISCAL YEAR.**

Unless a proxy is marked to give a different direction, the persons named in the proxy will vote FOR the ratification of the appointment of Ernst & Young as the Company's independent registered public accounting firm for our 2012 fiscal year.

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## **PROPOSAL 3**

### **ADVISORY VOTE ON EXECUTIVE COMPENSATION**

Pursuant to Section 14A of the Securities Exchange Act of 1934, as added by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, known as the Dodd-Frank Act, this proposal, commonly known as a say-on-pay proposal, gives our stockholders the opportunity to vote to approve or not approve, on an advisory basis, the compensation of our named executive officers. This vote is not intended to address any specific item of compensation or the compensation of any particular officer, but rather the overall compensation of our named executive officers and our compensation philosophy, policies and practices. At the Company's annual meeting of stockholders in 2011, a majority of the stockholders voted to hold an advisory vote on executive compensation every year, as recommended by the Board of Directors.

As discussed below under *Compensation Discussion and Analysis*, we believe that our executive compensation programs emphasize sustainable growth through a pay-for-performance orientation and a commitment to both operational and organizational execution. We believe that our compensation program for our named executive officers has helped us achieve our strong strategic and financial performance.

Accordingly, we are asking our stockholders to vote **FOR** the following resolution at our Annual Meeting:

RESOLVED, that The Fresh Market, Inc.'s stockholders approve, on an advisory basis, the compensation of the Company's named executive officers, as disclosed pursuant to the SEC's compensation disclosure rules (which disclosure includes the Compensation Discussion and Analysis, the compensation tables and the narrative disclosures that accompany the compensation tables).

The vote is advisory, and therefore not binding on the Company, the Compensation Committee or our Board of Directors. However, our Board of Directors and our Compensation Committee value the opinions of our stockholders. In accordance with SEC regulations, we will disclose the extent to which the Board of Directors and Compensation Committee took into account the results of the vote in next year's proxy statement.

### **Recommendation of the Board**

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE **FOR** THE APPROVAL OF, ON AN ADVISORY BASIS, THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS AS DISCLOSED IN THIS PROXY STATEMENT.**

Unless a proxy is marked to give a different direction, the persons named in the proxy will vote **FOR** the approval of the compensation of the Company's named executive officers as disclosed in this proxy statement.

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## **PROPOSAL 4**

# **APPROVAL OF THE 2010 OMNIBUS INCENTIVE COMPENSATION PLAN FOR PURPOSES OF INTERNAL REVENUE CODE SECTION 162(m)**

On November 4, 2010, prior to our initial public offering, the Board of Directors and stockholders of the Company approved The Fresh Market, Inc. 2010 Omnibus Incentive Compensation Plan (the "Omnibus Plan"). The public company stockholders are being asked to approve the currently effective Omnibus Plan at the Annual Meeting so that the Company's federal income tax deduction for compensation paid under the currently effective Omnibus Plan to certain executive officers will not be limited under Section 162(m) of the Internal Revenue Code of 1986, as amended ("Section 162(m)"). Section 162(m) imposes an annual deduction limit of \$1 million on the amount of compensation paid to each of the CEO and the three other highest compensated executive officers of the Company, not including the chief financial officer. The deduction limit does not apply to performance-based compensation that satisfies the requirements of Section 162(m). The Company is currently eligible for a post-IPO transition rule under which amounts paid under the Omnibus Plan may be exempt from the deduction limitations of Section 162(m). To help facilitate the continued deductibility of compensation paid under the Omnibus Plan following the end of the transition period, which benefits the Company and its stockholders, the Company is seeking stockholder approval of the Omnibus Plan for purposes of compliance with Section 162(m). No amendments or modifications to the Omnibus Plan are being proposed.

*Effect of Proposal.* The public company stockholders are not being asked to approve amendments or modifications to the currently effective Omnibus Plan. The sole effect of the public company stockholders' approval of the Omnibus Plan will be to help facilitate the tax deductibility of compensation paid under the Omnibus Plan in its current form.

Set forth below is a summary of the currently effective Omnibus Plan, which is qualified in its entirety by the specific language of the Omnibus Plan, a copy of which is attached to this Proxy Statement as Exhibit A.

The purpose of the currently effective Omnibus Plan is to promote the interests of the company and our stockholders by (i) attracting and retaining exceptional directors, officers, employees and consultants (including prospective directors, officers, employees and consultants) and (ii) enabling such individuals to participate in our long-term growth and financial success.

## **Summary of the Omnibus Plan**

*Types of Awards.* The Omnibus Plan provides for the grant of options intended to qualify as incentive stock options ("ISOs") under Section 422 of the Internal Revenue Code of 1986, as amended (the "Code"), nonqualified stock options ("NSOs"), stock appreciation rights ("SARs"), restricted share awards, restricted stock units ("RSUs"), performance compensation awards, cash incentive awards, deferred share units and other equity-based and equity-related awards.

*Plan Administration.* The Omnibus Plan is administered by our Board of Directors, the compensation committee of the Board of Directors or a subcommittee thereof, or such other committee our Board of Directors designates to administer the Omnibus Plan (the "Committee"). Subject to the terms of the Omnibus Plan and applicable law, the Committee has discretion to administer the Omnibus Plan, including, but not limited to, the authority to (i) designate participants, (ii) determine the type or types of awards to be granted to a participant, (iii) determine the number of

common shares to be covered by, or with respect to which payments, rights or other matters are to be calculated in connection with, awards, (iv) determine the terms and conditions of any awards, (v) determine the vesting schedules of awards and, if certain performance criteria must be attained in order for an award to vest or be settled or paid, establish such performance criteria and certify whether, and to what extent, such performance criteria have been attained, (vi) determine whether, to what extent and under what circumstances awards may be settled or exercised in cash, common shares, other securities, other awards or other property, or canceled, forfeited or suspended and the method or methods by which awards may be settled, exercised, canceled, forfeited or suspended, (vii) determine whether, to what extent and under what circumstances cash, common shares, other securities, other awards, other property and other amounts payable with respect to an award shall be deferred either automatically or at the election of the holder thereof or of the Committee, (viii) interpret, administer, reconcile any inconsistency in, correct any default in and/or supply any omission in, the Omnibus Plan and any instrument or agreement relating to, or

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award made under, the Omnibus Plan, (ix) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Omnibus Plan, (x) accelerate the vesting or exercisability of, payment for or lapse of restrictions on, awards and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Omnibus Plan.

Subject to adjustment for changes in capitalization, the maximum aggregate number of shares of our common stock that may be delivered pursuant to awards granted under the Omnibus Plan is equal to 3,500,000 (the Plan Share Limit ), of which 3,500,000 common shares may be delivered pursuant to ISOs granted under the Omnibus Plan (the Plan ISO Limit ). Awards that are required to be settled in cash do not reduce the Plan Share Limit. If any award granted under the Omnibus Plan is forfeited, or otherwise expires, terminates or is canceled without the delivery of all common shares subject thereto, or is settled other than wholly by the delivery of shares of common stock (including, without limitation, cash settlement), then, in each case, the number of shares subject to such award that were not issued with respect to such award are not treated as issued under the Omnibus Plan and the Plan Share Limit is increased by such number of shares. Further, the Plan Share Limit is increased as a result of the surrender or tender of shares of common stock in payment of the exercise price of an award or any taxes required to be withheld in respect of an award; however, the Plan ISO Limit is not increased. With respect to awards intended to qualify as qualified performance-based compensation for purposes of Section 162(m) of the Code, subject to adjustment for changes in capitalization, (i) in the case of awards that are settled in shares of common stock, the maximum number of shares that are available to be granted to any participant in any year under the Omnibus Plan is 500,000 (the Annual Individual Plan Share Limit ), and (ii) in the case of awards that are settled in cash based on the fair market value of a share, the maximum aggregate amount of cash that may be paid pursuant to awards granted to any participant in any year under the Omnibus Plan is equal to the per-share fair market value as of the relevant vesting, payment or settlement date multiplied by the Annual Individual Plan Share Limit. In the case of all awards other than those described in the preceding sentence, the maximum aggregate amount of cash and other property (valued at its fair market value) other than common shares that may be paid or delivered pursuant to awards under the Omnibus Plan to any participant in any fiscal year is equal to \$4,000,000.

*Changes in Capitalization.* In the event of any extraordinary dividend or other extraordinary distribution, recapitalization, rights offering, stock split, reverse stock split, split-up or spin-off affecting the shares of common stock, the Committee will make adjustments and other substitutions to awards under the Omnibus Plan in the manner it determines to be appropriate or desirable. In the event of any reorganization, merger, consolidation, combination, repurchase or exchange of our common stock or other similar corporate transactions, the Committee in its discretion is permitted to make such adjustments and other substitutions to the Omnibus Plan and awards under the Omnibus Plan as it deems appropriate or desirable.

*Substitute Awards.* Subject to prohibitions on repricing , the Committee is permitted to grant awards in assumption of, or in substitution for, outstanding awards previously granted by us or any of our affiliates or a company that we acquired or with which we combined. Any shares of common stock issued by us through the assumption of or substitution for outstanding awards granted by a company that we acquired would not reduce the aggregate number of shares available for awards under the Omnibus Plan, except that awards issued in substitution for ISOs would reduce the Plan ISO Limit.

*Source of Shares.* Any shares issued under the Omnibus Plan consist, in whole or in part, of authorized and unissued shares of common stock or of treasury shares.

*Eligible Participants.* Any director, officer, employee or consultant (including any prospective director, officer, employee or consultant) of us or our affiliates is eligible to participate in the Omnibus Plan. We currently expect that awards will be generally limited to approximately 8,500 employees and non-employee directors (of whom there are

currently eligible directors).

*Stock Options.* The Committee is permitted to grant both ISOs and NSOs under the Omnibus Plan. The exercise price for options is not less than the fair market value (as defined in the Omnibus Plan) of common stock on the grant date. The Committee will not reprice any option granted under the Omnibus Plan without the approval of our stockholders.

All options granted under the Omnibus Plan are NSOs unless the applicable



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award agreement expressly states that the option is intended to be an ISO. Under the Omnibus Plan, all ISOs and NSOs will be intended to qualify as performance-based compensation under Section 162(m) of the Code, unless otherwise determined by the Committee. Subject to the provisions of the Omnibus Plan and the applicable award agreement, the Committee will determine, at or after the grant of an option, the vesting criteria, term, methods of exercise, methods and form of settlement and any other terms and conditions of any option.

Subject to the applicable award agreement, options vest and become exercisable with respect to 25% of the common shares subject to such options on each of the first four anniversaries of the grant date. Unless otherwise set forth in the applicable award agreement, each option expires upon the earlier of (a) the tenth anniversary of the date the option was granted and (b) three months after the participant who was holding the option ceases to be a director, officer, employee or consultant for us or one of our affiliates. The exercise price is permitted to be paid (1) with cash (or its equivalent), (2) in the discretion of the Committee, (i) with previously acquired common shares, (ii) through delivery of irrevocable instructions to a broker to sell our common stock otherwise deliverable upon the exercise of the option (provided that there was a public market for our common stock at such time) or (iii) by having us withhold common stock otherwise issuable pursuant to exercise of the option or (3) any other method or combination of methods approved by the Committee, provided that the combined value of all cash and cash equivalents and the fair market value of any such shares of common stock so tendered to us as of the date of such tender, together with any such shares withheld by us in respect of taxes relating to an option, is at least equal to such aggregate exercise price.

*Stock Appreciation Rights.* The Committee is permitted to grant SARs under the Omnibus Plan. The exercise price for SARs is not less than the fair market value (as defined in the Omnibus Plan) of our common stock on the grant date. The Committee will not reprice any SAR granted under the Omnibus Plan without the approval of our stockholders. Upon exercise of a SAR, the holder receives cash, common shares, other securities, other awards, other property or a combination of any of the foregoing, as determined by the Committee, equal in value to the excess, if any, of the fair market value of a share of common stock on the date of exercise of the SAR over the exercise price of the SAR. Under the Omnibus Plan, all SARs will be intended to qualify as performance-based compensation under Section 162(m) of the Code, unless otherwise determined by the Committee. Subject to the applicable award agreement, SARs vest and become exercisable with respect to 25% of the common shares subject to such SARs on each of the first four anniversaries of the grant date. Unless otherwise set forth in the applicable award agreement, each SAR expires upon the earlier of (a) the tenth anniversary of the date the SAR was granted and (b) three months after the participant who was holding the SAR ceases to be a director, officer, employee or consultant for us or one of our affiliates. Subject to the provisions of the Omnibus Plan and the applicable award agreement, the Committee will determine, at or after the grant of a SAR, the vesting criteria, term, methods of exercise, methods and form of settlement and any other terms and conditions of any SAR. No SAR granted under the Omnibus Plan can be exercised more than ten years after the date of grant.

*Restricted Shares and Restricted Stock Units.* Subject to the provisions of the Omnibus Plan, the Committee is permitted to grant restricted shares and RSUs. Restricted shares and RSUs are not permitted to be sold, assigned, transferred, pledged or otherwise encumbered except as provided in the Omnibus Plan or the applicable award agreement. Restricted shares may be evidenced in such manner as the Committee may determine.

An RSU will be granted with respect to a specified number of shares or have a value equal to the fair market value of one such common share. Subject to the applicable award agreement, restricted shares and RSUs vest and become exercisable with respect to 25% of the common shares subject to such restricted shares and RSUs on each of the first four anniversaries of the grant date. Upon the lapse of restrictions applicable to an RSU, the RSU may be paid in cash, common shares, other securities, other awards or other property, as determined by the Committee, or in accordance with the applicable award agreement. In connection with each grant of restricted shares, except as provided in the applicable award agreement, the holder is entitled to the rights of a stockholder in respect of such restricted shares,

including the right to vote and receive dividends. The Committee is permitted to, on such terms and conditions as it may determine, provide a participant who holds RSUs with dividend equivalents, payable in cash, common shares, other securities, other awards or other property. If a restricted share or RSU is intended to qualify as performance-based compensation under

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Section 162(m) of the Code, the requirements described below in Performance Compensation Awards are required to be satisfied in order for such restricted share or RSU to be granted or vest.

*Other Stock-Based Awards.* Subject to the provisions of the Omnibus Plan, the Committee is permitted to grant to participants other equity-based or equity-related compensation awards, including vested stock. The Committee is permitted to determine the amounts and terms and conditions of any such awards.

*Cash Incentive Awards.* Subject to the provisions of the Omnibus Plan, the Committee is permitted to grant cash incentive awards payable upon the attainment of performance goals. Subject to the provisions of the Omnibus Plan and the applicable award agreement, the Committee will determine the conditions under which cash incentive awards would vest or be forfeited.

*Performance Compensation Awards.* The Committee is permitted to designate any award granted under the Omnibus Plan (other than ISOs, NSOs and SARs) as a performance compensation award in order to qualify such award as performance-based compensation under Section 162(m) of the Code. Awards designated as performance compensation awards are subject to the following additional requirements:

*Recipients of Performance Compensation Awards.* The Committee will, in its discretion, designate within the first 90 days of a performance period (or, if shorter, within the maximum period allowed under Section 162(m) of the Code) the participants who will be eligible to receive performance compensation awards in respect of such performance period. The Committee will also determine the length of performance periods, the types of awards to be issued, the performance criteria that will be used to establish the performance goals, the kinds and levels of performance goals and any performance formula used to determine whether a performance compensation award has been earned for the performance period.

*Performance Criteria Applicable to Performance Compensation Awards.* The performance criteria will be limited to the following: (1) share price, (2) net income or earnings before or after taxes (including earnings before interest, taxes, depreciation and/or amortization), (3) operating income, (4) earnings per share (including specified types or categories thereof), (5) cash flow (including specified types or categories thereof), (6) cash flow return on capital, (7) revenues (including specified types or categories thereof), (8) return measures (including specified types or categories thereof), (9) sales or product volume, (10) inventory turns, (11) working capital, (12) gross or net profitability/profit margins, (13) objective measures of productivity or operating efficiency, (14) costs (including specified types or categories thereof), (15) budgeted expenses (operating and capital), (16) market share (in the aggregate or by segment), (17) level or amount of acquisitions, (18) economic value-added, (19) enterprise value, (20) book value, (21) customer satisfaction survey results, (22) objective measures related to store openings, relocating and remodelings (including number, cost, timeline, productivity and operating efficiency) and (23) objective measures related to lease arrangements (including number, cost and timeline). These performance criteria are permitted to be applied on an absolute basis or be relative to one or more peer companies or indices or any combination thereof or, if applicable, be computed on an accrual or cash accounting basis. To the extent required under Section 162(m) of the Code, the Committee will, within the first 90 days of the applicable performance period (or, if shorter, within the maximum period allowed under Section 162(m) of the Code), define in an objective manner the method of calculating the performance criteria it selects to use for the performance period.

*Modification of Performance Goals.* The Committee is permitted to adjust or modify the calculation of performance goals for a performance period in the event of, in anticipation of, or in recognition of, any unusual or extraordinary corporate item, transaction, event or development or any other unusual or nonrecurring events affecting the company, any of its affiliates, subsidiaries, divisions or operating units (to the extent applicable to such performance goal) or its financial statements or the financial statements of any of its affiliates, or changes in applicable rules, rulings, regulations or other requirements of any governmental body or securities exchange, accounting principles, law or business conditions, so long as that adjustment or modification does not cause the performance compensation award

to fail to qualify as performance-based compensation under Section 162(m) of the Code.  
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*Requirements to Receive Payment for 162(m) Awards.* Except as both otherwise permitted by Section 162(m) of the Code and as determined in the discretion of the Committee, in order to be eligible for payment in respect of a performance compensation award for a particular performance period, participants are required to be employed by us on the last day of the performance period, the performance goals for such period are required to be satisfied and certified by the Committee and the performance formula is required to determine that all or some portion of the performance compensation award has been earned for such period.

*Negative Discretion.* The Committee is permitted to, in its discretion, reduce or eliminate the amount of a performance compensation award earned in a particular performance period, even if applicable performance goals have been attained.

*Limitations on Committee Discretion.* Except as otherwise permitted by Section 162(m) of the Code, in no event may any discretionary authority granted to the Committee under the Omnibus Plan be used to grant or provide payment in respect of performance compensation awards for which performance goals have not been attained, increase a performance compensation award for any participant at any time after the first 90 days of the performance period (or, if shorter, within the maximum period allowed under Section 162(m) of the Code) or increase a performance compensation award above the maximum amount payable under the underlying award.

*Amendment and Termination of the Omnibus Plan.* Subject to any applicable law or government regulation, to any requirement that must be satisfied if the Omnibus Plan is intended to be a stockholder approved plan for purposes of Section 162(m) of the Code and to the rules of The NASDAQ Stock Market, the Omnibus Plan is permitted to be amended, modified or terminated by our Board of Directors without the approval of our stockholders, except that stockholder approval is required for any amendment that would (a) increase the Plan Share Limit or the Plan ISO Limit, (b) change the class of employees or other individuals eligible to participate in the Omnibus Plan or (c) allow repricing without stockholder approval. No modification, amendment or termination of the Omnibus Plan that is adverse to a participant will be effective without the consent of the affected participant, unless otherwise provided by the Committee in the applicable award agreement.

The Committee is permitted to waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate any award previously granted, prospectively or retroactively. However, unless otherwise provided by the Committee in the applicable award agreement or in the Omnibus Plan, any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely impair the rights of any participant to any award previously granted will not to that extent be effective without the consent of the affected participant.

*Change of Control.* The Omnibus Plan provides that, unless otherwise provided in an award agreement, in the event of a change of control of the company, unless provision was made in connection with the change of control for assumption of, or substitution for, awards previously granted:

any options and SARs outstanding as of the date the change of control is determined to have occurred will become fully exercisable and vested, as of five days prior to the change of control;  
all cash incentive awards and other awards designated as performance compensation awards will be paid out as if the date of the change of control were the last day of the applicable performance period and target performance levels had been attained; and  
all other outstanding awards will automatically be deemed exercisable or vested and all restrictions and forfeiture provisions related thereto will lapse as of immediately prior to such change of control.

Unless otherwise provided pursuant to an award agreement, a change of control is defined to mean any of the following events, generally:

during any period of 24 consecutive calendar months, a change in the composition of a majority of our board of directors, as constituted on the first day of such period, that is not supported by a majority of the incumbent Board of

Directors;  
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consummation of certain mergers or consolidations of the Company with any other corporation following which our stockholders hold 50% or less of the combined voting power of the surviving entity; our stockholders approve a plan of complete liquidation or dissolution of the Company unless such liquidation or dissolution is part of a transaction or series of transactions described in the preceding bullet; or certain acquisitions by any individual, entity or group (other than the Berry family) of beneficial ownership of a percentage of the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors that is equal to or greater than 20%.

*Term of the Omnibus Plan.* No award is permitted to be granted under the Omnibus Plan after the tenth anniversary of the date the Omnibus Plan was approved by our stockholders.

*Compensation Recoupment Policy.* All performance-based awards under the Omnibus Plan to persons holding the title of Vice President or a more senior title and attributable to periods beginning on or after January 1, 2011 are subject to The Fresh Market, Inc. Compensation Recoupment Policy.

## **Recommendation of the Board**

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE *FOR*  
THE APPROVAL OF THE CURRENTLY EFFECTIVE 2010 OMNIBUS INCENTIVE  
COMPENSATION PLAN.**

Unless a proxy is marked to give a different direction, the persons named in the proxy will vote **FOR** the approval of The Fresh Market, Inc. 2010 Omnibus Incentive Compensation Plan.

TABLE OF CONTENTS**DIRECTORS AND EXECUTIVE OFFICERS**

Assuming the election of the nominees to our Board of Directors pursuant to Proposal 1, relating to the election of directors, the following table sets forth the directors and executive officers of the Company, their ages, and the positions currently held by each such person with the Company. The biographical description below for each director nominee includes the specific experience, qualifications, attributes and skills that led to the conclusion by the Board of Directors that such person should serve as a director of the Company. The biographical description of each director who is not standing for election includes the specific experience, qualifications, attributes and skills that the Board of Directors would expect to consider if it were making a conclusion currently as to whether such person should serve as a director. The Board of Directors did not currently evaluate whether these directors should serve as directors, as the terms for which they have been previously elected continue beyond the Annual Meeting.

The business address of all of the executive officers and directors of the Company is 628 Green Valley Road, Suite 500, Greensboro, North Carolina 27408.

Name	Age	Position(s)
Ray Berry	71	Chairman of the Board
Brett Berry	45	Vice Chairman of the Board
Craig Carlock	45	Director (nominee); President and Chief Executive Officer
Jeffrey Naylor	53	Director
Richard Noll	54	Director
David Rea	51	Director
Bob Sasser	60	Director
Steven Tanger	63	Director (nominee)
Jane Thompson	60	Director (nominee)
Michael Tucci	51	Director
Lisa Klinger	45	Executive Vice President and Chief Financial Officer
Sean Crane	44	Executive Vice President and Chief Operating Officer
Scott Duggan	46	Senior Vice President    General Counsel
Marc Jones	40	Senior Vice President    Merchandising and Marketing
Randy Kelley	41	Senior Vice President    Real Estate and Development

## **Backgrounds of Current Executive Officers and Directors and Nominees for Election as Directors**

Set forth below is information concerning the current executive officers and directors identified above.

*Ray Berry* is the founder of The Fresh Market, has served as Chairman of our Board of Directors since he founded the Company in 1981 and served as our President and Chief Executive Officer from 1981 until 2007. Prior to starting the Company, Mr. Ray Berry held positions at numerous grocery and retail companies, including Vice President of Stores at The Southland Corporation (former parent of 7-Eleven) where he was responsible for the operations of nearly 4,000 7-Eleven stores. Mr. Ray Berry received a B.A. in Psychology from San Diego State University and also completed the Stanford Executive Program at the Stanford Graduate School of Business. Mr. Ray Berry is the father of Mr. Brett Berry, who is also a member of our Board of Directors.



We believe Mr. Ray Berry's qualifications to serve on our Board of Directors include his knowledge of our company and the food retail industry and his years of leadership at our company.

*Brett Berry* has served as Vice Chairman of our Board of Directors since March 2009 and has been a director since December 1985. Mr. Brett Berry served as our President and Chief Executive Officer from January 2007 until January 2009. He joined the Company as an employee in 1998 and has held various positions in the marketing and operations departments, including Chief Operating Officer, Executive Vice President of Operations and Vice President of Marketing. Prior to joining the Company, Mr. Brett Berry was a consultant with Mercer Management Consulting (now Oliver Wyman Group). Mr. Brett Berry received a Masters in Business Administration from the Wharton School of Business, a J.D. from the University of North Carolina School of Law, and an A.B. in English from Davidson College. Mr. Brett Berry is the son of Mr. Ray Berry, who is also a member of our board of directors.

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We believe Mr. Brett Berry's qualifications to serve on our board of directors include his knowledge of our company and the food retail industry and his extensive management experience at our company.

*Jeffrey Naylor* has served as a member of our Board of Directors since our initial public offering in November 2010. Since January 2012, Mr. Naylor has served as Senior Executive Vice President, Chief Administrative Officer of The TJX Companies, Inc. Mr. Naylor has worked at The TJX Companies, Inc. since 2004, serving as Senior Executive Vice President, Chief Financial and Administrative Officer from February 2009 to January 2012, Senior Executive Vice President, Chief Administrative and Business Development Officer from June 2007 to February 2009, Chief Financial and Administrative Officer from September 2006 to June 2007, and Senior Executive Vice President, Chief Financial Officer from 2004 to September 2006. Mr. Naylor received a Masters in Management from the J.L. Kellogg Graduate School of Management, Northwestern University and a B.A. in Economics and Political Science from Northwestern University.

We believe Mr. Naylor's qualifications to serve on our Board of Directors include his executive management experience, his financial and accounting expertise and his extensive experience in the retail industry.

*Craig Carlock* is a nominee for election to our Board of Directors and has served as our President and Chief Executive Officer since January 2009. Mr. Carlock served as our Senior Vice President and Chief Operating Officer from January 2007 until January 2009. He joined the Company in 1999 and previously served as Director of Marketing, Vice President of Marketing and Senior Vice President of Operations. Before joining the Company, Mr. Carlock worked at Procter & Gamble in various finance positions for six years. Mr. Carlock received a Masters in Business Administration from the University of Virginia's Darden School and a B.A. in Economics from Davidson College.

We believe Mr. Carlock's qualifications to serve on our Board of Directors include his knowledge of our company and the food retail industry and his extensive management experience at our company.

*Richard Noll* has served as a member of our Board of Directors since August 2011. Mr. Noll is the Chairman of the Board of Directors and Chief Executive Officer of Hanesbrands Inc. (Hanesbrands). He has served as Chairman of the Board of Directors of Hanesbrands since January 2009, as its Chief Executive Officer since April 2006 and as a director of Hanesbrands since September 2005. From December 2002 until the completion of the spin off of Hanesbrands from Sara Lee Corporation (Sara Lee) in September 2006, he also served as a Senior Vice President of Sara Lee. From July 2005 to April 2006, Mr. Noll served as President and Chief Operating Officer of Sara Lee Branded Apparel. Mr. Noll served as Chief Executive Officer of Sara Lee Bakery Group from July 2003 to July 2005 and as the Chief Operating Officer of Sara Lee Bakery Group from July 2002 to July 2003. From 1992 to 2002, Mr. Noll held a number of management positions with increasing responsibilities while employed by Sara Lee Branded Apparel. Mr. Noll received a Masters in Business Administration from Carnegie Mellon University and a B.S. in Business Administration from Pennsylvania State University.

We believe Mr. Noll's qualifications to serve on our Board of Directors include his executive management experience as a chief executive officer of a company that focuses on consumer products, his experience with strategic and branding initiatives and his prior experience in a food production business.

*David Rea* has served as a member of our Board of Directors since our initial public offering in November 2010. From January 2007 to March 2008, Mr. Rea served as Senior Vice President and Chief Financial Officer of Sally Beauty Holdings, Inc. From 2000 to 2006, Mr. Rea worked at La Quinta Corporation and La Quinta Properties, Inc., owners/operators of limited-service hotels, serving as President and Chief Operating Officer from February 2005 to January 2006 and Executive Vice President and Chief Financial Officer from June 2000 to February 2005. Prior to joining La Quinta, Mr. Rea held various finance related positions, including positions at T. Rowe Price Associates.

Mr. Rea received a Masters in Business Administration from the Amos Tuck School of Business Administration, Dartmouth College and a B.A. from Colgate University.

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We believe Mr. Rea's qualifications to serve on our Board of Directors include his executive management experience, his financial expertise and his extensive experience in real estate related businesses.

*Bob Sasser* has served as a member of our Board of Directors since March 2012. He has served since 2004 as Chief Executive Officer and director and since 2001 as President of Dollar Tree, Inc., where he also served as Chief Operating Officer from 1999 to 2004. Previously, he held executive and management positions at Roses Stores, Inc. and Michael's Stores, Inc. Mr. Sasser received a B.S. in Marketing from Florida State University.

We believe Mr. Sasser's qualifications to serve on our Board of Directors include his executive management experience as a chief executive officer of a retail company, his experience with a high-growth retailer, and his total of thirty-nine years of retail experience.

*Steven Tanger* is a nominee for election to our Board of Directors. Mr. Tanger has served as the President and Chief Executive Officer of Tanger Factory Outlet Centers, Inc. since January 2009 and as a director of Tanger Family Outlet Centers, Inc. since 1993. He previously held executive positions with Tanger Family Outlet Centers, Inc. as President and Chief Operating Officer from January 1995 to December 2008, and as Executive Vice President from 1986 to December 1994. He has a total of forty-two years of experience in commercial real estate. Mr. Tanger received a B.S. in Business Administration from the University of North Carolina, Chapel Hill.

We believe Mr. Tanger's qualifications to serve on our Board of Directors include his executive management experience with a publicly traded company and his substantial experience in real estate and real estate-related businesses.

*Jane Thompson* is a nominee for election to our Board of Directors. Ms. Thompson is the founder and CEO of Jane J. Thompson Financial Services LLC. Ms. Thompson served as President of Walmart Financial Services from May 2002 to June 2011. Previously, she led the Sears Credit, Sears Home Services, and Sears Online groups within Sears, Roebuck & Company, and was a partner with McKinsey & Company, Inc. advising consumer companies. She served on the Board of Directors and the Audit Committee of ConAgra Foods, Inc. from 1995 to 1999. Ms. Thompson received a Masters in Business Administration from Harvard Business School and a B.B.A. in Marketing from the University of Cincinnati.

We believe Ms. Thompson's qualifications to serve on our Board of Directors include her extensive management experience with large, publicly-traded retail businesses and her understanding of consumer marketing, branding and finance.

*Michael Tucci* has served as a member of our Board of Directors since December 2011. Since 2003, he has served as President, Retail Division - North America for Coach, Inc. Prior to joining Coach, Mr. Tucci held senior executive positions at The Gap, Inc., and Macy's, Inc. Mr. Tucci holds a B.A. in English from Trinity College.

We believe Mr. Tucci's qualifications to serve on our Board of Directors include his executive management, operations, including store operations, and merchandising experience with a high-growth retail company.

*Lisa Klinger* has served as our Executive Vice President and Chief Financial Officer since March 2009. Prior to joining the Company, Ms. Klinger served as interim Chief Financial Officer during 2008 and Senior Vice President - Finance and Treasurer from May 2005 to March 2009 of Michaels Stores and Assistant Treasurer at Limited Brands from August 2000 to May 2005. She received a B.S. from Bowling Green State University.

*Sean Crane* has served as our Executive Vice President and Chief Operations Officer since January 2012. Mr. Crane previously served as our Senior Vice President – Store Operations from 2006 until 2012 and as our Senior Vice President – Real Estate and Development from 2005 until 2006. He joined the Company in 2001 and previously served as Controller, Director of Real Estate, Vice President – Real Estate and Vice President – Real Estate and Development. Prior to joining the Company, Mr. Crane held various management positions in accounting and finance with Grand Union, Neiman Marcus and Office Depot. Mr. Crane is a Certified Public Accountant and received a Masters in Business Administration from the University of North Carolina at Chapel Hill and a B.B.A. in accounting from Florida Atlantic University.

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*Scott Duggan* has served as our Senior Vice President – General Counsel since September 2010. Prior to joining the Company Mr. Duggan was a Partner at Goodwin Procter LLP. He received a J.D. from Boston University School of Law and a B.S. from The University of Maine.

*Marc Jones* has served as our Senior Vice President – Marketing and Merchandising since December 2009. Mr. Jones served as our Vice President – Marketing and Merchandising from February to December 2009. He joined the Company in 2006 and previously served as Director of Merchandising (Non-Perishables) and Vice President – Marketing (Non-Perishables). Prior to joining the Company, Mr. Jones was a Vice President at Daymon Worldwide. He received a Masters in Business Administration from Harvard Business School and two B.A.s from Queens University.

*Randy Kelley* has served as our Senior Vice President – Real Estate and Development since May 2008. Mr. Kelley served as our Vice President – Real Estate from February 2006 until May 2008. He joined the Company in 2004 and previously served as a Real Estate Manager and Director of Real Estate. Prior to joining the Company, Mr. Kelley worked with ePLUS Technologies and held various positions at First Union National Bank. He received a Masters in Business Administration from the University of North Carolina at Chapel Hill and a B.A. from the University of North Carolina at Charlotte.

Executive officers of the Company are elected by the Board of Directors on an annual basis and serve until their successors have been duly elected and qualified.

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# OUR BOARD OF DIRECTORS AND ITS COMMITTEES

## Board of Directors

Our business and affairs are managed under the direction of our Board of Directors. Our bylaws provide that our Board of Directors consists of a number of directors to be fixed from time to time by a resolution of the board. Our Board of Directors currently has seven members, of which five are independent. If the director nominees are elected at the Annual Meeting, the Board of Directors will have ten members, of which seven will be independent.

Our certificate of incorporation and bylaws provide for a staggered, or classified, board of directors consisting of three classes of directors, each serving staggered three-year terms. Assuming that the nominees are elected at the Annual Meeting, the classes are as follows:

the Class I directors are Richard Noll, Michael Tucci, and Craig Carlock (nominee) and their terms will expire at the annual meeting of stockholders to be held in 2014;

the Class II directors are Brett Berry, David Rea, Bob Sasser, and Steven Tanger (nominee) and their terms will expire at the annual meeting of stockholders to be held in 2015; and

the Class III directors are Ray Berry, Jeffrey Naylor, and Jane Thompson (nominee) and their terms will expire at the annual meeting of stockholders to be held in 2013.

Upon expiration of the term of a class of directors, directors for that class will be elected for a three-year term at the annual meeting of stockholders in the year in which that term expires. Each director's term continues until the election and qualification of his or her successor, or his or her earlier death, resignation or removal. Any increase or decrease in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors.

The Board of Directors held six meetings during the 2011 fiscal year.

The Board of Directors has standing Audit, Compensation and Nominating and Corporate Governance committees. Each committee has a written charter that has been approved by the Board of Directors. Each committee reviews the appropriateness of its charter at least annually.

Additional information regarding our corporate governance practices and requirements is set forth below under *Corporate Governance*.

## Committee Membership After Annual Meeting

The table below sets forth all members of the Board of Directors, assuming election of the nominees at the Annual Meeting, along with information as to whether such members are independent and the committee(s) on which we expect them to serve following the Annual Meeting. We discuss the current membership of each committee in the description of each committee that follows this table.

Director	Independent	Audit Committee	Compensation Committee	Nominating and Corporate Governance Committee
Brett Berry	No			

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Ray Berry	No			
Craig Carlock	No			
Jeffrey Naylor	Yes	Chairman		
Richard Noll	Yes		Member	Chairman
David Rea	Yes	Member	Chairman	
Bob Sasser	Yes	Member		
Steven Tanger	Yes			Member
Jane Thompson	Yes		Member	
Michael Tucci	Yes		Member	Member

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## **Audit Committee**

The Audit Committee of the Board of Directors currently consists of Messrs. Naylor (Chair), Noll and Rea. Assuming election of the nominees at the Annual Meeting, we expect the Audit Committee to consist of Messrs. Naylor (Chair), Rea and Sasser. The Board of Directors has determined that each of the foregoing Audit Committee members and prospective member meets the independence requirements promulgated by The NASDAQ Stock Market and the SEC, including Rule 10A-3(b)(1) under the Exchange Act.

In addition, the Board of Directors has determined that each member of the Audit Committee is financially literate and that Mr. Naylor qualifies as an audit committee financial expert under the current and proposed rules of the SEC. Stockholders should understand that this designation is a disclosure requirement of the SEC related to Mr. Naylor's experience and understanding with respect to certain accounting and auditing matters. The designation does not impose upon Mr. Naylor any duties, obligations or liability that are greater than are generally imposed on him as a member of the Audit Committee and the Board of Directors, and his designation as an audit committee financial expert pursuant to this SEC requirement does not affect the duties, obligations or liability of any other member of the Audit Committee or the Board of Directors.

As described more fully in its charter, the Audit Committee oversees the Company's accounting and financial reporting processes, internal controls and audit functions. In fulfilling its role, the Audit Committee:

- oversees the appointment, compensation, retention and work performed by any independent registered public accounting firms engaged by the Company;
- evaluates the Company's outside auditors' qualifications, performance and independence;
- reviews the Company's internal financial and accounting controls;
- reviews the financial reports and related disclosure provided by the Company to the SEC or the Company's stockholders;
- oversees procedures designed to improve the quality and reliability of the disclosure of the Company's financial condition and results of operations;
- oversees the Company's internal audit function, if applicable;
- reviews and approves or rejects any transactions between the Company and a related person that would require disclosure under SEC rules as described more fully under *Certain Relationships and Related Party Transactions* *Procedures for Related Party Transactions*;
- recommends, establishes and monitors procedures designed to facilitate (i) the receipt, retention and treatment of complaints relating to accounting, internal accounting controls or auditing matters, and (ii) the receipt of confidential, anonymous submissions by employees of concerns regarding questionable accounting or auditing matters; and
- determines the funding from the Company that is necessary or appropriate to carry out the Audit Committee's duties. The Audit Committee has the authority to engage its own outside counsel and advisors apart from counsel or advisors hired by management.

The Audit Committee held eleven meetings during the 2011 fiscal year, including telephonic meetings. The Audit Committee operates under a written charter adopted by the Board of Directors, a current copy of which is available in the Corporate Governance section of the Company's website at <http://ir.thefreshmarket.com>.

## **Compensation Committee**

The Compensation Committee currently consists of Messrs. Rea (Chair), Naylor and Noll. Assuming election of the nominees at the Annual Meeting, we expect the Compensation Committee to consist of Messrs. Rea (Chair), Noll and

Tucci and Ms. Thompson.

The Board of Directors has determined that each of the foregoing Compensation Committee members and prospective members is independent as defined by the rules of The NASDAQ Stock Market.

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The Compensation Committee is responsible for determining and making recommendations with respect to all forms of compensation to be granted to executive officers of the Company and producing an annual report on executive compensation for inclusion in the Company's proxy statement for its annual meeting of stockholders in accordance with applicable rules and regulations.

In fulfilling its role, the Compensation Committee also:

- establishes, and periodically reviews, a general compensation philosophy for the Company;
- reviews and makes recommendations to the Board of Directors with respect to the adoption (or submission to stockholders for approval) or amendment of incentive compensation, deferred compensation and equity-based compensation plans for the Company;
- reviews and makes recommendations to the Board of Directors with respect to all awards of equity-based compensation pursuant to the Company's equity-based compensation plans;
- evaluates each executive officer's performance in light of the Company's goals and objectives;
- recommends, subject to approval by the entire Board of Directors, each element of compensation for the Company's executive officers based upon the performance evaluation;
- appoints, retains, terminates and oversees the work of any independent experts and consultants and reviews and approves the fees and retention terms for such consultants;
- reviews and makes recommendations to the Board of Directors with respect to the Company's policies with respect to perquisites for executive officers;
- reviews and discusses with management the disclosures made in the Compensation Discussion and Analysis section of the Company's annual proxy statement and reports to the Board of Directors whether it recommends the same for inclusion in the proxy statement; and
- reviews and recommends to the Board of Directors the form and amount of director compensation (including perquisites and other benefits), and any additional compensation to be paid for service on Board committees or for service as a Chairman of a committee.

The Compensation Committee has the authority to engage its own outside counsel and advisors, including experts in particular areas of compensation, as it determines appropriate, apart from counsel or advisors hired by management. Please read the *Compensation Discussion and Analysis* included in this Proxy Statement for additional information on the compensation review process.

The Compensation Committee met eleven times, including telephonic meetings, during the 2011 fiscal year. The Compensation Committee operates under a written charter adopted by the Board of Directors, a current copy of which is available in the Corporate Governance section of the Company's website at <http://ir.thefreshmarket.com>.

## **Nominating and Corporate Governance Committee**

The Nominating and Corporate Governance Committee of the Board of Directors currently consists of Messrs. Rea (Chair), Naylor, and Noll. Assuming election of the nominees at the Annual Meeting, we expect the Nominating and Corporate Governance Committee to consist of Messrs. Noll (Chair), Tanger and Tucci.

The Board of Directors has determined that each of the foregoing Nominating and Corporate Governance Committee members and prospective members is independent as defined by the rules of The NASDAQ Stock Market.

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### The Nominating and Corporate Governance Committee:

reviews and makes recommendations to the Board of Directors regarding the Board of Directors composition and structure, and coordinates annual evaluations of the Board of Directors and its committees;

establishes criteria for membership on the Board of Directors and makes recommendations to the Board of Directors with respect to determinations of director independence.

seeks individuals who are qualified to become directors and recommends to the Board of Directors the nominees for election or re-election as directors at the Annual Meeting of Stockholders;

considers nominees recommended by stockholders for election or re-election as directors, as described in the section entitled *Considerations Governing Director Nominations*; and

develops and reviews the Company's Corporate Governance Guidelines and reviews stockholder proposals relating to corporate governance matters.

The Nominating and Corporate Governance Committee met six times during the 2011 fiscal year, including telephonic meetings. The Nominating and Corporate Governance Committee operates under a written charter adopted by the Board of Directors, a current copy of which is available at the Corporate Governance section of the Company's website at <http://ir.thefreshmarket.com>.

## **Report of the Audit Committee of the Board of Directors**

This report is submitted by the Audit Committee of the Board of Directors. The Audit Committee currently consists of Messrs. Naylor (Chair), Rea and Noll. Each of Messrs. Naylor, Rea and Noll qualifies as an audit committee financial expert under the rules of the SEC. The Board of Directors has determined that each of the Audit Committee members meets the independence requirements promulgated by The NASDAQ Stock Market and the SEC, including Rule 10A-3(b)(1) under the Exchange Act. The Board of Directors adopted a written charter for the Audit Committee in connection with the Company's initial public offering and the Audit Committee reviewed the adequacy of the charter during 2011. In accordance with the Sarbanes-Oxley Act, the Audit Committee has ultimate authority and responsibility to select, compensate, evaluate and, when appropriate, replace the Company's independent registered public accountants. The Audit Committee has the authority to engage its own outside advisors, including experts in particular areas of accounting, as it determines appropriate, apart from counsel or advisors hired by management.

During the year ended January 29, 2012, the Company's independent registered public accounting firm was Ernst & Young LLP (Ernst & Young). Ernst & Young was responsible for performing an independent audit of the Company's financial statements and of the Company's internal controls over financial reporting in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB). Ernst & Young also performed other permissible non-audit services for the Company during 2011, but did not provide any tax services.

The Audit Committee oversees the accounting and financial reporting processes of the Company and the audits of the financial statements of the Company on behalf of the Board of Directors. Management has the primary responsibility for the financial statements and the reporting process, including the Company's systems of internal controls. In fulfilling its oversight responsibilities, the Audit Committee reviewed with management the audited financial statements in the Company's Annual Report on Form 10-K for the year ended January 29, 2012, and discussed with management the quality, not just the acceptability, of the accounting principles, the reasonableness of significant estimates and judgments, critical accounting policies and accounting estimates resulting from the application of these policies, and the substance and clarity of disclosures in the financial statements, and reviewed the Company's disclosure controls and procedures and internal control over financial reporting. The Audit Committee reviewed with Ernst & Young, who is responsible for expressing an opinion on the fairness of the Company's financial statements in

conformity with accounting principles generally acceptable in the United States, Ernst & Young's judgments as to the quality, not just the acceptability, of the Company's accounting principles and such other matters as independent registered public accountants are required to discuss with the Audit Committee under auditing standards of the PCAOB. In addition, the Audit Committee has reviewed the services provided by Ernst & Young and

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discussed with Ernst & Young its independence from management and the Company, including the matters in the written disclosures required by PCAOB Rule 3526 and considered the compatibility of non-audit services with the registered public accountants' independence.

The Audit Committee met separately with Ernst & Young in its capacity as the Company's independent registered public accountants for the Company, with and without management present, to discuss the results of Ernst & Young's procedures and the overall quality of the Company's financial reporting, as applicable.

The Audit Committee has reviewed the audited financial statements of the Company at January 29, 2012 and December 31, 2010 and for each of the years in the three-year period ended January 29, 2012 and has discussed them with management. In connection with the Company's Annual Report on Form 10-K for the year ended January 29, 2012, the Audit Committee discussed with management the results of the Company's certification process relating to the certification of financial statements under Sections 302 and 906 of the Sarbanes-Oxley Act. The Audit Committee has also discussed with Ernst & Young the matters required to be discussed by Statement on Auditing Standards No. 61, as amended by AICPA, Professional Standards, Vol. 1. AU section 380 as adopted by PCAOB in Rule 3200T, as may be modified or supplemented. This discussion included, among other things, a review with management of the quality of its accounting principles, the reasonableness of significant estimates and judgments, and the clarity of disclosure in the Company's financial statements, including the disclosures related to its critical accounting policies and practices. Based on the Audit Committee's review of the financial statements and these discussions, it concluded that it would be reasonable to recommend, and on that basis did recommend, to the Board of Directors the audited financial statements be included in the Company's Annual Report on Form 10-K for the year ended January 29, 2012.

The Audit Committee monitors the activity and performance of Ernst & Young. All services provided by Ernst & Young after completion of the Company's initial public offering have been pre-approved by the Audit Committee. The Audit Committee completed an evaluation of the performance of Ernst & Young during our 2011 fiscal year. Information about Ernst & Young's fees for 2011 is discussed in this Proxy Statement under *Proposal 2 – Ratification of Appointment of Independent Registered Public Accounting Firm*.

No portion of this Audit Committee Report shall be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, through any general statement incorporating by reference in its entirety the Proxy Statement in which this report appears, except to the extent that the Company specifically incorporates this report or a portion of it by reference. In addition, this report shall not be deemed filed under either the Securities Act or the Exchange Act.

Respectfully submitted by the Audit Committee,  
Jeffrey Naylor (Chair)  
Richard Noll  
David Rea

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## **CORPORATE GOVERNANCE**

### **Controlled Company**

As a result of the completion in May 2011 of the public offering of common stock by the Berry family, we are no longer able to avail ourselves of the controlled company exception under the corporate governance rules of The NASDAQ Stock Market. Accordingly, as of May 3, 2012 the Company will be required to have a majority of independent directors on its Board of Directors and a Compensation Committee and a Nominating and Corporate Governance Committee composed entirely of independent directors as defined under the rules of The NASDAQ Stock Market, and the Company meets each such requirement. The controlled company exception did not modify the independence requirements for the Audit Committee, and therefore the Company was required to, and did, have an Audit Committee composed of at least three members, each of whom are independent, by November 5, 2011.

### **Independence of Members of the Board of Directors**

The Board of Directors has determined that each of Messrs. Naylor, Noll, Rea, Sasser and Tucci, who are currently serving as directors of the Company, and Mr. Tanger and Ms. Thompson, who are nominees for director, is independent within the meaning of the director independence standards of The NASDAQ Stock Market and the SEC, including Rule 10A-3(b)(1) under the Securities Exchange Act of 1934, as amended (the Exchange Act). In making these determinations, the Board of Directors solicited and considered information from each of the Company's directors and nominees regarding whether such director or nominee, or any member of his or her immediate family, had a direct or indirect material interest in any transactions involving the Company, was involved in a commercial or investment relationship with the Company or received personal benefits from or on behalf of the Company outside the scope of such person's normal compensation.

The Board of Directors is currently composed of a majority of five independent directors, as defined under the rules of The NASDAQ Stock Market, out of its seven directors. Assuming election of the nominees at the Annual Meeting, the Board of Directors will be composed of a majority of seven independent directors out of ten directors.

### **Board Leadership Structure**

The Company's Corporate Governance Guidelines provide the Board of Directors with flexibility to select the appropriate leadership structure at a particular time based on the specific needs of the Company's business and what is in the best interests of the Company's stockholders. The Company's Corporate Governance Guidelines provide that the Board of Directors has no established policy on whether the positions of Chairman of the Board of Directors and Chief Executive Officer, or CEO, should be held by different persons. In certain circumstances, however, the Board of Directors may determine that it is in the best interests of the Company for the same person to hold the positions of Chairman and CEO.

The Company's CEO does not presently serve on the Board of Directors, although he is a nominee for election to the Board of Directors at the Annual Meeting. The Company has currently separated the roles of Chairman and CEO. The Board of Directors believes that this leadership structure is appropriate for the Company at the current time, as it provides an appropriate balance between the two roles. The CEO is responsible for setting the strategic direction for the Company and the day-to-day leadership and performance of the Company, while the Chairman of the Board of Directors provides guidance to the CEO and sets the agenda for Board of Director meetings and presides over

meetings of the full Board of Directors. Thus, the Board of Directors believes that the current structure balances the need for the CEO to run the Company on a day-to-day basis with the benefit provided to the Company by involvement of an experienced member of the Board of Directors who has significant historical experience with the Company and its business, but no role in the day-to-day affairs of the Company.



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## **Executive Sessions of Independent Directors**

The independent directors hold executive sessions of the independent directors as needed and expect to hold executive sessions at least two times a year in connection with regularly scheduled in-person meetings of the Board of Directors. Executive sessions do not include any director of the Company who is not independent. The director who shall preside at each such independent director executive session may be chosen by the independent directors, although no standing presiding independent director has been chosen by the independent directors as no such presiding independent director has been necessary in light of the number of independent directors serving on the Board of Directors. Interested parties may communicate directly with the independent directors as a group by sending such communications to the attention of the independent directors by U.S. mail (including courier or expedited delivery service) to:

The Fresh Market, Inc.  
628 Green Valley Road  
Suite 500  
Greensboro, North Carolina 27408  
Attn: Independent Directors, c/o Secretary

## **Considerations Governing Director Nominations**

### **Board Nominees**

The Board of Directors is responsible for selecting its own members. The Board of Directors delegates the selection and nomination process to the Nominating and Corporate Governance Committee, with the expectation that other members of the Board of Directors, and of management, will be requested to take part in the process as appropriate.

The Nominating and Corporate Governance Committee recommends to the Board of Directors individual(s) as director nominee(s) who, in the opinion of the Nominating and Corporate Governance Committee, have high personal and professional integrity, who have demonstrated ability, perspective and judgment and who will be effective, in conjunction with the other nominees to and members of the Board, in collectively serving the long-term best interests of our stockholders. In evaluating the suitability of individual Board nominees, the Nominating and Corporate Governance Committee takes into account many factors, which may include general understanding of disciplines relevant to the success of a publicly traded company in today's business environment, understanding of our business and industry, professional background and leadership experience, experience on the boards of other publicly traded companies, personal accomplishment and independence, as well as whether the candidate has expressed a willingness to devote sufficient time to carrying out his or her duties and responsibilities effectively and is committed to service on the Board of Directors. Neither the Nominating and Corporate Governance Committee nor the Board of Directors has a specific policy with regard to the consideration of diversity in identifying director nominees. However, both may consider the diversity of background and experience of a director nominee in the context of the overall composition of the Board of Directors at that time, such as diversity of knowledge, skills, experience, geographic location, age, gender, and ethnicity.

The Nominating and Corporate Governance Committee evaluates each individual in the context of the Board of Directors as a whole, with the objective of recommending director nominee(s) that can best perpetuate the success of our business and represent stockholder interests through the exercise of sound judgment using the Board of Directors collective diversity of experience. In addition, the Nominating and Corporate Governance Committee considers, in light of our business, each director nominee's experience, qualifications, attributes and skills that are identified in the biographical information contained under Directors and Executive Officers. The Nominating and Corporate

Governance Committee and the Board of Directors discuss the composition of the Board, including diversity of background and experience, as part of the annual Board evaluation process.

### **Process for Identifying and Evaluating Director Nominees**

The Nominating and Corporate Governance Committee's process for identifying and evaluating candidates, including, if applicable, candidates recommended by stockholders, includes actively seeking to identify qualified individuals by various means which may include reviewing lists of possible candidates, such as

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chief executive officers of public companies or leaders of finance or other industries, considering proposals from sources, such as the Board of Directors, management, employees, stockholders and industry contacts, and engaging an outside search firm to identify and screen potential candidates. The committee may also retain a search firm to evaluate and perform background reviews on director candidates, including those recommended by stockholders.

Once candidates have been identified, the Nominating and Corporate Governance Committee may gather information about the candidates through interviews, detailed questionnaires, comprehensive background checks or any other means that the Nominating and Corporate Governance Committee deems to be helpful in the evaluation process. The Nominating and Corporate Governance Committee then meets as a group to discuss and evaluate the qualities and skills of a candidate, both on an individual basis and taking into account the overall composition and needs of the Board of Directors. Based on the results of the evaluation process, the Nominating and Corporate Governance Committee recommends candidate(s) for the Board of Directors' approval as director nominee(s) for election to the Board of Directors. The Nominating and Corporate Governance Committee also recommends candidates to the Board of Directors for appointment to the committees of the Board of Directors.

### **Procedures for Recommendation of Director Nominees by Stockholders**

The Nominating and Corporate Governance Committee will consider director nominee candidates who are recommended by stockholders of the Company. Stockholders, in submitting recommendations to the Nominating and Corporate Governance Committee for director nominee candidates, must follow the procedures summarized below which are set forth in the Company's bylaws. The Company's bylaws are available on the Corporate Governance section of the Company's website at <http://ir.thefreshmarket.com> and may be requested in hard copy, free of charge, from the Company upon a request directed to: The Fresh Market, Inc., 628 Green Valley Road, Suite 500, Greensboro, North Carolina 27408, Attention: Secretary.

The Company reserves the right to adopt additional procedures for recommendation of director nominees by stockholders, as well as criteria for director nominee candidates.

Recommendations for nomination must contain such information and meet such other requirements as set forth in the Company's bylaws. Generally, the Nominating and Corporate Governance Committee must receive any such recommendation for nomination not later than the close of business on the 90<sup>th</sup> day nor earlier than the 120<sup>th</sup> day prior to the first anniversary of the preceding year's annual meeting. However, in the event that the date of the annual meeting is advanced by more than 30 days, or delayed by more than 90 days, from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the 120<sup>th</sup> day prior to such annual meeting and not later than the later of the 90<sup>th</sup> day prior to such annual meeting and the 10<sup>th</sup> day following the day on which the Company first makes a public announcement of the date of such meeting. A public announcement of adjournment or postponement of an annual meeting shall not commence a new time period for the giving of notice.

Recommendations for nominations must be sent to the attention of the Secretary of the Company by U.S. mail (including courier or expedited delivery service) to:

The Fresh Market, Inc.  
628 Green Valley Road  
Suite 500  
Greensboro, North Carolina 27408  
Attn: Secretary

The Secretary of the Company will promptly forward any such recommendations to the Nominating and Corporate Governance Committee. Recommended candidates will be subject to a comprehensive private investigation background check by a qualified firm of the Company's choosing. The Nominating and Corporate Governance Committee will evaluate each candidate and a recommendation with respect to such candidate will be delivered to the Board of Directors.

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## **Policy Governing Security Holder Communications with the Board of Directors**

The Board of Directors provides to every security holder the ability to communicate with the Board of Directors as a whole and with individual directors on the Board of Directors through an established process for security holder communication as follows:

For communications directed to the Board of Directors as a whole, security holders may send such communications to the attention of the Chairman of the Board of Directors by U.S. mail (including courier or expedited delivery service) to:

The Fresh Market, Inc.  
628 Green Valley Road  
Suite 500  
Greensboro, North Carolina 27408  
Attn: Chairman of the Board of Directors, c/o Secretary

For security holder communications directed to an individual director in his or her capacity as a member of the Board of Directors, security holders may send such communications to the attention of the individual director by U.S. mail (including courier or expedited delivery service) to:

The Fresh Market, Inc.  
628 Green Valley Road  
Suite 500  
Greensboro, North Carolina 27408  
Attn: [Name of the director], c/o Secretary

The Company will forward any such security holder communication to the Chairman of the Board of Directors, as a representative of the Board of Directors, or to the director to whom the communication is addressed, on a periodic basis, subject to screening for security purposes. The Company will forward such communications by certified U.S. mail to an address specified by each director and the Chairman of the Board of Directors for such purposes or by secure electronic transmission.

## **Policy Governing Director Attendance at Annual Meetings of Stockholders**

We conduct an annual meeting of stockholders, and all directors are offered the opportunity to attend at our expense. All of the directors serving at the time of the 2011 annual meeting of stockholders attended the meeting.

## **Board of Directors Evaluation Program and Succession Planning**

The Board of Directors undertakes an annual formal evaluation process consisting of an overall Board of Directors evaluation and committee evaluations. As part of the evaluation process, the Board of Directors evaluates some or all

of the following different competencies: Board structure, Board roles, Board processes, Board composition, orientation and development, Board dynamics, and Board effectiveness. The evaluation process includes consideration of the appropriate Board size, committee composition, appointment of Chairmanships, succession planning and the technical, business and organizational skills required of future Board members.

## **Mandatory Retirement Age of Directors**

Except for the Company's founder, no director or nominee may stand for re-election or election to the Board after his or her seventieth (70<sup>th</sup>) birthday.

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## Code of Ethics

Our Board of Directors has adopted a code of business conduct and ethics as required by regulations promulgated under the Securities Act of 1933, as amended (the Securities Act), and the Exchange Act that establishes the standards of ethical conduct applicable to all of our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. The code of business conduct and ethics addresses, among other things, competition and fair dealing, conflicts of interest, financial matters and external reporting, company funds and assets, confidentiality and corporate opportunity requirements and the process for reporting violations of the code of business conduct and ethics, employee misconduct, conflicts of interest or other violations.

Our code of business conduct and ethics is publicly available on the investor relations portion of our website at <http://ir.thefreshmarket.com>. A copy of the code of business conduct and ethics may also be obtained, free of charge, from the Company upon a request directed to: The Fresh Market, Inc., 628 Green Valley Road, Suite 500, Greensboro, North Carolina 27408, Attention: Investor Relations. Any waiver of our code of business conduct and ethics with respect to our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions may only be authorized by our audit committee and will be disclosed as required by applicable law. The Company intends to disclose any amendment to or waiver of a provision of the code of business conduct and ethics that applies to its principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, by posting such information on the investor relations portion of its website available at <http://ir.thefreshmarket.com>.

## Stock Ownership and Retention Guidelines

The Common Stock Ownership and Retention Guidelines for Directors and Executive Officers of The Fresh Market, Inc. (the Stock Retention Guidelines) provide that non-employee directors are expected, over time, to acquire and hold shares of the Company's common stock equal in value to at least five times the annual cash retainer for non-employee directors, and executive officers of the Company are expected, over time, to acquire and hold shares of the Company's common stock equal in value to at least a multiple of their base salaries, as follows:

Chief Executive Officer	6X base salary
Chief Operating Officer	3X base salary
Chief Financial Officer	3X base salary
SVPs	2X base salary

Directors and executive officers are not required to purchase stock to meet this requirement; however, until they satisfy the ownership requirement, each director or executive officer will be required to hold a specified percentage of the shares of stock received (as applicable) upon lapse of restrictions upon restricted stock, settlement of restricted stock units, vesting of performance shares, and exercise of stock options (net of any shares utilized to pay for the exercise price of the option and tax withholding). The specified retention percentage described above is: (i) for directors, 100%; (ii) for the Chief Executive Officer, 75%; and (iii) for all other executive officers, 50%. The retention requirements are applicable to equity awards made after adoption of the Stock Retention Guidelines.

Our Chief Executive Officer and each of our named executive officers, except for our Senior Vice President General Counsel, satisfy the Stock Retention Guidelines and directly own more shares of our common stock than required by the Stock Retention Guidelines.

## Compensation Recoupment Policy

The Fresh Market, Inc. Compensation Recoupment Policy (the Recoupment Policy ) requires that, in the event of a restatement of the Company's financial statements due to material non-compliance with U.S. securities laws, rules or regulations: (i) all employees holding the title of Vice President or above will reimburse the Company for all performance-based compensation received and all gains realized on the exercise, settlement or sale of performance-based equity awards by such employees; and (ii) all outstanding performance-based equity awards (whether vested or unvested) held by such employees will be canceled. The



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foregoing applies, however, only to the extent that such compensation or awards exceed those that would have been received or vested if the restated financial results had been used to determine whether such awards should have been received or vested. The members of the Board of Directors who have been determined by the Board of Directors to be independent under the rules of The NASDAQ Stock Market shall be responsible for enforcing the Recoupment Policy and may, to the extent not prohibited by applicable law, exercise discretion as to the enforcement of such Policy.

## **Access to Additional Corporate Governance Information**

For more corporate governance information, you are invited to access the Corporate Governance section of the Company's website available at <http://ir.thefreshmarket.com>.

Except for the availability of this Proxy Statement and the Annual Report to Stockholders, which are available for viewing, printing and downloading at <http://ir.thefreshmarket.com>, the information on the Company's website is not part of this Proxy Statement.

## **Board of Directors Role in Risk Oversight**

Assessing and managing risk is the responsibility of the Company's management. The Board of Directors oversees and reviews certain aspects of the Company's risk management efforts. The Board of Directors is involved in risk oversight through direct decision-making authority with respect to significant matters and the oversight of management by the Board of Directors and its committees. Among other areas, the Board is involved in overseeing risks related to the Company's overall strategy, executive officer succession, business continuity, crisis preparedness and corporate reputational risks.

The committees of the Board execute their oversight responsibility for risk management as follows:

The Audit Committee has responsibility for overseeing the Company's internal financial and accounting controls, work performed by the Company's independent registered public accounting firm and, if applicable, the Company's internal audit function. As part of its oversight function, the Audit Committee regularly discusses with management and the Company's independent registered public accounting firm the Company's major financial and controls-related risk exposures and steps that management has taken to monitor and control such exposures. In addition, the Company, under the supervision of the Audit Committee, has established procedures available to all employees for the anonymous and confidential submission of complaints relating to any accounting, internal accounting controls or auditing matters to encourage employees to report questionable activities directly to the Company's senior management and the Audit Committee.

The Compensation Committee is responsible for overseeing risks related to the Company's cash and equity-based compensation programs and practices. For a detailed discussion of the Company's efforts to manage compensation related risks, see *Compensation Related Risk Assessment*.

The Nominating and Corporate Governance Committee is responsible for overseeing risks related to the composition and structure of the Board of Directors and its committees and the Company's corporate governance. In this regard, the Nominating and Corporate Governance Committee conducts an annual evaluation of the Board and its committees.

## **Compensation Related Risk Assessment**

We completed our initial public offering in November 2010. In connection with our initial public offering, we established a Compensation Committee composed of three members of our Board of Directors, one of whom was independent under the rules of The NASDAQ Stock Market. During fiscal 2011, the Compensation Committee was

reconstituted to be comprised solely of independent directors under the rules of The NASDAQ Stock Market. As described more fully under *Compensation Discussion and Analysis* below, our pre-IPO compensation plans and policies for our executive officers were administered by our pre-IPO Board of Directors. Since our initial public offering, our Compensation Committee has played a significant role in our compensation plans and policies including establishing a cash incentive compensation program (as discussed in the Compensation Discussion and Analysis within this proxy statement) and overseeing and administering our equity incentive compensation program.

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The Compensation Committee is also responsible for overseeing risks related to the Company's compensation programs and practices. We believe that the Company's executive and employee compensation plans and policies are not reasonably likely to have a material adverse effect on the Company. In particular, the Compensation Committee considered the following elements of the Company's compensation plans and policies when evaluating whether our plans and policies encourage our executives and employees to take unreasonable risks:

The Company's compensation program is balanced between base salary, which is fixed, and variable incentive-based compensation, which includes a mix of annual and multi-year components, provides cash and equity-based awards, and utilizes several different financial metrics that measure and deliver compensation based upon the financial performance of different aspects of the Company's business.

The Company's Board of Directors reviews a corporate plan with goals that it believes are appropriate and reasonable in light of past performance and current market conditions.

For the Company's annual incentive cash compensation program, a majority of the awards that were made to executive officers with respect to our 2011 fiscal year were based on the achievement of two objective performance measures, and we expect that all of the awards that may be made with respect to our 2012 fiscal year will be based on the achievement of at least two objective performance measures, and be subject to one financial performance gating measurement, thus diversifying the risk associated with any single indicator of performance.

The awards that may be made under the Company's incentive cash compensation program are capped so as to prevent award payments in excess of specific returns to the business and our stockholders, even if the Company dramatically exceeds its performance or financial targets.

Assuming achievement of a threshold level of performance, payouts under our incentive cash compensation program result in some compensation at levels below full target achievement, rather than an "all-or-nothing" approach, which could engender excessive risk taking.

The Company's Compensation Committee determines achievement levels under the Company's incentive cash compensation plan after reviewing Company performance.

A significant portion of our executive officers' annual compensation will consist of equity awards that will include awards with time-based vesting requirements, as well as awards with performance-based vesting requirements, in order to align our management's interests with the long-term interests of the Company and our stockholders.

Our performance-based awards will have performance measures that are multi-year and cumulative in nature in order to promote success of the Company's business and its financial results over the long-term.

We have adopted stock ownership and retention guidelines that align our executive officers' interests with our stockholders' interests as a portion of our executive officers' net worth is subject to the same risks as our stockholders in terms of price performance.

We have adopted a Compensation Recoupment Policy that is intended to recover performance-based compensation that was paid for a prior period's performance in the event that period's financial performance is restated and all or a portion of the previously paid performance-based compensation would not have been earned under the restated financial results. Our Compensation Recoupment Policy does not require a bad act in order for the independent members of the Board of Directors to pursue recoupment of previously paid performance-based compensation.

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# SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of the Company's Common Stock as of the Record Date (i) by each person who is known by the Company to beneficially own more than 5% of the outstanding shares of Common Stock; (ii) by each director or nominee of the Company; (iii) by each named executive officer of the Company set forth in the Summary Compensation Table below; and (iv) by all directors and executive officers of the Company as a group.

Beneficial ownership for the purposes of the following table is determined in accordance with the rules and regulations of the Securities and Exchange Commission (SEC). These rules generally provide that a person is the beneficial owner of securities if they have or share the power to vote or direct the voting thereof, or to dispose or direct the disposition thereof or have the right to acquire such powers within 60 days.

The address of each person named in the table below, unless otherwise indicated, is c/o The Fresh Market, Inc., 628 Green Valley Road, Suite 500, Greensboro, North Carolina 27408.

Beneficial Owner	Shares of Common Stock Beneficially Owned <sup>(1)</sup>		
	Number	%	
5% Stockholders <sup>(2)</sup> :			
Michael Barry <sup>(3)</sup>	7,672,274	16.0	%
Fidelity Investments <sup>(4)</sup>	3,314,605	6.9	%
Scout Capital Management, L.L.C. <sup>(5)</sup>	3,303,080	6.9	%
Wells Fargo & Company <sup>(6)</sup>	2,790,647	5.8	%
T. Rowe Price Associates, Inc. <sup>(7)</sup>	2,569,136	5.3	%
Beneficial ownership group (5 persons) <sup>(8)</sup>	19,870,313	41.3	%
Directors and Officers:			
Ray Berry <sup>(9)</sup>	4,911,724	10.2	%
Brett Berry <sup>(10)</sup>	4,714,220	9.8	%
David Rea <sup>(11)</sup>	4,607	*	
Jeffrey Naylor <sup>(11)</sup>	4,607	*	
Richard Noll <sup>(12)</sup>	1,880	*	
Michael Tucci <sup>(13)</sup>			