

SMITH MICRO SOFTWARE INC

Form PRE 14A

March 30, 2012

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**SCHEDULE 14A INFORMATION**

**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

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

**Smith Micro Software, 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):

- Fee not required.
- 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:

(2) Aggregate number of securities to which transaction applies:

(3)

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Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

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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.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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May , 2012

Dear Smith Micro Stockholders:

We are pleased to invite you to the Smith Micro Software, Inc. 2012 Annual Meeting of Stockholders that will be held at the offices of Smith Micro Software, Inc., located at 51 Columbia, Aliso Viejo, California 92656, on Thursday, June 21, 2012, at 10:00 a.m. Pacific Time.

The expected actions to be taken at the Annual Meeting, which include the election of a director, are described in the attached Proxy Statement and Notice of Annual Meeting of Stockholders. Included with this Proxy Statement is a copy of our Annual Report on Form 10-K for the year ended December 31, 2011, which we encourage you to read. It includes our audited financial statements and information about our operations, markets and products.

Your vote is important. Whether or not you plan to attend the Annual Meeting, you can be sure your shares are represented at the meeting by promptly completing, signing, dating and returning the enclosed proxy card in the pre-paid envelope provided for your convenience or, if eligible, voting by Internet. If you later decide to attend the Annual Meeting and wish to change your vote, you may do so simply by voting in person at the meeting.

We look forward to seeing you at the Annual Meeting.

Sincerely,

William W. Smith, Jr.

Chairman of the Board,

President & Chief Executive Officer

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**SMITH MICRO SOFTWARE, INC.**

**51 Columbia**

**Aliso Viejo, CA 92656**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON JUNE 21, 2012**

Notice is hereby given that the 2012 Annual Meeting of Stockholders (the Annual Meeting ) of Smith Micro Software, Inc. (the Company ) will be held at the offices of the Company, located at 51 Columbia, Aliso Viejo, California 92656, on Thursday, June 21, 2012, at 10:00 a.m. Pacific Time, for the following purposes as more fully described in the Proxy Statement accompanying this notice:

- 1. Election of Director.** The election of one (1) director to serve on our Board of Directors until the 2015 Annual Meeting of Stockholders or until his successor is duly elected and qualified.
- 2. Say-On-Pay Proposal.** An advisory vote on the compensation of the named executive officers.
- 3. Ratification of Stockholder Rights Agreement.**
- 4. Amendment to Certificate of Incorporation to increase authorized shares of common stock from 50,000,000 to 100,000,000 shares.**
- 5. Ratification of the appointment of SingerLewak LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2012.**
- 6. Other Business.** Any other business properly brought before the shareholders at the Annual Meeting, or at any adjournment or postponement thereof.

The close of business on April 23, 2012 has been fixed as the record date for the determination of stockholders entitled to notice of and to vote at the Annual Meeting and any adjournment or postponement thereof. Only stockholders of record at such time will be so entitled to vote. A list of stockholders entitled to vote at the Annual Meeting will be available for inspection at our executive offices located at 51 Columbia, Aliso Viejo, California 92656, and at the Annual Meeting.

You are cordially invited to attend the Annual Meeting. Whether or not you plan to attend the Annual Meeting, you can be sure your shares are represented at the meeting by promptly voting and submitting your proxy by Internet (if your shares are registered in the name of a bank or brokerage firm and you are eligible to vote your shares in such a manner) or by completing, signing, dating and returning the enclosed proxy card in the pre-paid envelope provided for your convenience. Should you receive more than one proxy because your shares are registered in different names and addresses, each proxy should be signed and returned to assure that all your shares will be voted. You may revoke your proxy at any time prior to the Annual Meeting. If you submit your proxy and then decide to attend the Annual Meeting and vote by ballot, your proxy will be revoked and only your vote at the Annual Meeting will be counted.

**A majority of the outstanding shares of Common Stock entitled to vote must be represented at the Annual Meeting in order to constitute a quorum. Please return your proxy card in order to ensure that a quorum is obtained.**

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By Order of the Board of Directors,

Andrew C. Schmidt

Corporate Secretary

Aliso Viejo, California

May , 2012

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**Important notice regarding the availability of proxy materials for the stockholder meeting to be held June 21, 2012: The Proxy Statement and Annual Report are available at <http://www.proxyvote.com>.**

**YOUR VOTE IS VERY IMPORTANT, REGARDLESS OF THE NUMBER OF SHARES YOU OWN. PLEASE READ THE ATTACHED PROXY STATEMENT CAREFULLY AND SUBMIT YOUR PROXY BY INTERNET IF ELIGIBLE OR BY COMPLETING, SIGNING AND DATING THE ENCLOSED PROXY CARD AS PROMPTLY AS POSSIBLE AND RETURNING IT IN THE ENCLOSED ENVELOPE.**

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**SMITH MICRO SOFTWARE, INC.**

**PROXY STATEMENT**

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**SMITH MICRO SOFTWARE, INC.**

**PROXY STATEMENT**

**FOR ANNUAL MEETING OF STOCKHOLDERS**

**To Be Held June 21, 2012**

**INFORMATION ABOUT THE ANNUAL MEETING AND VOTING**

**General**

This Proxy Statement and the enclosed proxy card are furnished in connection with the 2012 Annual Meeting of Stockholders (the Annual Meeting) of Smith Micro Software, Inc. (Smith Micro, the Company, we, our or us), which will be held at the offices of the Company, located at 51 Columbia, Aliso Viejo, California 92656, on Thursday, June 21, 2012, at 10:00 a.m. Pacific Time. Stockholders of record at the close of business on April 23, 2012, the record date, are entitled to notice of and to vote at the Annual Meeting and any adjournment thereof. This Proxy Statement, the enclosed proxy card and the Smith Micro Annual Report on Form 10-K for the fiscal year ended December 31, 2011 (the Annual Report) are being first mailed on or about May 15, 2012 to stockholders of record as of the record date.

**Purpose of the Meeting**

The specific proposals to be considered and acted upon at the Annual Meeting are summarized in the accompanying Notice and are described in more detail in this Proxy Statement. We are not aware of any matter to be presented other than those described in this Proxy Statement.

**Voting**

Our outstanding common stock, par value \$0.001 per share (the Common Stock) is the only class of securities entitled to vote at the Annual Meeting. Common stockholders of record on April 23, 2012, the record date, are entitled to notice of and to vote at the Annual Meeting. As of April 23, 2012, there were 1,000,000 shares of Common Stock outstanding and approximately 1,000,000 holders of record, according to information provided by our transfer agent. Each share of Common Stock is entitled to one vote. Stockholders may not cumulate votes in the election of director. A majority of the outstanding shares of Common Stock entitled to vote at the Annual Meeting will constitute a quorum.

All votes will be tabulated by our inspector of elections for the Annual Meeting who will separately tabulate affirmative and negative votes, abstentions and broker non-votes (*i.e.*, shares held by a broker or other nominee having discretionary power to vote on some matters but not others). Abstentions and broker non-votes are counted as present for purposes of determining the presence or absence of a quorum for the transaction of business. Abstentions will be counted towards the tabulations of votes cast on proposals presented to the stockholders and will have the same effect as negative votes. In the election of director, the nominee receiving the highest number of affirmative votes shall be elected; broker non-votes and votes marked withhold will not affect the outcome of the election. All other proposals require the affirmative vote of a majority of shares present in person or represented by proxy at the Annual Meeting and entitled to vote, except for the proposal to increase the authorized shares of common stock (Proposal 4) which requires the affirmative vote of the holders of a majority of all outstanding shares of Common Stock. Broker non-votes will not be counted for purposes of determining whether such proposals have been approved.

If your shares are held by a broker, the broker will ask you how you want your shares to be voted. If you give the broker instructions, your shares will be voted as you direct. If you do not give instructions, one of two things can happen, depending on the type of proposal. For the ratification of SingerLewak LLP as our independent registered public accounting firm (Proposal 5), the broker may vote your shares in its discretion. For all other proposals, the broker may not vote your shares at all if you do not give instructions.

**Proxies**

Properly executed proxies will be voted in the manner specified therein. If no direction is made on the proxies, such properly executed proxies will be voted **FOR** the election of the nominee named under the caption Election of Director as our director, **FOR** the proposal regarding an advisory vote on executive compensation, **FOR** the ratification of the Stockholder Rights Plan, **FOR** the increase in





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authorized shares of common stock and **FOR** the ratification of SingerLewak LLP as our independent registered public accounting firm for the 2012 fiscal year. You may revoke or change your proxy at any time before the Annual Meeting by filing with the Corporate Secretary at our principal executive offices at 51 Columbia, Aliso Viejo, California 92656 a notice of revocation or another signed Proxy with a later date. You may also revoke your proxy by attending the Annual Meeting and voting in person. Your attendance at the Annual Meeting does not by itself constitute a revocation of your proxy. Please note that if your shares are held of record by a broker, bank or other nominee, you will not be able to vote in person at the Annual Meeting unless you have obtained and present a proxy issued in your name from the record holder.

### **Voting Electronically via the Internet**

If your shares are registered in the name of a bank or brokerage firm, you may be eligible to vote your shares electronically over the Internet. A large number of banks and brokerage firms provide eligible stockholders who receive a paper copy of the Annual Report and Proxy Statement the opportunity to vote in this manner. If your bank or brokerage firm allows for this, your voting form will provide instructions for such alternative method of voting. If your voting form does not reference Internet information, please complete and return the paper Proxy in the self-addressed, postage prepaid envelope provided.

### **Solicitation**

The enclosed proxy is being solicited by our Board of Directors, and Smith Micro will bear the entire cost of solicitation, including the preparation, assembly, printing and mailing of this Proxy Statement, the proxy card and any additional solicitation materials furnished to the stockholders. Copies of solicitation materials will be furnished to brokerage houses, fiduciaries and custodians holding shares in their names that are beneficially owned by others so that they may forward solicitation material to such beneficial owners. We may reimburse such persons for their costs in forwarding the solicitation materials to such beneficial owners. In addition, the original solicitation of proxies by mail may be supplemented by a solicitation by Internet or other means by our directors, officers or employees. No additional compensation will be paid to these individuals for any such services, although we may reimburse reasonable out-of-pocket expenses. Except as described above, we presently do not intend to solicit proxies other than by mail.

### **Deadlines for Receipt of Stockholder Proposals**

Stockholders may present proposals for action at a future meeting only if they comply with the requirements of the proxy rules established by the Securities and Exchange Commission ( SEC ) and our Bylaws. Stockholder proposals that are intended to be presented at our 2013 Annual Meeting of Stockholders (the 2013 Annual Meeting ) and included in the proxy solicitation materials related to that meeting must be received by us no later than , 2013, which is 120 calendar days prior to the anniversary date of the mailing of this Proxy Statement. Stockholders are also advised to review our Bylaws which contain additional advance notice requirements, including requirements with respect to advance notice of stockholder proposals and director nominations. Under our Bylaws, the deadline for submitting a stockholder proposal is not less than 30 days and not more than 60 days prior to the date of the Annual Meeting, but if less than 40 days notice or prior public disclosure of the date of the meeting is given or made to stockholders, then the deadline for submitting a stockholder proposal is the close of business on the tenth day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made. Under our Bylaws, the deadline for submitting a nomination for a director is not less than 60 days prior to the date of the Annual Meeting. Stockholder proposals and nominations must be in writing and should be addressed to the Corporate Secretary at our principal executive offices located at 51 Columbia, Aliso Viejo, California 92656.

In addition, the proxy solicited by the Board of Directors for the 2013 Annual Meeting will confer discretionary authority to vote on any stockholder proposal presented at that meeting, unless we receive notice of such proposal not later than , 2013, which is 45 calendar days prior to the anniversary date of the mailing of this Proxy Statement. It is recommended that stockholders submitting proposals direct them to our Corporate Secretary and utilize certified mail, return receipt requested in order to provide proof of timely receipt. The Chairman of the Annual Meeting reserves the right to reject, rule out of order, or take other appropriate action with respect to any proposal that does not comply with these and other applicable requirements, including conditions set forth in our Bylaws and conditions established by the Securities and Exchange Commission.

We have not been notified by any stockholder of his or her intent to present a stockholder proposal from the floor at this year s Annual Meeting. The enclosed proxy grants the proxy holders discretionary authority to vote on any matter properly brought before the Annual Meeting.

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Our Amended and Restated Certificate of Incorporation and Bylaws provide for our Board of Directors to be divided into three classes, as nearly equal in number as is reasonably possible, serving staggered terms that expire in different years. At each annual meeting of stockholders, the successors to the class of directors whose term expires are elected to hold office for a term of three years. The term of one class of directors expires at each annual meeting. The preceding notwithstanding, directors serve until their successors have been duly elected and qualified or until they earlier resign, become disqualified or disabled, or are otherwise removed.

Our Board currently has five directors: Andrew Arno, Thomas G. Campbell, Samuel Gulko, William W. Smith, Jr. and Gregory J. Szabo. The class whose term expires at this Annual Meeting contains one director, Mr. Campbell. The Nominating Committee of the Board of Directors selected, and the Board of Directors approved, Mr. Campbell as nominee for election at the Annual Meeting to the class being elected at this meeting. The enclosed proxy will be voted, unless authority is withheld or the proxy is revoked, **FOR** the election of the nominee named below to hold office until the date of our 2015 Annual Meeting or until his successor has been duly elected and qualified or until he earlier resigns, becomes disqualified or disabled, or is otherwise removed. Each returned proxy cannot be voted for a greater number of persons than the nominee named on the proxy. In the unanticipated event that a nominee becomes unable or declines to serve at the time of the Annual Meeting, the proxies will be voted for a substitute person selected by the Nominating Committee of the Board of Directors and approved by the Board of Directors. Mr. Campbell has agreed to serve if elected, and management has no reason to believe that he will be unavailable to serve.

**Directors and Nominees****Nominee for Director for Term Ending at the 2015 Annual Meeting of Stockholders:**

<b>Name</b>	<b>Age</b>	<b>Present Position with the Company</b>
Thomas G. Campbell (1)(2)	61	Director

(1) Member of the Compensation Committee.

(2) Member of the Governance and Nominating Committee.

*Mr. Campbell* became a director in July 1995. From March 1999 to the present, he has served as the Executive Vice President of King Printing, Inc. From July 1996 to March 1999, he was the Vice President of Operations of Complete Concepts, Ltd., a manufacturer and distributor of women's accessories. From November 1995 to July 1996, Mr. Campbell was an independent management consultant specializing in corporate turnarounds. From February 1995 to November 1995, he served as the Chief Operating Officer of Laser Atlanta Optics, Inc. From 1985 to February 1995, he served in several senior management positions at Hayes, Inc., including Vice President of Operations and Business Development and as Chief Operating Officer and a member of the Board of Directors of Practical Peripherals, a Hayes subsidiary. Prior to 1985, Mr. Campbell was employed by Digital Equipment Corporation. Mr. Campbell attended Boston University. Mr. Campbell brings to our Board extensive executive management experience in the retail and consumer products industries, along with particular strengths with respect to leadership skills, management skills, financial skills, international business skills and corporate governance skills.

**Continuing Directors for Term Ending at the 2014 Annual Meeting of Stockholders:**

<b>Name</b>	<b>Age</b>	<b>Present Position with the Company</b>
William W. Smith, Jr.	63	Chairman of the Board, President and Chief Executive Officer
Gregory J. Szabo (1)(2)	64	Director

(1) Member of the Audit Committee.



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(2) Member of the Mergers & Acquisitions Committee.

*Mr. Smith* co-founded Smith Micro and has served as our Chairman of the Board, President and Chief Executive Officer since inception in 1982. Mr. Smith was employed by Rockwell International Corporation in a variety of technical and management positions from 1975 to 1984. Mr. Smith served with Xerox Data Systems from 1972 to 1975 and RCA Computer Systems Division from 1969 to 1972 in mainframe sales and pre-sale technical roles. Mr. Smith received a B.A. in Business Administration from Grove City College. Mr. Smith brings to our Board extensive knowledge about the telecommunications and wireless industries and our company, as a co-founder of our Company and as a result of his 30 years of service with our company, including service as our CEO since our inception. Mr. Smith also possesses particular strengths with respect to leadership and management skills.

*Mr. Szabo* re-joined the Board in July 2011. He previously served from June 2001 to April 2010. Mr. Szabo has over 30 years of wireless communications experience and is the founder of Ertek Inc. Ertek provides antenna technology to the wireless industry including high performance low cost RFID Tag antennas. He also serves on the Board of Advisors at Across Techs, LLC. Mr. Szabo has served in a series of senior management positions during a 13-year career with AirTouch's wireless communications operations, through its acquisition by Vodafone and merger with Verizon Wireless in 2000. As Vice President-Network Services, he directed the engineering and operations of the company's cellular systems in the eastern United States. Earlier, Mr. Szabo held managerial positions with Motorola and Martin Marietta. Mr. Szabo received a Bachelor of Science Degree and Master of Science Degree in Electrical Engineering from Ohio University. Mr. Szabo brings to our Board substantial market knowledge and in-depth insights into the worldwide telecommunications and wireless data and cellular industries.

**Continuing Directors for Term Ending at the 2013 Annual Meeting of Stockholders:**

<b>Name</b>	<b>Age</b>	<b>Present Position with the Company</b>
Samuel Gulko (1)(2)	80	Director
Andrew Arno (1)(3)(4)	52	Director

(1) Member of Audit Committee.

(2) Member of the Compensation Committee.

(3) Member of the Governance and Nominating Committee.

(4) Member of the Mergers and Acquisitions Committee.

*Mr. Gulko* became a director in October 2004. In addition, since September 2002, he has provided tax and consulting services on a part-time basis to a limited number of clients. From July 1996 until his retirement in September 2002, Mr. Gulko functioned as the Chief Financial Officer, and as the Vice President of Finance, Secretary and Treasurer of Neotherapeutics, Inc., a publicly traded biotechnology company (now known as Spectrum Pharmaceuticals, Inc.). During this same period he also served as a member of the Board of Directors of Neotherapeutics, Inc. From April 1987 to July 1996, Mr. Gulko was self-employed as a Certified Public Accountant and business consultant, as well as the part time Chief Financial Officer of several privately-owned companies. Mr. Gulko was a partner in the audit practice of Ernst & Young LLP, an accounting and business services firm, from September 1968 until March 1987. Mr. Gulko holds a B.S. in Accounting from the University of Southern California. As a senior finance executive, Mr. Gulko brings to our Board extensive qualifications and experience in finance and public accounting, including his prior service as an audit partner at Ernst & Young LLP and as a CFO of a publicly-traded company.

*Mr. Arno* became a director of the Company in July 2011. Mr. Arno has 30 years of experience working with technology companies on Wall Street. He is currently the Vice Chairman and Chief Marketing Officer and a managing member of Unterberg Capital, LLC. Mr. Arno, along with Thomas I. Unterberg, established Unterberg Capital, LLC in 2009 and launched Unterberg Technology Partners, a long only small cap technology fund in June of the same year. In September 2009, Mr. Arno became Vice Chairman and Head of Equity Capital Markets of Merriman Capital LLC and served on the board of the parent company, Merriman Holdings, Inc. During that time, he continued to be a managing member of Unterberg Capital, LLC. Prior to establishing Unterberg Capital in 2009, Mr. Arno was a Managing Director of Collins Stewart. In July 2007, Collins Stewart acquired C.E. Unterberg, Towbin. Mr. Arno joined C.E. Unterberg, Towbin in 1990 as a Managing Director responsible for Capital Markets and was appointed Chief Executive Officer in 2006. From April 1987 through December 1989, Mr. Arno was a Vice President at Lehman Brothers. From 1981 to April 1987, he served as Vice President

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in the Individual Investors Services Division of L.F. Rothschild, Unterberg, Towbin Holdings, Inc., where he was involved in portfolio management for high net-worth individuals. Mr. Arno is a graduate of George Washington University. Mr. Arno serves on the board of two non-profit organizations, the New York Service for the Handicapped and the Jewish Community Center of Manhattan. Mr. Arno has served as a board member of the New York Service for the Handicapped for over 10 years. He has served as a board member of the Jewish Community Center of Manhattan for 4 years and is currently the Treasurer and serves on both the audit and executive committees. As a senior finance executive, Mr. Arno brings to our Board extensive qualifications and experience in public company finance and mergers and acquisitions, as well as extensive contacts among investment banking firms and professional asset managers.

**Vote Required**

The affirmative vote of the holders of a plurality of the outstanding shares of Common Stock present or represented at the Annual Meeting and entitled to vote is required for approval of the election of the nominee as a member of our Board of Directors.

**The Board of Directors recommends a vote FOR the nominee named above or his substitutes as set forth herein.**

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**PROPOSAL 2**

**SAY-ON-PAY PROPOSAL:**

**ADVISORY VOTE ON COMPENSATION OF NAMED EXECUTIVE OFFICERS**

Consistent with the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act ), we are providing our stockholders with the opportunity to cast a non-binding, advisory vote on the compensation paid to our named executive officers, as disclosed pursuant to the compensation disclosure rules of the Securities and Exchange Commission, including the Compensation Discussion and Analysis, compensation tables, and accompanying narrative discussion.

**Compensation Philosophy**

As described in detail in our Compensation Discussion and Analysis, our executive compensation program is designed to attract, motivate, and retain talented and dedicated executive officers, who are critical to our success. Under this program, a significant portion of our named executive officers' overall compensation is tied to the achievement of key strategic financial and operational goals, as measured by metrics such as revenue and adjusted profitability. The following highlights our approach to executive compensation:

*Competitive Positioning:* We seek to establish the overall compensation of our named executive officers at levels that we believe are roughly comparable with the average levels of compensation of executives at other fast-growing technology companies of similar size.

*Significant Majority of Executive Officer Compensation Tied to Performance:* Although our executive compensation program has four primary components (base salary, cash bonus awards, equity compensation in the form of restricted stock awards, and benefits and perquisites) performance-based incentive compensation constitutes by far the largest portion of potential compensation for our named executive officers.

*Limited all other Compensation:* Consistent with our pay-for-performance philosophy, we restrict all other forms of compensation to our named executive officers to levels that are consistent with competitive market practices.

We encourage you to read the Compensation Discussion and Analysis, beginning on page of this proxy statement, for a detailed discussion and analysis of our executive compensation program, including information about the 2011 compensation of our named executive officers.

**Recommendation**

We are asking our stockholders to vote at the Annual Meeting on the compensation paid to our named executive officers, as described in the Compensation Discussion and Analysis, compensation tables, and accompanying narrative discussion as included in this proxy statement. This proposal, commonly known as a Say-on-Pay proposal, gives you as a stockholder the opportunity to endorse or not endorse our compensation program for our named executive officers.

For the reasons set forth above, we are asking our stockholders to indicate their support for the compensation of our named executive officers as described in this proxy statement by voting in favor of the following resolution:

RESOLVED, that the stockholders of Smith Micro Software, Inc. (the Company ) approve, on an advisory basis, the compensation of the Company's named executive officers, as disclosed in the Company's proxy statement for the 2012 Annual Meeting of Stockholders pursuant to the compensation disclosure rules of the Securities and Exchange Commission, including the Compensation Discussion and Analysis, compensation tables, and accompanying narrative discussion.

**Effect of Vote**

This vote is not intended to address any specific item of compensation, but rather our overall compensation program relating to our named executive officers. Accordingly, your vote will not directly affect or otherwise limit any existing compensation or award arrangement of any of our named executive officers.

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Because your vote is advisory, it will not be binding upon the Company, our Board of Directors, or the Compensation Committee of our Board of Directors. Our Board of Directors and the Compensation Committee value the opinions of our stockholders, however, and, to the extent that there is any significant vote against the compensation of our named executive officers as disclosed in this proxy statement, we will consider our stockholders' concerns and the Compensation Committee take into account the outcome of the vote when considering future compensation arrangements.

**Action by Stockholders**

Approval of this resolution requires the affirmative vote of a majority of shares present in person or represented by proxy at the Annual Meeting. Abstentions will have the same effect as negative votes. Broker non-votes will not be counted for purposes of determining whether the resolution has been approved.

**The Board of Directors recommends a vote FOR the approval of the compensation of our named executive officers, as disclosed in this proxy statement pursuant to the compensation disclosure rules of the Securities and Exchange Commission.**



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**PROPOSAL 3**

**RATIFICATION OF STOCKHOLDER RIGHTS AGREEMENT**

**Background**

We are currently a party to a Stockholder Rights Agreement, dated as of \_\_\_\_\_, 2012, with Computershare Trust Company, N.A., or the Rights Agreement. Under the Rights Agreement, we declared a dividend distribution of one preferred share purchase right for each outstanding share of our common stock outstanding on \_\_\_\_\_, 2012. Our Board of Directors has approved the Rights Agreement to enable the Board of Directors to assure that our stockholders are able to realize the long-term value of an investment in our common stock. Although none of our certificate of incorporation, our bylaws or applicable law require stockholder approval or ratification of a stockholder rights plan or similar arrangement, our Board of Directors has decided to request stockholder ratification of the Rights Agreement as a matter of sound corporate governance. If the stockholders do not ratify the Rights Agreement, the Board of Directors will reconsider its decision to keep the Rights Agreement in place, but will not be required to terminate the Rights Agreement. Even if our stockholders ratify the Rights Agreement, our Board of Directors could terminate the Rights Agreement prior to the distribution date (as described below). If the Board of Directors does not otherwise terminate the Rights Agreement, it will expire under its current terms on \_\_\_\_\_, 2015.

We have summarized certain key provisions of the Rights Agreement below. Because this is a summary, it may not contain all of the information that is important to you. Accordingly, this summary is qualified in its entirety by its reference to the specific provisions of the Rights Agreement, the full text of which we have included as Appendix A to this proxy statement.

The Rights Agreement contains a number of provisions that have been tailored to meet the standards of sound corporate governance, as determined by Institutional Shareholder Services Inc. and many institutional investors, and are intended to be stockholder friendly. These provisions include: (1) 20% flip-in and flip-over thresholds as described under *Flip-in and Flip-Over Events and Adjustments* below; (2) a three-year sunset provision as described under *Term* below; (3) no features that would limit the ability of a future Board of Directors of Smith Micro to redeem the rights or otherwise make the Rights Agreement non-applicable to a particular transaction prior to a person or group becoming an *acquiring person*; and (4) a permitted or qualified offer feature that, under certain circumstances, allows the holders of 10% of our outstanding common stock to direct our Board of Directors to call a special meeting of stockholders to consider a resolution authorizing a redemption of all of the outstanding rights.

**Reasons for the Rights Agreement**

Our Board of Directors adopted the Rights Agreement as a precautionary measure and believes that it is in our stockholders' best interests for the following reasons:

The Rights Agreement is intended to help our Board of Directors ensure that all of our stockholders receive fair and equal treatment in the event of a takeover proposal and to safeguard against coercive tactics designed to take control over Smith Micro without allowing our stockholders to realize the long-term value of their investment. Our Board of Directors believes that implementing these safeguards will assist us in preventing an acquirer from gaining control of Smith Micro without offering a fair price to our stockholders. In particular, since May 2011, our stock price has declined dramatically and has at times traded at levels at or below the value per share of our current assets, including cash, cash equivalents and short-term investments. As a result, the Board believes that the Company may be a target for investors who seek to earn a short-term profit by acquiring and liquidating the Company, without recognizing the long-term value of our company for our stockholders. The Rights Agreement is intended to provide our Board with a tool to better ensure that a fair price is offered to our stockholders in such a situation, but not to deter an acquisition which involves payment of a fair price to all of our stockholders.

The Rights Agreement provides the Board of Directors with adequate time to evaluate unsolicited offers and may deter or delay offers that are not in the stockholders' or Smith Micro's best interests by encouraging the potential acquirer to negotiate with our Board of Directors to have the rights redeemed before the potential acquirer acquires more than 20% or more of our common stock. Accordingly, the Rights Agreement allows the Board of Directors time to pursue alternate strategies to maximize our stockholders' long-term value. We note that four out of five of our current directors are considered *independent* directors, and we therefore believe they would act independently in reviewing any unsolicited acquisition proposals.



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The rights may have certain anti-takeover effects. The rights will cause substantial dilution to any person or group that attempts to acquire us without our Board of Director s approval. As a result, the overall effect of the rights may be to render more difficult or discourage any attempt to acquire us even if such acquisition may be favorable to the interests of our stockholders. Because our Board of Directors can redeem the rights and amend the Rights Agreement in any respect prior to a person or group owning more than 20% of our outstanding common stock, the rights should not interfere with a merger or other business combination that our Board of Directors approves or any other potential acquirer that is willing to make an offer at a fair price or otherwise in our stockholders best interests.

In addition, we currently have a staggered board, which also potentially has an anti-takeover effect. Each director is elected for a three-year term, which could deter an attempt by a hostile acquirer to take control of our company by proxy contest since it would take at least two years to replace a majority of our directors and three years to replace our entire Board of Directors.

Our Rights Agreement is similar to rights agreements that other public companies have adopted and our adoption of this plan was not prompted by any external actions. We have received no hostile communications or takeover approaches of any kind. We adopted the plan to give our Board of Directors time to evaluate and respond to any unsolicited future attempts to acquire Smith Micro and to protect the long-term value of our stockholders investment in us.

**Description of Rights Agreement**

*Distribution of Rights.* On \_\_\_\_\_, 2012, our Board of Directors declared a dividend of one right for each outstanding share of our common stock, \$0.001 par value per share, or common stock, to stockholders of record at the close of business on \_\_\_\_\_, 2012. Each right entitles the registered holder to purchase from us one one-thousandth of a share of our Series A Junior Participating Preferred Stock, or preferred stock, at a purchase price of \$ \_\_\_\_\_ in cash per one one-thousandth of a share, subject to adjustment. The rights are attached to the certificates representing shares of our common stock and do not trade separately.

Until the distribution date \_\_\_\_\_, the rights are not exercisable or transferable separately from the common stock. After the distribution date, each right will entitle the holder to purchase from the Company, in lieu of receiving the preferred stock, one (1) share of common stock at a purchase price of \$ \_\_\_\_\_ per share, subject to adjustment. We currently do not have a sufficient number of authorized but unissued and unreserved shares of common stock to deliver to rights holders in the event all of the outstanding rights are fully exercised. In the event the rights are triggered and we cannot issue additional shares of common stock, the Board is permitted to deliver other assets, such as cash and debt securities, in lieu of common stock pursuant to Section 11(a)(iii) of the Rights Agreement. However if Proposal 4 in this proxy statement is approved (the proposal to approve an increase in our authorized shares of common stock), we will have an adequate number of authorized but unissued shares of common stock to entitle the rights holders to fully exercise their rights to purchase common stock as provided in Section 11(a)(ii) of the Rights Agreement and will allow us to fully realize the benefits of the Rights Plan.

*Term.* The rights currently will expire on \_\_\_\_\_, 2015, unless earlier redeemed or exchange. If our stockholders do not ratify the Rights Agreement at the Annual Meeting, our Board of Directors may, but is not required to, terminate the Rights Agreement prior to \_\_\_\_\_, 2015.

*Events Causing Exercisability of Rights.* The rights will separate from our common stock after the distribution date, which is the earlier to occur of the following:

the close of business on the tenth day after the earlier of (i) the first public announcement that a person or group has become an acquiring person (as defined below) or (ii) the first public announcement of facts that a person or group has become an acquiring person ; and

the tenth business day (or a later date determined by action of our Board of Directors prior to such time as any person or group becomes an acquiring person) following the commencement of, or announcement of an intention to make, a tender offer or exchange offer, which when consummated would result in a person or group becoming an acquiring person.

*Acquiring Person.* Our Rights Agreement generally defines an acquiring person as a person or group of affiliated or associated persons that have acquired beneficial ownership of at least 20% of our outstanding shares of common stock. As described below, after a person or group becomes an acquiring person, the rights may not be redeemed or amended.



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*Authority of the Board of Directors.* When evaluating decisions surrounding the redemption of the rights or any amendment to the Rights Agreement to delay or prevent the rights from detaching and becoming exercisable as a result of a particular transaction, the Board of Directors, or any future board, is not subject to restrictions that would limit its ability to redeem the rights or otherwise make the rights non-applicable to a particular transaction prior to a person or group becoming an acquiring person.

*Flip-in and Flip-Over Events and Adjustment.* After a person or group of affiliated or associated persons becomes an acquiring person, each holder of a right, except an acquiring person, will have the right to receive, upon exercise, shares of our common stock (or, in certain circumstances, cash, property or other securities of Smith Micro) having a value equal to two times the purchase price of the right instead of our preferred stock.

At any time after a person or group of affiliated or associated persons becomes an acquiring person, but prior to the acquisition by an acquiring person of 50% or more of our outstanding shares of our common stock, our Board of Directors may exchange the rights (other than rights owned by such acquiring person that have become null and void), in whole or in part, without any additional payment, for shares of our common stock, at an exchange ratio of one share of common stock (or of a share of a class or series of Smith Micro's preferred shares having equivalent rights, preferences and privileges) per right (subject to adjustment).

At any time after the first date of public announcement by Smith Micro or an acquiring person that an acquiring person has become such, if (1) Smith Micro is the surviving corporation in a merger with any other company or entity, (2) Smith Micro is acquired in a merger or other business combination transaction, or (3) 50% or more of Smith Micro's consolidated assets or earning power are sold, each holder of a right (other than those of an acquiring person whose rights have become null and void) will thereafter have the right to receive, upon the exercise thereof at the then-current purchase price of the right, that number of shares of common stock of the surviving or acquiring company which at the time of such transaction will have a market value of two times the purchase price of such right.

*Redemption of Rights.* At any time prior to a person or group of affiliated or associated persons becomes an acquiring person, our Board of Directors may redeem all, but not less than all, of the rights at a price of \$0.001 per right, which we refer to as the redemption price. The redemption of the rights may be made effective at such time, on such basis and with such conditions as the Board of Directors in its sole discretion may establish. Immediately upon any redemption of the rights, the right to exercise the rights will terminate and the only right of the holders of rights will be to receive the redemption price.

*Qualified Offer.* A qualifying offer is an offer that, among other things, our Board of Directors has determined to have the following characteristics:

is an all-cash tender offer or stock exchange offer or combination thereof for any and all of our outstanding shares of common stock;

is an offer whose per-share price represents a reasonable premium over the highest market price of the common stock in the preceding 18 months, with, in the case of an offer that includes shares of common stock of the offeror, such per-share offer price being determined using the lowest reported market price for common stock of the offeror during the five trading days immediately preceding and the five trading days immediately following the commencement of the offer;

is an offer which, within 20 business days after the commencement date of the offer (or within 10 business days after any increase in the offer consideration), does not result in a nationally recognized investment banking firm retained by our Board of Directors rendering an opinion to the Board of Directors that the consideration being offered to our stockholders is either unfair or inadequate;

is subject only to the minimum tender condition described below and other customary terms and conditions, which conditions shall not include any requirements with respect to the offeror or its agents being permitted to conduct any due diligence with respect to our books, records, management, accountants and other outside advisers;

is accompanied by an irrevocable written commitment by the offeror to us that the offer will remain open for at least 120 business days and, if a special meeting is duly requested by our stockholders with respect to the offer, at least 10 business days after the date

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of the special meeting or, if no special meeting is held within 90 business days following receipt of the notice of the special meeting, for at least 10 business days following that 90-day period;

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is accompanied by an irrevocable written commitment by the offeror to us that, in addition to the minimum time periods specified above, the offer will be extended for at least 15 business days after any increase in the price offered, and after any bona fide alternative offer is made;

is conditioned on a minimum of a majority of the shares of our common stock being tendered and not withdrawn as of the offer's expiration date;

is accompanied by an irrevocable written commitment by the offeror to us to consummate promptly upon successful completion of the offer a second-step transaction whereby all shares of our common stock not tendered in the offer will be acquired at the same consideration per share actually paid pursuant to the offer, subject to stockholders' statutory appraisal rights, if any;

is accompanied by an irrevocable written commitment by the offeror to us that no amendments will be made to the offer to reduce the offer consideration or otherwise change the terms of the offer in a way that is adverse to a tendering stockholder; and

is accompanied by certifications of the offeror and its chief executive officer and chief financial officer that all information that may be material to an investor's decision to accept the offer have been, and will continue to be promptly for the pendency of the offer, fully and accurately disclosed.

Further, any offers that have cash or common stock as all or partial consideration are subject to further conditions for qualification as qualifying offers, as set forth in the Rights Agreement.

Under the qualified offer provisions of our Rights Agreement, if our Board of Directors does not hold a special meeting within 90 business days of receipt of the notice from holders of 10% of our outstanding common stock (excluding the acquiring person), the rights will be automatically redeemed at the close of business on the tenth business day following that date. If a meeting is held and the holders of a majority of our outstanding common stock representing a majority of the shares of common stock represented at the meeting at which a quorum is present vote in favor of the redemption of the rights, the qualifying offer will be deemed exempt from the Rights Agreement, provided that no acquiring person has emerged and the qualifying offer continues to be a qualifying offer.

### **Vote Required**

The affirmative vote of a majority of the shares represented in person or by proxy at the Meeting and entitled to vote on the proposal is required for ratification of the Rights Agreement.

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR RATIFICATION OF THE STOCKHOLDER RIGHTS AGREEMENT.**

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**PROPOSAL 4**

**APPROVAL OF AN AMENDMENT**

**TO CERTIFICATE OF INCORPORATION**

**TO INCREASE NUMBER OF SHARES**

**OF COMMON STOCK AVAILABLE FOR ISSUANCE**

Our Board of Directors has approved a resolution to amend our Certificate of Incorporation to increase the authorized number of shares of common stock available for issuance from 50,000,000 to 100,000,000 shares. The full text of the proposed amendment is set forth in the Certificate of Amendment to the Certificate of Incorporation, which is included herein as Appendix B.

**Reasons for the Amendment**

The primary purpose of this amendment to our Certificate of Incorporation is to make additional shares of common stock available for issuance by us. Our Board of Directors believes that it is in our best interests to increase the number of authorized shares of common stock from 50,000,000 to 100,000,000 shares, in order to have additional shares available to meet our future business needs as they arise. As of March 31, 2012, we had \_\_\_\_\_ issued and outstanding shares of common stock along with \_\_\_\_\_ shares of Common Stock subject to outstanding but unexercised options or otherwise reserved for issuance under our existing equity compensation plans and Employee Stock Purchase Plan. Therefore, as of March 31, 2012, we only had \_\_\_\_\_ excess shares of Common Stock available for issuance.

Our Board believes that the availability of additional shares will provide us with the flexibility to issue common stock for a variety of purposes that our Board of Directors may deem advisable in the future. These purposes could include, among other things, issuances of stock under our Stockholder Rights Plan (discussed above under Proposal 3), stock splits, stock dividends, grants under employee stock plans, financing transactions such as public or private offerings of Common Stock or convertible securities, potential strategic transactions (including mergers, acquisitions, strategic partnerships, joint ventures, divestitures, and business combinations), as well as other general corporate transactions, although we have no present plans to use them in any such regard.

Furthermore, as discussed above under Proposal 3 concerning our Stockholder Rights Plan, after the occurrence of the \_\_\_\_\_ distribution date \_\_\_\_\_ under the Rights Plan, each right will entitle the holder to purchase from the Company one share of common stock at a purchase price of \$ \_\_\_\_\_ per share, subject to adjustment. We currently do not have a sufficient number of authorized but unissued and unreserved shares of common stock to deliver to rights holders in the event all of the outstanding rights are fully exercised. In the event the rights are triggered and we cannot issue additional shares of common stock, the Board is permitted to deliver other assets, such as cash and debt securities, in lieu of common stock pursuant to Section 11(a)(iii) of the Rights Agreement. However if this Proposal 4 is approved to increase our authorized shares of common stock to 100,000,000 shares, we will have an adequate number of authorized shares to entitle the rights holders to fully exercise their rights to purchase common stock as provided in Section 11(a)(ii) of the Rights Agreement. Although the Rights Agreement, as currently in effect, should impose meaningful dilution on a person that attempts a takeover of the Company without Board approval, approval of this proposal to increase our authorized shares would provide additional authorized shares of common stock for issuance in the event the rights are triggered, and would thereby substantially increase the intended dilution and deterrent affect of the Rights Plan. Approval of this amendment by stockholders is not, however, a condition to the basic effectiveness of the Rights Agreement and, therefore, is not intended as a ratification of the Rights Plan.

The additional shares of common stock authorized by this amendment would have rights identical to our common stock currently outstanding. Approval of the proposed amendment and any issuance of common stock would not affect the rights of the holders of our common stock currently outstanding, except for the effects incidental to increasing the outstanding number of shares of common stock, such as dilution of earnings per share, if any, and voting rights of current holders of our common stock.

If authorized, the additional shares of common stock may be issued with approval of our Board of Directors, but without further approval of our stockholders, unless stockholder approval is required by applicable law, rule or regulation. Under our Certificate of Incorporation, the holders of our Common Stock do not have preemptive rights with respect to future issuances of Common Stock. Thus, should our Board of Directors elect to issue additional shares of Common Stock, our existing stockholders will not have any preferential rights to purchase such shares and such issuance could have a dilutive effect on the voting power and percentage ownership of these stockholders. The issuance of additional shares of Common Stock could also have a dilutive effect on our earnings per share, if any.





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**Potential Anti-Takeover Effects**

The increase in the number of shares of common stock authorized for issuance could, under certain circumstances, be construed as having an anti-takeover effect. For example, in the event a person seeks to effect a change in the composition of our Board of Directors or contemplates a tender offer or other transaction involving the combination of our company with another company, it may be possible for us to impede the attempt by issuing additional shares of common stock, thereby diluting the voting power of the other outstanding shares and increasing the potential cost to acquire control of our company. By potentially discouraging initiation of any such unsolicited takeover attempt, our Certificate of Incorporation may limit the opportunity for our stockholders to dispose of their shares at the higher price generally available in takeover attempts or that may be available under a merger proposal. The proposed amendment may also have the effect of permitting our Board of Directors to retain its position indefinitely and place it in a better position to resist changes that our stockholders may wish to make if they are dissatisfied with the conduct of our business.

Our Board of Directors did not propose this amendment to our Certificate of Incorporation in response to any effort known to the Board to accumulate Common Stock or to obtain control of our Company by means of a merger, tender offer or solicitation in opposition to management. In addition, this proposal is not part of any plan by management to recommend a series of similar amendments to our stockholders. Finally, our Board of Directors does not currently contemplate recommending the adoption of any other amendments to our Certificate of Incorporation that could be construed as affecting the ability of third parties to take over or change the control of our Company.

**Vote Required for Approval**

The affirmative vote of the holders of a majority of all outstanding shares of Common Stock is required to approve the foregoing amendment to our Certificate of Incorporation.

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE FOR THE PROPOSAL TO AMEND OUR CERTIFICATE OF INCORPORATION TO INCREASE THE NUMBER OF SHARES OF COMMON STOCK THAT WE ARE AUTHORIZED TO ISSUE.**

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**Table of Contents****PROPOSAL 5:****RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

On December 8, 2005, our Audit Committee first engaged SingerLewak LLP ( SingerLewak ) as our independent registered public accounting firm to audit our financial statements for the year ending December 31, 2005. The Audit Committee has selected SingerLewak as the Company's independent auditors for the fiscal year ending December 31, 2012 and has further directed that the selection of the independent auditors be submitted for ratification by the stockholders at the Annual Meeting. Representatives of SingerLewak are expected to be present at the Annual Meeting, will have an opportunity to make a statement if they so desire and will be available to respond to appropriate questions.

Stockholder ratification of the selection of SingerLewak as the Company's independent auditors is not required by the Company's Bylaws or otherwise. However, the Board of Directors is submitting the selection of SingerLewak to the stockholders for ratification as a matter of good corporate practice. If the stockholders fail to ratify the selection, the Audit Committee will reconsider whether or not to retain that firm. Even if the selection is ratified, the Audit Committee in its discretion may direct the appointment of different independent auditors at any time during the year if they determine that such a change would be in the best interests of the Company and its stockholders.

**Principal Accounting Fees and Services**

The following is a summary of the fees billed to Smith Micro by SingerLewak for professional services rendered for the fiscal year ended December 31, 2011:

<b>Fee Category</b>	<b>Fiscal 2011 Fees</b>
Audit Fees	\$ 405,000
Audit-Related Fees	