

DILLARDS INC  
Form 10-K/A  
September 08, 2009

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM 10-K/A**

**Amendment No. 1**

(Mark One)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended February 2, 2008

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from            to            .

Commission file number 1-6140

**DILLARD S, INC.**

(Exact name of registrant as specified in its charter)

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**DELAWARE** **71-0388071**  
(State or other jurisdiction of **(IRS Employer**  
**incorporation or organization)** **Identification Number)**  
**1600 CANTRELL ROAD, LITTLE ROCK, ARKANSAS 72201**  
  
(Address of principal executive office)  
  
(Zip Code)  
  
**(501) 376-5200**  
  
(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

| <b>Title of each Class</b>  | <b>Name of each exchange on which registered</b> |
|-----------------------------|--|
| <b>Class A Common Stock</b> | <b>New York Stock Exchange</b>                   |

**Securities registered pursuant to Section 12(g) of the Act:**

**None**

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of the Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (See definition of accelerated filer and large accelerated filer in Exchange Act Rule 12b-2).

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Large Accelerated Filer  Accelerated Filer   
Non-Accelerated Filer  Smaller Reporting Company   
Indicate by check mark whether the Registrant is a shell company (as defined in Exchange Act Rule 12-b-2). Yes  No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates of the Registrant as of August 4, 2007:  
\$1,868,526,448.

Indicate the number of shares outstanding of each of the Registrant's classes of common stock as of March 1, 2008:

|  |            |
|--|------------|
| CLASS A COMMON STOCK, \$0.01 par value | 71,155,347 |
| CLASS B COMMON STOCK, \$0.01 par value | 4,010,929  |

**Explanatory Note**

Dillard's, Inc. (the Company) is filing this Amendment No. 1 to its Annual Report on Form 10-K for the year ended February 2, 2008, as filed with the Securities and Exchange Commission on April 2, 2008 (the Original Filing), to amend the certifications of the Company's Chief Executive Officer and Chief Financial Officer pursuant to Rule 13a-14 of the Securities Exchange Act of 1934 (Act), as amended (the Certifications), to correct an inadvertent omission of a portion of the required language and to conform to the exact language as prescribed by the Act. The Certifications are included herewith as Exhibits 31(a) and 31(b). Item 9A has also been amended to clarify the language included therein. Item 15 and the Exhibit Index of the Original Filing are being amended to reflect the filing of the amended Certifications.

Except for the filing of the amended Certifications and the amendments to Items 9A and 15 and the Exhibit Index as described above, this Form 10-K/A does not modify or update any previously reported financial statements or other disclosures in, or exhibits to, the Original Filing.

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**PART II**

**ITEM 9A. CONTROLS AND PROCEDURES.**

The Company maintains disclosure controls and procedures, as such term is defined in Rules 13a-15e and 15d-15e of the Securities Exchange Act of 1934, as amended (the Exchange Act), that are designed to ensure that information required to be disclosed in the Company's reports, pursuant to the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the Company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding the required disclosures. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well-designed and operated, can provide only reasonable assurances of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As of February 2, 2008, the Company carried out an evaluation, with the participation of Company's management, including William Dillard, II, Chairman of the Board of Directors and Chief Executive Officer (principal executive officer) and James I. Freeman, Senior Vice-President and Chief Financial Officer (principal financial officer), of the effectiveness of the Company's disclosure controls and procedures pursuant to Securities Exchange Act Rule 13a-15. Based on their evaluation, the principal executive officer and principal financial officer concluded that the Company's disclosure controls and procedures are effective at the reasonable assurance level.

The attestation report of Deloitte & Touche LLP, the Company's independent registered public accounting firm, on management's assessment of internal control over financial reporting is incorporated herein by reference from pages F-4 and F-5 of the Original Filing.

William Dillard, II, Chairman of the Board of Directors and Chief Executive Officer, has certified to the New York Stock Exchange that he is not aware of any violations by the Company of the exchange's corporate governance listing standards. Attached as an exhibit to this annual report is the certification of Mr. Dillard required under Section 302 of the Sarbanes-Oxley Act of 2002 regarding the quality of the Company's public disclosures.

*Changes in Internal Control over Financial Reporting*

During the quarter ended February 2, 2008, the Company implemented a control over the calculation and review of equity earnings of CDI Contractors LLC, a 50%-owned, equity method joint venture investment of the Company that constructs stores for the Company. There were no other changes in the Company's internal controls over financial reporting that occurred during the quarter ended February 2, 2008 to which this report relates that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

The financial statements, financial analysis and all other information in this Annual Report on Form 10-K/A were prepared by management, who is responsible for their integrity and objectivity and for establishing and maintaining adequate internal controls over financial reporting.

The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. The Company's internal control over financial reporting includes those policies and procedures that:

- i. pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the Company;
- ii. provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and

- iii. provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or dispositions of the Company's assets that could have a material effect on the financial statements.

There are inherent limitations in the effectiveness of any internal control, including the possibility of human error and the circumvention or overriding of controls. Accordingly, even effective internal controls can provide only reasonable assurances with respect to financial statement preparation. Further, because of changes in conditions, the effectiveness of internal controls may vary over time.

Management assessed the design and effectiveness of the Company's internal control over financial reporting as of February 2, 2008. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ( COSO ) in *Internal Control - Integrated Framework*. Based on management's assessment using those criteria, it believes that, as of February 2, 2008, the Company's internal control over financial reporting is effective.

Deloitte & Touche LLP, an independent registered public accounting firm, has audited the financial statements of the Company for the fiscal years ended February 2, 2008, February 3, 2007, and January 28, 2006 and has attested to management's assertion regarding the effectiveness of the Company's internal control over financial reporting as of February 2, 2008. Their report is presented on pages F-4 and F-5 of the Original Filing and is incorporated herein by reference. The independent registered public accountants and internal auditors advise management of the results of their audits and make recommendations to improve the system of internal controls. Management evaluates the audit recommendations and takes appropriate action.

**PART IV**

**ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.**

An Exhibit Index has been filed as a part of this Report beginning on page E-1 hereof and is herein incorporated by reference.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dillard's, Inc.  
Registrant

/s/ James I. Freeman  
James I. Freeman, Senior Vice President and Chief Financial  
Officer  
(Principal Financial and Accounting Officer)

Date: September 8, 2009

**Exhibit Index**

| <b>Number</b> | <b>Description</b>   |
|---------------|--|
| *3(a)         | Restated Certificate of Incorporation (Exhibit 3 to Form 10-Q for the quarter ended August 1, 1992 in 1-6140).   |
| *3(b)         | By-Laws as currently in effect (Exhibit 4.2 to Form S-8 filed November 27, 2007 in 333-147636).  |
| *4(a)         | Indenture between the Registrant and Chemical Bank, Trustee, dated as of October 1, 1985 (Exhibit (4) in 2-85556).   |
| *4(b)         | Indenture between the Registrant and Chemical Bank, Trustee, dated as of October 1, 1986 (Exhibit (4) in 33-8859).   |
| *4(c)         | Indenture between Registrant and Chemical Bank, Trustee, dated as of April 15, 1987 (Exhibit 4.3 in 33-13534).   |
| *4(d)         | Indenture between Registrant and Chemical Bank, Trustee, dated as of May 15, 1988, as supplemented (Exhibit 4 in 33-21671, Exhibit 4.2 in 33-25114 and Exhibit 4(c) to Current Report on Form 8-K dated September 26, 1990 in 1-6140). |
| *4(e)         | Rights Agreement between Dillard s, Inc. and Registrar and Transfer Company, as Rights Agent (Exhibit 4.1 to Form 8-K dated as of March 2, 2002 in 1-6140).  |
| **10(a)       | Retirement Contract of William Dillard dated March 8, 1997 (Exhibit 10(a) to Form 10-K for the fiscal year ended February 1, 1997 in 1-6140).  |
| **10(b)       | 1998 Incentive and Nonqualified Stock Option Plan (Exhibit 10(b) to Form 10-K for the fiscal year ended January 30, 1999 in 1-6140).   |
| **10(c)       | Amended and Restated Corporate Officers Non-Qualified Pension Plan (Exhibit 10.1 to Form 8-K dated as of November 17, 2007 in 1-6140).   |
| **10(d)       | Senior Management Cash Bonus Plan (Exhibit 10(d) to Form 10-K for the fiscal year ended January 28, 1995 in 1-6140).   |
| **10(e)       | 2000 Incentive and Nonqualified Stock Option Plan (Exhibit 10(e) to Form 10-K for the fiscal year ended February 3, 2001 in 1-6140).   |
| *10(f)        | Second Amendment to Amended and Restated Credit Agreement among Dillard s, Inc. and JPMorgan Chase Bank (Exhibit 10 to Form 8-K dated June 3, 2005 in 1-6140).   |
| *10(g)        | Purchase, Sale and Servicing Transfer Agreement among GE Capital Consumer Card Co., General Electric Capital Corporation, Dillards, Inc. and Dillard National Bank (Exhibit 2.1 to Form 8-K dated as of August 12, 2004 in 1-6140).    |
| *10(h)        | Private Label Credit Card Program Agreement between Dillards, Inc. and GE Capital Consumer Card Co. (Exhibit 10.1 to Form 8-K dated as of August 12, 2004 in 1-6140).  |
| *10(i)        | Third Amendment to Amended and Restated Credit Agreement between Dillard s, Inc. and JPMorgan Chase Bank, N.A. as agent for a syndicate of lenders (Exhibit 10.1 to Form 8-K dated June 12, 2006 in File No. 1-6140).                  |



- \*10(j) Fourth Amendment to Amended and Restated Credit Agreement between Dillard's, Inc. and JPMorgan Chase Bank, N.A. as agent for a syndicate of lenders (Exhibit 10.2 to Form 8-K dated June 12, 2006 in File No. 1-6140).
  - \*10(k) Fifth Amendment to Amended and Restated Credit Agreement between Dillard's, Inc. and JPMorgan Chase Bank, N.A. as agent for a syndicate of lenders (Exhibit 10.1 to Form 8-K dated May 4, 2007 in File No. 1-6140).
  - \*12 Statement re: Computation of Ratio of Earnings to Fixed Charges (Exhibit 12 to Form 10-K for the fiscal year ended February 2, 2008 in File No. 1-6140).
  - \*21 Subsidiaries of Registrant (Exhibit 12 to Form 10-K for the fiscal year ended February 2, 2008 in File No. 1-6140).
  - \*23 Consent of Independent Registered Public Accounting Firm (Exhibit 23 to Form 10-K for the fiscal year ended February 2, 2008 in File No. 1-6140).
  - 31(a) Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended.
  - 31(b) Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended.
  - \*32(a) Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350) (Exhibit 32(a) to Form 10-K for the fiscal year ended February 2, 2008 in File No. 1-6140).
  - \*32(b) Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350) (Exhibit 32(b) to Form 10-K for the fiscal year ended February 2, 2008 in File No. 1-6140).
- \* Incorporated by reference as indicated.
- \*\* A management contract or compensatory plan or arrangement required to be filed as an exhibit to this report pursuant to Item 14(c) of Form 10-K.