

OLD SECOND BANCORP INC
Form 10-K/A
June 29, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K/A

(Amendment No. 1)

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

For the fiscal year ended December 31, 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 0-10537

OLD SECOND BANCORP, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

36-3143493
(IRS Employer Identification Number)

37 South River Street, Aurora, Illinois 60507

(Address of principal executive offices, including Zip Code)

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(630) 892-0202

(Registrant's telephone number, including Area Code)

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

| Title of Class | Name of each exchange on which registered |
|--|--|
| Common Stock, \$1.00 par value | The Nasdaq Stock Market |
| Preferred Securities of Old Second Capital Trust I | The Nasdaq Stock Market |

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

Preferred Share Purchase Rights

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(Title of Class)

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 Exchange 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 whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). 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 this 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, a non-accelerated filer or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer
(Do not check if smaller reporting company)

Accelerated filer
Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2). Yes No

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant, on June 30, 2008, the last business day of the registrant's most recently completed second fiscal quarter, was approximately \$160 million. The number of shares outstanding of the registrant's common stock, par value \$1.00 per share, was 13,827,259 at March 12, 2009.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Company's Annual Report the fiscal year ended December 31, 2008 are incorporated by reference into Parts I, II and IV.

Portions of the Company's Proxy Statement for the 2009 Annual Meeting of Stockholders are incorporated by reference into Part III.

Preferred Share Purchase Rights

Explanatory Note

Old Second Bancorp, Inc. is filing this Amendment No. 1 to its Annual Report on Form 10-K for the fiscal year ended December 31, 2008, as filed with the Securities and Exchange Commission on March 16, 2009, in order to (i) revise the description of Mr. Sloan's business experience for the past 5 years and (ii) confirm that the sections of the Company's proxy statement entitled "Executive Compensation", "Director Compensation", and "Compensation Discussion and Analysis" are incorporated by reference into the Form 10-K and are deemed filed as part of the Form 10-K.

This Form 10-K/A does not reflect events occurring after the filing of the original Form 10-K filed with the Securities and Exchange Commission on March 16, 2009, or modify or update those disclosures affected by subsequent events. Except as described above, the Company has not modified or updated other disclosures or information presented in the original Form 10-K.

PART III

Item 10. Directors, Executive Officers, and Corporate Governance

The Company incorporates by reference the information contained in the Proxy Statement for the 2008 Annual Meeting of Stockholders.

Executive Officers of the Registrant and Subsidiary

| Name, Age and Year Became Executive Officer of the Registrant | Positions with Registrant |
|---|--|
| William B. Skoglund Age 58; 1992 | Chairman of the Board President and CEO of the Company |
| J. Douglas Cheatham Age 52; 1999 | Chief Financial Officer of the Company Executive Vice President |
| James L. Eccher Age 43; 2005 | President and Chief Executive Officer of Old Second National Bank |
| Rodney L. Sloan Age 49; 2007 | During the past five years, Mr. Sloan has served as Senior Vice President and Senior Lending Officer for Old Second Bancorp, Inc. In 2007, Mr. Sloan assumed the title of Executive Vice President, Chief Risk Officer, taking on additional responsibility for overall Enterprise Risk Management for the Company |

There are no arrangements or understandings between any of the executive officers or any other persons pursuant to which any of the executive officers have been selected for their respective positions.

Section 16(a) of the Securities Exchange Act of 1934 requires directors, executive officers and 10% stockholders of the Company file reports of ownership and changes in ownership with the Securities and Exchange Commission. Such persons are also required to furnish the Company with copies of all Section 16 (a) forms they file. Based solely upon a review of these forms, the Company is not aware that any of our directors, executive officers or 10% stockholders failed to comply with the filing requirements of Section 16(a) during 2008.

Item 11. Executive Compensation

The Company incorporates by reference the information required by Item 11 that is contained in the Proxy Statement for the 2008 Annual Meeting of Stockholders under the captions Election of Directors , Executive Compensation , Director Compensation , Compensation Discussion and Analysis , Compensation Committee Report and Transactions with Management . Such information shall be deemed to be filed with this Form 10-K.

PART IV

Item 15. Exhibits and Financial Statement Schedules

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The following exhibits required by Item 601 of Regulation S-K are included along with this 10-K filing:

Item 601

Table II. No.

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|------|--|
| 2.1 | Agreement and Plan of Merger between Old Second Bancorp, Inc., Old Second Acquisition Inc., and Heritage Banc, Inc. dated November 5, 2007 (incorporated herein by reference to Exhibit 2.1 Of the Form 8-K filed by Old Second Bancorp, Inc. on November 6, 2007) |
| 3.1 | Articles of Incorporation of Old Second Bancorp, Inc. (incorporated herein by reference to Exhibit 3.1 of the Form S-4 filed by Old Second Bancorp, Inc., on December 19, 2007) |
| 3.2 | By-laws of Old Second Bancorp, Inc. (incorporated herein by reference to Exhibit 3.2 of the Form S-4 filed by Old Second Bancorp, Inc., on December 19, 2007) |
| 4.1 | Rights Agreement between Old Second Bancorp, Inc. and Old Second National Bank, as Rights Agent, dated as of September 17, 2002, incorporated herein by reference to Exhibit 99.1 of the form 8-K filed by Old Second Bancorp, Inc., September 20, 2002 |
| 10.1 | Form of Compensation and Benefits Assurance Agreements for the executive officers (filed as exhibit 10.1 to the Company's 10-Q filed on November 9, 2006 and incorporated herein by reference) |
| 10.2 | Old Second Bancorp, Inc. Employees 401 (k) Savings Plan and Trust (filed as an exhibit to the Company's Form S-8 filed on June 9, 2000 and incorporated herein by reference) |
| 10.3 | Form of indenture relating to trust preferred securities (filed as exhibit 4.1 to the Company's registration statement on Form S-3 filed on May 20, 2003 and incorporated herein by reference) |
| 10.4 | Old Second Bancorp, Inc. 2008 Long Term Incentive Plan (filed as an exhibit to the Company's DEF14A filed on March 17, 2008 and incorporated herein by reference) |
| 10.5 | Compensation and Benefits Assurance Agreement for Mr. Eccher (filed as an exhibit to the Company's Form 8-K filed on February 10, 2005) |
| 10.6 | Amended and restated Voluntary Deferred Compensation Plan for Executives and Directors (filed as an exhibit to the Company's Form 8-K filed on March 28, 2005 and incorporated herein by reference) |
| 10.7 | Amendment to the Old Second Bancorp, Inc. Supplemental Executive and Retirement Plan (filed as an exhibit to the Company's Form 8-K filed on October 10, 2005 and incorporated herein by reference) |

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- 10.8 Form of Amended Stock Option Award Agreement (filed as an exhibit to the Company's Form 8-K filed on December 20, 2005 and incorporated herein by reference)
- 10.9 Loan and Subordinated Debenture Purchase Agreement, dated January 31, 2008, between LaSalle Bank National Association (now Bank of America) and Old Second Bancorp, Inc (filed as an exhibit to the Company's Form 10-K filed on March 17, 2008 and incorporated herein by reference)
- 10.10 Agreed Upon Terms and Procedures, dated January 31, 2008, between LaSalle Bank National Association (now Bank of America) and Old Second Bancorp, Inc (filed as an exhibit to the Company's Form 10-K filed on March 17, 2008 and incorporated herein by reference)
- 10.11 Letter Agreement, dated January 16, 2009, by and between Old Second Bancorp, Inc., and the United States Department of the Treasury, which includes the Securities Purchase Agreement Standard Terms with respect to the issuance and sale of the Series B Preferred Stock and the Warrant (filed as an exhibit to the Company's Form 8-K filed on January 16, 2009 and incorporated here in by reference)
- 13.1 The Company's 2008 Annual Report to Stockholders (Previously filed on March 16, 2009 as an exhibit to the Company's original Annual Report on Form 10-K)
- 21.1 A list of all subsidiaries of the Company (Previously filed on March 16, 2009 as an exhibit to the Company's original Annual Report on Form 10-K)
- 23.1 Consent of Grant Thornton LLP (Previously filed on March 16, 2009 as an exhibit to the Company's original Annual Report on Form 10-K)
- 31.1 Certification of Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a) (filed herewith)
- 31.2 Certification of Chief Financial Officer Pursuant to Rule 13a-14(a)/15d-14(a) (filed herewith)
- 32.1 Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith)
- 32.2 Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith)

SIGNATURES

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

OLD SECOND BANCORP, INC.

BY: /s/ William B. Skoglund
William B. Skoglund
Chairman of the Board, Director
President and Chief Executive Officer
(principal executive officer)

DATE: June 29, 2009