

Bank of Marin Bancorp  
Form 8-K  
December 09, 2008

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

FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 or 15(d) of  
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) December 5, 2008

Bank of Marin Bancorp  
(Exact name of Registrant as specified in its charter)

California  
(State or other jurisdiction of  
incorporation)

001-33572  
(File number)

20-8859754  
(I.R.S. Employer Identification No.)

504 Redwood Blvd., Suite 100, Novato, CA  
(Address of principal executive office)

94947  
(Zip Code)

Registrant's telephone number, including area code: (415)-763-4520

Not Applicable  
(Former name or former address, if changes since last report)

Check the appropriate box below if the Form 8-K filing is to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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Item 1.01.

Entry Into a Material Definitive Agreement.

On Friday, December 5, 2008, Bank of Marin Bancorp, a California corporation (the Company), entered into a Letter Agreement (the Purchase Agreement) with the United States Department of the Treasury (the Treasury), pursuant to which the Company agreed to issue and sell (i) 28,000 shares of the Company's Preferred Stock as Fixed Rate Cumulative Perpetual Preferred Stock, Series B (the Preferred Stock) and (ii) a warrant (the Warrant) to purchase 154,242 shares of the Company's Common Stock, no par value per share (the Common Stock) for an aggregate purchase price of \$28,000,000 in cash. The Purchase Agreement is attached as Exhibit 10.1 hereto and is incorporated herein by reference.

The Preferred Stock will qualify as Tier 1 capital and will pay cumulative dividends at a rate of 5% per annum for the first five years and 9% per annum thereafter. The Preferred Stock may be redeemed by the Company after three years. Prior to the end of the three years, the Preferred Stock may be redeemed only with proceeds from the sale of qualifying equity securities of the Company (a Qualified Equity Offering). The restrictions on redemption are set forth in the Certificate of Determination described in Item 5.03 below.

The Warrant has a 10-year term and is immediately exercisable upon its issuance, with an exercise price, subject to anti-dilution adjustments, equal to \$27.23 per share of the Common Stock. The Warrant is attached as Exhibit 4.2 hereto and is incorporated herein by reference.

If the Company receives aggregate gross cash proceeds of not less than \$28,000,000 from Qualified Equity Offerings on or prior to December 31, 2009, the number of shares of Common Stock issuable pursuant to Treasury's exercise of the Warrant will be reduced by one half of the original number of shares, taking into account all adjustments, underlying the Warrant. Pursuant to the Purchase Agreement, Treasury has agreed not to exercise voting power with respect to any shares of Common Stock issued upon exercise of the Warrant.

The Preferred Stock and the Warrants were issued in a private placement exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended. Upon the request of Treasury at any time, the Company has agreed to promptly enter into a deposit arrangement pursuant to which the Preferred Stock may be deposited and depositary shares (the Depositary Shares) representing fractional shares of the Preferred Stock, may be issued. The Company has agreed to register the Preferred Shares, the Warrant, the shares of Common Stock underlying the Warrant (the Warrant Shares) and Depositary Shares, if any, as soon as practicable after the date of the issuance of the Preferred Stock and the Warrant. Neither the Preferred Stock nor the Warrant will be subject to any contractual restrictions on transfer, except that Treasury may only transfer or exercise an aggregate of one-half of the Warrant Shares prior to the earlier of the redemption of 100% of the shares of Preferred Stock and December 31, 2009.

In the Purchase Agreement, the Company agreed that, until such time as Treasury ceases to own any debt or equity securities of the Company acquired pursuant to the Purchase Agreement, the Company will take all necessary action to ensure that its benefit plans with respect to its senior executive officers comply with Section 111(b) of the Emergency Economic Stabilization Act of 2008 (the EESA) as implemented by any guidance or regulation under the EESA that has been issued and is in effect as of the date of the issuance of the Preferred Stock and the Warrant, and has agreed to not adopt any benefit plans with respect to, or which covers, its senior executive officers that do not comply with the EESA, and the applicable executives have consented to the foregoing.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 Entry into a Material Definitive Agreement is incorporated by reference into this Item 3.02.

Item 3.03. Material Modification to Rights of Shareholders.

Upon issuance of the Preferred Stock on December 5, 2008, the ability of the Company to declare or pay dividends or distributions on, or purchase, redeem or otherwise acquire for considerations, shares of its Junior Stock (as defined below) and Parity Stock (as defined below) will require regulatory approval, including increasing dividends from the last quarterly cash dividend per share (\$.14) declared on the Common Stock prior to December 5, 2008. The redemption, purchase or other acquisition of trust preferred securities of the Company or its affiliates also will be restricted. These restrictions will terminate on the earlier of (a) the third anniversary of the date of the issuance of the Preferred Stock, and (b) the date on which the Preferred Stock has been redeemed in whole or Treasury has transferred all of the Preferred Stock to third parties. The restrictions described in this paragraph are set forth in the Purchase Agreement.

In addition, pursuant to the Certificate of Determination, the ability of the Company to declare or pay dividends or distributions on, or repurchase, redeem or otherwise acquire for consideration, shares of its Junior Stock (as defined below) and Parity Stock (as defined below) will be subject to restrictions in the event that the Company fails to declare and pay full dividends (or declare and set aside a sum sufficient for payment thereof) on its Preferred Stock. These restrictions are set forth in the Certificate of Determination described in Item 5.03.

Junior Stock means the Common Stock and any other class or series of stock of the Company the terms of which expressly provide that it ranks junior to the Preferred Stock inline; FONT-FAMILY: times new roman; FONT-SIZE: 10pt">6

CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

7

SOLE VOTING POWER

1,875,000

8

SHARED VOTING POWER

- 0 -

9

SOLE DISPOSITIVE POWER

1,875,000

10

SHARED DISPOSITIVE POWER

- 0 -

11

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,875,000

12

CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

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13

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

5.7%

14

TYPE OF REPORTING PERSON

PN

2

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CUSIP NO. 443787106

1 NAME OF REPORTING PERSON

LONE STAR VALUE INVESTORS GP, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)  (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		1,875,000
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		1,875,000
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,875,000

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

5.7%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 443787106

1 NAME OF REPORTING PERSON

LONE STAR VALUE MANAGEMENT, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)  (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

CONNECTICUT

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		1,875,000
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		1,875,000
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,875,000

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

5.7%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 443787106

1 NAME OF REPORTING PERSON

JEFFREY E. EBERWEIN

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)  (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

USA

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		1,875,000
	8	SHARED VOTING POWER
		-0-
	9	SOLE DISPOSITIVE POWER
		1,875,000
	10	SHARED DISPOSITIVE POWER
		-0-

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,875,000

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

5.7%

14 TYPE OF REPORTING PERSON

IN



CUSIP NO. 443787106

The following constitutes Amendment No. 3 to the Schedule 13D filed by the undersigned (“Amendment No. 3”). This Amendment No. 3 amends the Schedule 13D as specifically set forth herein.

Item 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer.

Item 6 is hereby amended to add the following:

On August 6, 2014, Lone Star Value Investors entered into a Purchase Trading Plan Agreement (the “Agreement”) with Williams Trading, LLC (“Williams Trading”) for the purpose of establishing a trading plan to effect purchases of Shares of the Issuer in compliance with all applicable laws, including, without limitation, Section 10(b) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, including, but not limited to, Rule 10b5-1.

The Agreement allows for the purchase of up to an aggregate of 375,000 Shares by Williams Trading on behalf of Lone Star Value Investors. Shares purchased pursuant to the Agreement may only be purchased in accordance with trading requirements adopted by Lone Star Value Investors, and there can be no assurance as to how many Shares, if any, will be purchased pursuant to the Agreement or at what price any such Shares will be purchased.

A copy of the Agreement is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 7. Material to be Filed as Exhibits.

Item 7 is hereby amended to add the following exhibit:

99.1 Purchase Trading Plan Agreement between Lone Star Value Investors, LP and Williams Trading, LLC, dated August 6, 2014.

CUSIP NO. 443787106

SIGNATURES

After reasonable inquiry and to the best of his knowledge and belief, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: August 12, 2014

Lone Star Value Investors, LP

By: Lone Star Value Investors GP, LLC  
General Partner

By: /s/ Jeffrey E. Eberwein  
Name: Jeffrey E. Eberwein  
Title: Manager

Lone Star Value Investors GP, LLC

By: /s/ Jeffrey E. Eberwein  
Name: Jeffrey E. Eberwein  
Title: Manager

Lone Star Value Management, LLC

By: /s/ Jeffrey E. Eberwein  
Name: Jeffrey E. Eberwein  
Title: Sole Member

/s/ Jeffrey E. Eberwein  
JEFFREY E. EBERWEIN