

CENTRAL FEDERAL CORP
Form 8-K
December 05, 2008

**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 1, 2008

CENTRAL FEDERAL CORPORATION
(Exact name of registrant as specified in its charter)

Delaware

(State or other Jurisdiction of
Incorporation)

0-25045

(Commission File Number)

34-1877137

(IRS Employer Identification No.)

2923 Smith Road, Fairlawn, Ohio

(Address of Principal Executive Offices)

44333

(Zip Code)

Registrant's telephone number, including area code: **(330) 666-7979**

Not Applicable

(Former name or former address if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended 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 (17 CFR 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))

Item 1.01 Entry into a Material Definitive Agreement

Item 3.02 Unregistered Sales of Equity Securities

Item 3.03 Material Modification to Rights of Security Holders

On December 5, 2008, Central Federal Corporation (the Company) completed the sale of \$7,225,000 of preferred stock and a warrant to purchase common stock to the United States Department of the Treasury (the U.S. Treasury) under U.S. Treasury's Capital Purchase Program under the Emergency Economic Stabilization Act of 2008 (EESA).

The Company issued and sold (1) 7,225 shares of Fixed Rate Cumulative Perpetual Preferred Stock Series A, liquidation preference of \$1,000 per share (the Preferred Shares), and (2) a ten-year warrant (the Warrant) to purchase up to 336,568 shares of the Company's common stock (Common Stock) at an exercise price of \$3.22 per share, or an aggregate purchase price of \$1,083,750 in cash. Cumulative dividends on the Preferred Shares will accrue on the liquidation preference at a rate of 5% per annum for the first five years, and at a rate of 9% per annum thereafter.

The issuance of the Preferred Shares and the Warrant was exempt from registration as a transaction by an issuer not involving any public offering under Section 4(2) of the Securities Act of 1933. The securities purchase agreement, dated December 5, 2008 (the Purchase Agreement), between the Company and the U.S. Treasury, pursuant to which the Preferred Shares and the Warrant were sold, provides that the Company must file a shelf registration statement for the resale of the Preferred Shares, the Warrant and the Common Stock underlying the Warrant.

The Purchase Agreement limits the payment of dividends on the Common Stock to the current quarterly cash dividend of \$0.05 per share, limits the Company's ability to repurchase its Common Stock, and subjects the Company to certain of the executive compensation limitations included in the EESA. You should refer to the documents incorporated herein by reference for a complete description of these limitations.

The Purchase Agreement, the Warrant and the Certificate of Designations for the Preferred Shares are exhibits to this Report on Form 8-K. The foregoing summary of certain provisions of these documents is qualified in its entirety by reference to them.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

As a condition to the closing of the transaction, each of the Company's Senior Executive Officers (as defined in the Purchase Agreement) executed a waiver voluntarily waiving any claim against the Treasury or the Company for any changes to their compensation or benefits, as required to comply with the regulation issued by the U.S. Treasury under the TARP Capital Purchase Program as published in the Federal Register on October 20, 2008. The Senior Executive Officers also acknowledged that the regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements and policies and agreements (including so-called golden parachute agreements) as they relate to the period the U.S. Treasury holds any equity or debt securities of the Company acquired through the Capital Purchase Program. The form of waiver is an exhibit to this Report on Form 8-K.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

On December 1, 2008, the Company filed a Certificate of Designations (the Certificate of Designations) with the Delaware Secretary of State for the purpose of amending its Certificate of Incorporation to fix the designations, preferences, limitations and relative rights of the Preferred Stock. The Certificate of Designations is an exhibit to this Report on Form 8-K.

Item 8.01 Other Events

On December 5, 2008, the issued a press release announcing that it completed the sale of the Preferred Shares and Warrant to the U.S. Treasury. A copy of the press release is attached hereto as Exhibit 99.1.

Item 9.01 Financial Statements, Pro Forma Financial Information and Exhibits

(d) Exhibits

The following exhibits are filed herewith:

| Exhibit No. | Description of Exhibit |
|--------------------|--|
| 3.1 | Certificate of Designations for the Preferred Stock |
| 4.1 | Warrant to purchase up to 336,568 shares of Common Stock, Issued December 5, 2008 |
| 10.1 | Letter Agreement, dated December 5, 2008 including the Securities Purchase Agreement Standard Terms incorporated by reference therein, between the Company and the U.S. Treasury |
| 10.2 | Form of Waiver of Senior Executive Officers |
| 99.1 | Press Release issued by Central Federal Corporation on December 5, 2008 |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Central Federal Corporation

Date: December 5, 2008

By: /s/ Therese Ann Liutkus
Therese Ann Liutkus, CPA
Treasurer and Chief Financial Officer

EXHIBIT INDEX

| Exhibit | Description |
|---------|--|
| 3.1 | Certificate of Designations for the Preferred Stock |
| 4.1 | Warrant to purchase up to 336,568 shares of Common Stock, Issued December 5, 2008 |
| 10.1 | Letter Agreement, dated December 5, 2008 including the Securities Purchase Agreement Standard Terms incorporated by reference therein, between the Company and the U.S. Treasury |
| 10.2 | Form of Waiver of Senior Executive Officers |
| 99.1 | Press Release issued by Central Federal Corporation on December 5, 2008 |