Bank of Marin Bancorp
Form 10-K
March 16, 2009

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

FORM 10-K

T 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: 001-33572

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

California (State or other jurisdiction of incorporation)	20-8859754 (IRS Employer Identification No.)
504 Redwood Blvd., Suite 100, Novato, CA (Address of principal executive office)	94947 (Zip Code)

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

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

None

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

Common Stock, No Par Value, and attached Share Purchase Rights (Title of each class)	NASDAQ Capital Market (Name of each exchange on which registered)

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

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 T

Note – checking the box above will not relieve any registrant required to file reports pursuant to section 13 or 15(d) of the Exchange Act from their obligations under these sections.

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Indicate by check mark whether the registrant (1) has filed all reports to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months, and (2) has been subject to such filing requirements for the past 90 days. Yes T No £ (See Explanatory Note.)

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 the 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. o

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 Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer £	Accelerated filer T
Non-accelerated filer £	Smaller reporting company £

Indicate by check mark if the registrant is a shell company, as defined in Rule 12b(2) of the Exchange Act.
Yes £ No T

As of June 30, 2008, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the voting and non-voting common equity held by non-affiliates, based upon the closing price per share of the registrant's common stock as reported by the NASDAQ, was approximately $118 million. For the purpose of this response, directors and officers of the Registrant are considered the affiliates at that date.

As of February 27, 2009 there were 5,154,151 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Proxy Statement for the Annual Meeting of Shareholders to be held on May 12, 2009 are incorporated by reference into Part III.

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Explanatory Note

Bank of Marin Bancorp is the successor registrant to Bank of Marin pursuant to an 8-K filed with the SEC on June 29, 2007.

On July 1, 2007 (the “Effective Date”), a bank holding company reorganization was completed whereby Bank of Marin Bancorp became the parent holding company for Bank of Marin. On the Effective Date, each outstanding share of Bank of Marin common stock was converted into one share of Bank of Marin Bancorp common stock and Bank of Marin became a wholly-owned subsidiary of the holding company. Bank of Marin Bancorp assumed the ticker symbol BMRC, which was formerly used by Bank of Marin. Prior to the Effective Date, Bank of Marin filed reports and proxy statements with the Federal Deposit Insurance Corporation (“FDIC”) pursuant to Sections 12 of the Securities Exchange Act of 1934 (the “1934 Act”).

The financial statements and discussion thereof contained in this report for periods subsequent to the reorganization relate to consolidated Bank of Marin Bancorp. Periods prior to the reorganization relate to Bank of Marin only. The information is comparable as the sole subsidiary of Bank of Marin Bancorp is the Bank of Marin.

This report refers to previous filings made by Bank of Marin with the FDIC pursuant to the 1934 Act. Copies of these filings are available by requesting them in writing or by phone from:

Corporate Secretary
Bank of Marin
504 Redwood Blvd., Suite 100
Novato, CA 94947
415-763-4523

Copies of such filings are also available on our website at www.bankofmarin.com. This website address is for information only and is not intended to be an active link, or to incorporate any website information into this document.

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PART I

Forward-Looking Statements

This discussion of financial results includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, (the "1933 Act") and Section 21E of the Securities Exchange Act of 1934, as amended, (the "1934 Act"). Those sections of the 1933 Act and 1934 Act provide a "safe harbor" for forward-looking statements to encourage companies to provide prospective information about their financial performance so long as they provide meaningful, cautionary statements identifying important factors that could cause actual results to differ significantly from projected results.

Our forward-looking statements include descriptions of plans or objectives of Management for future operations, products or services, and forecasts of our revenues, earnings or other measures of economic performance. Forward-looking statements can be identified by the fact that they do not relate strictly to historical or current facts. They often include the words "believe," "expect," "intend," "estimate" or words of similar meaning, or future or conditional verbs such as "will," "would," "should," "could" or "may."

Forward-looking statements are based on Management's current expectations regarding economic, legislative, and regulatory issues that may impact our earnings in future periods. A number of factors - many of which are beyond Management’s control - could cause future results to vary materially from current Management’s expectations. Such factors include, but are not limited to, general economic conditions, the current financial turmoil in the United States and abroad, changes in interest rates, deposit flows, real estate values and competition; changes in accounting principles, policies or guidelines; changes in legislation or regulation; and other economic, competitive, governmental, regulatory and technological factors affecting our operations, pricing, products and services. These and other important factors are detailed in Item 1A Risk Factors section of this report. Forward-looking statements speak only as of the date they are made. We do not undertake to update forward-looking statements to reflect circumstances or events that occur after the date the forward-looking statements are made or to reflect the occurrence of unanticipated events.

ITEM 1. BUSINESS

On July 1, 2007 (the “Effective Date”), a bank holding company reorganization was completed whereby Bank of Marin Bancorp became the parent holding company for Bank of Marin (the “Bank”), its sole subsidiary. References in this report to “Bancorp” mean the holding company. References to “we,” “our,” “us” mean the holding company and its subsidiary that are consolidated for financial reporting purposes. Upon formation of the holding company, Bancorp became subject to regulation under the Bank Holding Company Act of 1956, as amended, which subjects Bancorp to Federal Reserve Board reporting and examination requirements. The Bank was incorporated in August 1989, received its charter from the California Superintendent of Banks (now the California Department of Financial Institutions) and commenced operations in January 1990. The Bank is an insured bank under the Federal Deposit Insurance Act.

Virtually all of our business is conducted through Bancorp’s sole subsidiary, the Bank. We operate through twelve branch offices in Marin and southern Sonoma counties, north of San Francisco, California. We also have a loan production office in San Francisco. Our customer base is made up of business and personal banking relationships from the communities near the branch office locations. Our business banking focus is on small to medium-sized businesses, professionals and not-for-profit organizations.

We offer a broad range of commercial and retail lending programs designed to meet the needs of our target markets. These include commercial loans and lines of credit, construction financing, consumer loans, and home equity lines of credit. Through a third party vendor, we offer a proprietary Visa(R) credit card combined with a rewards program to our customers, as well as a Business Visa® program for business and professional customers. We also offer cash management sweep to business clients through a third party vendor.

We offer a variety of checking and savings accounts, and a number of time deposit alternatives, including interest bearing and non-interest bearing personal and business checking accounts and time certificates of deposit. In March 2008, we introduced a new deposit product, Certificate of Deposit Account Registry Service ("CDARS®"). CDARS® is a network through which we offer full FDIC insurance coverage in excess of the regulatory maximum by placing deposits in multiple banks participating in the network. We also offer remote deposit capture and direct deposit of payroll, social security and pension checks. A valet deposit pick-up service is available to our professional and business clients. Automatic teller machines ("ATM's") are available at each branch location and at the Marin Airporter terminal in Larkspur.

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Our ATM network is linked to the STAR, PLUS and NYCE networks. In January 2009, we began offering free access to a network of nation-wide surcharge-free ATM's called MoneyPass. We also offer our depositors 24-hour access to their accounts by telephone and through our internet banking products available to personal and business account holders.

We offer Wealth Management Services which include customized investment portfolio management, financial planning, trust administration, estate settlement and custody services. We also offer 401(k) plan services to small and medium businesses through a third party vendor.

We offer branch-based Private Banking as a natural extension of our services. Our Private Banking includes deposit services, loans, investment management, trust administration, financial planning and advice on charitable giving.

We do not directly offer international banking services, but do make such services available to our customers through other financial institutions with whom we have correspondent banking relationships.

We hold no patents, licenses (other than licenses required by the appropriate banking regulatory agencies), franchises or concessions. The Bank has registered the service mark "The Spirit of Marin" with the United States Patent & Trademark Office. The Bank also has three pending service mark applications with the United States Patent & Trademark Office for the words "Bank of Marin", the Bank of Marin logo, and the Bank of Marin tagline "Committed to your business and our community." In addition, Bancorp has two pending service mark applications with the United States Patent & Trademark Office for the words "Bank of Marin Bancorp" and for the Bank of Marin Bancorp logo.

Market Area

Our primary market area reaches from southern Sonoma County to and including San Francisco and lies between the Pacific Ocean on the west and San Francisco Bay to the east. Our customer base is made up of business and personal banking relationships from the communities near the branch office locations.

We attract deposit relationships from individuals, merchants, small to medium-sized businesses, not-for-profit organizations and professionals who live and/or work in the communities comprising our market areas. Approximately 89% of our deposits are from Marin and southern Sonoma counties, and approximately 63% of our deposits are from businesses and 37% are from individuals.

Competition

The banking business in California generally, and in our market area specifically, is highly competitive with respect to attracting both loan and deposit relationships. The increasingly competitive environment is impacted by changes in regulation, technology and product delivery systems, as well as the accelerating pace of consolidation among financial service providers. The Marin County market area is dominated by three major national banks, each of which has more branch offices than us in the defined service area. Additionally, there are several thrifts, including the major thrift institutions operating in the California market, credit unions and other independent banks.

Approximately 77 banking offices with $6.3 billion in total deposits as of June 30, 2008 served the Marin County market. As of that same date, there were approximately 11 thrift offices in Marin with $1.8 billion in total deposits. Compared with our share of 9.3%, the four financial institutions with the greatest market share, Wells Fargo Bank, Bank of America, Washington Mutual (now part of J.P. Morgan Chase) and Westamerica Bank had deposit market shares of 19.4%, 18.1%, 9.9% and 9.6%, respectively, as of June 30, 2008, the most recent date for which data is available to us.

In the southern Sonoma County area of Petaluma, there are approximately 27 banking and thrift offices with $1.4 billion in total deposits as of June 30, 2008. Compared with our share of 2.9%, the four banking institutions with the greatest market share, Wachovia (now part of Wells Fargo), Wells Fargo Bank, Bank of America, and Washington Mutual (now part of J.P. Morgan Chase), had deposit market shares in Petaluma of 22.4%, 14.5%, 15.0%, and 9.5%, respectively, as of June 30, 2008.

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We also compete for depositors' funds with money market mutual funds and with non-bank financial institutions such as brokerage firms and insurance companies. Among the competitive advantages held by some of these non-bank financial institutions is the ability to finance extensive advertising campaigns, and to allocate investment assets to regions of California or other states with areas of highest demand and often, therefore, highest yield.

Large commercial banks also have substantially greater lending limits than us and have the ability to offer certain services which are not offered directly by us.

In order to compete with the numerous, and often larger, financial institutions in our primary market area, we use, to the fullest extent possible, the flexibility and rapid response capabilities which are accorded by our independent status. This includes an emphasis on specialized services, community involvement, local promotional activities and personal contacts. The commitment and dedication of our organizers, directors, officers and staff have also contributed greatly to our success in competing for business.

Employees

At December 31, 2008, we employed 197 full-time equivalent (“FTE”) staff. The actual number of employees at year-end 2008 included 5 executive officers, 75 other corporate officers and 136 staff. None of our employees are presently represented by a union or covered by a collective bargaining agreement. We believe that our employee relations are good.

SUPERVISION AND REGULATION

Bank holding companies and banks are extensively regulated under both federal and state law. The following discussion summarizes certain significant laws, rules and regulations affecting Bancorp and the Bank.

Transactions between Bancorp and the Bank are quantitatively and qualitatively restricted under the Federal Reserve Act. Sections 23A and 23B of the Act and Federal Reserve Regulation W. Section 23A places restrictions on the Bank’s “covered transactions” with Bancorp, including loans and other extensions of credit, investments in the securities of, and purchases of assets from Bancorp. Section 23B requires that certain transactions, including all covered transactions, be on market terms and conditions. Federal Reserve Regulation W combines statutory restrictions on transactions between the Bank and Bancorp with Board interpretations in an effort to simplify compliance with Sections 23A and 23B.

Capital Requirements

The Federal Reserve and the FDIC have adopted risk-based capital guidelines for bank holding companies and banks. Banks are classified as either well capitalized, adequately capitalized or undercapitalized. Holding companies are classified as either adequately capitalized or under capitalized. Bancorp meets the definition of adequately capitalized and the Bank meets the definition for well capitalized. Undercapitalized depository institutions may be subject to significant restrictions. Payment of interest and principal on subordinated debt of the Bank could be restricted or prohibited, with some exceptions, if the Bank were categorized as "critically undercapitalized" under applicable FDIC regulations. For further information on risk-based capital, see Note 17 to the Consolidated Financial Statements in Item 8 of this report.

Sarbanes-Oxley Act of 2002

We are subject to the requirements of the Sarbanes-Oxley Act of 2002 which implemented legislative reforms intended to address corporate and accounting improprieties. Since we file periodic reports under the Securities and Exchange Commission regulations, we are subject to the provisions of the Sarbanes-Oxley Act of 2002 and related rules and regulations.

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Emergency Economic Stabilization Act of 2008 (the “EESA”)

In response to the financial crisis affecting the banking system and financial markets and going concern threats of investment banks and other financial institutions, on October 3, 2008, the EESA was signed into law, which gave the U.S. Treasury the authority to, among other things, inject $700 billion capital into the market to stabilize the financial industry. Pursuant to the EESA, the U.S. Treasury is purchasing up to a total of $250 billion of senior preferred shares from the largest nine financial institutions in the nation and the other financial institutions in a program known as the Treasury Capital Purchase Program (“TCPP”) that was carved out of the Troubled Asset Relief Program (“TARP”). As a result of our participation in the TCPP as discussed in Note 10 to the Consolidated Financial Statements in Item 8 of this report, we must comply with restrictions on executive compensation during the period that the U.S. Treasury holds an equity position in us through the TCPP, and as a part of the transaction, we have agreed to limitations on dividends and stock repurchases. For additional information regarding our ability to pay dividends to common shareholders, see discussion in Note 9 to the Consolidated Financial Statement, under the heading “Dividends,” in Item 8 of this report. Our Board of Directors has approved a resolution to terminate our participation in the TCPP. See also “Executive Summary” in Item 7 and Note 10 to the Consolidated Financial Statements in Item 8 of this report.

The American Recovery and Reinvestment Act of 2009 (the “Recovery Act”)

The Recovery Act was signed into law on February 17th, 2009 in an effort, among other things, to jumpstart the U.S. economy, prevent job losses, expand educational opportunities, and provide affordable health care and tax relief. Among the various measures in the Recovery Act, it imposes further restriction on executive compensation and corporate expenditure limits of recipients of the TCPP funds, while allowing them to repurchase the preferred stock at liquidation amount without regard to the original TCPP transaction terms. See Note 10 to the Consolidated Financial Statements in Item 8 of this report for discussion regarding our pending repurchase of preferred stock issued under the TCPP.

Bank Holding Company Regulation

Upon formation of the bank holding company on July 1, 2007, we became subject to regulation under the Bank Holding Company Act of 1956, as amended (“BHCA”) which subjects Bancorp to Federal Reserve Board reporting and examination requirements. Under the Federal Reserve Board’s regulations, a bank holding company is required to serve as a source of financial and managerial strength to its subsidiary banks.

The BHCA regulates the activities of holding companies including acquisitions, mergers, and consolidations and, together with the Gramm-Leach Bliley Act of 1999, the scope of allowable banking activities.

Bank Regulation

Banking regulations are primarily intended to protect depositors’ funds, federal deposit insurance funds and the banking system as a whole. These regulations affect our lending practices, consumer protections, capital structure, investment practices and dividend policy.

As a state chartered bank, we are subject to regulation and examination by the California Department of Financial Institutions (“DFI”). We are also subject to regulation, supervision and periodic examination by the FDIC. If, as a result of an examination of the Bank, the FDIC or the DFI should determine that the financial condition, capital resources, asset quality, earnings prospects, management, liquidity, or other aspects of our operations are unsatisfactory or that we have violated any law or regulation, various remedies are available to those regulators including restricting our growth or removing officers and directors.

Dividends

The payment of cash dividends by the Bank to Bancorp is subject to restrictions set forth in the California Financial Code (the "Code"). Prior to any distribution from the Bank to Bancorp, a calculation is made to ensure compliance with the provisions of the Code and to ensure that the Bank remains within capital guidelines set forth by the DFI and the FDIC. In the event that the intended distribution from the Bank to Bancorp exceeds the restriction in the Code, advance approval from DFI is required. While advance approval may be required from the DFI for up to three years if we terminate our participation in the TCPP, Management does not believe that these regulations will limit dividends from the Bank to meet the operating requirements of Bancorp for the foreseeable future. See Note 9 to the Consolidated Financial Statements, under the heading "Dividends" in Item 8 of this report.

As long as the U.S. Treasury holds an equity position in us, we are restricted from increasing our dividends per common share (currently $0.14 per share) without prior approval from the U.S. Treasury until December 5, 2011. We are also precluded from paying any dividends on common shares if we are in arrears on payment of dividends on preferred shares which are payable quarterly at an annual rate of 5%.

FDIC Insurance Assessments

Our deposits are insured by the FDIC to the maximum amount permitted by law which is currently $250,000 per depositor. On October 14, 2008, the FDIC announced the Temporary Transaction Account Guarantee Program to strengthen confidence in the banking system. The new rule also allows, at the participating FDIC-insured institutions' option, full deposit insurance coverage for non-interest bearing transaction accounts regardless of the dollar amount until December 31, 2009. We have elected to participate in the program by paying a 10 basis point surcharge on the non-interest bearing transaction accounts over $250,000. In addition, the FDIC has finalized a new premium rate structure and has imposed a uniform increase in minimum assessment from five cents to twelve cents annually for every $100 of domestic deposits on institutions that are assigned to the lowest risk category for the first calendar quarter of 2009. Effective April 1, 2009, assessment rates will be adjusted to differentiate for risk. Banks in the best risk category will pay a base rate from twelve to sixteen cents per $100 of deposits. Further, on February 27, 2009, the FDIC announced the imposition of a 20-basis-point emergency special assessment on all insured depository institutions on June 30, 2009 (will be collected on September 30, 2009). The rule also gives the FDIC the ability to impose future emergency special assessments of up to 10 basis points if necessary.

Community Reinvestment Act

We are subject to the provisions of the Community Reinvestment Act ("CRA"), under which all banks and thrifts have a continuing and affirmative obligation, consistent with safe and sound operations, to help meet the credit needs of their entire communities, including low and moderate income neighborhoods. The act requires a depository institution's primary federal regulator, in connection with its examination of the institution, to assess the institution's record in meeting the requirements in CRA. The regulatory agency's assessment of the institution's record is made available to the public. The record is taken into consideration when the institution establishes a new branch that accepts deposits, relocates an office or applies to merge or consolidate, or expand into other activities. CRA performance is evaluated by the FDIC under the intermediate small bank requirements. The FDIC's last CRA and consumer compliance examination performed on us was completed on April 17, 2006 with a rating of "Outstanding."

Anti-Money Laundering Regulations

A series of banking laws and regulations beginning with the Bank Secrecy Act in 1970 require banks to prevent, detect, and report illicit or illegal financial activities to the federal government to prevent money laundering, international drug trafficking, and terrorism. Under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, financial institutions are subject to prohibitions against specified financial transactions and account relationships as well as enhanced due diligence and "know your customer" standards in their dealings with high risk customers, foreign financial institutions, and foreign individuals and entities. We have extensive controls to comply with these requirements.

Privacy and Data Security

The Gramm-Leach Bliley Act ("GLBA") of 1999 imposed requirements on financial institutions with respect to consumer privacy. The GLBA generally prohibits disclosure of consumer information to non-affiliated third parties unless the consumer has been given the opportunity to object and has not objected to such disclosure. Financial institutions are further required to disclose their privacy policies to consumers annually. The GLBA also directs federal regulators, including the FDIC, to prescribe standards for the security of consumer information. We are subject to such standards, as well as standards for notifying consumers in the event of a security breach. We must disclose our privacy policy to consumers and permit consumers to "opt out" of having non-public customer information disclosed to third parties. We are required to have an information security program to safeguard the confidentiality and security of customer information and to ensure proper disposal. Customers must be notified when unauthorized disclosure involves sensitive customer information that may be misused.

Consumer Protection Regulations

Our lending activities are subject to a variety of statutes and regulations designed to protect consumers, including the Fair Credit Reporting Act, Equal Credit Opportunity Act, the Fair Housing Act, and the Truth-in-Lending Act. Our deposit operations are also subject to laws and regulations that protect consumer rights including Funds Availability, Truth in Savings, and Electronic Funds Transfers. Additional rules govern check writing ability on certain interest earning accounts and prescribe procedures for complying with administrative subpoenas of financial records.

Available Information

On our internet web site, www.bankofmarin.com, we post the following filings as soon as reasonably practicable after they are filed with or furnished to the SEC: Annual Report on Form 10-K, Proxy Statement for the Annual Meeting of Shareholders, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934. The text of the Code of Ethics for Bancorp and the Bank is also included on the website. All such filings on our site are available free of charge.

ITEM 1A. RISK FACTORS

An investment in our common stock is subject to risks inherent to our business. The material risks and uncertainties that Management believes may affect our business are described below. Before making an investment decision, you should carefully consider the risks and uncertainties described below together with all of the other information included or incorporated by reference in this report. The risks and uncertainties described below are not the only ones facing our business. Additional risks and uncertainties that Management is not aware of or focused on or that Management currently deems immaterial may also impair business operations. This report is qualified in its entirety by these risk factors.

If any of the following risks actually occur, our financial condition and results of operations could be materially and adversely affected.

Our Earnings are Significantly Affected by General Business and Economic Conditions

We are operating in a challenging and uncertain economic environment. Economic indices have shown that since the fourth quarter of 2007, the United States economy has been in a recession. This has been reflected in significant business failures and job losses. Business activity across a wide range of industries and regions is greatly affected, and local and State governments are in serious difficulty due to the lack of consumer spending and liquidity in the credit markets. Financial institutions continue to be affected by the contraction of the real estate market, elevated foreclosure rates, increase in unemployment rates and constrained liquidity in the financial markets. While the Bank does not offer first mortgages and has no sub-prime residential loans or securities backed by such loans in the portfolio, we nevertheless are not immune from the effect of these events. The full extent of the repercussion to our nation's economy in general and to our business in particular is not fully known at this time. Continued declines in real estate values and home sales volumes, financial stress on borrowers as a result of the national economic recession, including job losses, and customers' inability to pay debt could adversely affect our financial condition and results of operations in the following aspects:

- Demand for our products and services may decline
- Low cost or non-interest bearing deposits may decrease
- Collateral for our loans, especially real estate, may decline in value
- Loan delinquencies, problem assets and foreclosures may increase

Our serving area has not experienced the same degree of challenges as other areas. In November 2008, preliminary results show the unemployment rate in Marin County at 5.0% and in the Santa Rosa/Petaluma area 6.5% while the preliminary total unemployment in California reported in December 2008 was 9.3%. During the past year, our loan loss was not significant to our overall loan portfolio and was contained mainly in the construction industry. Given current volatile market conditions, we cannot predict with certainty what effect a continuing economic recession in the United States and California will have on commercial and consumer markets, and ultimately, our business.

Recently Enacted Legislation and Other Measures Undertaken by the Government May not Help Stabilize the U.S. Financial System and the Current Volatile Market

As discussed in Item 1, Section captioned “Bank Regulation” above, on October 3, 2008, President Bush signed into law the EESA, which, among other measures directed at bolstering the economy, authorized the Treasury Secretary to establish the TARP. On February 17, 2009, President Obama signed into law the Recovery Act, more commonly known as the “Stimulus Bill”. The Stimulus Bill includes a wide variety of programs intended to stimulate the economy and provide for extensive infrastructure, energy, health and education needs. In addition, the Stimulus Bill imposes certain new executive compensation and corporate expenditure limits on all current and future TARP recipients.

The actual impact that EESA, the Stimulus Bill and such related measures undertaken to alleviate the credit crisis will have generally on the financial markets, including the extreme levels of volatility and limited credit availability currently being experienced, is unknown. The failure of such measures to help stabilize the financial markets and a continuation or worsening of current financial market conditions could adversely affect our business, financial condition, results of operations, and access to credit. The capital and credit markets have been experiencing volatility and disruption at an unprecedented level. In some cases, the markets have produced downward pressure on stock prices and credit availability for certain issuers without regard to those issuers’ underlying financial strength. If current levels of market disruption and volatility continue or worsen, there can be no assurance that we will not experience an adverse effect on our ability to access credit or capital.

Negative Conditions Affecting Real Estate May Harm Our Business

Concentration of our lending activities in the California real estate sector could be negatively impacted if any adverse changes in the real estate market in our lending area intensify. Although we do not offer traditional first mortgages, approximately 84% of our loans were secured by real estate at December 31, 2008, of which 50% were secured by commercial real estate and the remaining 34% by residential real estate. Therefore, the value of the real estate loan collateral could be negatively affected by a steep decline in the real estate market in which we conduct our business. Most of the properties that secure our loans are located within Marin and Sonoma Counties. In 2008, the median residential home values fell 9.2% in Marin County and 29.5% in Sonoma County, which includes some markets not in our serving area. Our loans secured by real estate could be affected by market declines in the future.

Loans secured by commercial real estate include those secured by small office buildings, owner-user office/warehouses, mixed-use residential/commercial properties and retail properties. In 2008, office and industrial vacancy rates in Marin County have held steady at generally low vacancy rates, while in the third quarter of 2008, retail vacancy rates have shown an increase to 5.6% from 4.2% the prior quarter. In Sonoma County, vacancy rates are generally higher than in Marin County, and beginning in the third quarter of 2008, the rate of industrial and retail vacancies increased from 11.9% and 4.7% to 12.8% and 6.5%, respectively, while office vacancy rates have remained relatively unchanged at about 20%. There can be no assurance that the companies or properties securing our loans will generate sufficient cash flows to allow the borrowers to make full and timely loan payments to us.

In late 2006, Federal banking regulators issued final guidance regarding commercial real estate lending to address a concern that rising commercial real estate lending concentrations may expose institutions to unanticipated earnings and capital volatility in the event of adverse changes in the investor commercial real estate market. This guidance suggests that institutions that are potentially exposed to significant commercial real estate concentration risk will be subject to increased regulatory scrutiny. Institutions that have experienced rapid growth in commercial real estate lending, have notable exposure to a specific type of commercial real estate lending, or are approaching or exceed certain supervisory criteria that measure an institution’s commercial real estate portfolio against its capital levels, may be subject to such increased regulatory scrutiny. Although regulators have not notified us of any concern, there is no assurance that we will not be subject to additional scrutiny in the future.

We are Subject to Interest Rate Risk

Our earnings and cash flows are largely dependent upon our net interest income. Net interest income is the difference between interest income earned on interest-earning assets, such as loans and securities, and interest expense paid on interest-bearing liabilities, such as deposits and borrowed funds. Interest rates are sensitive to many factors outside our control, including general economic conditions and policies of various governmental and regulatory agencies and, in particular, the Board of Governors of the Federal Reserve System, which regulates the supply of money and credit in the United States. Changes in monetary policy, including changes in interest rates, could influence not only the interest we receive on loans and securities and interest we pay on deposits and borrowings, but could also affect (i) our ability to originate loans and obtain deposits, (ii) the fair value of our financial assets and liabilities, and (iii) the average duration of our mortgage-backed securities portfolio. Our portfolio of securities is subject to interest rate risk and will generally decline in value if market interest rates increase, and generally increase in value if market interest rates decline.

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In response to the recessionary state of the national economy, the gloomy housing market and the volatility of financial markets, the Federal Open Market Committee of the Federal Reserve Board ("FOMC") started a series of decreases in Federal funds target rate from 4.75% in September 2007. The Federal Reserve decreased the Federal funds target rate by 50 basis points in 2007 and followed that with seven subsequent decreases over the past 12 months bringing the target rate to a historically low range of 0% to 0.25% in December of 2008. The dramatic decline in market rates significantly reduced our cost of funds and widened our interest rate spread. The net interest margin may compress if rates continue to fall since we may not be able to lower deposit rates further without jeopardizing deposit volume. In addition, some variable rate loans are already at negotiated floors and will be unaffected if rates fall further. If interest rates rise, we anticipate that net interest income will rise which may be partially offset by deposit rate sensitivity. In addition, it may take several upward market rate movements for variable rate loans at floors to move above the floor rate.

Interest rate changes can create fluctuations in the net interest margin due to an imbalance in the timing of repricing or maturity of assets or liabilities. We manage interest rate risk exposure with the goal of minimizing the impact of interest rate volatility on the net interest margin. Although we believe we have implemented effective asset and liability management strategies, any substantial, prolonged change in market interest rates could have a material adverse effect on our financial condition and results of operations. See the sections captioned "Net Interest Income" and "Market Rate Risk" in Management's Discussion and Analysis of Financial Condition and Results of Operations in Item 7 of this report for further discussion related to management of interest rate risk.

Loan Losses May Exceed Our Allowance for Loan Losses in the Future

We maintain an allowance for loan losses, which is a reserve established through a provision for loan losses charged to expense, that represents Management's best estimate of probable losses that may be incurred within the existing portfolio of loans. The level of the allowance reflects Management's continuing evaluation of industry concentrations, specific credit risks, loan loss experience, current loan portfolio quality and present economic, political and regulatory conditions. The determination of the appropriate level of the allowance for loan losses inherently involves a high degree of subjectivity and requires us to make significant estimates of current credit risks and future trends, all of which may undergo material changes. Further, we rely on appraisals of the collateral to determine the level of specific reserve on certain impaired loans. Inaccurate assumptions in the appraisals may lead to inappropriate level of specific reserve established.

Changes in economic conditions affecting borrowers, new information regarding existing loans, identification of additional problem loans and other factors, may require an increase in our allowance for loan losses. In addition, bank regulatory agencies periodically review our allowance for loan losses and may require an increase in the provision for loan losses or the recognition of further loan charge-offs. In addition, if charge-offs in future periods exceed the allowance for loan losses, we will need to record additional loan loss provisions. Any increases in the allowance for loan losses will result in an adverse impact on net income and capital.

We Face Intense Competition for Deposits with Other Financial Instruments

Checking and savings account balances and other forms of deposits can decrease when our deposit customers perceive alternative investments as providing superior expected returns. In addition, in current market conditions, certain depositors are wary of placing funds in financial institutions irrespective of the temporary increase in FDIC insurance to $250,000 per customer as evidenced by a strong demand for U.S. Treasury securities in the wake of bank failures. Technology and other changes have made it more convenient for bank customers to transfer funds into alternative investments or other deposit accounts such as online virtual banks and non-bank service providers. The current low interest rate environment could increase such transfers of deposits to higher yielding deposits or other investments. Efforts and initiatives we undertake to retain and increase deposits, including deposit pricing, can increase our costs. When our customers move money into higher yielding deposits or in favor of alternative investments, we can lose a relatively inexpensive source of funds, thus increasing our funding costs.

We also compete with national banks much larger than our size, which may be able to benefit from economy of scale through their wide branch network in the country, national advertising campaign and sophisticated technology.

Our Growth May be Inhibited If We Cannot Attract Deposits

Our current loan growth level is outpacing our deposit growth, which may lead to our increased reliance on borrowed funds. We intend to seek additional deposits by continuing to establish and strengthen our personal relationships with our existing customers and by offering deposit products that are competitive with those offered by other financial institutions in our markets. If these efforts are unsuccessful, we may need to fund our asset growth through borrowings, other non-core funding or public offerings of our common stock which could be leveraged. Increased debt would further increase our leverage, reduce our borrowing capacity and increase our reliance on non-core funds and counterparties' credit availability. A public offering would have a dilutive effect on earnings per share and share ownership.

Bancorp and the Bank are Subject to Extensive Government Regulation and Supervision

Bancorp and the Bank are subject to extensive federal and state governmental supervision, regulation and control. Holding company regulations affect the range of activities in which Bancorp is engaged. Banking regulations affect the Bank's lending practices, capital structure, investment practices and dividend policy among other controls. Future legislative changes or interpretations may also alter the structure and competitive relationship among financial institutions. In light of recent economic conditions as well as regulatory and congressional criticism, further restrictions on financial service companies should be considered likely.

Compliance risk is the current and prospective risk to earnings or capital arising from violations of, or nonconformance with, laws, rules, regulations, prescribed practices, internal policies, and procedures, or ethical standards set forth by regulators. Compliance risk also arises in situations where the laws or rules governing certain bank products or activities of our clients may be ambiguous or untested. This risk exposes Bancorp and the Bank to potential fines, civil money penalties, payment of damages and the voiding of contracts. Compliance risk can lead to diminished reputation, reduced franchise value, limited business opportunities, reduced expansion potential and an inability to enforce contracts.

For further information on supervision and regulation, see the section captioned "Supervision and Regulation" in Item 1 above.

Bancorp Relies on Dividends from the Bank to Pay Cash Dividends to Shareholders

Bancorp is a separate legal entity from its subsidiary, the Bank. It receives all of its revenue from dividends received from the Bank. This revenue is the principal source of funds to pay cash dividends to Bancorp's common shareholders. Various federal and state laws and regulations limit the amount of dividends that the Bank may pay to Bancorp. In the event that the Bank is unable to pay dividends to Bancorp, Bancorp may not be able to pay dividends to its shareholders which could have an adverse effect on Bancorp's stock price and investment value.

Under federal law, capital distributions from the Bank would become prohibited, with limited exceptions, if the Bank were categorized as "undercapitalized" under applicable Federal Reserve or FDIC regulations. In addition, as a California bank, the Bank is subject to state law restrictions on the payment of dividends. For further information on the distribution limit from the Bank to Bancorp, see the section captioned "Bank Regulation" in Item 1 above.

Dividends on Our Common Stock are Subject to Restrictions of Our Preferred Shareholder

If we become unable to pay all or part of the dividends on preferred shares as stipulated in our agreement with the U.S. Treasury, our preferred shareholder, we will be precluded from paying dividends on our common stock which will likely reduce our price per common share. For further information on our dividend, see the section captioned “Dividend” in Item 1 above and Note 9 and 10 to the Consolidated Financial Statement in Item 8 of this report.

The Trading Volume of Bancorp's Common Stock is Less than That of Other Larger Financial Services Companies

Our common stock is listed for trading on the NASDAQ's Capital Market. Our trading volume is less than that of other larger financial institutions. A public trading market having the desired characteristics of depth, liquidity and orderliness depends on the presence of willing buyers and sellers of common stock at any given time. This presence depends on the individual decisions of investors and general economic and market conditions over which we have no control. Given the lower trading volume of our common stock, significant sales of the stock, or the expectations of these sales, could cause the stock price to fall.

Deterioration of Credit Quality of Correspondent Banks and Counterparties May Affect our Liquidity

Since mid-2007 and particularly during the second half of 2008, the financial services industry in general was materially and adversely affected by significant declines in the values of nearly all asset classes and by a serious reduction in liquidity. We rely on our correspondent banks for borrowing lines of credit. We also rely on two correspondent banks as counterparties in our derivative transactions (see Note 19 to the Consolidated Financial Statements). While we continually monitor the financial health of our correspondent banks and we have diverse sources of liquidity should any one of our correspondent banks become financially impaired, our available credit may decline and/or they may be unable to honor their commitments.

Unexpected Early Termination of Our Interest Rate Swap Agreements May Impact Our Earnings

We have entered into interest-rate swap agreements, primarily as an asset/liability management strategy, in order to mitigate the changes in the fair value of specified long-term fixed-rate loans and firm commitments to enter into long-term fixed-rate loans caused by changes in interest rates. These hedges allow us to offer long-term fixed rate loans to customers without assuming the interest rate risk of a long-term asset by swapping our fixed-rate interest stream for a floating-rate interest stream. In the event of default by the borrowers on our hedged loans, we may have to terminate these designated interest-rate swap agreements early, resulting in severe prepayment penalties charged by our counterparties. On the other hand, when these interest-rate swap agreements are in an asset position, we are subject to the credit risk of our counterparties, who may default on the interest-rate swap agreements, leaving us vulnerable to interest rate movements.

Securities May Lose Value due to Credit Quality of the Issuers

We hold approximately $51.2 million in securities issued and/or guaranteed by Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC") at December 31, 2008. If either of these entities comes under further financial stress, or if they experience further deterioration in credit worthiness, the fair value of our securities issued or guaranteed by these entities could be negatively affected. On September 9, 2008, the Federal Housing Finance Agency ("FHFA") announced it was placing both FNMA and FHLMC under conservatorship. Besides authorizing the FHFA to inject up to $100 billion into the preferred equity (senior to the current preferred equity) of FNMA and FHLMC, the U.S.Treasury also established a new secured lending credit facility which will be available to both FNMA and FHLMC. Starting in December 2008, the U.S. Government also began purchasing mortgage-backed securities issued by FNMA. We cannot predict whether these steps taken by the federal government will result in continuous improvement in credit worthiness of these two entities.

At December 31, 2008, we also hold $23.6 million in obligations of state and political subdivisions, some of which are experiencing financial difficulties in part due to loss of property tax from falling home values and decline in sales tax revenues from reduction in retail activities. While we seek to minimize our exposure by diversifying our portfolio and investing in investment grade securities, there is no guarantee that the issuers will remain financially sound to be current with their payments on these debentures.

Further, we are required to maintain a certain level of investment in the Federal Home Loan Bank of San Francisco ("FHLB") through the purchase of stock, which is bought from and sold to the FHLB at $100 par. Both stock and cash dividends may be received on FHLB stock. Recently, the FHLB announced that in order to preserve capital, they are temporarily suspending dividends on FHLB stock and stock repurchases. This has raised concern as to the FHLB's ability to redeem capital stock as they face increasing regulation on their required level of capital.

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Deterioration of Credit Quality or Insolvency of Insurance Companies May Impede our Ability to Recover Losses

The recent financial crisis has led certain major insurance companies to the verge of bankruptcy. We have property, casualty and financial institution risk coverage underwritten by several insurance companies, who may not avoid the insolvency risk permeated in the insurance industry. While we closely monitor credit ratings of our insurers and are poised to make quick changes if needed, we cannot predict an unexpected inability to honor commitments. We also invest in bank-owned life insurance policies on certain members of senior management, which may lose value in the event of the carriers' insolvency. In the event that our bank-owned life insurance policy carriers' credit ratings fall below investment grade, we may exchange policies underwritten by them to another carrier at a cost charged by the original carrier, or we may terminate the policies which may result in adverse tax consequences.

Our loan portfolios are also secured by properties located in earthquake or fire-prone zones. In the event of a disaster that causes pervasive damage to the region in which we operate, not only the Bank, but also the loan collateral may suffer losses not recovered by insurance.

We May Experience a Breach in Security

Our business requires the secure handling of sensitive client information. A breach of security in the Bank, at our vendors, or widely publicized breaches of other financial institutions could significantly harm our reputation, result in a loss of customer business, subject us to additional regulatory scrutiny, or expose us to civil litigation and possible financial liability. While we have systems and procedures designed to prevent security breaches, we cannot be certain that advances in criminal capabilities, physical system or network break-ins or inappropriate access will not compromise or breach the technology protecting our networks or proprietary client information.

We Rely on Third-Party Vendors for Important Aspects of Our Operation

We depend on the accuracy and completeness of information provided by certain of our vendors, including but not limited to, our data processing and payroll processing vendors, and security pricing vendor. Our ability to operate, as well as the our financial condition and results of operations, could be negatively affected in the event of interruptions of information systems, an undetected error, or in the event of a natural disaster whereby certain vendors are unable to maintain business continuity.

Severe Weather or Natural Disasters Could Significantly Impact Our Business

Severe weather or disasters, such as severe rainstorms, an earthquake or flood, could affect our loan portfolio by damaging properties pledged as collateral and by impairing the ability of certain borrowers to repay their loans. The ultimate impact of a natural disaster on our future financial results and condition is difficult to predict and will be affected by a number of factors, including the extent of damage to the collateral, the extent to which damaged collateral is not covered by insurance, the extent to which unemployment and other economic conditions caused by the natural disaster adversely affect the ability of borrowers to repay their loans, and the cost to us of collection and foreclosure.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

We lease our corporate headquarters building, which houses our primary loan production, operations, and administrative offices, in Novato, California. We also lease other branch or office facilities within our primary market areas in the cities of Petaluma, Novato, San Rafael, Corte Madera, Mill Valley, Sausalito, and San Francisco, California. We consider our properties to be suitable and adequate for our present needs. For additional information on properties, see Notes 5 and 13 to the Consolidated Financial Statements included in Item 8 of this Form 10-K.

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ITEM 3. LEGAL PROCEEDINGS

There are no pending, or to Management's knowledge any threatened, material legal proceedings to which we are a party, or to which any of our properties are subject. There are no material legal proceedings to which any director, any nominee for election as a director, any executive officer, or any associate of any such director, nominee or officer is a party adverse to us.

We are responsible for our proportionate share of certain litigation indemnifications provided to Visa U.S.A. by its member banks in connection with lawsuits related to anti-trust charges and interchange fees. For further details, see Note 20 to the Consolidated Financial Statements in Item 8 of this Form 10-K.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of 2008.

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PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Bancorp common stock trades on the NASDAQ Capital Market under the symbol BMRC.

At February 27, 2009, 5,154,151 shares of Bancorp's common stock, no par value, were outstanding and held by approximately 700 holders of record. The following table sets forth, for the periods indicated, the range of high and low sales prices of the Bank's common stock through the second quarter of 2007 and Bancorp's common stock thereafter. The prices have been adjusted to reflect the effect of all stock dividends and stock splits.

Quarter/Year	High	Low
4th Quarter 2008	$ 33.00	$ 23.00
3rd Quarter 2008	$ 33.60	$ 24.10
2nd Quarter 2008	$ 29.99	$ 24.00
1st Quarter 2008	$ 31.00	$ 26.90
4th Quarter 2007	$ 32.63	$ 27.00
3rd Quarter 2007	$ 33.60	$ 29.88
2nd Quarter 2007	$ 36.58	$ 32.57
1st Quarter 2007	$ 39.49	$ 35.42

The table below shows cash dividends paid in the last two fiscal years.

	2008		2007	
	Per Share	Dollars	Per Share	Dollars
1Q	$ 0.14	$ 721,000	$ 0.12	$ 625,000
2Q	$ 0.14	$ 721,000	$ 0.13	$ 680,000
3Q	$ 0.14	$ 720,000	$ 0.13	$ 672,000
4Q	$ 0.14	$ 720,000	$ 0.13	$ 673,000

For additional information regarding our ability to pay dividends, see discussion in Note 9 to the Consolidated Financial Statement, under the heading "Dividends," in Item 8 of this report.

Included in cash dividends during the second quarter of 2007 is $5 thousand paid to shareholders in connection with the redemption of all the preferred share purchase rights issued pursuant to the Bank's Rights Agreement of August 11, 2003. Each right entitled the registered holder to purchase from Bank one one-hundredth of a share of Series A Junior Participating Preferred stock, no par value of Bank at a price of $125 per one one-hundredth of a preferred share, subject to adjustments. The redemption, in anticipation of the formation of a bank holding company, was effective June 14, 2007 at a redemption price of $0.001 per right. On that same day, Bancorp's Board of Directors executed a Rights Agreement substantially similar to the Bank's agreement and has issued replacement rights to purchase shares of Bancorp under the new Rights Agreement to shareholders of record as of July 23, 2007. The Bank of Marin Bancorp Rights Agreement is designed to discourage takeovers that involve abusive tactics or do not provide fair value to shareholders.

In October 2006, the Bank received approval from the DFI and the FDIC to buy back up to 10%, or approximately 545,884 of the Bank's 5,458,838 then-outstanding shares, not to exceed $15 million. The repurchase program allowed the Bank to purchase common shares for a period of approximately twelve months from the approval date in the open market or in privately negotiated transactions. The Bank executed these transactions pursuant to the Securities and Exchange Commission's Rule 10b-18. All shares repurchased were made in open market transactions and were part of the publicly announced repurchase program. From October 1, 2006 to December 31, 2006, the Bank repurchased 115,625 shares at an average price of $34.26 per share for a total cost of $4.0 million. Through February 28, 2007, the Bank purchased an additional 289,692 shares at an average price of $38.10 per share, for a total cost of $11.0 million, thereby concluding this share repurchase program.

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In November 2007, Bancorp's Board of Directors approved a second plan to repurchase common shares of Bancorp up to $5 million. No regulatory approval was required for this repurchase plan as Bancorp was exempted under the provisions of Regulation Y of the Federal Reserve Board. In November and December of 2007, Bancorp repurchased a total of 51,732 shares at an average price of $29.96 per share for a total cost of $1.5 million. During the first nine months of 2008, Bancorp repurchased 88,316 shares at an average price of $28.55, plus commissions, for a total cost of $2.5 million. In September 2008, the repurchases under the plan were discontinued to preserve capital during a time of extreme economic turbulence.

A schedule of purchases during 2006, 2007 and 2008 follows. This schedule reflects the repurchase, upon formation of the bank holding company on July 1, 2007, of 24,399 common shares of the Bank for $876 thousand from six shareholders who dissented to the exchange of those shares for Bancorp common shares.

(Dollars in thousands, except per share data)

Period	Total Number of Shares Purchased		Average Purchase Price per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs		Approximate Dollar Value that May Yet be Purchased Under the Program
Plan #1						
October 24-31, 2006	25,004	$	32.53	25,004	$	14,187
November 1-30, 2006	29,514		33.56	29,514		13,196
December 1-31, 2006	61,107		35.30	61,107		11,039
Total 2006 Purchases Under Regulatory Approved Plans	115,625	$	34.26	115,625	$	11,039
January 1-31, 2007	74,980	$	37.10	74,980	$	8,257
February 1-28, 2007	214,712		38.45	214,712	Plan Concluded	
Subtotal 2007 Plan #1	289,692	$	38.10	289,692		---
Plan #2						
November 1-30, 2007	750	$	27.75	750		4,979
December 1-31, 2007	50,982		29.99	50,982		3,450
Subtotal 2007 Plan #2	51,732	$	29.96	51,732		3,450
Total 2007 Purchases Under Regulatory Approved Plans	341,424	$	36.87	341,424	$	3,450
July 1-31 2007	24,399	$	35.92	N/A		N/A
Shares Repurchased from Dissenting Shareholders	24,399	$	35.92	N/A		N/A
January 1-31 2008	5,100	$	28.75	5,100	$	3,303
February 1-29 2008	21,502		30.27	21,502		2,653
March 1-31 2008	5,000		30.20	5,000		2,502
May 1-31 2008	11,257		28.87	11,257		2,177

June 1-30 2008	15,750		26.93	15,750		1,752
July 1-31 2008	16,207		26.43	16,207		1,324
August 1-31 2008	13,500		29.28	13,500		929
Total 2008 Purchases Under Regulatory Approved Plans	88,316	$	28.55	88,316	$	929

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Securities Authorized for Issuance under Equity Compensation Plans

The following table summarizes information as of December 31, 2008, with respect to equity compensation plans. All plans have been approved by the shareholders.

	(A) Shares to be issued upon exercise of outstanding options	(B) Weighted average exercise price of outstanding options	(C) Shares available for future issuance (Excluding shares in column A)
Equity compensation plans approved by shareholders	401,958(1)	$ 26.12	438,667

(1) Represents shares of common stock issuable upon exercise of outstanding options under the Bank of Marin 1990 Stock Option Plan, the Bank of Marin 1999 Stock Option Plan and the Bank of Marin Bancorp 2007 Equity Plan.

Stock Price Performance Graph

The following graph, provided by Keefe, Bruyette, & Woods, Inc., shows a comparison of cumulative total shareholder return on ticker symbol BMRC common stock during the five fiscal years ended December 31, 2008 compared to Standard & Poors ("S&P") 500 Stock index and peer group index of other financial institutions. The comparison assumes $100 was invested on December 31, 2003 in BMRC common stock and all of the dividends were reinvested. The chart indicates that BMRC common stock outperformed both the S&P 500 Stock index and its peer group index by the end of 2008. The performance graph represents past performance and should not be considered to be an indication of future performance. Ticker symbol BMRC represents the common stock of Bank of Marin Bancorp subsequent to its formation July 1, 2007 and represents the common stock of Bank of Marin for periods prior to the formation of the bank holding company. The sole subsidiary of Bank of Marin Bancorp is Bank of Marin.

	2003	2004	2005	2006	2007	2008
BMRC	100	141	128	142	115	95
Peer Group*	100	137	159	178	123	64
S&P 500 Index	100	109	112	128	132	81

*BMRC Peer Group represents public California banks with assets between $750 million to $1,575 million as of September 30, 2008: TMCV, HTBK, BSRR, PMBC, FCAL, BBNK, SAEB, SJQU, NOVB, HEOP, BOCH, UBFO

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ITEM 6. SELECTED FINANCIAL DATA

As of For the Year Ended December 31, (Dollars in thousands, except per share data)	2008	2007	2006	2005	2004	2007/2008 % change
At December 31						
Total assets	$ 1,049,557	$ 933,901	$ 876,578	$ 840,449	$ 737,094	12.4%
Total loans	890,544	724,878	719,778	686,661	576,957	22.9%
Total deposits	852,290	834,642	736,697	721,172	645,079	2.1%
Total stockholders' equity	125,546	87,774	89,525	78,221	65,608	43.0%
Equity-to-asset ratio	12.0%	9.4%	10.2%	9.3%	8.9%	
For year ended December 31						
Net interest income	$ 48,359	$ 42,742	$ 41,733	$ 39,442	$ 32,237	13.1%
Provision for possible loan losses	5,010	685	1,266	1,541	934	631.4%
Non-interest income	5,356	5,718	3,972	3,708	3,643	(6.3%)
Non-interest expense	28,677	27,673	25,891	22,498	19,620	3.6%
Net income	12,150	12,324	11,883	11,737	9,518	(1.4%)
Net income per share (diluted)*	2.31	2.31	2.11	2.12	1.76	---
Cash dividend payout ratio on common stock	23.9%	21.4%	20.8%	8.4%	20.1%	

*Restated for all stock dividends and stock splits.

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ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of financial condition and results of operations for each of the years in the three-year period ended December 31, 2008 should be read in conjunction with Bancorp's financial statements and related notes thereto, included in Part II Item 8 of this report. Average balances, including balances used in calculating certain financial ratios, are generally comprised of average daily balances.

Forward-Looking Statements

The disclosures set forth in this item are qualified by important factors detailed in Part I captioned Forward-Looking Statements and Item 1A captioned Risk Factors of this report and other cautionary statements set forth elsewhere in the report.

Executive Summary

Since 2007, financial markets have been experiencing significant disruptions beginning with dramatic declines in the housing market leading to declines in home values and increased foreclosures followed by an economic recession and high unemployment rates. For the banking industry, this has led to increased loan losses and significantly reduced liquidity.

Despite difficult economic conditions, we continue to produce solid results, and we achieved $1 billion in assets by year-end, a milestone for us. Earnings were stable at $12.2 million for the year, loan growth in 2008 was exceptional at $165.7 million and deposits increased $17.6 million during the year. We grew our loan portfolio without compromising our prudent underwriting standards. The 2007 year-end deposit balance includes a $53.0 million short-term deposit placed with us in the last week of December that was held approximately two weeks. Excluding this short-term deposit, growth in 2008 totaled $70.7 million. We were able to take advantage of exceptionally low market borrowing rates to fund loan growth in excess of deposit growth. Both our taxable equivalent net interest margin and our efficiency ratio showed significant year over year improvement as described below.

While we serve an affluent community, we are not immune from the impact of the national economic recession. Earnings were affected by a loan loss provision charged to expense of $5.0 million in 2008 compared to $685 thousand in 2007. Net charge-offs totaled $2.6 million in 2008 compared to $85 thousand in 2007. The charge-offs in 2008 primarily relate to commercial and construction loans secured by real property where the value of collateral has declined. Recovery of the losses, if any, will depend on the value of the collateral when the property is sold. Loan charge-offs represent less than 0.3% of our loan portfolio. Non-accrual loans at December 31, 2008 of $6.7 million represented 0.8% of our loan portfolio.

In October 2008, the federal government announced various programs under the Emergency Economic Stabilization Act of 2008 intended to inject liquidity and stabilize the financial industry. As of February 20, 2009, the U.S. Treasury has injected $196 billion of capital into financial institutions through the purchase of preferred stock under the $250 billion TCPP which was carved out of the $700 billion TARP funds. Initially $125 billion of TCPP funds were given to the nine largest banks in the nation to bolster their capital. The remaining $125 billion was set aside to enhance the capital of financially sound banks and to promote responsible lending.

In November 2008, we were approved for participation in the TCPP. On December 5, 2008, we received $28 million in capital under the program through our issuance of preferred stock and warrants to purchase our common stock. Following receipt of the TCPP funds, we deployed $27.1 billion of the funds into loans through the end of

2008. On February 27, 2009, our Board of Directors approved a resolution to repurchase all 28,000 shares of outstanding preferred stock following the U.S government's recent actions, interpretations, and commentary regarding various aspects of the TCPP program, as we have determined that continued participation in the TCPP is not in the best interests of our common shareholders, customers or our employees, and it would impede our ability to compete. We have notified the U.S. Treasury of our intent to repurchase the preferred stock issued under the TCPP. The repurchase is subject to bank regulatory approval.

In the fourth quarter of 2008, we elected to participate in the FDIC's Transaction Account Guarantee Program, which provides unlimited FDIC insurance coverage to our depositors, effective October 14, 2008 on transaction accounts until December 31, 2009, by paying a 10 basis point surcharge on top of our current FDIC assessment rate. This insurance is in addition to the FDIC increase in insurance coverage from $100 thousand to $250 thousand on all deposit accounts during the same period.

Our tax-equivalent net interest margin improved 34 basis points in the year to 5.41%. A combination of lower deposit and borrowing rates and a shift in interest-earning assets from Federal funds sold to higher-yielding loans contributed to the expansion.

Beginning in September 2007 and continuing through December 2008, the Federal Reserve lowered its target interest rate by 525 basis points, bringing the target interest rate to a historic low with a range of 0% to 0.25%. Loan yields did not fall as dramatically since the yield on fixed-rate loans, which comprise over half of the loan portfolio, remained relatively unchanged. In addition, some variable rate loans have reached negotiated rate floors. We lowered deposit offering rates eight times in 2008 in response to declines in the Federal funds rate resulting in a lower cost of funds.

The largest factors likely to affect our net interest margin in 2009 will be the volume of loan and deposits, which will in turn influence our liquidity level and the level of borrowing, the Federal funds target rate, which is expected to rise in late 2009, as well as our responsiveness to competitive pricing on loans and deposits in our market.

Our efficiency ratio improved to 53.39% in 2008 from 57.10% in 2007. Significantly higher net interest income and strong growth in non-interest income combined with only modest growth in non-interest expense has resulted in a marked improvement in efficiency.

In the beginning of 2008, we recorded a non-recurring pre-tax gain of $457 thousand related to the mandatory redemption of shares in Visa, Inc. and the reversal of a $242 thousand pre-tax charge for the potential obligation to Visa Inc. in connection with certain indemnifications provided to Visa Inc. by Visa member banks. In 2007, we recorded a non-recurring pre-tax gain of $710 thousand on the sale of the indirect auto portfolio and a $387 pre-tax gain on the sale of the Visa® credit card portfolio.

We continue to expand our franchise with the opening of a new branch in downtown Mill Valley in June of 2008 and we are in the process of securing a site for an additional branch in Greenbrae, which is projected to open in 2009.

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Holding Company

On May 8, 2007, stockholders of the Bank approved the formation of a bank holding company. On July 1, 2007, the holding company, Bank of Marin Bancorp, acquired the Bank as its wholly owned subsidiary. The holding company is expected to provide flexibility in meeting our financing needs and in responding to evolving changes in the banking and financial services industries.

The financial statements and discussion thereof contained in this report for periods subsequent to the reorganization relate to consolidated Bancorp. Periods prior to the reorganization relate to the Bank only. The information is comparable as the sole subsidiary of Bancorp is the Bank.

Critical Accounting Policies

Critical accounting policies are those that are both most important to the portrayal of our financial condition and results of operations and require Management’s most difficult, subjective, or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain.

Management has determined the following five accounting policies to be critical: Allowance for Loan Losses, Other-than-temporary Impairment in Investment Securities, Share-Based Payment, Accounting for Income Taxes and Fair Value Option for Financial Assets and Liabilities.

Allowance for Loan Losses

Allowance for loan losses is based upon estimates of loan losses and is maintained at a level considered adequate to provide for probable losses inherent in the outstanding loan portfolio. The allowance is increased by provisions charged to expense and reduced by net charge-offs. In periodic evaluations of the adequacy of the allowance balance, Management considers our past loan loss experience by type of credit, known and inherent risks in the portfolio, adverse situations that may affect the borrower's ability to repay, the estimated value of any underlying collateral, current economic conditions and other factors. We formally assess the adequacy of the allowance for loan losses on a quarterly basis. These assessments include the periodic re-grading of loans based on changes in their individual credit characteristics including delinquency, seasoning, recent financial performance of the borrower, economic factors, changes in the interest rate environment, and other factors as warranted. Loans are initially graded when originated. They are reviewed as they are renewed, when there is a new loan to the same borrower and/or when identified facts demonstrate heightened risk of default. Larger problem loans are monitored continuously and formal impairment analysis for the purpose of applying Statement of Financial Accounting Standards (“SFAS”) No. 114, Accounting by Creditors for Impairment of a Loan (“SFAS No.114”) occurs at least quarterly.

Our method for assessing the appropriateness of the allowance includes specific allowances for identified problem loans, an allowance factor for categories of credits, and allowances for changing environmental factors (e.g., portfolio trends, concentration of credit, growth, economic factors). Allowances for identified problem loans are based on specific analysis of individual credits. Loss estimation factors for loan categories are based on analysis of local economic factors applicable to each loan category. Allowances for changing environmental factors are Management's best estimate of the probable impact these changes have had on the loan portfolio as a whole.

Other-than-temporary Impairment in Investment Securities

At each financial statement date, we assess whether declines in the fair value of held-to-maturity and available-for-sale securities below their costs are deemed to be other than temporary. We consider, among other things, (i) the length of time and the extent to which the fair value has been less than cost, (ii) the financial condition and near-term prospects of the issuer, and (iii) our intent and ability to retain the investment for a period of time sufficient to allow for any anticipated recovery in fair value. Evidence evaluated includes, but is not limited to, the remaining payment terms of the instrument and economic factors that are relevant to the collectability of the instrument, such as current prepayment speeds, the current financial condition of the issuer(s), industry analyst reports, credit ratings, credit default rates, interest rate trends and the value of any underlying collateral. Other-than-temporary-impairment results in a charge to earnings and the corresponding establishment of a new cost basis for the security.

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Share-Based Payment

On January 1, 2006, we adopted the provisions of SFAS No.123R, Share-Based Payment ("SFAS No. 123R"), which requires that all share-based payments, including stock options and nonvested restricted common shares, be recognized as an expense in the income statement based on the grant-date fair value of the award with a corresponding increase to common stock.

We determine the fair value of stock options at grant date using the Black-Scholes pricing model that takes into account the stock price at the grant date, the exercise price, the expected dividend yield, stock price volatility and the risk-free interest rate over the expected life of the option. The Black-Scholes model requires the input of highly subjective assumptions including the expected life of the stock-based award and stock price volatility. The estimates used in the model involve inherent uncertainties and the application of Management's judgment. As a result, if other assumptions had been used, our recorded stock-based compensation expense could have been materially different from that reflected in these financial statements. The fair value of nonvested restricted common shares generally equals the stock price at grant date. In addition, we are required to estimate the expected forfeiture rate and only recognize expense for those share-based awards expected to vest. If our actual forfeiture rate is materially different from the estimate, the share-based compensation expense could be materially different. For additional discussion of SFAS No.123R, see Note 9 to the Consolidated Financial Statements in this Form 10-K.

Accounting for Income Taxes

Income taxes reported in the financial statements are computed based on an asset and liability approach in accordance with FASB Statement No. 109, Accounting for Income Taxes ("SFAS No. 109"). We recognize the amount of taxes payable or refundable for the current year, and deferred tax assets and liabilities for the expected future tax consequences that have been recognized in the financial statements. Under this method, deferred tax assets and liabilities are determined based on the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. We record net deferred tax assets to the extent it is more likely than not that they will be realized. In evaluating our ability to recover the deferred tax assets, Management considers all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax planning strategies and recent financial operations. In projecting future taxable income, Management develops assumptions including the amount of future state and federal pretax operating income, the reversal of temporary differences, and the implementation of feasible and prudent tax planning strategies. These assumptions require significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates being used to manage the underlying business. Bancorp files consolidated federal and combined state income tax returns.

Effective January 1, 2007, we adopted the provisions of FASB Interpretation ("FIN") No. 48, Accounting for Uncertainty in Income Taxes – An Interpretation of FASB Statement No. 109, which clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB No. 109. FIN 48 establishes a "more-likely-than-not" recognition threshold that must be met before a tax benefit can be recognized in the financial statements. For tax positions that meet the more-likely-than-not threshold, an enterprise may recognize only the largest amount of tax benefit that is greater than fifty percent likely of being realized upon ultimate settlement with the taxing authority. Management believed that all tax positions met the more-likely-than-not recognition threshold; therefore, there were no adjustments to retained earnings as a consequence of adopting FIN No. 48 and no subsequent adjustments to the provision for income taxes related to FIN 48. To the extent tax authorities disagree with these tax positions, our effective tax rates could be materially affected in the period of settlement with the taxing authorities.

Fair Value Option for Financial Assets and Financial Liabilities and Fair Value Measurements

Effective January 1, 2007, we elected early adoption of FASB Statement No. 159, The Fair Value Option for Financial Assets and Financial Liabilities ("SFAS No. 159") and FASB Statement No. 157, Fair Value Measurements, and elected the fair value option for our indirect auto loan portfolio, which was subsequently sold. The changes in fair value of the portfolio after the initial adoption at each balance sheet date were recorded through earnings prior to the sale on June 5, 2007. We determined fair value at January 1, 2007 and March 31, 2007 based on certain criteria including weighted average interest rate, remaining term and FICO credit score. The expected cash flows were discounted using Treasury rates and a spread above the Treasury rate was applied based on recent sales of similar assets. The assumptions represented Management's best estimates, but these estimates involved inherent uncertainties and the application of Management's judgment. As a result, if other assumptions had been used, our recorded unrealized gain in the first quarter of 2007 could have been materially different from that reflected in these financial statements.

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As a result of our fair value measurement election for the auto loan portfolio, we recorded a cumulative-effect adjustment of $1.5 million, net of tax, as a reduction of retained earnings as of January 1, 2007. In addition, $190 thousand and $520 thousand of pre-tax net gains were recorded in our second and first quarter 2007 earnings, respectively (2 cents and 6 cents per diluted share, respectively, on an after-tax basis), representing the change in fair value of such instruments during those periods after giving effect to the cumulative-effect adjustment.

We have established and documented a process for determining fair value. For detailed information on our use of fair valuation of financial instruments and our related valuation methodologies, see Note 16 to the Consolidated Financial Statements in this Form 10-K.

RESULTS OF OPERATIONS

Overview

Highlights of the financial results are presented in the following table:

	As of and for the years ended December 31,		
(Dollars in thousands, except per share data)	2008	2007	2006
For the period:			
Net income	$ 12,150	$ 12,324	$ 11,883
Net income per share			
Basic	$ 2.34	$ 2.38	$ 2.21
Diluted	$ 2.31	$ 2.31	$ 2.11
Return on average equity	12.73%	14.44%	13.83%
Return on average common equity	12.88%	14.44%	13.83%
Return on average assets	1.28%	1.38%	1.38%
Common stock dividend payout ratio	23.93%	21.43%	20.81%
Efficiency ratio	53.39%	57.10%	56.65%
At period end:			
Book value per common share	$ 19.14	$ 17.13	$ 16.68
Total assets	$ 1,049,557	$ 933,901	$ 876,578
Total loans	$ 890,554	$ 724,878	$ 719,778
Total deposits	$ 852,290	$ 834,642	$ 736,697
Loan-to-deposit ratio	104.49%	86.85%	97.70%

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Summary of Quarterly Results of Operations

Table 1 sets forth the quarterly results of operations for 2008 and 2007:

Table 1 Summarized Statement of Operations

	2008 Quarters Ended				2007 Quarters Ended			
(Dollars in thousands)	Dec. 31	Sept. 30	Jun. 30	Mar. 31	Dec. 31	Sept. 30	Jun. 30	Mar. 31
Interest income	$ 15,063	$ 15,028	$ 14,544	$ 14,541	$ 15,700	$ 15,830	$ 15,439	$ 14,872
Interest expense	2,214	2,717	2,635	3,251	4,221	5,042	4,961	4,875
Net interest income	12,849	12,311	11,909	11,290	11,479	10,788	10,478	9,997
Provision for loan losses	2,200	1,685	510	615	345	200	75	65
Net interest income after provision for loan losses	10,649	10,626	11,399	10,675	11,134	10,588	10,403	9,932
Non-interest income	1,181	1,194	1,279	1,702	1,231	1,586	1,393	1,508
Non-interest expense	7,094	7,442	7,140	7,001	7,028	6,926	7,030	6,689
Income before provision for income taxes	4,736	4,378	5,538	5,376	5,337	5,248	4,766	4,751
Provision for income taxes	1,943	1,683	2,152	2,100	2,079	2,059	1,863	1,777
Net income	$ 2,793	$ 2,695	$ 3,386	$ 3,276	$ 3,258	$ 3,189	$ 2,903	$ 2,974
Preferred stock dividends and accretion	$ (113)	---	---	---	---	---	---	---
Net income available to common shareholders	$ 2,680	$ 2,695	$ 3,386	$ 3,276	$ 3,258	$ 3,189	$ 2,903	$ 2,974
Net income per common share								
Basic	$ 0.52	$ 0.53	$ 0.66	$ 0.64	$ 0.63	$ 0.62	$ 0.56	$ 0.57
Diluted	$ 0.52	$ 0.52	$ 0.65	$ 0.63	$ 0.62	$ 0.60	$ 0.54	$ 0.55

Net Interest Income

Net interest income is the difference between the interest earned on loans, investments and other interest-earning assets and the interest expense on deposits and other interest-bearing liabilities. Net interest income is impacted by changes in general market interest rates and by changes in the amounts and composition of interest-earning assets and interest-bearing liabilities. The table below indicates net interest income, net interest margin, and net interest rate spread for each period presented. Net interest margin is expressed as net interest income divided by average interest-earning assets. Net interest rate spread is the difference between the average rate earned on total interest-earning assets and the average rate incurred on total interest-bearing liabilities. Both of these measures are reported on a taxable-equivalent basis. Net interest margin is higher than net interest rate spread because net interest margin reflects interest income earned on assets funded with non-interest-bearing sources of funds, which include demand deposits and stockholders' equity.

Interest rate changes can create fluctuations in the net interest margin due to an imbalance in the timing of repricing or maturity of assets or liabilities. We manage interest rate risk exposure with the goal of minimizing the impact of interest rate volatility on the net interest margin.

Table 2, Distribution of Average Statements of Condition and Analysis of Net Interest Income, compares interest income and average interest-earning assets with interest expense and average interest-bearing liabilities for the three years 2008, 2007 and 2006. The table also indicates net interest income, net interest margin and net interest rate spread for each period presented.

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Table 2 Distribution of Average Statements of Condition and Analysis of Net Interest Income

	2008			2007			2006		
(Dollars in thousands)	Average Balance	Interest Income/ Expense	Yield/ Rate	Average Balance	Interest Income/ Expense	Yield/ Rate	Average Balance	Interest Income/ Expense	Yield/ Rate
Assets									
Federal funds sold and other short-term investments	$ 4,212	$ 138	3.22%	$ 42,584	$ 2,209	5.19%	$ 4,503	$ 226	5.01%
Investment securities									
U.S. Treasury securities (1)	---	---	---	315	8	2.43	3,086	76	2.45
U.S. Government agencies (1)	72,606	3,555	4.90	75,775	3,759	4.96	84,185	3,707	4.40
Other (1)	6,124	273	4.46	11,110	656	5.92	5,830	297	5.10
Obligations of state and political subdivisions (2)	19,541	1,106	5.66	13,067	641	4.91	14,955	758	5.07
Loans and banker's acceptances (3)	798,369	54,475	6.82	703,087	54,730	7.78	701,732	53,447	7.62
Total interest-earning assets	900,852	59,547	6.61	845,938	62,003	7.33	814,291	58,511	7.18
Cash and due from banks	21,990			24,364			28,322		
Bank premises and equipment, net	8,354			8,185			6,343		
Interest receivable and other assets, net	17,325			16,301			13,307		
Total assets	$ 948,521			$ 894,788			$ 862,263		
Liabilities and Stockholders' Equity									
Interest-bearing transaction accounts	$ 78,672	$ 344	0.44%	$ 76,673	$ 301	0.39%	$ 75,336	$ 293	0.39%
Savings and money market accounts	430,621	6,910	1.60	414,592	14,161	3.42	358,027	10,979	3.07
CDARS® reciprocal deposits	9,039	200	2.21	---	---	---	---	---	---
Time accounts	83,735	2,466	2.95	86,268	3,465	4.02	104,205	3,837	3.68
Purchased funds	30,069	601	2.00	16,097	765	4.76	23,008	1,078	4.68
Subordinated Debenture	5,000	296	5.92	5,000	407	8.14	5,000	391	7.82
Total interest-bearing liabilities	637,136	10,817	1.70	598,630	19,099	3.19	565,576	16,578	2.93
Demand accounts	208,320			204,146					