

Customers Bancorp, Inc.
Form 10-K/A
April 24, 2019
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-K/A
(Amendment No. 1)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2018
001-35542
(Commission File Number)

(Exact name of registrant as specified in its charter)

Pennsylvania 27-2290659
(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification Number)
1015 Penn Avenue
Suite 103
Wyomissing PA 19610
(Address of principal executive offices)
(610) 933-2000
(Registrant's telephone number, including area code)

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

| Title of Each Class | Name of Each Exchange on which Registered |
|---|---|
| Voting Common Stock, par value \$1.00 per share | New York Stock Exchange |
| Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series C, par value \$1.00 per share | New York Stock Exchange |
| Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series D, par value \$1.00 per share | New York Stock Exchange |
| Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series E, par value \$1.00 per share | New York Stock Exchange |
| Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series F, par value \$1.00 per share | New York Stock Exchange |

Securities registered pursuant to Section 12(g) of the Act: None

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

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

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer Accelerated filer

Non-accelerated filer Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

The aggregate market value of common stock held by non-affiliates of the registrant was approximately \$833,232,801 as of June 30, 2018, based upon the closing price quoted on the New York Stock Exchange for such date. Shares of common stock held by each executive officer and director have been excluded because such persons may under certain circumstances be deemed to be affiliates. This determination of executive officer or affiliate status is not necessarily a conclusive determination for other purposes.

On February 22, 2019, 31,080,573 shares of common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement to be delivered to shareholders in connection with the 2019 Annual Meeting of Shareholders are incorporated by reference into Part III of this Annual Report.

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EXPLANATORY NOTE

This Amendment No. 1 to Customers Bancorp, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2018 ("2018 Form 10-K/A") is being filed to amend Customers Bancorp, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2018, which was initially filed with the Securities and Exchange Commission ("SEC") on March 1, 2019 ("Original 2018 Form 10-K"). The purpose of this 2018 Form 10-K/A is to refile Exhibits 10.22 through 10.32, inclusive, which were filed with the Original 2018 Form 10-K, to transition to the recently adopted changes to the requirements set forth in Item 601(b) of Regulation S-K permitting registrants to omit confidential information from material contracts filed pursuant to Item 601(b)(10) of Regulation S-K without the need to submit a confidential treatment request to the SEC. The confidential information omitted from Exhibits 10.22 through 10.32 (i) is not material and (ii) would be competitively harmful if publicly disclosed. Certain changes have been made to the exhibits to conform to the new requirements. In addition, certain changes have been made to the Exhibit Index included in Part IV, Item 15 "Exhibits and Financial Statement Schedules" to remove the reference stating "Confidential treatment has been requested for certain information contained in this document. Such information has been omitted and filed separately with the SEC" and replace that reference with "Certain identified information has been excluded from this exhibit because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed."

In addition, pursuant to Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), new certifications by Customers Bancorp, Inc.'s principal executive officer and principal financial officer are filed herewith as exhibits to this 2018 Form 10-K/A pursuant to Rule 13a-14(a) or 15d-14(a) of the Exchange Act. These certifications are attached to this 2018 Form 10-K/A as Exhibits 31.1 and 31.2. Because no financial statements have been included in this 2018 Form 10-K/A and this 2018 Form 10-K/A does not contain or amend any disclosure with respect to Items 307 and 308 of Regulation S-K, paragraphs 3, 4 and 5 of the certifications have been omitted. Additionally, we are not including the certificate under Section 906 of the Sarbanes-Oxley Act of 2002 as no financial statements are being filed with this 2018 Form 10-K/A.

This 2018 Form 10-K/A is an exhibit-only filing. Except as expressly noted herein, this 2018 Form 10-K/A does not modify or update in any way the financial statements or disclosures made, or any exhibits included or incorporated by reference, in the Original 2018 Form 10-K and does not reflect events occurring after the filing of the Original 2018 Form 10-K. This 2018 Form 10-K/A should be read in conjunction with the Original 2018 Form 10-K and our other filings with the SEC.

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PART IV

Item 15 Exhibits and Financial Statement Schedules

(a) 1. Consolidated Financial Statements

Customers' Consolidated Financial Statements required to be filed as part of the Original 2018 Form 10-K and the Reports of Independent Registered Public Accounting Firm were filed as Part II, Item 8. Financial Statements and Supplementary Data in the Original 2018 Form 10-K.

(b) 2. Financial Statement Schedules

Financial statement schedules are omitted because the required information is either not applicable, not required or is shown in the respective financial statements or in the notes thereto.

(c) Exhibits

The exhibits listed on the Exhibit Index below filed or incorporated by reference as part of this report.

| Exhibit No. | Description |
|-------------|---|
| 2.1 | <u>Purchase and Assumption Agreement, dated as of July 9, 2010, by and among Customers Bank, the FDIC as Receiver of USA Bank, and the FDIC acting in its corporate capacity, incorporated by reference to Exhibit 2.3 to the Customers Bancorp Form S-1/A filed with the SEC on January 13, 2011</u> |
| 2.2 | <u>Purchase and Assumption Agreement, dated as of September 17, 2010, by and among Customers Bank, the FDIC as Receiver of ISN Bank, and the FDIC acting in its corporate capacity, incorporated by reference to Exhibit 2.4 to the Customers Bancorp Form S-1/A filed with the SEC on January 13, 2011</u> |
| 2.3 | <u>Asset Purchase Agreement dated as of December 15, 2015 by and among Customers Bancorp, Customers Bank, Higher One, Inc. and Higher One Holdings, Inc., incorporated by reference to Exhibit 2.3 to the Customers Bancorp Form 10-K filed with the SEC on February 26, 2016</u> |
| 2.4 | <u>Purchase and Assumption Agreement dated as of March 7, 2017 among Flagship Community Bank, Customers Bank and Customers Bancorp, Inc., incorporated by reference to Exhibit 2.1 to the Customers Bancorp 8-K filed with the SEC on March 8, 2017</u> |
| 2.5 | <u>Amended and Restated Purchase and Assumption Agreement and Plan of Merger dated as of November 17, 2017 among Flagship Community Bank, BankMobile Technologies, Inc, Customers Bank and Customers Bancorp, Inc., incorporated by reference to Exhibit 2.1 to the Customers Bancorp 8-K filed with the SEC on November 20, 2017</u> |
| 2.6 | <u>Letter Agreement, dated as of August 7, 2018, by and between Flagship Bank, BankMobile Technologies, Inc., Customers Bank, and Customers Bancorp, Inc., incorporated by reference to Exhibit 3.8 to Customers Bancorp Inc.'s Form 10-Q filed with the SEC on August 9, 2018</u> |
| 3.1 | <u>Amended and Restated Articles of Incorporation of Customers Bancorp, incorporated by reference to Exhibit 3.1 to the Customers Bancorp's Form 8-K filed with the SEC on April 30, 2012</u> |
| 3.2 | <u>Amended and Restated Bylaws of Customers Bancorp, incorporated by reference to Exhibit 3.2 to the Customers Bancorp's Form 8-K filed with the SEC on April 30, 2012</u> |
| 3.3 | <u>Articles of Amendment to the Amended and Restated Articles of Incorporation of Customers Bancorp, Inc., incorporated by reference to Exhibit 3.1 to the Customers Bancorp Form 8-K filed with the SEC on July 2, 2012</u> |

3.4 Statement with Respect to Shares of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series C, incorporated by reference to Exhibit 3.1 to the Customers Bancorp Form 8-K filed with the SEC on May 18, 2015

3.5 Statement with Respect to Shares of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series D, incorporated by reference to Exhibit 3.1 to the Customers Bancorp Form 8-K filed with the SEC on January 29, 2016

3.6 Statement with Respect to Shares of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series E, incorporated by reference to Exhibit 3.1 to the Customers Bancorp Form 8-K filed with the SEC on April 28, 2016

3.7 Statement with Respect to Shares of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series F, incorporated by reference to Exhibit 3.1 to the Customers Bancorp Form 8-K filed with the SEC on September 16, 2016

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| Exhibit No. | Description |
|-------------|---|
| 4.1 | <u>Specimen stock certificate of Customers Bancorp, Inc. Voting Common Stock and Class B Non-Voting Common Stock, incorporated by reference to Exhibit 4.1 to the Customers Bancorp Form S-1/A filed with the SEC on May 1, 2012</u> |
| 4.2 | <u>Form of Warrant issued to investors in New Century Bank's March and February 2010 private offerings, 2009 private offering, and in partial exchange for New Century Bank's shares of 10% Series A Non-Cumulative Perpetual Convertible Preferred Stock in June 2009, incorporated by reference to Exhibit 4.8 to the Customers Bancorp Form S-1 filed with the SEC on April 22, 2010</u> |
| 4.3 | <u>Warrants issued to Jay S. Sidhu, June 30, 2009, incorporated by reference to Exhibit 4.9 to the Customers Bancorp Form S-1 filed with the SEC on April 22, 2010</u> |
| 4.4 | <u>Indenture, dated as of July 30, 2013, by and between Customers Bancorp, Inc., as Issuer, and Wilmington Trust, National Association, as Trustee, incorporated by reference to Exhibit 4.1 to the Customers Bancorp Form 8-K filed with the SEC on July 31, 2013</u> |
| 4.5 | <u>First Supplemental Indenture, dated as of July 30, 2013, by and between Customers Bancorp, Inc., as Issuer, and Wilmington Trust, National Association, as Trustee, incorporated by reference to Exhibit 4.2 to the Customers Bancorp Form 8-K filed with the SEC on July 31, 2013</u> |
| 4.6 | <u>6.375% Global Note in aggregate principal amount of \$55,000,000, incorporated by reference to Exhibit 4.3 to the Customers Bancorp Form 8-K filed with the SEC on July 31, 2013</u> |
| 4.7 | <u>Amendment to First Supplemental Indenture, dated August 27, 2013, by and between Customers Bancorp, Inc. and Wilmington Trust Company, National Association, as trustee, incorporated by reference to Exhibit 4.1 to the Customers Bancorp Form 8-K filed with the SEC on August 29, 2013</u> |
| 4.8 | <u>6.375% Global Note in aggregate principal amount of \$8,250,000, incorporated by reference to Exhibit 4.2 to the Customers Bancorp Form 8-K filed with the SEC on August 29, 2013</u> |
| 4.9 | <u>Form of Note Subscription Agreement (including form of Subordinated Note Certificate and Senior Note Certificate), incorporated by reference to Exhibit 10.1 to the Customers Bancorp Form 8-K filed with the SEC on June 26, 2014</u> |
| 4.10 | <u>Second Supplemental Indenture, dated as of June 30, 2017, by and between Customers Bancorp, Inc. as Issuer, and Wilmington Trust, National Association, as Trustee, incorporated by reference to Exhibit 4.1 to the Customers Bancorp Form 8-K filed with the SEC on June 30, 2017</u> |
| 10.1+ | <u>Customers Bancorp, Inc. 2010 Stock Option Plan, incorporated by reference to Exhibit 10.2 to the Customers Bancorp Form 10-K filed with the SEC on March 21, 2012</u> |
| 10.2+ | <u>Amended and Restated Employment Agreement, dated as of March 26, 2012, by and between Customers Bancorp, Inc. and Jay S. Sidhu, incorporated by reference to Exhibit 10.3 to the Customers Bancorp Form S-1 filed with the SEC on March 28, 2012</u> |
| 10.3+ | <u>Amended and Restated Employment Agreement, dated as of March 26, 2012, by and between Customers Bancorp, Inc. and Richard Ehst, incorporated by reference to Exhibit 10.4 to the Customers Bancorp Form</u> |

S-1 filed with the SEC on March 28, 2012

- 10.4+ Amended and Restated Customers Bancorp, Inc. 2004 Incentive Equity and Deferred Compensation Plan, incorporated by reference to Exhibit 10.7 to the Customers Bancorp Form 10-K filed with the SEC on March 21, 2012
- 10.5+ Form of Restricted Stock Unit Award Agreement for Employees relating to the 2012 Special Stock Reward Program, incorporated by reference to Exhibit 10.25 to the Customers Bancorp Form S-1/A filed with the SEC on May 1, 2012
- 10.6+ Bonus Recognition and Retention Plan, incorporated by reference to Exhibit 10.15 to the Customers Bancorp Form 10-K filed with the SEC on March 21, 2012
- 10.7+ Supplemental Executive Retirement Plan of Jay S. Sidhu, incorporated by reference to Exhibit 10.15 to the Customers Bancorp Form S-1/A filed with the SEC on April 18, 2011
- 10.8+ Form of Restricted Stock Unit Award Agreement for Directors relating to the 2012 Special Stock Reward Program, incorporated by reference to Exhibit 10.26 to the Customers Bancorp Form S-1/A filed with the SEC on May 1, 2012
- 10.9+ Form of Stock Option Agreement, incorporated by reference to Exhibit 10.18 to the Customers Bancorp Form 10-K filed with the SEC on March 21, 2012

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| Exhibit No. | Description |
|-------------|--|
| 10.10+ | <u>Form of Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.17 to the Customers Bancorp Form 10-K filed with the SEC on March 21, 2012</u> |
| 10.11+ | <u>Change of Control Agreement, dated as of January 30, 2013, by and between Customers Bancorp, Inc. and Glenn Hedde, incorporated by reference to Exhibit 10.29 to Customers Bancorp's Form 10-K filed with the SEC on March 18, 2013</u> |
| 10.12+ | <u>Change of Control Agreement, dated as of January 30, 2013, by and between Customers Bancorp, Inc. and Warren Taylor, incorporated by reference to Exhibit 10.30 to Customers Bancorp's Form 10-K filed with the SEC on March 18, 2013</u> |
| 10.13+ | <u>Change of Control Agreement, dated as of December 22, 2012, by and between Customers Bancorp, Inc. and Ken Keiser, incorporated by reference to Exhibit 10.14 to the Customers Bancorp Form 10-K filed with the SEC on February 26, 2016</u> |
| 10.14+ | <u>Employment Agreement, dated as of August 5, 2013, by and between Customers Bancorp, Inc. and Robert Wahlman, incorporated by reference to Exhibit 10.15 to the Customers Bancorp Form 10-K filed with the SEC on February 26, 2016</u> |
| 10.15+ | <u>Employment Agreement, dated as of March 1, 2014, by and between Customers Bancorp, Inc. and Steven Issa, incorporated by reference to Exhibit 10.16 to the Customers Bancorp Form 10-K filed with the SEC on February 26, 2016</u> |
| 10.16+ | <u>Amendment to Employment Agreement, dated as of February 26, 2016, by and between Customers Bancorp, Inc. and Steven Issa, incorporated by reference to Exhibit 10.17 to the Customers Bancorp Form 10-K filed with the SEC on February 26, 2016</u> |
| 10.17 | <u>Transition Services Agreement dated as of June 15, 2016 by and among Customers Bancorp, Customers Bank, Higher One, Inc. and Higher One Holdings, Inc., incorporated by reference to Exhibit 10.1 to the Customers Bancorp's Form 8-K filed with the SEC on June 16, 2016</u> |
| 10.18 | <u>Order to Cease and Desist and Order of Assessment of Civil Money Penalty Issued Upon Consent Dated December 2, 2016, incorporated by reference to Exhibit 10.1 to the Customers Bancorp Form 8-K filed with the SEC on December 7, 2016</u> |
| 10.19+ | <u>Amended and Restated Employment Agreement, dated as of December 30, 2016, by and between Customers Bancorp, Inc. and Richard Ehst, incorporated by reference to Exhibit 10.2 to the Customers Bancorp Form 8-K filed with the SEC on December 30, 2016</u> |
| 10.20+ | <u>Amended and Restated Employment Agreement, dated as of December 30, 2016, by and between Customers Bancorp, Inc. and Jay S. Sidhu, incorporated by reference to Exhibit 10.1 to the Customers Bancorp Form 8-K filed with the SEC on December 30, 2016</u> |
| 10.21+ | <u>Letter Agreement, dated as of December 30, 2016, by and between Customers Bancorp, Inc. and Jay S. Sidhu, incorporated by reference to Exhibit 10.3 to the Customers Bancorp Form 8-K filed with the SEC on December 30, 2016</u> |

- 10.22* Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of February 24, 2017
- 10.23* First Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of September 30, 2017
- 10.24* Second Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of October 24, 2017
- 10.25* Third Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of December 21, 2017
- 10.26* Fourth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of December 1, 2018
- 10.27* Fifth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of August 16, 2018
- 10.28* Sixth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of September 28, 2018

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| Exhibit No. | Description |
|-------------|---|
| 10.29* | <u>Seventh Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of September 28, 2018</u> |
| 10.30* | <u>Eighth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of December 9, 2018</u> |
| 10.31* | <u>Ninth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of September 28, 2018</u> |
| 10.32* | <u>Tenth Amendment to Private Label Banking Program Agreement by and between Customers Bank and T-Mobile USA, Inc. dated as of December 27, 2018</u> |
| 10.33+ | <u>Separation of Employment dated as of December 7, 2018 by and between Customers Bancorp, Inc. and Robert Wahlman, incorporated by reference to Exhibit 10.1 to the Customers Bancorp, Inc. Form 8-K filed with the SEC on December 11, 2018</u> |
| 10.34** | <u>Change of Control Agreement, dated as of August 14, 2017 by and between Customers Bancorp, Inc. and Carla A. Leibold</u> |
| 21.1 | <u>List of Subsidiaries of Customers Bancorp, Inc.</u> |
| 23.1** | <u>Consent of BDO USA, LLP</u> |
| 31.1 | <u>Certification of the Chief Executive Officer Pursuant to Exchange Act Rule 13a-14(a) or Rule 15d-14(a)</u> |
| 31.2 | <u>Certification of the Chief Financial Officer Pursuant to Exchange Act Rule 13a-14(a) or Rule 15d-14(a)</u> |
| 32.1*** | <u>Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u> |
| 32.2*** | <u>Certification of the Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u> |
| 101** | Interactive Data Files regarding (a) Balance Sheets as of December 31, 2018 and 2017, (b) Statements of Income for the years ended December 31, 2018, 2017 and 2016, (c) Statements of Comprehensive Income for the years ended December 31, 2018, 2017 and 2016, (d) Statements of Cash Flows for the years ended December 31, 2018, 2017 and 2016, (e) Statements of Changes in Shareholders' Equity for the years ended December 31, 2018, 2017 and 2016 and (f) Notes to Financial Statements for the years ended December 31, 2018, 2017 and 2016. |
| + | Management Contract or compensatory plan or arrangement |
| * | Certain identified information has been excluded from this Exhibit because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed. |
| ** | Filed as an exhibit to the Original 2018 Form 10-K |

*** Furnished as an exhibit to the Original 2018 Form 10-K

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SIGNATURES

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

Customers Bancorp, Inc.

April 24, 2019 By: /s/ Jay S. Sidhu

Name: Jay S. Sidhu

Title: Chairman and Chief Executive Officer

Customers Bancorp, Inc.

April 24, 2019 By: /s/ Carla A. Leibold

Name: Carla A. Leibold

Title: Chief Financial Officer and Treasurer