

GREAT SOUTHERN BANCORP INC
Form 8-K
August 18, 2011

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

FORM 8-K

CURRENT REPORT

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

Date of Report: August 18, 2011

GREAT SOUTHERN BANCORP, INC.
(Exact name of registrant as specified in its charter)

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| Missouri (State or other jurisdiction of incorporation) | 000-18082 (Commission File Number) | 43-1524856 (I.R.S. Employer Identification No.) |
| 1451 East Battlefield, Springfield, Missouri (Address of principal executive offices) | | 65804 (Zip Code) |

Registrant's telephone number, including area code: (417) 887-4400

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On August 18, 2011, as part of the Small Business Lending Fund (“SBLF”) of the United States Department of the Treasury (“Treasury”), Great Southern Bancorp, Inc. (the “Company”), the parent company of Great Southern Bank (the “Bank”) entered into a Small Business Lending Fund-Securities Purchase Agreement (“Purchase Agreement”) with the Secretary of the Treasury, pursuant to which the Company (i) sold 57,943 shares of the Company’s Senior Non-Cumulative Perpetual Preferred Stock, Series A (the “SBLF Preferred Stock”) to the Secretary of the Treasury for a purchase price of \$57,943,000. The SBLF Preferred Stock was issued pursuant to the SBLF program, a \$30 billion fund established under the Small Business Jobs Act of 2010 that was created to encourage lending to small business by providing capital to qualified community banks with assets of less than \$10 billion. The Purchase Agreement is attached as Exhibit 10.1 hereto and is incorporated herein by reference. The SBLF Preferred Stock was issued under new Articles Supplementary to the Company’s Charter described in Item 5.03 below.

The SBLF Preferred Stock qualifies as Tier 1 capital. The SBLF Preferred Stock is entitled to receive non-cumulative dividends, payable quarterly, on each January 1, April 1, July 1 and October 1, beginning October 1, 2011. The dividend rate, as a percentage of the liquidation amount, can fluctuate on a quarterly basis during the first 10 quarters during which the SBLF Preferred Stock is outstanding, based upon changes in the level of “Qualified Small Business Lending” or “QBSL” (as defined in the Purchase Agreement) by the Bank. The initial dividend rate through September 30, 2011, is 5%. Based upon the increase in the Bank’s level of QBSL over the baseline level calculated under the terms of the Purchase Agreement, the dividend rate for the fourth quarter of 2011 is expected to be approximately 2.6%, subject to confirmation by Treasury. For the third through ninth calendar quarters after the closing, the dividend rate may be adjusted to between one percent (1%) and five percent (5%) per annum based on the level of qualifying loans. For the tenth calendar quarter through four and one half years after issuance, the dividend rate will be fixed at between one percent (1%) and seven percent (7%) based upon the level of qualifying loans. After four and one half years from issuance, the dividend rate will increase to 9% (including a quarterly lending incentive fee of 0.5%).

The SBLF Preferred Stock is non-voting, except in limited circumstances. In the event that the Company misses five dividend payments, whether or not consecutive, the holder of the SBLF Preferred Stock will have the right, but not the obligation, to appoint a representative as an observer on the Company’s Board of Directors. In the event that the Company misses six dividend payments, whether or not consecutive, and if the then outstanding aggregate liquidation amount of the SBLF Preferred Stock is at least \$25,000,000, then the holder of the SBLF Preferred Stock will have the right to designate two directors to the Board of Directors of the Company.

The SBLF Preferred Stock may be redeemed at any time at the Company’s option, at a redemption price of 100% of the liquidation amount plus accrued but unpaid dividends to the date of redemption for the current period, subject to the approval of its federal banking regulator.

The SBLF Preferred Stock was issued in a private placement exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended. The Company has agreed to register the SBLF Preferred Stock under certain circumstances set forth in Annex E to the Purchase Agreement. The SBLF Preferred Stock is not subject to any restrictions on transfer.

As required by the Purchase Agreement, \$58,000,000 of the proceeds from the sale of the SBLF Preferred Stock was used to redeem the 58,000 shares of the Company's Fixed Rate Cumulative Perpetual Preferred Stock, Series A issued in 2008 to the Treasury in the Troubled Asset Relief Program ("TARP"), plus the accrued dividends owed on the TARP preferred shares. The Company entered into a repurchase letter agreement with Treasury providing for the redemption of the TARP preferred shares ("Repurchase Agreement"). The Repurchase Agreement is attached as Exhibit 10.2 hereto and is incorporated herein by reference.

As part of the 2008 TARP transaction, the Company issued a warrant to Treasury to purchase 909,091 shares of the Company's common stock for a per share price of \$9.57 per share over a 10-year term. The Company has 15 days from the closing of the SBLF transaction to notify the Treasury whether it wants to repurchase the warrant. If the Company does not provide this notice before September 2, 2011, the Treasury will be deemed to have notified the Company that it intends to sell the Warrant. The Company is preparing a proposal to Treasury to initiate the process for its repurchase of the Warrant.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth under "Item 1.01 Entry into a Material Definitive Agreement" is incorporated by reference into this Item 3.02. The issuance and sale of the SBLF Preferred Stock was exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended. The Company has not engaged in a general solicitation or advertising with regard to the issuance and sale of such securities and has not offered securities to the public in connection with this issuance and sale.

Item 3.03 Material Modification to Rights of Security Holders.

The terms of the SBLF Preferred Stock impose limits on the ability of the Company to pay dividends and repurchase shares of common stock. Under the terms of the SBLF Preferred Stock, no repurchases may be effected, and no dividends may be declared or paid on preferred shares ranking pari passu with the SBLF Preferred Stock, junior preferred shares, or other junior securities (including the common stock) during the current quarter and for the next three quarters following the failure to declare and pay dividends on the SBLF Preferred Stock, except that, in any such quarter in which the dividend is paid, dividend payments on shares ranking pari passu may be paid to the extent necessary to avoid any resulting material covenant breach.

Under the terms of the SBLF Preferred Stock, the Company may only declare and pay a dividend on the common stock or other stock junior to the SBLF Preferred Stock, or repurchase shares of any such class or series of stock, if, after payment of such dividend, the dollar amount of the Company's Tier 1 Capital would be at least 90% of the Signing Date Tier 1 Capital, as set forth in the Certificate of Designation relating to the SBLF Preferred Stock, excluding any subsequent net charge-offs and any redemption of the SBLF Preferred Stock (the "Tier 1 Dividend Threshold"). The Tier 1 Dividend Threshold is subject to reduction, beginning on the second anniversary of issuance and ending on the tenth anniversary, by 10% for each one percent increase in QSBL over the baseline level.

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

As a result of the redemption of the TARP Preferred Shares, the Company is no longer subject to the TARP Executive Compensation requirements.

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

In connection with the SBLF transaction, the Company filed Articles Supplementary with the State of Maryland for the purpose of amending its Charter to fix the designations, preferences, limitations and relative rights of the SBLF Preferred Stock. The SBLF Preferred Stock has a liquidation preference of \$1,000 per share. The Certificate of Designation is attached hereto as Exhibit 3.1 and is incorporated by reference herein. The Form of Stock Certificate for the SBLF Preferred Stock is attached as Exhibit 4.1 and is incorporated herein by reference.

Item 8.01 Other Information.

On August 18, 2011, the Company issued a press release announcing the sale of \$57,943,000 of SBLF Preferred Stock to Treasury pursuant to the Purchase Agreement. The press release is furnished as Exhibit 99.1 and is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

The following exhibits are filed herewith:

| Exhibit | No. Description of Exhibit |
|---------|---|
| 3.1 | Articles Supplementary for the SBLF Preferred Stock |
| 4.1 | Form of Certificate for the SBLF Preferred Stock |
| 10.1 | Small Business Lending Fund-Securities Purchase Agreement, dated August 18, 2011, between Great Southern Bancorp, Inc. and the Secretary of the Treasury, with respect to the issuance and sale of the SBLF Preferred Stock |
| 10.2 | Repurchase Agreement dated August 18, 2011, between Great Southern Bancorp, Inc. and the United States Department of the Treasury, with respect to the repurchase and redemption of the TARP Preferred Stock |
| 99.1 | August 18, 2011 Press Release |

SIGNATURES

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

GREAT SOUTHERN BANCORP, INC.

Date: August 18, 2011

By: /s/ Joseph W. Turner
Joseph W. Turner
President and Chief Executive Officer