

HERITAGE COMMERCE CORP  
Form POS AM  
March 29, 2011

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As filed with the Securities and Exchange Commission on March 29, 2011

Registration No. 333-168299

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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Post-Effective  
Amendment No. 1  
to  
**FORM S-1**  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

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**HERITAGE COMMERCE CORP**

(Exact name of registrant as specified in its charter)

**California**  
(State or other jurisdiction of  
incorporation or organization)

**6022**  
(Primary Standard Industrial  
Code Number)  
**150 Almaden Boulevard**  
**San Jose, California 95113**  
**(408) 947-6900**

**77-0469558**  
(I.R.S. Employer  
Identification Number)

(Address, including Zip Code, and Telephone Number, including Area Code, of Registrant's Principal Executive Offices)

**LAWRENCE D. McGOVERN**  
**Executive Vice President and Chief Financial Officer**  
**Heritage Commerce Corp**  
**150 Almaden Boulevard**  
**San Jose, California 95113**  
**(408) 497-6900**

(Name, Address, including Zip Code, and Telephone Number, including Area Code, of Agent for Service)

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**Copy to:**

**MARK A. BONENFANT, ESQ.**  
**Buchalter Nemer**  
**1000 Wilshire Boulevard**  
**Fifteenth Floor**

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Los Angeles, California 90094  
(213) 891-0700  
(213) 630-5664 Facsimile

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**Approximate date of commencement of the proposed sale of the securities to the public:  
From time to time after this Registration Statement becomes effective.**

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If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer       Accelerated filer       Non-accelerated filer       Smaller reporting company   
(Do not check if a smaller reporting company)

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**The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said section 8(a), may determine.**

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Filed pursuant to Rule 424(b)(3)  
Registration Statement No. 333-168299

PROSPECTUS

## HERITAGE COMMERCE CORP

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**14,398,992 Shares of Common Stock**

**21,004 Shares of Series C Convertible Perpetual Preferred Stock**

**5,601,000 Shares of Common Stock Underlying the Series C Preferred Stock**

This prospectus relates to the Securities listed below that may be offered for sale from time to time by the persons named in this prospectus (and their transferees) identified under the heading "selling securityholders" on page 12 of this prospectus who currently own such securities or may acquire such securities upon the conversion of securities currently held. We refer to these persons as the "selling securityholders."

An investment in the securities involves risks. You should carefully consider all of the information set forth in this prospectus, including the risk factors beginning on page 3 of this prospectus, as well as the risk factors and other information contained in any documents we incorporate by reference into this prospectus before investing in any of the securities.

This prospectus covers the following securities:

The shares of our Common Stock, no par value ("Common Stock"), issued upon the mandatory conversion into Common Stock of our Series B Mandatorily Convertible Cumulative Perpetual Preferred Stock ("Series B Preferred Stock");

Some or all of the 21,004 shares of our Series C Convertible Perpetual Preferred Stock ("Series C Preferred Stock");

The shares of our Common Stock issuable upon the mandatory conversion into Common Stock of our Series C Preferred Stock.

Pursuant to a Securities Purchase Agreement, dated June 18, 2010, entered into by Heritage Commerce Corp and each of the selling securityholders (or an affiliate of the selling securityholders), we issued shares of Series B Preferred Stock and Series C Preferred Stock to the selling securityholders in a private placement transaction exempt from the registration requirements of the Securities Act of 1933, as amended. We refer to this transaction as the "June 2010 Private Placement." At the Company's Special Meeting of Shareholders held on September 15, 2010, the Company's shareholders approved the issuance of Common Stock upon the conversion of the Series B Preferred Stock and upon the conversion of the Series C Preferred Stock as required by The NASDAQ Stock Market and California corporate law. As a result, on September 16, 2010, the Series B Preferred Stock was converted into 14,398,992 shares of Common Stock and the shares of Series B Preferred Stock ceased to be outstanding. The Series C Preferred Stock remains outstanding until it has been converted into Common Stock in accordance with its terms.

When used in this prospectus, the term "Securities" refers to the shares of Series C Preferred Stock and the shares of Common Stock. We agreed in the Securities Purchase Agreement to file this resale registration statement covering these Securities.

The selling securityholders who may sell or otherwise dispose of the Securities were the initial investors (or the permitted affiliate transferees of such investors) in the June 2010 Private Placement described above. The selling securityholders may offer the Securities from time to time directly or through underwriters, broker-dealers or agents and in one or more public or private transactions and at fixed prices, at prevailing market prices, at prices related to prevailing market prices, at various prices determined at the time of sale or otherwise or at negotiated prices. If the Securities are sold through underwriters, broker-dealers or agents, the selling securityholders (or the purchasers of the Securities as negotiated with the selling securityholders) will be responsible for

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underwriting discounts or commissions or agent commissions, if any. The registration of the Securities does not necessarily mean that any of the Securities will be sold by the selling securityholders. The timing and amount of any sale is within the selling securityholder's sole discretion, subject to certain restrictions. See "Plan of Distribution."

We will not receive any proceeds from the sale of Securities by the selling securityholders.

Shares of our Common Stock are traded on the NASDAQ Global Select Market under the symbol "HTBK." The Series C Preferred Stock is not currently listed on any established securities exchange or quotation system, and we do not intend to seek such listings. In the event we were to seek such listings, there is no guarantee that any established securities exchange or quotation system would accept the Series C Preferred Stock for listing.

**None of the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any state securities commission has approved or disapproved of these Securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**These Securities are not savings accounts, deposits or other obligations of any bank and are not insured or guaranteed by the Federal Deposit Insurance Corporation, the Deposit Insurance Fund or any other government agency or fund.**

This date of this prospectus is March 29, 2011.

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**ABOUT THIS PROSPECTUS**

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized anyone to provide you with different or inconsistent information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these Securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus or the documents incorporated by reference is accurate as of any date other than the date of such applicable document. Our business, financial condition, results of operations and prospects may have changed since that date.

Unless we state otherwise or the context indicates otherwise, references to "Heritage," "we," "us," "our" and "the Company" in this prospectus refer to Heritage Commerce Corp and its subsidiaries. References to "Heritage Bank of Commerce" or "HBC" mean our wholly-owned banking subsidiary.

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus including the documents incorporated by reference in it, contains various statements that may constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended ("Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended ("Securities Exchange Act"), and are intended to be covered by the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Any statements about our expectations, beliefs, plans, objectives, assumptions or future events or performance are not historical facts and may be forward-looking. These forward-looking statements often can be, but are not always, identified by the use of words such as "assume," "expect," "intend," "plan," "project," "believe," "estimate," "predict," "anticipate," "may," "might," "should," "could," "goal," "potential" and similar expressions. We base these forward-looking statements on our current expectations and projections about future events, our assumptions regarding these events and our knowledge of facts at the time the statements are made. These statements include statements relating to our projected growth, anticipated future financial performance, and management's long-term performance goals, as well as statements relating to the anticipated effects on results of operations and financial condition.

These forward-looking statements are subject to various risks and uncertainties that may be outside our control and our actual results could differ materially from our projected results. In addition, our past results of operations do not necessarily indicate our future results. Please see our most recent Annual Report on Form 10-K for the year ended December 31, 2010 and our subsequent Quarterly Reports on Form 10-Q and the other information contained in this prospectus for a further discussion of these and other risks and uncertainties applicable to our business. The forward-looking statements could be affected by many factors, including but not limited to:

Competition for loans and deposits and failure to attract or retain deposits and loans;

Local, regional, and national economic conditions and events and the impact they may have on us and our customers, and our assessment of that impact on our estimates including, the allowance for loan losses;

Risks associated with concentrations in real estate related loans;

Changes in the level of nonperforming assets and charge-offs and other credit quality measures, and their impact on the adequacy of the Company's allowance for loan losses and the Company's provision for loan losses;

The effects of and changes in trade, monetary and fiscal policies and laws, including the interest rate policies of the Federal Open Market Committee of the Federal Reserve Board;

Stability of funding sources and continued availability of borrowings;

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Our compliance with and the effects of the regulatory Written Agreement the Company and Heritage Bank of Commerce, its subsidiary bank, have entered into with their regulators;

The effect of changes in laws and regulations with which the Company and Heritage Bank of Commerce must comply, including any increase in FDIC insurance premiums;

Our ability to raise capital or incur debt on reasonable terms;

Regulatory limits on Heritage Bank of Commerce's ability to pay dividends to the Company;

Future legislative or administrative changes to the U.S. Treasury Capital Purchase Program enacted under the Emergency Economic Stabilization Act of 2008;

The impact of the Emergency Economic Stabilization Act of 2008 and the American Recovery and Reinvestment Act of 2009 and related rules and regulations on our business operations and competitiveness, including the impact of executive compensation restrictions, which may affect our ability to retain and recruit executives in competition with other firms who do not operate under those restrictions;

The impact of the Dodd Frank Wall Street Reform and Consumer Protection Act signed by President Obama on July 21, 2010;

The effect of changes in accounting policies and practices, as may be adopted by the regulatory agencies, as well as the Public Company Accounting Oversight Board, the Financial Accounting Standards Board and other accounting standard setters;

Changes in the deferred tax asset valuation allowance in future quarters;

The costs and effects of legal and regulatory developments, including resolution of legal proceedings or regulatory or other governmental inquiries, and the results of regulatory examinations or reviews;

The ability to increase market share and control expenses; and

Our success in managing the risks involved in the foregoing items.

We are not able to predict all the factors that may affect future results. You should not place undue reliance on any forward-looking statement, which speaks only as of the date of this prospectus or the date of the document incorporated by reference. Except as required by applicable laws or regulations, we do not undertake any obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

### **INFORMATION INCORPORATED BY REFERENCE**

The SEC allows us to "incorporate by reference" the information contained in the documents we file with the SEC, which means that we can disclose important information to you in this prospectus by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus.

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We incorporate by reference the documents listed below (other than filings or portions of filings that, under applicable SEC rules, are "furnished" rather than "filed"):

Our Annual Report on Form 10-K for the fiscal year ended December 31, 2010, as filed on March 7, 2011;

Current Reports on Form 8-K filed on January 14, 2011, and February 1, 2011; and

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The description of our Common Stock contained in our Registration Statement on Form 8-A, dated March 5, 1998, which registers our Common Stock under Section 12 of the Exchange Act, together with any amendments or reports filed with the SEC for the purpose of updating the description.

You may obtain a copy of these filings at no cost by writing to us at Heritage Commerce Corp, 150 Almaden Boulevard, San Jose, California 95113, Attention: Corporate Secretary or by telephone request to our Corporate Secretary at (408) 947-6900.

## **WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly, and current reports, proxy statements and other information with the Securities and Exchange Commission ("SEC"). Our SEC filings are available to the public on the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov) and on our website [www.heritagecommercecorp.com](http://www.heritagecommercecorp.com) (as soon as practicable after we electronically file such materials with, or furnish them to, the SEC). Except for those SEC filings incorporated by reference in this prospectus, none of the information contained on, or that may be accessed through, our website is a prospectus or constitutes part of, or is otherwise incorporated into, this prospectus.

You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street N.E., Washington, D.C. 20549. You can also obtain copies of the documents upon the payment of a duplicating fee to the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

This prospectus omits some information contained in the registration statement in accordance with SEC rules and regulations. You should review the information and exhibits included in the registration statement for further information about us and the securities we are offering. Statements in this prospectus concerning any document we filed as an exhibit to the registration statement or that we otherwise filed with the SEC are not intended to be comprehensive and are qualified by reference to these filings. You should review the complete document to evaluate these statements.

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**PROSPECTUS SUMMARY**

*This summary highlights selected information contained elsewhere or incorporated by reference in this prospectus and may not contain all the information that you need to consider in making your investment decision. You should carefully read this entire prospectus, as well as the information to which we refer you and the information incorporated by reference herein, before deciding whether to invest in our Securities. You should pay special attention to the "Risk Factors" section of this prospectus to determine whether an investment in the Securities is appropriate for you.*

**About Heritage Commerce Corp**

Heritage Commerce Corp, a California corporation organized in 1997, is a bank holding company registered under the Bank Holding Company Act of 1956, as amended. We provide a wide range of banking services through Heritage Bank of Commerce, our wholly-owned subsidiary and our principal asset. Heritage Bank of Commerce is a California state-chartered bank headquartered in San Jose, California and has been conducting business since 1994.

Heritage Bank of Commerce is a multi-community independent bank that offers a full range of commercial banking services to small and medium-sized businesses and their owners, managers and employees. We operate through 10 full service branch offices located entirely in the southern and eastern regions of the general San Francisco Bay Area of California in the counties of Santa Clara, Alameda, and Contra Costa. Our market includes the headquarters of a number of technology-based companies in the region commonly known as "Silicon Valley."

Our lending activities are diversified and include commercial, real estate, construction and land development, consumer and SBA guaranteed loans. We generally lend in markets where we have a physical presence through our branch offices and SBA loan production offices. We attract deposits throughout our market area with a customer-oriented product mix, competitive pricing, and convenient locations. We offer a wide range of deposit products for business banking and retail markets. We offer a multitude of other products and services to complement our lending and deposit services.

As a bank holding company, we are subject to the supervision of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). We are required to file with the Federal Reserve reports and other information regarding our business operations and the business operations of our subsidiaries. As a California chartered bank, Heritage Bank of Commerce is subject to primary supervision, periodic examination, and regulation by the California Department of Financial Institutions ("DFI"), and by the Federal Reserve, as its primary federal regulator.

Our principal executive office is located at 150 Almaden Boulevard, San Jose, California 95113, telephone number: (408) 947-6900.

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**The Offering**

<b>Maximum number of shares of Common Stock offered by the selling securityholders (in the case of the Series C Preferred Stock subject to anti-dilution adjustments)</b>	14,398,992 shares of Common Stock issued upon conversion of the Series B Preferred Stock, and 5,601,000 shares of Common Stock underlying the 21,004 outstanding shares of Series C Preferred Stock.
<b>Maximum number of shares of Series C Preferred Stock offered by the selling securityholders (subject to anti-dilution adjustments)</b>	21,004 shares of Series C Preferred Stock issued by us to two of the selling securityholders on June 21, 2010.
<b>Convertibility of Series C Preferred Stock into our Common Stock</b>	Shares of Series C Preferred Stock will automatically convert into our Common Stock on the date of the transfer of the Series C Preferred Stock to a transferee unaffiliated with the holder in a widely dispersed offering. The term "widely dispersed offering" means a (i) widespread public distribution, including pursuant to a registration statement filed with and declared effective by the SEC or Rule 144 under the Securities Act, (ii) a transfer in which no transferee (or group of associated transferees) after giving effect to the transfer, would own more than 2% of any class of voting securities of the Company or (iii) a transfer to a transferee that controls or is acquiring control of more than 50% of the voting securities.
<b>Use of Proceeds</b>	All Securities sold pursuant to this prospectus will be sold by the selling securityholders. We will not receive any of the proceeds from such sales.
<b>Risk Factors</b>	An investment in our Securities is subject to risks. Please refer to the information contained under the caption "Risk Factors" and other information included or incorporated by reference in this prospectus for a discussion of factors you should carefully consider before investing in our Securities.
<b>NASDAQ Global Select Market Symbol</b>	"HTBK" Common Stock. The Series C Preferred Stock is not listed, and the Company does not intend to list the Series C Preferred Stock on any market.

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**RISK FACTORS**

*Our business, financial condition and results of operations are subject to various risks, including those discussed below, and those set forth in Item 1A, "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2010, which is incorporated herein by reference, which may affect the value of the Securities. Before making a decision to invest in the Securities, you should carefully consider the risks and uncertainties described below and the risks incorporated by reference in this prospectus, together with all of the other information included or incorporated by reference in this prospectus.*

**Risks Relating to our Securities**

***Our participation in the U.S. Treasury's Capital Purchase Program may pose certain risks to holders of our securities.***

The Company sold to the U.S. Treasury 40,000 shares of Series A Fixed Rate Cumulative Perpetual Preferred Stock, no par value ("Series A Preferred Stock"), and a warrant to purchase 462,963 (which number of shares is not subject to increase as a result of our issuance of the Series B Preferred Stock and the Series C Preferred Stock) shares of the Company's Common Stock. Although the Company believes that its participation in the U.S. Treasury's Capital Purchase Program ("Capital Purchase Program") was in the best interests of its shareholders in that it enhanced our capital, it may pose certain risks to the holders of our Securities such as the following:

The warrant, if exercised, may be significantly dilutive to current common stockholders.

The warrant is immediately exercisable, thus the U.S. Treasury may at any time become a significant holder of the Company's Common Stock and possess significant voting power.

Although the Series A Preferred Stock issued to the U.S. Treasury is non-voting, the terms of the Capital Purchase Program stipulate that the U.S. Treasury may vote its senior equity in matters deemed by the U.S. Treasury to have an impact on its holdings.

Under the terms of the Capital Purchase Program, the Company must seek the approval of the U.S. Treasury for any increases in dividends paid to holders of our Common Stock as well as any repurchases of our Common Stock.

The U.S. Treasury may at any time change the terms of our participation in the Capital Purchase Program.

We have suspended payment on a total of six quarterly dividend payments on the Series A Preferred Stock, and, as a result, the U.S. Treasury will have the right to appoint two directors to our board of directors. Effective during the first quarter of 2011, and as of the date of this prospectus, the Company has not been advised whether the U.S. Treasury will exercise its rights to elect two members to the board of directors and, in the meantime, the U.S. Treasury has requested, and the Company has agreed to permit, an observer employed by the U.S. Treasury to attend meetings of the Company's board of directors.

We are unable to pay any dividends on our Common Stock unless we are current with our dividend payments on the Series A Preferred Stock.

Executive compensation rules for Capital Purchase Program participants may restrict our ability to hire or retain qualified senior executives officers and other key employees.

***Our securities are not an insured deposit.***

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Our securities are not bank deposits and, therefore, are not insured against loss by the Federal Deposit Insurance Corporation (FDIC), any other deposit insurance fund or by any other public or private entity. Investment in our securities is inherently risky for the reasons described in this section and

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elsewhere in this prospectus and is subject to the same market forces that affect the price of securities in any company. As a result, if you acquire our securities, you may lose some or all of your investment.

***Federal and state law may limit the ability of another party to acquire us, which could cause the price of our securities to decline.***

Federal law prohibits a person or group of persons "acting in concert" from acquiring "control" of a bank holding company unless the Federal Reserve has been given 60 days prior written notice of such proposed acquisition and within that time period the Federal Reserve has not issued a notice disapproving the proposed acquisition or extending for up to another 30 days the period during which such a disapproval may be issued. An acquisition may be made prior to the expiration of the disapproval period if the Federal Reserve issues written notice of its intent not to disapprove the action. Under a rebuttable presumption established by the Federal Reserve, the acquisition of 10% or more of a class of voting stock of a bank or bank holding company with a class of securities registered under Section 12 of the Securities Exchange Act would, under the circumstances set forth in the presumption, constitute the acquisition of control. In addition, any "company" would be required to obtain the approval of the Federal Reserve under the Bank Holding Company Act of 1956, as amended, before acquiring 25% (5% in the case of an acquiror that is, or is deemed to be, a bank holding company) or more of any class of voting stock, or such lesser number of shares as may constitute control.

Under the California Financial Code, no person shall, directly or indirectly, acquire control of a California state bank or its holding company unless the DFI has approved such acquisition of control. A person would be deemed to have acquired control of Heritage Bank of Commerce if such person, directly or indirectly, has the power (i) to vote 25% or more of the voting power of Heritage Bank of Commerce or (ii) to direct or cause the direction of the management and policies of Heritage Bank of Commerce. For purposes of this law, a person who directly or indirectly owns or controls 10% or more of our outstanding Common Stock would be presumed to control Heritage Bank of Commerce.

These provisions of federal and state law may prevent a merger or acquisition that would be attractive to shareholders and could limit the price investors would be willing to pay in the future for our securities.

***We may raise additional capital, which could have a dilutive effect on the existing holders of our securities and adversely affect the market price of our securities.***

We are not restricted from issuing additional shares of Common Stock or securities that are convertible into or exchangeable for, or represent the right to receive shares of Common Stock. We frequently evaluate opportunities to access the capital markets taking into account our regulatory capital ratios, financial condition and other relevant considerations and, subject to market conditions, we may take further capital actions. Such actions could include, among other things, the issuance of additional shares of Common Stock or other securities in public or private transactions in order to further increase our capital levels above the requirements for a "well capitalized" institution established by the federal bank regulatory agencies as well as other regulatory targets. These issuances could dilute ownership interests of investors and could dilute the per share book value of our Common Stock.

***Holders of our subordinated debt have rights that are senior to those of our common and preferred shareholders.***

We have supported our continued growth through four issuances of trust preferred securities from four separate special purpose trusts and related issuance of subordinated debt to these trusts. At December 31, 2010, we had outstanding subordinated debt totaling \$23.7 million. Payments of the principal and interest on the subordinated debt are fully and unconditionally guaranteed by us. Further, the accompanying subordinated debt we issued to the special purpose trusts are senior to our outstanding shares of Common Stock and preferred stock. As a result, we must make payments on the subordinated debt before any dividends can be paid on our preferred stock or Common Stock and, in the event of our

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bankruptcy, dissolution or liquidation, the holders of the subordinated debt must be satisfied before any distributions can be made on our preferred stock or Common Stock. We have the right to defer interest payments on our subordinated debt (and the related trust preferred securities) for up to five years, during which time no cash dividends may be paid on our preferred stock or Common Stock. In November 2009, we exercised our right to defer the payment of interest on the subordinated debt and related trust preferred securities.

***We are subject to a Written Agreement with the Federal Reserve Bank of San Francisco and the DFI that prohibits the payment of dividends without prior approval.***

On February 17, 2010, we entered into a Written Agreement with the Federal Reserve Bank of San Francisco and the DFI ("Written Agreement"). The Written Agreement restricts the payment of dividends on Common Stock and preferred stock, and any payments on our trust preferred securities and related subordinated debt, any reductions in capital or the purchase or redemption of stock without the prior consent of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve. We do not know when the Company will receive regulatory approval to pay dividends in the future.

**Risks Relating to our Common Stock**

***The price of our Common Stock may fluctuate significantly, and this may make it difficult for you to resell shares of Common Stock owned by you at times or at prices you find attractive.***

The stock market and, in particular, the market for financial institution stocks, have experienced significant volatility. In some cases, the markets have produced downward pressure on stock prices for certain issuers without regard to those issuers' underlying financial strength. As a result, the trading volume in our Common Stock may fluctuate more than usual and cause significant price variations to occur. This may make it difficult for you to resell shares of Common Stock owned by you at times or at prices you find attractive.

The trading price of the shares of our Common Stock will depend on many factors, which may change from time to time and which may be beyond our control, including, without limitation, our financial condition, performance, creditworthiness and prospects, future sales or offerings of our equity or equity related securities, and other factors identified above under "Cautionary Note Regarding Forward-Looking Statements," "Risk Factors" and below. These broad market fluctuations have adversely affected and may continue to adversely affect the market price of our Common Stock. Among the factors that could affect our stock price are:

actual or anticipated quarterly fluctuations in our operating results and financial condition;

changes in financial estimates or publication of research reports and recommendations by financial analysts or actions taken by rating agencies with respect to our Common Stock or those of other financial institutions;

failure to meet analysts' revenue or earnings estimates;

speculation in the press or investment community generally or relating to our reputation, our operations, our market area, our competitors or the financial services industry in general;

strategic actions by us or our competitors, such as acquisitions, restructurings, dispositions or financings;

actions by our current shareholders, including sales of Common Stock by existing shareholders and/or directors and executive officers;

trends in our nonperforming assets;





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the costs and effectiveness of our efforts to reduce our classified assets;

fluctuations in the stock price and operating results of our competitors;

future sales of our equity, equity-related or debt securities;

proposed or adopted regulatory changes or developments;

anticipated or pending investigations, proceedings, or litigation that involve or affect us;

trading activities in our Common Stock, including short-selling;

domestic and international economic factors unrelated to our performance; and

general market conditions and, in particular, developments related to market conditions for the financial services industry.

Our Common Stock is listed for trading on the NASDAQ Global Select Market under the symbol "HTBK". The trading volume has historically been significantly less than that of larger financial services companies. Stock price volatility may make it more difficult for you to sell your Common Stock when you want and at prices you find attractive.

A public trading market having the desired characteristics of depth, liquidity and orderliness depends on the presence in the marketplace of willing buyers and sellers of our 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 relatively low trading volume of our Common Stock, significant sales of our Common Stock in the public market, or the perception that those sales may occur, could cause the trading price of our Common Stock to decline or to be lower than it otherwise might be in the absence of those sales or perceptions.

***Our outstanding preferred stock impacts net income allocable to our common shareholders and earnings per common share, and conversion of our Series C Preferred Stock or exercise of the warrant issued to the U.S. Treasury will be dilutive to holders of our Common Stock.***

The dividends declared and the accretion on our outstanding preferred stock reduce the net income available to common shareholders and our earnings per common share. Our preferred stock will also receive preferential treatment in the event of our liquidation, dissolution or winding up.

The ownership interest of the existing holders of our Common Stock will be diluted to the extent the warrant issued to the U.S. Treasury is exercised. The shares of Common Stock underlying the warrant represent approximately 2% of the shares of our Common Stock outstanding as of March 1, 2011. Although the U.S. Treasury has agreed to not vote any of the Common Shares it receives upon exercise of the warrant, a transferee of any portion of the warrant or of any common shares acquired upon exercise of the warrant is not bound by this restriction. The terms of the warrant include an anti-dilution adjustment which provides that, if we issue common shares or securities convertible or exercisable into, or exchangeable for, common shares at a price that is less than 90% of the market price of such shares on the last trading day preceding the date of the agreement to sell such shares, the number of common shares to be issued would increase and the per share price of common shares to be purchased pursuant to the warrant would decrease.

Additionally, we have 21,004 shares of Series C Preferred Stock outstanding. The ownership interest of our existing holders of Common Stock will be diluted to the extent the Series C Preferred Stock is automatically converted into Common Stock. The Series C Preferred Stock is convertible into an aggregate of 5,601,000 shares of our Common Stock upon a transfer of the Series C Preferred Stock to a transferee not affiliated with the holder in a widely dispersed offering. The shares of Common Stock underlying the Series C Preferred Stock represent approximately 21% of the shares of our common stock outstanding on March 1, 2011.



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***The issuance of additional shares of preferred stock could adversely affect holders of Common Stock, which may negatively impact your investment in our securities.***

Our board of directors is authorized to issue additional classes or series of preferred stock without any action on the part of the shareholders, except in certain circumstances. Our board of directors also has the power, without shareholder approval except in certain circumstances, to set the terms of any such classes or series of preferred stock that may be issued, including voting rights, dividend rights and preferences over the Common Stock with respect to dividends or upon the liquidation, dissolution or winding up of our business and other terms. If we issue preferred stock in the future that has a preference over the Common Stock with respect to the payment of dividends or upon liquidation, dissolution or winding up, or if we issue preferred stock with voting rights that dilute the voting power of the Common Stock, then the rights of holders of the Common Stock or the market price of the Common Stock could be adversely affected. A decline in the market price of our Common Stock may negatively impact the price for the Series C Preferred Stock.

**Risks Related to the Series C Preferred Stock**

***The Series C Preferred Stock will convert into Common Stock only in limited circumstances.***

Shares of Series C Preferred Stock will convert automatically into our Common Stock only following the transfer of the Series C Preferred Stock to a transferee unaffiliated with the holder in a widely dispersed offering. The term "widely dispersed offering" means a (i) widespread public distribution, including pursuant to a registration statement filed with and declared effective by the SEC or Rule 144 under the Securities Act, (ii) a transfer in which no transferee (or group of associated transferees) after giving effect to the transfer, would own more than 2% of any class of voting securities of the Company or (iii) a transfer to a transferee that controls or is acquiring control of more than 50% of the voting securities.

***You may not receive dividends on the Series C Preferred Stock.***

Dividends are payable on the Series C Preferred Stock on an as converted basis if and only to the extent dividends are paid on our Common Stock. We have suspended payment of dividends on our Common Stock and Series A Preferred Stock and are currently prohibited from paying dividends on our Common Stock and the Series A Preferred Stock, and Series C Preferred Stock because of our Written Agreement with our regulators. We may not pay dividends on the shares of Series C Preferred Stock absent the prior written approval of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve and only if we are current on the payment of our interest on our outstanding trust preferred and related subordinated debt and the payment of dividends on our Series A Preferred Stock.

***The Series C Preferred Stock is equity and is subordinate to our existing and future indebtedness.***

Our Series C Preferred Stock is an equity interest and does not constitute indebtedness. As such, our Series C Preferred Stock will rank junior to all indebtedness, including our subordinated debt issued in connection with our trust preferred securities, and other non-equity claims with respect to assets available to satisfy claims, including in a liquidation.

***The Series C Preferred Stock is a new series of securities and an active trading market may not develop for it.***

There is no public market for the Series C Preferred Stock, and we have no plans to list the Series C Preferred Stock on any securities exchange. There is no guarantee that a secondary trading market will develop or, if such a market does develop, that it would provide sufficient liquidity to allow you to trade

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and sell shares of Series C Preferred Stock easily. The liquidity of any market for the Series C Preferred Stock will depend on a number of factors, including but not limited to:

the number of shares of Series C Preferred Stock, if any, that investors purchase in this offering;

the number of shares of Series C Preferred Stock that the selling securityholders elect to sell in this offering;

the number of holders of the Series C Preferred Stock;

our performance;

the market for similar securities; and

the market price of our Common Stock.

***The market price of the Series C Preferred Stock will be directly affected by the market price of our Common Stock, which may be volatile, and this may make it difficult for you to resell Series C Preferred Stock at times or at prices you find attractive.***

To the extent that a secondary market for the Series C Preferred Stock develops, we believe that the market price of the Series C Preferred Stock will be significantly affected by the market price of our Common Stock. We cannot predict how our Common Stock will trade in the future as many factors could affect the market price of our Common Stock.

***The Series C Preferred Stock has limited voting rights.***

Holders of the Series C Preferred Stock will not have any voting rights, including the right to elect any directors, other than limited voting rights with respect to matters significantly and adversely affecting the rights and privileges of the Series C Preferred Stock.

***Holders of shares of Series C Preferred Stock will have no rights as holders of our Common Stock until they acquire the Common Stock upon conversion of the Series C Preferred Stock.***

Until holders of the Series C Preferred Stock acquire Common Stock upon conversion of or as a dividend on the Series C Preferred Stock, such holders will have no rights with respect to our Common Stock, including voting rights (except as described under "Description of Capital Stock Series C Preferred Stock Voting Rights" and as required by applicable California law) and rights to receive any dividends or other distributions on our Common Stock. Upon conversion of, or receipt of Common Stock as a dividend on, the Series C Preferred Stock, holders of the Series C Preferred Stock will be entitled to exercise the rights of a holder of Common Stock only as to matters for which the record date occurs on or after the conversion date.

Table of Contents**PRICE RANGE OF COMMON STOCK**

Our Common Stock is listed and traded on the NASDAQ Global Select Market under the symbol "HTBK." The following table sets forth, for the quarters shown, the range of high and low closing sales prices of our Common Stock on the NASDAQ Global Select Market and the cash dividends declared on the Common Stock. As of March 1, 2011, we had 26,233,001 shares of Common Stock outstanding, held of record by approximately 700 shareholders.

Quarter	Stock Price		Dividend Per Share
	High	Low	
<b>Year ended December 31, 2010</b>			
Fourth quarter	\$ 4.50	\$ 3.49	
Third quarter	\$ 3.77	\$ 3.36	
Second quarter	\$ 5.83	\$ 3.55	
First quarter	\$ 4.48	\$ 3.40	
<b>Year ended December 31, 2009:</b>			
Fourth quarter	\$ 4.64	\$ 2.50	
Third quarter	\$ 5.75	\$ 2.99	
Second quarter	\$ 8.66	\$ 3.61	
First quarter	\$ 11.75	\$ 3.75	\$ 0.02

**DIVIDEND POLICY**

Under the Written Agreement we are required to obtain the prior approval of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve to make any interest payments on our outstanding trust preferred securities and related subordinate debt, or to pay any dividends on our Common Stock or preferred stock.

The amount of future dividends will depend upon our earnings, financial condition, capital requirements and other factors, and will be determined by our board of directors on a quarterly basis. It is Federal Reserve policy that bank holding companies generally pay dividends on Common Stock only out of income available over the past year, and only if prospective earnings retention is consistent with the organization's expected future needs and financial condition. It is also Federal Reserve policy that bank holding companies not maintain dividend levels that undermine the holding company's ability to be a source of strength to its banking subsidiaries. Additionally, in consideration of the current financial and economic environment, the Federal Reserve has indicated that bank holding companies should carefully review their dividend policy and has discouraged payment ratios that are at maximum allowable levels unless both asset quality and capital are very strong. Under the federal Prompt Corrective Action regulations, the Federal Reserve or the FDIC may prohibit a bank holding company from paying any dividends if the holding company's bank subsidiary is classified as undercapitalized.

As a holding company, our ability to pay cash dividends is affected by the ability of our bank subsidiary, Heritage Bank of Commerce, to pay cash dividends. The ability of Heritage Bank of Commerce (and our ability) to pay cash dividends in the future and the amount of any such cash dividends is and could be in the future further influenced by bank regulatory requirements and approvals and capital guidelines. Our ability to pay cash dividends is further subject to restrictions set forth in the California General Corporation Law (the "CGCL"). The CGCL provides that a corporation may make a distribution to its shareholders if the corporation's retained earnings equal at least the amount of the proposed distribution. The CGCL further provides that, in the event sufficient retained earnings are not available for the proposed distribution, a corporation may nevertheless make a distribution to its shareholders if, after giving effect to the distribution, it meets two conditions, which generally stated are as follows: (i) the corporation's assets must equal at least 125% of its liabilities and (ii) the corporation's current assets must

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equal at least its current liabilities or, if the average of the corporation's earnings before taxes on income and before interest expense for the two preceding fiscal years was less than the average of the corporation's interest expense for those fiscal years, then the corporation's current assets must equal at least 125% of its current liabilities.

Funds for payment of any cash dividends by the Company would be obtained from its investments as well as dividends from Heritage Bank of Commerce. As a California banking corporation, the ability of Heritage Bank of Commerce to pay cash dividends is subject to restrictions set forth in the California Financial Code (the "Financial Code"). The Financial Code provides that a bank may not make a cash distribution to its shareholders in excess of the lesser of (i) the bank's retained earnings or (ii) the bank's net income for its last three fiscal years, less the amount of any distributions made by the bank or by any majority-owned subsidiary of the bank to the shareholders of the bank during such period. However, a bank may, with the approval of the DFI, make a distribution to its shareholders in an amount not exceeding the greater of (i) its retained earnings, (ii) its net income for its last fiscal year or (iii) its net income for its current fiscal year. In the event that the DFI determines that the shareholders' equity of a bank is inadequate or that the making of a distribution by the bank would be unsafe or unsound, the Commissioner may order the bank to refrain from making a proposed distribution.

Under the terms of the Capital Purchase Program, for so long as any preferred stock issued under the Capital Purchase Program remains outstanding, we are prohibited from increasing quarterly dividends on our Common Stock in excess of \$0.08 per share, and from making certain repurchases of equity securities, including our Common Stock, without the U.S. Treasury's consent until the third anniversary of the U.S. Treasury investment or until the U.S. Treasury has transferred all of the Series A Preferred Stock it purchased to third parties. As long as the Series A Preferred Stock is outstanding, dividend payments and repurchases or redemptions relating to certain equity securities, including our Common Stock and the Series C Preferred Stock, are also prohibited until all accrued and unpaid dividends are paid on such preferred stock, subject to certain limited exceptions. On November 6, 2009, we suspended dividend payments on our Series A Preferred Stock. So long as dividends on the Series A Preferred Stock remain suspended, we may not, among other things and with limited exceptions, pay cash dividends on or repurchase our Common Stock or preferred stock.

We have supported our growth through the issuance of trust preferred securities from special purpose trusts and accompanying sales of subordinated debt to these trusts. The subordinated debt that we issued to the trusts is senior to our shares of Common Stock, Series A Preferred Stock and Series C Preferred Stock. As a result, we must make payments on the subordinated debt before any dividends can be paid on our Common Stock, Series A Preferred Stock and Series C Preferred Stock. Under the terms of the subordinated debt, we may defer interest payments for up to five years. On November 6, 2009, we exercised our right to defer regularly scheduled interest payments on our outstanding \$23.7 million of subordinated debt relating to our trust preferred securities. So long as interest payments remain deferred, we may not pay cash dividends on or repurchase our Common Stock or preferred stock.

At such time as we become current with the dividends payable on the Series A Preferred Stock and interest payments on our trust preferred securities and related subordinated debt, the decision whether to pay dividends will be made by our board of directors in light of conditions then existing, including factors such as our results of operations, financial condition, business conditions, regulatory capital requirements and covenants under any applicable contractual arrangements, including agreements with regulatory authorities.

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**SUMMARY OF THE UNDERLYING TRANSACTIONS**

We entered into a securities purchase agreement, dated June 18, 2010, with various investors, pursuant to which the investors invested an aggregate of \$75 million in cash in us through direct purchases of newly issued shares of Series B Preferred Stock and Series C Preferred Stock. On June 21, 2010, we issued to the investors the following securities:

an aggregate of 53,996 shares of Series B Preferred Stock, each of which would automatically convert into an aggregate of 14,398,992 shares of our Common Stock based on the initial conversion price of \$3.75, upon receipt of shareholder approval of the issuance of Common Stock upon the conversion; and

to two investors, an aggregate of 21,004 shares of Series C Preferred Stock, each of which will automatically convert into an aggregate of 5,601,000 shares of our Common Stock based on the initial conversion price of \$3.75, upon receipt of the shareholder approval of the issuance of Common Stock upon the conversion, and the subsequent transfer of the Series C Preferred Stock to third parties not affiliated with the holder in a widely dispersed offering.

At the Company's Special Meeting of Shareholders held on September 15, 2010, the Company's shareholders approved the issuance of Common Stock upon the conversion of the Series B Preferred Stock and upon the conversion of the Series C Preferred Stock as required by The NASDAQ Stock Market and California corporate law. As a result, on September 16, 2010, the Series B Preferred Stock was converted into 14,398,992 shares of Common Stock of the Company and the shares of Series B Preferred Stock ceased to be outstanding. The Series C Preferred Stock remains outstanding until it has been converted into Common Stock in accordance with its terms.

**USE OF PROCEEDS**

All Securities sold pursuant to this prospectus will be offered and sold by the selling securityholders. We will not receive any of the proceeds from such sales.

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**SELLING SECURITYHOLDERS**

When we refer to the "selling securityholders" in this prospectus we mean the persons listed in the table below. The selling securityholders may from time to time offer and sell any or all of the Securities set forth below pursuant to this prospectus.

The selling securityholders initially acquired the Securities covered by this prospectus on June 21, 2010, at the closing of the June 2010 Private Placement described above under "Summary of the Underlying Transactions." The selling securityholders may, at any time and from time to time, offer and sell pursuant to this prospectus any or all of the Securities in any type of transaction as more fully described in "Plan of Distribution."

Except as set forth herein and other than with respect to the acquisition of the Securities from us, none of the selling securityholders has, or within the past three years has had, any position, office, or other material relationship with us.

***Securities Covered by this Prospectus Held by Selling Securityholders***

The following table sets forth a list of the selling securityholders and their ownership of Securities to be offered pursuant to this prospectus. All percentages are based on the 31,834,001 shares of Common Stock that will be outstanding assuming the full conversion of the Series C Preferred Stock (before any adjustment in the conversion ratios).

We do not know when or in what amounts the selling securityholders may offer Securities for sale. It is possible that the selling securityholders will not sell any or all of the Securities offered under this prospectus. Because the selling securityholders may offer all or some of the Securities pursuant to this prospectus, and because we have been advised that there are currently no agreements, arrangements or understandings with respect to the sale of any such Securities, we cannot estimate the number of Securities that will be held by the selling securityholders after completion of the offering. For purposes of the table below, we have assumed that selling securityholders would sell all of the Securities held by them covered by this prospectus and, therefore, would hold no Securities following the offering and hold zero percentage of the Securities following the offering, other than shares of Common Stock that certain selling securityholders informed us they acquired independently of the June 2010 Private Placement and are not including for resale in this offering. Except as stated in the footnotes, each Selling Securityholder has requested that their full allotment of Securities be registered for resale in this offering.



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The information set forth below is based on information provided by the selling securityholders.

**Name of Selling Securityholder**