

CENTRAL FEDERAL CORP
Form 8-K
May 13, 2014

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): May 7, 2014

CENTRAL FEDERAL CORPORATION

(Exact name of registrant as specified in its charter)

Item 1.01. Entry into a Material Definitive Agreement.

The Registration Rights Agreement referred to in Item 3.02 of this Current Report on Form 8-K may be considered a material definitive agreement not made in the ordinary course of business. The information set forth under Item 3.02 below regarding the Registration Rights Agreement is incorporated by reference into this Item 1.01.

Item 3.02. Unregistered Sales of Equity Securities.

On May 12, 2014, Central Federal Corporation (the "Company") completed the sale of 270,000 shares of its newly designated 6.25% Non-Cumulative Convertible Perpetual Preferred Stock, Series B, with a liquidation preference of \$25.00 per share ("Series B Preferred Stock"), for an aggregate offering price of \$6,750,000. The 270,000 shares of Series B Preferred Stock were sold pursuant to the Company's private placement of up to 480,000 shares of Series B Preferred Stock for an offering price of \$25.00 per share. The Series B Preferred Stock was sold by the Company with the assistance of McDonald Partners, LLC, as placement agent, on a best efforts basis. After payment of approximately \$272,250 in placement fees to McDonald Partners, LLC and approximately \$75,000 of other offering expenses, the Company's net proceeds from its sale of the 270,000 shares of Series B Preferred Stock were approximately \$6,402,750.

For each share of Series B Preferred Stock sold in the private placement, the Company also agreed to issue, at no additional charge, a warrant ("Warrant") to purchase (i) 2.00 shares of common stock of the Company if the purchaser purchased less than \$700,000 (28,000 shares) of Series B Preferred Stock in the private placement, or (2) 3.25 shares of common stock if the purchaser purchased \$700,000 (28,000 shares) or more of Series B Preferred Stock in the private placement. Warrants to purchase an aggregate of 610,000 shares of common stock were issued by the Company to the purchasers of the 270,000 shares of Series B Preferred Stock sold on May 12, 2014. Subject to the limitations described below, the Warrants are exercisable for a period of approximately five (5) years expiring on July 15, 2019, at a cash purchase price of \$1.85 per share of common stock. The form of Warrant is attached hereto as Exhibit 4.2 and is incorporated herein by reference.

Subject to the limitations described below, each share of the Series B Preferred Stock may be converted at any time, at the option of the holder, into approximately 14.29 shares of the Company's common stock, subject to anti-dilution adjustments set forth in the Certificate of Designations filed with the Secretary of State of Delaware on May 7, 2014 (the "Certificate of Designations"). The Certificate of Designations is attached hereto as Exhibit 3.1 and is incorporated herein by reference. The conversion ratio was calculated using a conversion price of \$1.75, which was approximately 19.9% over the \$1.46 closing price for the Company's common stock on May 9, 2014. The initial conversion price of \$1.75 will adjust for stock dividends, stock splits and other corporate actions.

In addition, on or after the third anniversary of the date on which shares of Series B Preferred Stock are first issued (i.e., May 12, 2014), if the stockholders of the Company have previously approved the issuance of the shares of the common stock upon the conversion of the Series B Preferred Stock and exercise of the Warrants, as further discussed below, the Company may at its option and subject to the limitations described below, cause all of the Series B Preferred Stock to be converted into shares of common stock of the Company at the then-applicable conversion ratio. The Company may exercise its conversion right if, for 20 trading days within any period of 30 consecutive trading days, including the last trading day of such period, ending on the trading day preceding the date the Company gives notice of mandatory conversion, the closing price of the Company's common stock exceeds 135% of the then-applicable conversion price of the Series B Preferred Stock.

The Series B Preferred Stock may not be converted, and the Warrants may not be exercised, until after July 15, 2014. In addition, unless and until the Company obtains the approval of its stockholders for the issuance of the shares of common stock upon the conversion of the Series B Preferred Stock and/or the exercise of the Warrants, the Series B Preferred Stock cannot be converted into, and the Warrants cannot be exercised for, more than 19.9% of the total outstanding common stock of the Company or more than 19.9% of the total voting power of the Company's securities calculated as of immediately prior to the completion of the private placement. No purchaser of the Series B Preferred Stock in the private placement will be permitted to convert (or exercise Warrants for) more than its pro rata amount of such total determined based upon such purchaser's percentage ownership of the aggregate principal number of shares of common stock issuable upon conversion of the Series B Preferred Stock and exercise of the Warrants. This restriction has been imposed to comply with the NASDAQ Stock Market rule which requires that issuances of shares in a private placement of securities listed on NASDAQ must be approved by stockholders when the aggregate voting power of such securities would equal or exceed 20% of the number of shares of common stock outstanding prior to the transaction.

The Company has agreed to call and hold a meeting of its stockholders, within 120 days following the first sale of Series B Preferred Stock in the private placement, to present a proposal to approve the issuance of the shares of common stock upon the conversion of the Series B Preferred Stock and exercise of the Warrants in accordance with the requirements of the NASDAQ rule (the "Special Meeting"). If the required stockholder approval is not obtained at the Special Meeting, the Company has agreed to call and hold additional meetings no less than every six months until the required stockholder approval is obtained. Certain directors and officers of the Company, who collectively own approximately 16.2% of the issued and outstanding shares of common stock of the Company, have executed voting agreements pursuant to which they have agreed to vote their shares in favor of such proposal.

The Company will file a proxy statement with the Securities and Exchange Commission (the “SEC”) in connection with the Special Meeting, (the “Special Meeting Proxy Statement”). Investors are urged to read the Special Meeting Proxy Statement when it becomes available because it will contain important information. You will be able to obtain the Special Meeting Proxy Statement, as well as other filings containing information about the Company, free of charge, at the website maintained by the SEC at www.sec.gov. Copies of the Special Meeting Proxy Statement and other filings made by the Company with the SEC can also be obtained, free of charge, by directing a request to Central Federal Corporation, 7000 N. High Street, Worthington, Ohio 43085, Attention: Thad Perry, President, telephone (614) 334-7979.

The directors and executive officers of the Company and other persons may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding the Company’s directors and executive officers is contained in the Company’s Annual Report on Form 10-K filed with the SEC on March 31, 2014 and the Company’s Proxy Statement on Schedule 14A filed with the SEC on April 22, 2014. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the Special Meeting Proxy Statement and other relevant materials to be filed with the SEC when they become available. Investors should read the Special Meeting Proxy Statement carefully when it becomes available before making any voting or investment decisions.

The Series B Preferred Stock and Warrants have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), or under the securities laws of any state in reliance upon exemptions from registration thereunder, including the exemptions provided under Section 4(a)(2) of the Securities Act and Rule 506(b) promulgated thereunder. The Series B Preferred Stock and Warrants were sold solely to “accredited investors” as defined in Rule 501(a), and neither the Series B Preferred Stock or Warrants, nor any shares of common stock of the Company into which the Series B Preferred Stock may be converted or for which the Warrants may be exercised, may be resold for a period of at least six months from the date of issue without registration or an exemption from registration under the Securities Act and applicable state securities laws. However, the Company has agreed to provide certain registration rights to the holders of the Warrants pursuant to the terms of a Registration Rights Agreement entered into as of May 12, 2014, between the Company and each purchaser of Series B Preferred Stock and Warrants in the private placement. The form of Registration Rights Agreement is attached hereto as Exhibit 4.3 and is incorporated herein by reference.

Item 3.03. Material Modification to Rights of Security Holders.

The Series B Preferred Stock ranks, with respect to the payment of dividends and distributions upon liquidation, dissolution or winding-up of the Company, senior to the Company’s common stock and each other class or series of capital stock the Company may issue in the future, the terms of which do not expressly provide that it ranks on a parity with or senior to the Series B Preferred Stock as to dividend rights and rights upon liquidation, dissolution or winding-up of the Company. As a result, so long as the Series B Preferred Stock remains outstanding, the Company will be prohibited from paying dividends on (other than dividends

payable solely in shares), or repurchasing or redeeming (other than pursuant to an employee benefit plan or arrangement or under certain other limited circumstances), the Company's common stock and any other securities that rank junior to the Series B Preferred Stock unless full dividends on the Series B Preferred Stock for the then-current dividend period have been paid or set aside for payment. Additional information regarding these restrictions is set forth in the Certificate of Designations, which is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

The information set forth under Item 3.02 above regarding the conversion of the Series B Preferred Stock into the Company's common stock, and the exercise of the Warrants for the Company's common stock, is incorporated by reference into this Item 3.03.

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

In connection with the offering and sale of the Series B Preferred Stock and Warrants in the private placement, the Certificate of Designations was adopted and approved by the Board of Directors and filed with the Secretary of State of Delaware on May 7, 2014, to authorize the issuance of up to 480,000 shares of Series B Preferred Stock and to fix the powers, designations, preferences, limitations and relative rights of the Series B Preferred Stock. The Certificate of Designations is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

As further described in the Certificate of Designations, the Series B Preferred Stock has a liquidation preference of \$25.00 per share and provides that the holders thereof will be entitled to receive, if, when and as declared by the Board of Directors of the Company, out of funds legally available therefor, non-cumulative cash dividends at an annual rate of 6.25% of the liquidation preference. The cash dividends will be payable, if declared by the Board of Directors, quarterly in arrears on each July 15, October 15, January 15 and April 15, subject to the limitations set forth in the Certificate of Designations. The Company's declaration and payment of dividends on the Company's Series B Preferred Stock and common stock is further subject to legal and regulatory restrictions applicable to the Company, including, without limitation, restrictions imposed by the Board of Governors of the Federal Reserve Board.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

| Exhibit No. | Description |
|-------------|--|
| 3.1 | Certificate of Designations for the 6.25% Non-Cumulative Convertible Perpetual Preferred Stock, Series B, of Central Federal Corporation |
| 4.1 | Form of Certificate for the Series B Preferred Stock of Central Federal Corporation |
| 4.2 | Form of Warrant for the purchase of common stock of Central Federal Corporation |
| 4.3 | Form of Registration Rights Agreement |

SIGNATURES

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

Central Federal Corporation

Date: May 13, 2014 By: /s/ Timothy T. O'Dell
Timothy T. O'Dell
Chief Executive Officer
