

PFS BANCORP INC
Form DEFM14A
September 16, 2005

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

SCHEDULE 14A
(Rule 14a - 101)

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
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- Definitive Proxy Statement
- Definitive Additional Materials
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PFS Bancorp, Inc.
(Name of Registrant as Specified In Its Charter)

Not Applicable
(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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September 16, 2005

Dear Fellow Stockholders:

You are cordially invited to attend a special meeting of stockholders of PFS Bancorp, Inc. to be held at 3:00 p.m., local time, on October 14, 2005, at our main office located at Second and Bridgeway Streets, Aurora, Indiana. At the special meeting, you will be asked to consider and vote upon a proposal to approve and adopt an agreement and plan of merger pursuant to which PFS Bancorp will be acquired by Peoples Community Bancorp, West Chester, Ohio.

If the merger agreement is approved and the merger is subsequently completed, each outstanding share of PFS Bancorp common stock (other than certain shares held by Peoples Community Bancorp or PFS Bancorp or as to which dissenters' rights have been perfected) will be converted into the right to receive \$23.00 in cash, without interest. The cash you receive in the merger in exchange for your shares of PFS Bancorp common stock will be subject to U.S. federal income tax and may also be taxed under state, local and foreign tax laws.

The merger cannot be completed unless the stockholders of PFS Bancorp approve and adopt the merger agreement and the parties receive all required regulatory approvals, among other customary conditions.

Based on our reasons for the merger described in the attached document, including the fairness opinion issued by our financial advisor, Sandler O'Neill & Partners, L.P., our board of directors believes that the merger agreement is fair to you and in your best interests. **Accordingly, our board of directors unanimously recommends that you vote FOR approval and adoption of the merger agreement.**

The accompanying document gives you detailed information about the special meeting, the merger, the merger agreement and related matters. **We urge you to read this entire document carefully, including the attached merger agreement.**

It is very important that your shares be voted at the special meeting, regardless of whether you plan to attend the meeting in person. To ensure that your shares are represented on this very important matter, please take the time to vote by completing and mailing the enclosed proxy card in

the manner described herein.

Thank you for your cooperation and your continued support of PFS Bancorp.

Sincerely,

Mel E. Green
President and Chief Executive Officer

PFS BANCORP, INC.

Second and Bridgeway Streets

Aurora, Indiana 47001

(812) 926-0631

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To Be Held on October 14, 2005

To the stockholders of PFS Bancorp, Inc.:

We will hold a special meeting of stockholders of PFS Bancorp, Inc. at 3:00 p.m., local time, on Friday, October 14, 2005, at our main office located at Second and Bridgeway Streets, Aurora, Indiana, for the following purposes:

to consider and vote upon a proposal to approve and adopt an agreement and plan of merger, dated as of May 4, 2005, among PFS Bancorp, Inc., Peoples Federal Savings Bank, Peoples Community Bancorp, Inc. and Peoples Community Bank, pursuant to which, among other things, (i) PFS Acquisition Corp., an interim corporation to be formed as a subsidiary of Peoples Community Bank, will merge with and into PFS Bancorp and, immediately thereafter, PFS Bancorp will merge with and be liquidated into Peoples Community Bank and (ii) upon completion of the merger, each outstanding share of PFS Bancorp common stock (other than specified shares held by PFS Bancorp or Peoples Community Bancorp or as to which dissenters' rights have been perfected) will be converted into the right to receive \$23.00 in cash, without interest;

to consider and vote upon a proposal to adjourn the special meeting to a later date or dates, if necessary, to permit further solicitation of proxies in the event there are not sufficient votes at the time of the special meeting to approve the merger agreement; and

to transact such other business as may properly come before the special meeting or any adjournment or postponement of the special meeting.

We have fixed the close of business on September 9, 2005 as the record date for the determination of stockholders entitled to notice of and to vote at the special meeting. Only holders of PFS Bancorp common stock of record at the close of business on that date will be entitled to notice of and to vote at the special meeting or any adjournment or postponement of the special meeting. The affirmative vote of the holders of at least a majority of the outstanding PFS Bancorp common stock entitled to vote at the special meeting is necessary to approve and adopt the merger agreement.

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Under Indiana law, if the merger is completed, PFS Bancorp stockholders of record who do not vote to adopt the merger agreement will be entitled to exercise appraisal rights and obtain payment in cash of the fair value of their shares of PFS Bancorp's common stock by following the procedures set forth in detail in the enclosed proxy statement. A copy of the dissenters' rights provisions is attached to the enclosed proxy statement as Annex C.

Our board of directors has determined that the merger agreement is fair to and in the best interests of PFS Bancorp's stockholders and unanimously recommends that stockholders vote FOR approval and adoption of the merger agreement and the proposal to adjourn the special meeting, if necessary.

By Order of the Board of Directors

Mel E. Green
President and Chief Executive Officer

Aurora, Indiana
September 16, 2005

IMPORTANT

Your vote is important regardless of the number of shares you own. Whether or not you expect to attend the meeting, please sign, date and promptly return the accompanying proxy card using the enclosed postage-prepaid envelope. If you are a record stockholder and for any reason you should desire to revoke your proxy, you may do so at any time before it is voted at the special meeting in the manner described in the attached document.

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SUMMARY

This summary highlights selected information from this proxy statement and may not contain all of the information that is important to you. To understand the merger fully and for a more complete description of the legal terms of the merger, you should read carefully this entire document, including the merger agreement, a copy of which is included as Annex A to this document, and the other documents to which we have referred you. You may obtain copies of all publicly filed reports and other information from the sources listed under the section "Where You Can Find More Information," beginning on page 38. Page references are included in this summary to direct you to a more complete description of the topics.

Throughout this document, "PFS Bancorp," "we" and "our" refers to PFS Bancorp, Inc., "Peoples Federal" refers to our wholly-owned savings bank subsidiary, Peoples Federal Savings Bank, "Peoples Community Bancorp" refers to Peoples Community Bancorp, Inc., "Peoples Community Bank" refers to the wholly-owned savings bank subsidiary of Peoples Community Bancorp of the same name and "PFS Acquisition Corp." refers to the corporation to be formed as a subsidiary of Peoples Community Bank to be merged with and into PFS Bancorp. Also, we refer to the merger between PFS Acquisition Corp. and PFS Bancorp as the "merger," the merger between Peoples Federal and Peoples Community Bank as the "bank merger" and the agreement and plan of merger, dated as of May 4, 2005, among PFS Bancorp, Peoples Federal, Peoples Community Bancorp and Peoples Community Bank as the "merger agreement."

This proxy statement is first being mailed to stockholders of PFS Bancorp on or about September 16, 2005.

PFS Bancorp Stockholders Will Receive \$23.00 in Cash for Each Share of PFS Bancorp Common Stock (Page 11)

Peoples Community Bancorp and PFS Bancorp propose a transaction in which PFS Bancorp will be acquired by Peoples Community Bancorp by virtue of a two-step transaction consisting of an initial merger of a newly created subsidiary of Peoples Community Bank to be known as PFS Acquisition Corp. with and into PFS Bancorp, followed immediately thereafter by the merger and liquidation of PFS Bancorp with and into Peoples Community Bancorp. If the acquisition of PFS Bancorp by Peoples Community Bancorp is completed, and you do not assert your dissenters' rights under Indiana law, you will have the right to receive \$23.00 in cash, without interest, for each share of PFS Bancorp common stock that you own as of the effective time of the merger. Immediately after the merger, Peoples Federal will be merged with and into Peoples Community Bank. You will need to surrender your PFS Bancorp stock certificates to receive the cash merger consideration, but you should not send us any certificates now. If the merger is completed, an exchange agent will send you detailed instructions on how to exchange your shares. The per share merger consideration of \$23.00 represents a premium of 39.4% over our \$16.50 closing stock price on May 3, 2005, the day before we announced the proposed transaction. In addition, the per share merger consideration of \$23.00 represents 1.7 times PFS Bancorp's book value of \$13.90 at March 31, 2005 and 35.9 times PFS Bancorp's diluted earnings per share of \$.64 for the year ended December 31, 2004.

The Merger Will Be Taxable For PFS Bancorp Stockholders (Page 32)

The exchange of your shares of PFS Bancorp common stock for cash in the merger will be a taxable transaction to you. For federal income tax purposes, you will generally recognize gain or loss in the merger equal to the difference between the cash payment (i.e., \$23.00 per share) that you receive for your shares of PFS Bancorp common stock and your adjusted tax basis in your shares. The gain or loss will be either long-term capital gain or short-term capital gain depending on the length of time you have held your shares of PFS Bancorp common stock.

Tax matters are complicated, and the tax consequences of the merger may vary among stockholders. In addition, you may be subject to state, local or foreign tax laws that are not discussed in this proxy statement. You should therefore consult your own tax advisor for a full understanding of the tax consequences to you of the merger.

Outstanding PFS Bancorp Stock Options Will Be Cancelled for Their Cash Value to the Extent They Are Not Exercised Prior to the Merger (Page 31)

At the effective time of the merger, each outstanding and unexercised option to purchase shares of PFS Bancorp common stock issued under the PFS Bancorp stock option plan, whether or not then vested and exercisable, will be terminated and each holder will be entitled to receive in consideration for their option a cash payment from Peoples Community Bancorp at the closing of the merger in an amount equal to the difference between \$23.00 and the per share exercise price of the option, multiplied by the number of shares covered by the option, less any required tax withholdings. The expected total value of this cash payment in consideration of the termination of all outstanding options is approximately \$776,000.

We Have Received an Opinion From Our Financial Advisor That the Cash Merger Consideration Is Fair To Our Stockholders from a Financial Point Of View (Page 15)

Among other factors considered in deciding to approve the merger agreement, the PFS Bancorp board of directors received the written opinion of our financial advisor, Sandler O'Neill & Partners, L.P., that, as of May 4, 2005 (the date on which the PFS Bancorp board of directors approved the merger agreement), the \$23.00 cash merger consideration is fair to the holders of PFS Bancorp common stock from a financial point of view. The opinion is included as Annex B to this proxy statement. You should read this opinion completely to understand the assumptions made, matters considered and limitations of the review undertaken by Sandler O'Neill in providing its opinion. Sandler O'Neill provided its opinion to the PFS Bancorp board of directors in connection with its consideration of the merger, and the opinion is not a recommendation to any stockholder as to how to vote. PFS Bancorp has agreed to pay Sandler O'Neill approximately \$338,000 in connection with the Peoples Community Bancorp transaction of which approximately \$134,000 has been paid to date.

The Special Meeting (Page 8)

The special meeting will be held at 3:00 p.m., local time, on Friday, October 14, 2005, at our main office, which is located at Second and Bridgeway Streets, Aurora, Indiana. At the

special meeting, you will be asked to approve and adopt the merger agreement and to act on any other matters that may properly come before the special meeting.

Record Date; Vote Required (Page 8)

You can vote at the special meeting if you owned shares of PFS Bancorp common stock as of the close of business on September 9, 2005. On that date, there were 1,473,728 shares of PFS Bancorp common stock outstanding. You will have one vote at the special meeting for each share of PFS Bancorp common stock that you owned of record on that date.

The affirmative vote of the holders of at least a majority of the outstanding PFS Bancorp common stock entitled to vote at the special meeting is necessary to approve and adopt the merger agreement.

The directors of PFS Bancorp have agreed with Peoples Community Bancorp to vote their shares of PFS Bancorp common stock in favor of the merger and the merger agreement. As of September 9, 2005, these individuals owned in the aggregate approximately 10.0% of the outstanding shares of PFS Bancorp common stock (exclusive of unexercised stock options).

Our Board of Directors Unanimously Recommends Approval and Adoption of the Merger Agreement by PFS Bancorp Stockholders (Page 10)

Based on the reasons described elsewhere in this document, PFS Bancorp's board of directors believes that the merger agreement is fair to and in your best interests. Accordingly, our board of directors unanimously recommends that you vote FOR approval and adoption of the merger agreement.

Certain Directors and Officers of PFS Bancorp Have Financial Interests in the Merger Which Differ From Your Interests as a PFS Bancorp Stockholder (Page 30)

Some of the directors and executive officers of PFS Bancorp have agreements, stock options and other benefit plans or arrangements that provide them with financial interests in the merger that are different from, or in addition to, your interests. These interests arise because of rights under benefit and compensation plans or arrangements maintained by PFS Bancorp or Peoples Federal, and include the following:

the agreement that, prior to the completion of the merger, PFS Bancorp and Peoples Federal will enter into a new three-year employment agreement with Mel E. Green, the current President and Chief Executive Officer of PFS Bancorp;

the vesting of all unvested stock options under PFS Bancorp s stock option plan in connection with the merger;

the allocation under the Peoples Federal employee stock ownership plan of any surplus shares of PFS Bancorp common stock to participating Peoples Federal employees following termination of the employee stock ownership plan and the

complete repayment of the outstanding employee stock ownership plan loan balance upon completion of the merger;

Peoples Community Bancorp's agreement to provide indemnification arrangements for directors and executive officers of PFS Bancorp and to maintain directors' and officers' liability insurance for such persons for a period of three years following the merger;

the accelerated vesting of benefits under the Peoples Federal Executive Officers and Directors Deferred Compensation Plan for certain executive officers and certain directors of PFS Bancorp;

Peoples Community Bancorp's agreement to provide, in consultation with PFS Bancorp, a retention bonus pool for certain employees of PFS Bancorp and Peoples Federal in order to assist in the retention of employees through the merger date; and

the creation of a Peoples Community Bank Advisory Board which all directors of PFS Bancorp, other than Mr. Green, will be invited to join.

The board of directors of PFS Bancorp was aware of these factors and considered them in approving the merger and the merger agreement.

PFS Bancorp and Peoples Community Bancorp Must Meet Several Conditions to Complete the Merger and the Bank Merger (Page 23)

Completion of the merger depends on meeting a number of conditions, including the following:

Peoples Community Bancorp and PFS Bancorp must receive all required regulatory or governmental approvals and consents to complete the transactions contemplated by the merger agreement, and any waiting periods required by law must have expired;

the merger agreement must be approved by the requisite vote of the stockholders of PFS Bancorp;

there must be no injunction, order, decree or law which prohibits, restricts or makes illegal the completion of the transactions contemplated by the merger agreement;

the consent, approval or waiver of each person (other than required regulatory approvals) whose consent or approval is required in order to permit the lawful completion of the transactions contemplated by the merger agreement shall have been obtained;

Peoples Community Bancorp and PFS Bancorp must have performed in all material respects their respective obligations required to be performed under the merger agreement at or prior to the closing of the merger;

the representations and warranties of each of Peoples Community Bancorp and PFS Bancorp in the merger agreement must be true and correct in all respects in each case as of the date of the merger agreement and as of the effective time of the merger, except as to any representation or warranty which specifically relates to an earlier date, subject to the materiality standard set forth in the merger agreement; and

None of the governmental and third party permits, consents, waivers and authorizations necessary to complete the transactions contemplated by the merger agreement may contain any term or condition which would materially impair the value of PFS Bancorp or Peoples Federal to Peoples Community Bancorp and Peoples Community Bank or which would materially adversely affect the terms of the merger to the stockholders of PFS Bancorp.

Unless prohibited by law, either Peoples Community Bancorp or PFS Bancorp could elect to waive any of the conditions for its benefit that have not been satisfied and complete the merger anyway. The parties cannot be certain whether or when any of the conditions to the merger will be satisfied or waived where permissible, or that the merger will be completed.

The Parties Need to Obtain Various Regulatory Approvals In Order to Complete the Merger (Page 32)

To complete the merger and the bank merger, the parties and their affiliates need to obtain the consent or approval of, give notice to or obtain a waiver from various regulatory authorities, including the Office of Thrift Supervision and the Board of Governors of the Federal Reserve System. The U.S. Department of Justice may provide input into the approval process of federal banking agencies and will have between 15 and 30 days following any approval by a federal banking agency to challenge the approval on antitrust grounds. Peoples Community Bancorp and PFS Bancorp have filed all necessary applications, notices and requests for waiver with applicable regulatory authorities. Peoples Community Bancorp and PFS Bancorp cannot predict, however, whether or when all required regulatory approvals, consents or waivers will be obtained.

The Merger Agreement May Be Terminated By the Parties (Page 28)

The merger agreement may be terminated as follows:

by mutual consent of the parties;

by Peoples Community Bancorp or PFS Bancorp if the merger is not completed by February 28, 2006, unless the failure to complete the merger by that date is due

to the failure by the party seeking the termination of the merger agreement to perform its obligations under the merger agreement;

by Peoples Community Bancorp or PFS Bancorp if the stockholders of PFS Bancorp do not approve the merger agreement;

by Peoples Community Bancorp or PFS Bancorp if any required regulatory approval for the completion of the transactions contemplated by the merger agreement is denied or a regulatory application is withdrawn at the regulator's request or recommendation unless a petition for rehearing or an amended application is filed within an agreed upon time frame, or if any governmental authority has issued a final order prohibiting the transactions;

by Peoples Community Bancorp or PFS Bancorp if the other party breaches any of its representations, warranties, covenants or agreements under the merger agreement which breach would result in a material adverse effect, as defined, and, which breach has not been cured within 30 days of written notice of the breach;

by Peoples Community Bancorp, prior to the PFS Bancorp special meeting of stockholders, if:

PFS Bancorp breaches its agreement not to initiate, solicit or encourage an acquisition proposal, as defined, for PFS Bancorp or otherwise facilitates an acquisition proposal by a party other than Peoples Community Bancorp, with certain exceptions;

PFS Bancorp's board of directors fails to recommend that stockholders approve the merger or withdraws or modifies such recommendation in a manner adverse to Peoples Community Bancorp; or

PFS Bancorp fails to convene and hold a meeting of its stockholders to approve the merger agreement with Peoples Community Bancorp;