

TEXAS CAPITAL BANCSHARES INC/TX
Form S-8
May 21, 2015

As filed with the Securities and Exchange Commission on May 21, 2015

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

TEXAS CAPITAL BANCSHARES, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-2679109
(I.R.S. Employer
Identification No.)
75201

2000 McKinney Avenue, Suite 700

Dallas, Texas

(Address of Principal Executive Offices)

(Zip Code)

Texas Capital Bancshares, Inc. 2015 Long-Term Incentive Plan

(Full title of the plan)

Peter B. Bartholow

Copies to:

Chief Financial Officer

Texas Capital Bancshares, Inc.

Michael W. Tankersley, Esq.

2000 McKinney Avenue, Suite 700

Bracewell & Giuliani LLP

Dallas, Texas 75201

1445 Ross Avenue, Suite 3800

(Name and address of agent for service)

Dallas, Texas 75202-2711

(214) 932-6600

(Telephone number, including area code, of agent for service)

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.

Large accelerated filer

Accelerated filer

Non-Accelerated filer (do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered | Amount to be registered (1) | Proposed maximum offering price per share | Proposed maximum aggregate offering price | Amount of registration fee |
|---|--|--|--|---------------------------------------|
| Common Stock, par value \$.01 per share | 3,301,887 | \$54.30 | \$179,292,464 | \$20,834 |

- (1) Pursuant to Rule 416(c) under the Securities Act of 1933, as amended (the Securities Act), this registration statement also covers an indeterminate number of additional shares which may become issuable to prevent dilution in the event of stock splits, stock dividends or similar transactions pursuant to the terms of the Texas Capital Bancshares, Inc. 2015 Long-Term Incentive Plan.
- (2) Pursuant to Rule 457(c) and 457(h)(1) under the Securities Act, the offering price is estimated solely for the purpose of calculating the registration fee and is based on the average of the high and the low prices of Texas Capital Bancshares, Inc. s common stock on May 15, 2015, as reported by the NASDAQ Global Select Market.

EXPLANATORY NOTE

This registration statement on Form S-8 is being filed for the purpose of registering 3,301,887 shares of common stock of Texas Capital Bancshares, Inc. (the Company) to be issued pursuant to the Texas Capital Bancshares, Inc. 2015 Long-Term Incentive Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Note: The document(s) containing the information concerning the plan required by Item 1 of Form S-8 and the statement of availability of registrant information, plan information and other information required by Item 2 of Form S-8 will be sent or given to employees as specified by Rule 428 under the Securities Act of 1933. In accordance with Rule 428 and the requirements of Part I of Form S-8, such documents are not being filed with the Securities and Exchange Commission (the SEC) either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. The Company will maintain a file of such documents in accordance with the provisions of Rule 428. Upon request, the Company will furnish to the SEC or its staff a copy of any or all of the documents included in such file.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the SEC pursuant to the Securities Exchange Act of 1934 (the Exchange Act) by the Company are incorporated in this registration statement by reference and shall be deemed to be a part hereof:

The Company's annual report on Form 10-K for its fiscal year ended December 31, 2014 filed on February 19, 2015;

The Company's quarterly report on Form 10-Q for the fiscal quarter ended March 31, 2015 filed on April 23, 2015;

The Company's current reports on Form 8-K filed on May 13, 2015 and May 21, 2015; and

The description of the Company's common stock contained in the registration statement on Pre-Effective Amendment No. 2 to Form 10 (SEC File No. 000-30533) filed on August 24, 2000, as amended by the description included in the Company's Current Report on Form 8-K, filed on May 21, 2015, as that description may be updated from time to time.

All documents filed by the Company with the SEC pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (excluding any information furnished pursuant to Item 2.02 or Item 7.01 of any current report on Form 8-K) subsequent to the filing of this registration statement and prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered hereby have been sold, or which deregisters all securities then remaining unsold, shall be deemed to be incorporated in this registration statement by reference and to

be a part hereof from the date of filing of such documents.

Any statement contained in this registration statement, in an amendment hereto or in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained herein or in any subsequently filed amendment to this registration statement or in any document that also is incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law permits indemnification of officers, directors and other corporate agents under certain circumstances and subject to certain limitations. Our certificate of incorporation and amended and restated bylaws provide that we shall indemnify our directors, officers, employees, and agents to the full extent permitted by Delaware law. The certificate of incorporation and amended and restated bylaws further provide that we may indemnify directors, officers, employees, and agents in circumstances in which indemnification is otherwise discretionary under Delaware law. In addition, we have entered into separate indemnification agreements with our directors and officers which require us, among other things, to indemnify them against certain liabilities which may arise by reason of their status or service (other than liabilities arising from willful misconduct of a culpable nature) and to maintain directors and officer's liability insurance, if available on reasonable terms.

These indemnification provisions and the indemnification agreements that we have entered into with our officers and directors may be sufficiently broad to permit indemnification of our officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act of 1933, as amended.

We have a policy of directors and officers liability insurance that insures our directors and officers against the cost of defense, settlement or payment of a judgment under certain circumstances.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit

| Number | Document Description |
|---------------|--|
| 5.1 | Opinion of Bracewell & Giuliani LLP as to the legality of securities* |
| 10.1 | Texas Capital Bancshares, Inc. 2015 Long-Term Incentive Plan (included as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on May 21, 2015, and incorporated herein by reference) |
| 23.1 | Consent of Ernst & Young LLP* |
| 23.2 | Consent of Bracewell & Giuliani LLP (contained in Exhibit 5.1)* |
| 24 | Powers of Attorney (included on the signature page hereto)* |

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for the purpose of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, State of Texas, on May 21, 2015.

TEXAS CAPITAL BANCSHARES, INC.

By: /s/ Peter B. Bartholow
Peter B. Bartholow
Chief Financial Officer

POWER OF ATTORNEY

Each person whose signature appears below appoints C. Keith Cargill and Peter B. Bartholow, and each of them, severally, as his or her true and lawful attorney or attorneys-in-fact and agent or agents, each of whom shall be authorized to act with or without the other, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead in his or her capacity as a director or officer or both, as the case may be, of the Company, to sign any and all amendments (including post-effective amendments) to this registration statement and all documents or instruments necessary or appropriate to enable the Company to comply with the Securities Act of 1933, as amended, and to file the same with the Securities and Exchange Commission, with full power and authority to each of said attorneys-in-fact and agents to do and perform in the name and on behalf of each such director or officer, or both, as the case may be, each and every act whatsoever that is necessary, appropriate or advisable in connection with any or all of the above-described matters and to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on May 21, 2015.

| SIGNATURE | TITLE |
|--|--|
| /s/ C. Keith Cargill C. Keith Cargill | President and Chief Executive Officer; Director (Principal Executive Officer) |
| /s/ Peter B. Bartholow Peter B. Bartholow | Chief Financial Officer and Chief Operating Officer; Director (Principal Financial Officer) |
| /s/ Julie L. Anderson Julie L. Anderson | Controller and Chief Accounting Officer (Principal Accounting Officer) |
| /s/ Larry L. Helm Larry L. Helm | Chairman of the Board |
| /s/ James H. Browning James H. Browning | Director |

| | |
|--|----------|
| Preston M. Geren III | Director |
| /s/ Frederick B. Hegi, Jr. Frederick B. Hegi, Jr. | Director |
| /s/ Charles S. Hyle Charles S. Hyle | Director |
| William W. McAllister III | Director |
| /s/ Elysia Holt Ragusa Elysia Holt Ragusa | Director |
| /s/ Steven P. Rosenberg Steven P. Rosenberg | Director |
| /s/ Robert W. Stallings Robert W. Stallings | Director |
| /s/ Dale W. Tremblay Dale W. Tremblay | Director |
| Ian J. Turpin | Director |

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