

Bancorp, Inc.  
Form S-3  
November 17, 2008  
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AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON NOVEMBER 17, 2008.

REGISTRATION NO. 333-

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

WASHINGTON, D.C. 20549

**FORM S-3**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**The Bancorp, Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

23-3016517  
(I.R.S. Employer Identification No.)

**409 Silverside Road**

**Wilmington, DE 19809**

**(302) 385-5000**

(Address, including zip code, and telephone number, including area code,

of registrant's principal executive offices)

**Betsy Z. Cohen**

**Chief Executive Officer**

**The Bancorp, Inc.**

**409 Silverside Road**

**Wilmington, Delaware 19809**

**(302) 385-5000**

(Name, address, including zip code, and telephone number, including area code,

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of agent for service)

Copies to:

**J. Baur Whittlesey, Esq.**

**Mark E. Rosenstein, Esq.**

**Ledgewood, P.C.**

**1900 Market Street, Suite 750**

**Philadelphia, PA 19103**

**(215) 731-9450**

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on the Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

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. "

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If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. "

If this Form is a post-effective amendment to a registration statement pursuant to General Instruction I.D. filed to register additional securities or additional classes or securities pursuant to Rule 413(b) under the Securities Act, check the following box. "

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 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  x  
 Non-Accelerated Filer " Smaller Reporting Company "

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities</b>	<b>Proposed Maximum Aggregate Offering Price<sup>(1)</sup></b>	<b>Amount of Registration Fee<sup>(1)</sup></b>
<b>to be Registered</b>		
Common Stock, par value \$1.00		
per share <sup>(2)</sup>		
Preferred Stock, par value \$0.01		
per share <sup>(2)</sup>		
Warrants <sup>(2)(3)</sup>		
Debt Securities <sup>(4)</sup>		
Guarantees <sup>(5)</sup>		
Units <sup>(2)(3)(4)(5)</sup>		
<b>Totals:</b>	<b>\$80,000,000</b>	<b>\$3,144</b>

- (1) Pursuant to Rule 457(o) under the Securities Act of 1933, which permits the registration fee to be calculated on the basis of the maximum offering price of all the securities listed, the table does not specify by each class, information as to the amount to be registered, proposed maximum offering price per unit or proposed maximum aggregate offering price.
- (2) Includes such indeterminate number of shares of common stock, preferred stock and warrants exercisable for preferred stock or common stock as may be issued from time to time by the registrant at indeterminate prices.
- (3) There are being registered hereunder an indeterminate amount and number of warrants, representing rights to purchase preferred stock, common stock or debt securities registered hereby.

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(4) If any debt securities are issued at an original issue discount, then such greater amount as may be sold for an aggregate initial offering price of up to the proposed maximum aggregate offering price set forth above.

(5) Guarantees may be provided by subsidiaries of The Bancorp, Inc. of the payment of the principal and interest on the debt securities. No additional consideration will be received for the guarantees and, pursuant to Rule 457(n), no additional fee is required.

**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 SEC, acting pursuant to said section 8(a), may determine.**

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**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, nor is it a solicitation of an offer to buy these securities, in any state in which the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED NOVEMBER 17, 2008**

**PROSPECTUS**

**THE BANCORP, INC.**

**\$80,000,000**

**Common Stock, Preferred Stock**

**Debt Securities, Warrants,**

**Guarantees and Units**

We will provide the specific terms of the securities we sell in supplements to this prospectus or other offering materials. You should read this prospectus, any supplement and any other offering materials carefully before you invest.

This prospectus is part of a registration statement that The Bancorp, Inc. filed with the SEC utilizing a shelf registration process. Under this registration process, The Bancorp, Inc. may sell any combination of its:

common stock;

preferred stock, which may be convertible into our common stock;

senior or subordinated debt securities, which may be convertible into our common stock or preferred stock;

warrants to purchase common stock, preferred stock or debt securities;



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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

Some of the statements contained or incorporated by reference in this prospectus or which may be contained or incorporated by reference in a prospectus supplement constitute forward-looking statements. Forward-looking statements relate to expectations, beliefs, projections, future plans and strategies, anticipated events or trends and similar expressions concerning matters that are not historical facts. In some cases, you can identify forward-looking statements by terms such as anticipate, believe, could, estimate, expects, intend, may, plan, potential, will and would or the negative of these terms or other comparable terminology.

Forward-looking statements contained or incorporated by reference in this prospectus or which may be contained or incorporated by reference in a prospectus supplement are based on our beliefs, assumptions and expectations of our future performance, taking into account all information currently available to us. These beliefs, assumptions and expectations can change as a result of many possible events or factors, not all of which are known to us or are within our control. If a change occurs, our business, financial condition, liquidity and results of operations may vary materially from those expressed in our forward-looking statements. Forward-looking statements we make or which are incorporated by reference in this prospectus or which may be contained or incorporated by reference in a prospectus supplement are subject to various risks and uncertainties that could cause actual results to vary from our forward-looking statements, including:

the risk factors discussed and identified in our public filings with the SEC which we incorporate by reference in this prospectus;

adverse market developments affecting the value of real estate that secures our loans such as tightening of credit markets generally, lack of demand for real estate of the type securing of our loans, natural disasters, changes in neighborhood values, competitive overbuilding, weather, casualty losses, occupancy rates and other similar factors could increase loan defaults and diminish our ability to obtain full repayment of our loans; and

operating costs may be greater than expected;

adverse governmental or regulatory policies may be enacted;

management and other key personnel may be lost;

competition may increase;

we may be unable to obtain sufficient deposits or other funds at attractive rates, or otherwise, to fund our expected loan growth;

interest rate fluctuations may cause the costs of our interest-bearing liabilities, principally deposits, to increase relative to the interest received on our interest-bearing assets, principally loans;

the geographic concentration of our loans could result in our loan portfolio being adversely affected by economic factors unique to the geographic area and not reflected in other regions of the country;

our expected growth may not be fully realized or may take longer to realize than expected;



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general business and economic conditions could adversely affect credit quality and loan origination.

We caution you not to place undue reliance on these forward-looking statements which speak only as of the date of this prospectus, the date of the prospectus supplement or the date of any document incorporated by reference in this prospectus or in a prospectus supplement, as applicable. All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable law or regulation, we undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this prospectus or applicable prospectus supplement, or to reflect the occurrence of unanticipated events.

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**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. We also make available free of charge through our website at <http://www.thebancorp.com>, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after they are filed electronically with the SEC. You may read and copy any reports, statements or other information that we have filed with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may request copies of these documents, upon payment of a copying fee, by writing to the SEC. Please call the SEC at 1-800-SEC-0330 for information on the operation of the Public Reference Room. Our SEC filings are also available to the public on the SEC internet site at <http://www.sec.gov>. Unless specifically listed under "Incorporation by Reference," below, the information contained on our website or the SEC website is not intended to be incorporated by reference in this prospectus and you should not consider that information a part of this prospectus.

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The SEC allows us to incorporate by reference the information we file with it, which means that we can disclose important information to you by referring you to documents we have filed with the SEC but that we do not include in this prospectus. Any statement contained in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other subsequently filed document that is deemed to be incorporated by reference into this prospectus modifies or supersedes such statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We incorporate by reference the documents listed below that we have filed with the SEC:

Our Annual Report on Form 10-K for the year ended December 31, 2007.

Our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2008, June 30, 2008 and September 30, 2008.

Our Current Reports on Form 8-K filed February 15, 2008, May 29, 2008 and November 17, 2008.

The description of our common stock contained in our Registration Statement on Form 8-A filed on November 10, 2004. All documents that we file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, on or after the date of this prospectus and prior to the termination of this offering made pursuant to this prospectus also will be deemed to be incorporated herein by reference and will automatically update and supersede information in this prospectus. Nothing in this prospectus shall be deemed to incorporate information furnished to but not filed with the SEC pursuant to Item 2.02 or Item 7.01 of Form 8-K (or corresponding information furnished under Item 9.01 or included as an exhibit).

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

Attention: Martin F. Egan

The Bancorp, Inc.

409 Silverside Road

Wilmington, Delaware 19809

(302) 385-5000

You should rely only on the information incorporated by reference or provided in this prospectus, any supplement to this prospectus or any other offering materials we may use. We have not authorized any person to provide information other than that provided in this prospectus, any

supplement to this prospectus or any other

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offering materials we may use. You should assume that the information in this prospectus, any prospectus supplement and any other offering materials we may use is accurate only as of the date on its cover page and that any information in a document we have incorporated by reference is accurate only as of the date of the document incorporated by reference.

The statements that we make in this prospectus or in any document incorporated by reference in this prospectus about the contents of any other documents are not necessarily complete, and are qualified in their entirety by referring you to copies of those documents that are filed as exhibits to the registration statement, of which this prospectus forms a part, or as an exhibit to the documents incorporated by reference. You can obtain copies of these documents from the SEC or from us, as described above.

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**THE COMPANY**

We are a Delaware financial holding company with a wholly owned subsidiary, The Bancorp Bank, which we refer to as the Bank. Through the Bank, we provide a wide range of commercial and retail banking products and services to both regional and national markets. We were formed in 1999 and commenced operations in July 2000. From our formation until February 2004 we were the sole stockholder of the Bank. In February 2004, the Bank completed a public offering of its common stock which resulted in our holding 32.7% of the Bank's common stock. In December 2004, we completed a reorganization with the Bank which resulted in the Bank once again becoming our wholly-owned subsidiary.

Regionally, our target market is the greater Philadelphia-Wilmington metropolitan area, consisting of the 12 counties surrounding Philadelphia and Wilmington including Philadelphia, Delaware, Chester, Montgomery, Bucks and Lehigh Counties in Pennsylvania, New Castle County in Delaware and Mercer, Burlington, Camden, Ocean and Cape May Counties in New Jersey. We believe that changes in this market have created an underserved base of small and middle-market businesses and high net worth individuals that are interested in banking with a company headquartered in, and with decision-making authority based in, the Philadelphia-Wilmington area. We believe that our presence in the area provides us with insights as to the local market and, as a result, with the ability to tailor our products and services, and particularly the structure of our loans, more closely to the needs of our targeted customers. We seek to develop overall banking relationships with our targeted customers so that our lending operations serve us a generator of deposits and our deposit relationships serve a source of loan assets. We believe that our regional presence also allows us to oversee and further develop our existing customer relationships.

To serve our regional customers, we provide a full range of retail and commercial banking services, including a variety of checking, savings and other interest-bearing accounts. We feature accounts with no required minimum balance, no service fees, rebates on ATM fees, free debit Visa check card, overdraft protection plans and, on our interest-bearing accounts, competitive interest rates. Our business lending services focus on secured loans and lines of credit, construction loans and customized equipment and vehicle leasing programs. Our consumer lending services focus on home equity loans, personal and home equity lines of credit, personal installment loans and vehicle leasing.

Nationally, we provide banking services to the members and employees of organizations or businesses, which we call affinity group banking. We provide online banking under the name of and through the facilities of the affinity group, referred to as private label banking, and offer an affinity group the ability to customize the banking services offered on the website to respond to the needs and preferences of its members. Our affinity group relationships serve as a source of deposits and also as a source for loans, such as home equity lines of credit, where credit decisions are primarily statistically-based.

As part of our national affinity group banking operations, we have developed a system for processing credit and debit card transactions for independent sales organizations and their merchant members that is a source of fee income for us and, because the merchant members must maintain accounts with us, a source of low-cost deposits. By using our services rather than those of other banks, independent service organizations remove potential competitors from the relationship between the independent service organization and its merchant customers, since we do not offer any products comparable to those of the independent service organization. Our infrastructure allows us to process a high volume of transactions that permit merchant customers to access the card associations and debit networks at a significantly lower cost. We offer end-to-end services, which means that we believe we have the ability to fulfill all of our customers' needs with respect to merchant card services and funds transfers. We market all banking services through a variety of sales channels that includes affinity groups and independent sales organizations and financial institutions.

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Our customers access our banking services through our website, or the website of their affinity group, from any personal computer with a web browser, and obtain cash withdrawals from automated teller machines. As a result, we do not maintain a branch bank system.

Our offices are located at 409 Silverside Road, Wilmington, Delaware 19809 and our telephone number is (302) 385-5000. We also maintain executive offices at 1818 Market Street, Philadelphia, Pennsylvania 19103. Our web address is <http://www.thebancorp.com>. We do not incorporate by reference into this prospectus any material from our website.

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**RISK FACTORS**

Investment in our securities involves a high degree of risk. You should carefully consider the risks described in the section Risk Factors contained in our Annual Report on Form 10-K for the year ended December 31, 2007 and our Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, which have been filed with the SEC and incorporated herein by reference, in addition to the other information contained in this prospectus, in an applicable prospectus supplement, or incorporated by reference herein, before purchasing any of our securities. Any of these risks could materially adversely affect our business, financial condition, results of operations, or ability to make distributions to our stockholders. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially and adversely affect us. In any such case, you could lose all or a portion of your original investment.

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The following table shows our ratio of earnings to fixed charges, and ratio of earnings to combined fixed charges and preference dividends, for the periods indicated. For purposes of calculating the ratios set forth below, earnings represent pretax income from continuing operations, as adjusted for fixed charges; and fixed charges represent interest expensed and capitalized, amortized premiums, discounts and capitalized expenses related to indebtedness, and an estimate of the interest within rental expense.

	Nine months ended September 30, 2008	Year ended December 31,				
		2007	2006	2005	2004	2003
Ratio of earnings to fixed charges <sup>(1)</sup>	0.95	1.44	1.56	1.66	1.32	1.11
Ratio of combined fixed charges and preferred stock dividends to earnings <sup>(2)</sup>	0.94	1.44	1.56	1.76	1.38	1.16

<sup>(1)</sup> We calculate the ratio of earnings to fixed charges by dividing our earnings by fixed charges. For this purpose, earnings consist of pre-tax income from continuing operations before fixed charges and amortization of capitalized interest, less interest capitalized. Fixed charges consist of (a) interest expensed and capitalized, (b) amortized premiums, discounts and capitalized expenses related to indebtedness and (c) the portion of rent expense representing an interest factor.

<sup>(2)</sup> We calculate the ratio of earnings to combined fixed charges and preference security dividends by dividing earnings by the sum of fixed charges and preference security dividends.



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**USE OF PROCEEDS**

Unless otherwise set forth in a prospectus supplement, we intend to use the net proceeds of any offering of securities for general corporate purposes, which may include, but not be limited to, loans, refinancing or repayment of indebtedness, capital expenditures and working capital. Pending any of these uses, the net proceeds of a sale will be invested in readily marketable, interest-bearing securities.

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**DESCRIPTION OF CAPITAL STOCK**

**General**

We have the authority to issue 20,000,000 shares of common stock, par value \$1.00 per share, and 5,000,000 shares of preferred stock, par value \$0.01 per share. As of November 5, 2008, we had 14,563,919 shares of common stock outstanding, and 108,136 shares of Series A preferred stock outstanding.

The following description of the material terms of our capital stock and of our certificate of incorporation, bylaws and agreements with investors is only a summary. You should refer to our certificate of incorporation, bylaws and investor rights agreements which are included as exhibits to the registration statement of which this prospectus is a part for their complete terms.

**Common Stock**

*Voting rights.* Each share of common stock is entitled to one vote on all matters presented to shareholders, including the election of directors. There is no cumulative voting in the election of directors.

*Dividends.* We may pay dividends as declared from time to time by the board of directors out of funds legally available for that purpose. See Item 5 of our Annual Report on Form 10-K for the year ended December 31, 2007, which we refer to as our 2007 10-K and which is incorporated by reference in this prospectus, under the caption "Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities" for a description of our dividend policy and contractual limitations on our ability to pay dividends and Item 1 of our 2007 10-K under the captions "Regulatory Restrictions on Dividends," "Prompt Corrective Action," "Federal Regulation" and "Delaware Regulations" for statutory and regulatory restrictions on our ability to pay dividends.

*Liquidation.* In the event we are dissolved, liquidated or wound up, common shareholders are entitled to receive a pro rata portion of our assets remaining after payment or provision for payment of all of our debts and liabilities and payment of the liquidation preference of any outstanding preferred stock.

*No Preemptive Rights; Redemption.* Common shareholders are not entitled to preemptive rights, except that investors in offerings we made in 1999 and 2002 have contractual pre-emptive rights which we describe in "Agreement with Investors in 1999 Offering" and "Agreement with Investor in 2002 Offering," below. Our common shares are not subject to call or redemption.

**Preferred Stock**

*General.* We may issue preferred stock from time to time in one or more series. Our board of directors, without further approval of the shareholders, has the authority to fix the dividend rights and terms, conversion rights, voting rights, redemption rights and terms, liquidation preferences, sinking funds and any other rights, preferences, privileges and restrictions applicable to each series of preferred stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, adversely affect the voting power of the common shareholders.

A prospectus supplement and any other offering materials relating to any series of preferred stock issued under the registration statement of which this prospectus is a part will specify the terms of the series, including:

the maximum number of shares in the series and the designation of the series;

the terms on which dividends, if any, will be paid;

the terms on which the shares may be redeemed, if at all;

the liquidation preference, if any;

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the terms of any retirement or sinking fund for the purchase or redemption of the shares of the series;

the terms and conditions, if any, on which the shares of the series will be convertible into, or exchangeable for, shares of any other class or classes of common or preferred stock;

the voting rights, if any, of the shares of the series; and

any or all other preferences and relative, participating, operational or other special rights or qualifications, limitations or restrictions of the shares.

The description of preferred stock above and the description of the terms of a particular series of preferred stock contained in a prospectus supplement and other offering materials, if any, are not complete. You should refer to the articles supplementary with respect to a series of preferred stock for complete information concerning the terms of that series. A copy of the articles supplementary for each series of preferred stock will be filed with the SEC as an exhibit to the registration statement of which this prospectus is a part or as an exhibit to a filing incorporated by reference in such registration statement.

*Series A preferred stock.* Our Series A preferred stock is senior to our common stock with respect to the right to receive dividends and to receive payments or distributions out of our net assets if we voluntarily or involuntarily dissolve, liquidate or wind up. Series A preferred stock has an annual, non-cumulative dividend of \$0.60 per share, payable quarterly, and a liquidation preference of \$10.00 per share. The dividend may be paid in cash or in kind by issuance of additional shares of Series A preferred stock. In kind dividends will be paid at the rate of 0.015 of a shares of Series A preferred stock for each share held. Dividends, whether in cash or in kind, are not payable on any fractional shares resulting from prior in kind dividends.

Holders of Series A preferred stock have the right to vote at all meetings of the holders of our common stock, including the right to elect directors. Series A preferred stock votes together with our common stock as a single class and has one vote per share.

Series A preferred stock may be converted into common stock at any time by a holder at the rate of one share of common stock for each share of Series A preferred stock. The conversion rate is subject to adjustment in the event of a payment of a stock dividend with respect to, or a distribution in shares of, common stock, any subdivision, combination or reclassification of our common stock or a consolidation, merger or sale of substantially all of our property or assets, or if we issue rights or warrants entitling the holders thereof to subscribe for or purchase shares of common stock at less than the then applicable conversion price.

Series A preferred stock automatically converts to common stock at the rate of one share of common stock for each share of preferred stock, subject to adjustment as described in the previous paragraph, at any time we complete an offering of common stock registered under the Securities Act that results in gross offering proceeds of \$15 million or more. For these purposes, gross offering proceeds means the number of shares sold multiplied by the offering price per share, before underwriting discounts and commissions and expenses of the offering.

**Agreement with Investors in 1999 Offering**

Our initial capitalization was provided by investors in our 1999 private offering of common stock. As part of that offering, we entered into an investor rights agreement that granted the 1999 investors certain rights, of which the following rights are currently in effect:

*Piggy-Back Registration Rights.* The 1999 investors have the right, subject to certain restrictions, to require us to include their shares in any of our future registration statements, except for registration statements relating to mergers and acquisitions or relating to employee stock options and benefits or issuances for similar purposes. Shares included in any such registration may be reduced or eliminated if the underwriters for the offering advise us that inclusion of some or all of the shares will affect the underwriters' ability to market our offering or that it will affect the offering price.

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*Pre-emptive Rights.* The 1999 investors have the right to maintain their proportionate equity interest in us through a right to subscribe for a proportional amount in our future offerings. The right does not include issuances in connection with mergers and acquisitions or under employee stock option, 401(k) or other employee benefit plans. Any purchases will be on the same terms and conditions applicable to other investors in that future offering. This right terminates upon the completion of a qualified public offering of our common stock, and excludes shares issuable in that offering. A qualified public offering for purposes of this agreement means any public offering of our common stock pursuant to a registration statement under the Securities Act on Forms S-1 or S-3 where, as a result, we become subject to the reporting requirements of Sections 13 or 15 of the Securities Exchange Act of 1934.

*Tag-Along Rights.* In the event that Daniel G. Cohen and Edward E. Cohen seek to sell their shares, 1999 investors will have the right to require that the number of shares being sold include a proportionate amount of their shares. This right does not apply to shares sold pursuant to a registration statement and shares transferred to related persons (although the related persons will become subject to the agreement).

**Agreement with Investor in 2002 Offering**

On June 12, 2002, we sold 25,000 shares of Series A preferred stock and warrants for the purchase of 200,000 shares of our common stock to a single investor. As part of that offering, we entered into an investor rights agreement that granted the investor certain rights, of which the following rights are currently in effect:

*Demand Registration Rights.* The 2002 investor has the right to require us to register some portion or all of the common shares issuable upon conversion of its Series A preferred stock at any time after the following:

our consummation of a qualified public offering or

June 12, 2007.

The term qualified public offering has the same meaning as in the agreement with the 1999 investors. The 2002 investor's demand registration rights expire on June 12, 2008.

*Piggy-Back Registration Rights.* The 2002 investor will also have the right, subject to certain restrictions, including the right of the 1999 investors to consent to such right, to require us to include its shares in any of our future registration statements, except for registration statements relating to mergers and acquisitions or relating to employee stock options and benefits or issuances for similar purposes. Shares included in any such registration may be reduced or eliminated if the underwriters for the offering advise us that inclusion of some or all of the shares will affect the underwriters' ability to market our offering or that it will affect the offering price. In the event that the investor is unable to participate in a registration statement as a result of our failure to obtain the consent of the 1999 investors, the investor will be granted a further demand registration right.

*Pre-emptive Rights.* Subject to the pre-emptive rights of the 1999 investors, the 2002 investor will have the right to maintain its proportionate equity interest in us through a right to subscribe for a proportional amount in our future offerings. The right does not include issuances in connection with mergers and acquisitions or under employee stock option, 401(k) or other employee benefit plans, if we do not issue shares under such plans in excess of the amounts currently authorized to be issued under such plans. Any purchases will be on the same terms and conditions applicable to other investors in that future offering. This right terminates upon the completion of a qualified public offering of our common stock, and excludes shares issuable in that offering.

*Tag-Along Rights.* In the event that Daniel G. Cohen and Edward E. Cohen seek to sell their shares, the 2002 investor will have the right to require that the number of shares being sold include a proportionate amount of its shares, subject to the prior consent of the 1999 investors. This right does not apply to shares sold pursuant to a registration statement and shares transferred to related persons (although the related persons will become subject to the agreement).

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**Transfer Agent**

We have appointed American Stock Transfer & Trust Company to act as the transfer agent for our common stock. We act as our own transfer agent for our preferred stock and warrants.

**Listing**

Our common stock is quoted on the Nasdaq Stock Market under the symbol TBBK.

**Anti-Takeover Effects of Delaware Law and Our Certificate of Incorporation and Bylaws**

We summarize various provisions of Delaware law, our certificate of incorporation and our bylaws in the following paragraphs. These provisions may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that a shareholder might consider in his or her best interest, including those attempts that might result in a premium over the market price for his or her shares.

*Certificate of incorporation and bylaws.* Our certificate of incorporation and bylaws contain provisions that may be deemed to be anti-takeover in nature. These provisions are the authorization of 20,000,000 shares of common stock, the authorization of 5,000,000 shares of preferred stock and the elimination of preemptive rights except for the contractual rights of investors in our 1999 and 2002 offerings discussed in Agreement with Investors in 1999 Offering and Agreement with Investor in 2002 Offering.

We authorized the shares of common stock and preferred stock and the elimination of preemptive rights for common stock, except for the rights we describe in Agreement with Investors in 1999 Offering and Agreement with Investor in 2002 Offering, to provide our board of directors with as much flexibility as possible to issue additional shares, without further shareholder approval, for corporate purposes, including financings, acquisitions, stock dividends, stock splits, employee incentive plans and similar purposes. These additional shares, however, may also be used by the board of directors, if consistent with its fiduciary responsibilities and its contractual duties to investors in our 1999 and 2002 offerings, to deter future attempts to gain control over us. Moreover, because a shareholder does not have preemptive rights, he or she does not have a right to subscribe for a proportionate part of any such issuance.

*Delaware law.* We are a Delaware corporation and consequently are also subject to certain anti-takeover provisions of the Delaware General Corporation Law. Under Section 203 of the General Corporation Law, a Delaware corporation may not engage in any business combination with any interested shareholder for a period of three years following the date such shareholder became an interested shareholder, unless:

before such date the board of directors of the corporation approved either the business combination or the transaction which resulted in the shareholder becoming an interested shareholder;

upon completion of the transaction which resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding:

shares owned by persons who are directors and also officers, and

employee stock plans, in certain instances; or

on or after such date the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders by at least two-thirds of the outstanding voting stock that is not owned by the interested shareholder.

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Section 203 defines an interested shareholder of a corporation to be any person (other than the corporation and any direct or indirect majority-owned subsidiary of the corporation) who:

owns, directly or indirectly, 15% or more of the outstanding voting stock of the corporation; or

is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately before the date on which it is sought to be determined whether such person (and any affiliate or associate of such person) is an interested shareholder.

Section 203 defines business combinations to include certain mergers, consolidations, asset sales, transfers and other transactions resulting in a financial benefit to the interested shareholder.

The restrictions imposed by Section 203 will not apply to a corporation if:

the corporation's original certificate of incorporation contains a provision expressly electing not to be governed by Section 203; or

the corporation, by the action of shareholders holding majority of outstanding voting stock, adopts an amendment to its certificate of incorporation or by-laws expressly electing not to be governed by Section 203.

We have not opted out of Section 203. Section 203 could under certain circumstances make it more difficult for a third party to gain control of us, deny shareholders the receipt of a premium on their common stock and may reduce the price at which the common stock may be sold.

*Federal banking law.* Federal law pertaining to bank holding companies and banks also may have an anti-takeover effect. See Item 1 of our 2007 10-K under the caption "Federal Regulation - Change in Control".

## **DESCRIPTION OF OUR DEBT SECURITIES**

### **General**

The debt securities will be:

our direct general obligations;

either senior debt securities or subordinated debt securities; and

issued under separate indentures among us and a trustee which will be named in a prospectus supplement and a supplemental indenture.

We may issue debt securities in one or more series.

If we offer senior debt securities, we will issue them under a senior indenture. If we issue subordinated debt securities, we will issue them under a subordinated indenture. A form of each indenture is filed as an exhibit to the registration statement of which this prospectus is a part. We have not restated either indenture in its entirety in this description. You should read the relevant indenture because it, and not this description, controls your rights as holders of the debt securities. Capitalized terms used in the summary have the meanings specified in the indentures.





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**Specific Terms of Each Series of Debt Securities in the Prospectus Supplement**

A prospectus supplement and a supplemental indenture or authorizing resolutions relating to any series of debt securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

the issuer of the debt securities;

the co-issuers of the debt securities, if any;

the guarantors of the debt securities, if any;

whether the debt securities are senior or subordinated debt securities;

the title of the debt securities;

the total principal amount of the debt securities;

the process to authenticate and deliver the debt securities and the application of the proceeds thereof;

the assets, if any, that are pledged as security for the payment of the debt securities;

the terms of any release, or the release and substitution of, any assets pledged as security for the payment of the debt securities;

whether we will issue the debt securities in individual certificates to each holder in registered form, or in the form of temporary or permanent global securities held by a depository on behalf of holders;

the prices at which we will issue the debt securities;

the portion of the principal amount that will be payable if the maturity of the debt securities is accelerated;

the currency or currency unit in which the debt securities will be payable, if not U.S. dollars;

the dates on which the principal of the debt securities will be payable;

the interest rate that the debt securities will bear and the interest payment dates for the debt securities;

any conversion or exchange provisions;

any optional redemption provisions;

any sinking fund or other provisions that would obligate us to repurchase or otherwise redeem the debt securities;

any changes to or additional events of default or covenants; and

any other terms of the debt securities.

We may offer and sell debt securities, including original issue discount debt securities, at a substantial discount below their principal amount. The relevant prospectus supplement will describe special U.S. federal income tax and any other considerations applicable to those securities. In addition, the prospectus supplement may describe certain special U.S. federal income tax or other considerations applicable to any debt securities that are denominated in a currency other than U.S. dollars.

#### *Guarantees*

If specified in the prospectus supplement respecting a series of debt securities, the entities specified in the prospectus supplement may unconditionally guarantee to each holder and the trustee, on a joint and several basis, the full and prompt payment of principal of, premium, if any, and interest on the debt securities of that series when and as the same become due and payable, whether at maturity, upon redemption or repurchase, by

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declaration of acceleration or otherwise. If a series of debt securities is guaranteed, such series may be guaranteed by all subsidiaries other than minor subsidiaries as such term is interpreted in securities regulation governing financial reporting for guarantors. The prospectus supplement will describe any limitation on the maximum amount of any particular guarantee and the conditions under which guarantees may be released.

The guarantees will be general obligations of the guarantors. Guarantees of subordinated debt securities will be subordinated to the senior indebtedness of the guarantors on the same basis as the subordinated debt securities are subordinated to the senior indebtedness of the issuer.

Senior indebtedness will be defined in a supplemental indenture or authorizing resolutions respecting any issuance of a series of subordinated debt securities, and the definition will be set forth in the prospectus supplement.

*Consolidation, Merger or Asset Sale*

Each indenture will, in general, allow us to consolidate or merge with or into another domestic entity. It will also allow each issuer to sell, lease, transfer or otherwise dispose of all or substantially all of its assets to another domestic entity. If this happens, the remaining or acquiring entity must assume all of the issuer's responsibilities and liabilities under the indenture including the payment of all amounts due on the debt securities and performance of the issuer's covenants in the indenture.