
Section 1: 8-K (OZRK-2017 PERFORMANCE PLAN)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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): **January 19, 2017 (January 18, 2017)**

Bank of the Ozarks, Inc.
(Exact name of registrant as specified in its charter)

Arkansas
(State or other jurisdiction of incorporation)

0-22759
(Commission File Number)

71-0556208
(IRS Employer Identification No.)

17901 Chenal Parkway
Little Rock, Arkansas
(Address of principal executive offices)

72223
(Zip Code)

(501) 978-2265
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2.):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 5.02 Department of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On January 18, 2017, the Personnel and Compensation Committee (“*Compensation Committee*”) of the Board of Directors of Bank of the Ozarks, Inc. (“*Company*”) approved the Bank of the Ozarks, Inc. 2017 Stock-Based Performance Award Plan (“*2017 Stock Incentive Plan*”) and the Bank of the Ozarks, Inc. 2017 Cash-Based Performance Plan (“*2017 Cash Incentive Plan*” and collectively with the 2017 Stock Incentive Plan, the “*2017 Plans*”). The 2017 Plans were adopted pursuant to the Company’s Amended and Restated Restricted Stock and Incentive Plan. The Compensation Committee believes that subjecting a portion of the executive officer’s cash and equity compensation to achievement of pre-established performance targets, as provided under the 2017 Plans, will ensure the continued alignment of executive compensation, Company performance and strategic goal attainment.

The Company performance metrics (each a “*Performance Metric*”) and relative weighting for each metric under the 2017 Plans are set forth below. Awards under the 2017 Plans will be calculated based on the Company’s consolidated financial results for the period beginning on January 1, 2017 and ending on December 31, 2017 (the “*Performance Period*”). Pursuant to the terms of the 2017 Plans, the Compensation Committee must approve the various performance levels that must be attained with respect to each Performance Metric before payout.

2017 Performance Metrics

2017		2017	
Cash Incentive Plan Metrics	Weight	Stock Incentive Plan Metrics	Weight
Diluted Earnings Per Share (“ <i>EPS</i> ”)	20%	Diluted EPS	25%
Efficiency Ratio	20%	Return on Average Tangible Common Equity	25%
Net Charge-Off Ratio	20%	Growth in Non-Purchased Loans and Leases	20%
Net Interest Margin-(fully taxable equivalent)	20%	OZRK Total Shareholder Return to NASDAQ Index	20%
Return on Average Assets	20%	Regulatory Compliance	10%

The Compensation Committee determines incentive opportunities payable to each participant based on the level of performance attained for the particular Performance Metric over the Performance Period. Payouts under each Performance Metric will depend on the level of performance achieved with respect to the particular Performance Metric. If the Company’s performance is below the threshold performance level set for the particular Performance Metric, the payout related to that metric is zero. Company performance that is at or above the maximum performance level set for the particular Performance Metric may result in payment up to the maximum amount of the incentive opportunity for that particular Performance Metric.

Following the Performance Period, the Compensation Committee shall determine whether and to what extent each Performance Metric has been met and the amounts, if any, payable to each participant for the Performance Period. The Compensation Committee shall determine the actual amount of the award to each participant, and in doing so, may exercise discretion to decrease, but not increase, any amounts payable under the 2017 Plans as the Compensation Committee deems appropriate. Awards paid to participants under the 2017 Stock Incentive Plan will be settled solely in shares of restricted stock to be granted after the Performance Period and that will vest 100% three years after the grant date. Awards paid to participants under the 2017 Cash Incentive Plan will be settled solely in cash. All awards received by any executive officer pursuant to the 2017 Plans may be subject to recovery by the Company under the Company’s Executive Compensation Clawback Policy.

The awards granted under the 2017 Plans are intended to be “performance-based compensation” for purposes of Section 162(m) of the Internal Revenue Code.

The foregoing summary is qualified in its entirety by reference to the 2017 Stock Incentive Plan and the 2017 Cash Incentive Plan, copies of which are filed as Exhibit 10.1 and Exhibit 10.2, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.* The following exhibits are being filed with this current report on Form 8-K.

Exhibit 10.1* Bank of the Ozarks, Inc. 2017 Stock-Based Performance Award Plan

Exhibit 10.2* Bank of the Ozarks, Inc. 2017 Cash-Based Performance Plan

* Management contract or a compensatory plan or arrangement.

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.

**BANK OF
THE
OZARKS,
INC.**

Date: January 19, 2017

By: /s/ Greg L. McKinney

Name: Greg L. McKinney

Title: Chief Financial Officer and Chief Accounting Officer

INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Document Description</u>
10.1*	Bank of the Ozarks, Inc. 2017 Stock-Based Performance Award Plan
10.2*	Bank of the Ozarks, Inc. 2017 Cash-Based Performance Plan

* Management contract or a compensatory plan or arrangement.

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Section 2: EX-10.1 (EX-10.1)

Exhibit 10.1

BANK OF THE OZARKS, INC. 2017 STOCK-BASED PERFORMANCE AWARD PLAN

Pursuant to the Bank of the Ozarks, Inc. 2009 Restricted Stock and Incentive Plan, as amended and restated effective May 16, 2016 (the “*Amended Plan*”), the Personnel and Compensation Committees (the “*Committee*”) of the Boards of Directors of Bank of the Ozarks, Inc. (the “*Company*”) and its wholly-owned bank subsidiary, Bank of the Ozarks (the “*Bank*”) has established the following plan for the 2017 grants of Performance Awards to be payable in shares of restricted common stock of the Company (the “*Program*”) in order to encourage outstanding performance from its officers. Subject to applicable law, all designations, determinations, interpretations, and other decisions under or with respect to the Program or any award shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon all persons. Designations, determinations, interpretations, and other decisions made by the Committee with respect to the Program or any Performance Award need not be uniform and may be made selectively among participants, whether or not such participants are similarly situated. Performance Awards made pursuant to the Program to Covered Officers are intended to qualify as “performance-based compensation” within the meaning of Section 162(m) of the Code and the regulations promulgated thereunder and this Program shall be interpreted accordingly. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Amended Plan.

Participation

The Committee shall designate those officers of the Company and/or the Bank that will be eligible to receive an award pursuant to the Program (each a “*Participant*”) and if such Participant is a Covered Officer, as defined in the Amended Plan.

Performance Period

Awards shall be calculated based on the financial results for the period beginning on January 1, 2017 and ending on December 31, 2017 (the “*Performance Period*”) and paid within two and one-half months following the end of the Performance Period pursuant to the terms of this Program. Following the completion of the Performance Period, the Committee shall certify in writing whether the applicable performance targets have been achieved and the amounts, if any, payable to any Participant for the Performance Period.

Company Performance Metrics and Award Opportunities

The Company performance metrics (each a “*Performance Metric*”) and the relative weighting of each Performance Metric (“*Weight*”) for the Program are set forth and defined in the table below. No later than 90 days following the commencement of the Performance Period, the Committee shall approve the performance level that must be attained with respect to each Performance Metric before payout using various levels of performance.

2017 Performance Metrics

	<u>Weight</u>
Diluted Earnings Per Share (“EPS”)(1)	25%
Growth in Non-Purchased Loans and Leases	20%
Total Shareholder Return (“TSR”) to NASDAQ Financial Index	20%
Regulatory Compliance	10%
Return on Average Tangible Common Equity(“ROATCE”)(2)	25%

(1) Computed by dividing net income available to common shareholders by the weighted-average number

of common shares outstanding after consideration of the dilutive effect, if any, of the Company's outstanding common stock options using the treasury stock method. Net income for purposes of calculating EPS under the Program means the Company's after tax net income available to common shareholders, determined in accordance with GAAP, adjusted to exclude (i) any unusual and/or non-recurring items, (ii) the after-tax impact of any bargain purchase gains, acquisition-related costs, liquidation charges related to contract terminations, information technology systems de-conversion and conversion costs, and any other similar costs or expenses and (iii) the effects of changes in tax law, accounting principles or other such laws or provisions affecting reported results.

- (2) ROATCE is computed by dividing net earnings applicable to common shareholders by average tangible common shareholders' equity. Average tangible common shareholders' equity equals average common shareholders' equity before noncontrolling interest less goodwill and other identifiable intangible assets, net of accumulated amortization.

No later than 90 days following the commencement of the Performance Period, the Committee shall determine incentive opportunities payable to each Participant based on the level of performance attained for the particular Performance Metric over the Performance Period. Payouts under each Performance Metric will depend on the level of performance achieved with respect to the particular metric. If the Company's performance is below the threshold amount set for the particular Performance Metric, the payout related to the particular metric is zero. Company performance that is at or above the maximum level set for the particular Performance Metric may result in payment up to the maximum amount of the incentive opportunity for that particular Performance Metric.

Payment of Awards

As soon as practicable following the end of the Performance Period, the Committee shall determine (such date, the "*Determination Date*") whether and to what extent each Performance Metric has been achieved and the final dollar amount ("*Bonus Award*"), if any, payable to each Participant under the Program. In determining the amount earned by the Participant for the Performance Period, the Committee shall have the right to reduce (but not increase) the amount payable at a given level of performance to take into account additional factors that the Committee may deem relevant to the assessment of individual or Company performance for the Performance Period, including the Company's overall performance, the individual Participant's specific contributions and performance throughout the Performance Period and any actual or perceived inappropriate risks taken by Participants.

Each Bonus Award shall be settled solely in shares of Restricted Stock pursuant to a restricted stock award agreement, the form of which is consistent with past grants of Restricted Stock and previously approved by the Committee. The Restricted Stock shall vest 100% on the third anniversary of the grant date. The actual number of shares of Restricted Stock that will be granted to any Participant will be based on the final Bonus Award approved by the Committee on the Determination Date; provided, however, the number of shares of Restricted Stock may not exceed the maximum number of shares set forth in Section 10.3(a) of the Amended Plan.

Except as the Committee may otherwise determine in its sole and absolute discretion, termination of a Participant's employment prior to the end of the Performance Period will result in the forfeiture of the award by the Participant, and no shares of Restricted Stock shall be granted with respect thereto.

This Program is not a "qualified" plan for federal income tax purposes, and any payments are subject to applicable tax withholding requirements.

Other Provisions

Adjustments for Unusual or Nonrecurring Events. In addition to any adjustments enumerated by the Committee when setting the Performance Metrics, the Committee is authorized to make adjustments in the terms and conditions of, and the criteria included in, awards in recognition of unusual or nonrecurring events affecting any Participant, the Company, or any Subsidiary or affiliate, or the financial statements of the Company or of any Subsidiary or affiliate; in the event of changes in applicable laws, regulations or accounting principles; or in the event the Committee determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Amended Plan. The Committee is also authorized to adjust performance targets or awards downward to avoid unwarranted windfalls. Notwithstanding the foregoing, the Committee shall not make any adjustments to the Program that would prevent any awards made to Covered Officers from qualifying as “performance-based compensation” pursuant to Section 162(m) of the Code.

No Right to Employment. The grant of an award shall not be construed as giving a Participant the right to be retained in the employ of the Company or any Subsidiary or affiliate.

No Trust or Fund Created. Neither the Program nor any Performance Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Subsidiary or affiliate and a Participant or any other person. To the extent that any person acquires a right to receive payments from the Company or any Subsidiary or affiliate pursuant to an award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Subsidiary or affiliate.

No Rights to Awards. No person shall have any claim to be granted any award and there is no obligation for uniformity of treatment among Participants. The terms and conditions of the awards, if any, need not be the same with respect to each Participant. The Company reserves the right to terminate the Program at any time in the Company’s sole discretion.

Section 409A of the Internal Revenue Code. This Program is intended to comply with Section 409A of the Code and will be interpreted in a manner intended to comply with Section 409A of the Code.

Application of Company Clawback Policy. All grants, awards, shares of the Company’s common stock, cash or other compensation received by any Participant pursuant to the Program that constitute incentive-based compensation may be subject to recovery by the Company under any compensation recovery, recoupment or clawback policy adopted by the Company and applicable to such Participant, including without limitation any policy that the Company may be required to adopt under Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules and regulations of the U.S. Securities and Exchange Commission thereunder or the requirements of any national securities exchange on which the Company’s common stock may be listed.

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Section 3: EX-10.2 (EX-10.2)

Exhibit 10.2

BANK OF THE OZARKS, INC. 2017 CASH-BASED PERFORMANCE PLAN

Pursuant to the Bank of the Ozarks, Inc. 2009 Restricted Stock and Incentive Plan, as amended and restated effective May 16, 2016 (the “*Amended Plan*”), the Personnel and Compensation Committees (the “*Committee*”) of the Boards of Directors of Bank of the Ozarks, Inc. (the “*Company*”) and its wholly-owned bank subsidiary, Bank of the Ozarks (the “*Bank*”), has established the following plan for the 2017 grants of Performance Awards to be payable in cash (the “*Program*”) in order to encourage outstanding performance from its officers. Subject to applicable law, all designations, determinations, interpretations, and other decisions under or with respect to the Program or any award shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon all persons. Designations, determinations, interpretations, and other decisions made by the Committee with respect to the Program or any Performance Award need not be uniform and may be made selectively among participants, whether or not such participants are similarly situated. Performance Awards made pursuant to the Program to Covered Officers are intended to qualify as “performance-based compensation” within the meaning of Section 162(m) of the Code and the regulations promulgated thereunder and this Program shall be interpreted accordingly. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Amended Plan.

Participation

The Committee shall designate those officers of the Company and/or the Bank that will be eligible to receive an award pursuant to the Program (each a “*Participant*”) and if such Participant is a Covered Officer, as defined in the Amended Plan.

Performance Period

Awards shall be calculated based on the financial results for the period beginning on January 1, 2017 and ending on December 31, 2017 (the “*Performance Period*”) and paid within two and one-half months following the end of the Performance Period pursuant to the terms of this Program. Following the completion of the Performance Period, the Committee shall certify in writing whether the applicable performance targets have been achieved and the amounts, if any, payable to any Participant for the Performance Period.

Company Performance Metrics and Award Opportunities

The Company performance metrics (each a “*Performance Metric*”) and the relative weighting of each Performance Metric (“*Weight*”) for the Program are set forth and defined in the table below. No later than 90 days following the commencement of the Performance Period, the Committee shall approve the performance level that must be attained with respect to each Performance Metric before payout using various levels of performance.

<u>2017 Performance Metrics</u>	<u>Weight</u>
Return on Average Assets (“ROAA”)	20%
Diluted Earnings Per Share (“EPS”)(1)	20%
Efficiency Ratio (2)	20%
Net Charge-Off Ratio	20%
Net Interest Margin -fully taxable equivalent (“FTE”)	20%

(1) Computed by dividing net income available to common shareholders by the weighted-average number of common shares outstanding after consideration of the dilutive effect, if any, of the Company’s

outstanding common stock options using the treasury stock method. Net income for purposes of calculating EPS under the Program means the Company's after tax net income available to common shareholders, determined in accordance with GAAP, adjusted to exclude (i) any unusual and/or non-recurring items, (ii) the after-tax impact of any bargain purchase gains, acquisition-related costs, liquidation charges related to contract terminations, information technology systems de-conversion and conversion costs, and any other similar costs or expenses and (iii) the effects of changes in tax law, accounting principles or other such laws or provisions affecting reported results.

- (2) Non-interest expense divided by the sum of net interest income – FTE and non-interest income and adjusted to exclude (i) any unusual and/or non-recurring items, (ii) the after-tax impact of any bargain purchase gains, acquisition-related costs, liquidation charges related to contract terminations, information technology systems de-conversion and conversion costs, and any other similar costs or expenses and (iii) the effects of changes in tax law, accounting principles or other such laws or provisions affecting reported results.

No later than 90 days following the commencement of the Performance Period, the Committee shall determine incentive opportunities payable to each Participant based on the level of performance attained for the particular Performance Metric over the Performance Period. Payouts under each Performance Metric will depend on the level of performance achieved with respect to the particular metric. If the Company's performance is below the threshold amount set for the particular Performance Metric, the payout related to the particular metric is zero. Company performance that is at or above the maximum level set for the particular Performance Metric may result in payment up to the maximum amount of the incentive opportunity for that particular Performance Metric.

Payment of Awards

As soon as practicable following the end of the Performance Period, the Committee shall determine (such date, the "*Determination Date*") whether and to what extent each Performance Metric has been achieved and the final dollar amount ("*Bonus Award*"), if any, payable to each Participant under the Program. In determining the amount earned by the Participant for the Performance Period, the Committee shall have the right to reduce (but not increase) the amount payable at a given level of performance to take into account additional factors that the Committee may deem relevant to the assessment of individual or Company performance for the Performance Period, including the Company's overall performance, the individual Participant's specific contributions and performance throughout the Performance Period and any actual or perceived inappropriate risks taken by Participants.

Each Bonus Award shall be paid solely in cash; provided, such amount may not exceed the maximum amount set forth in Section 10.3(b) of the Amended Plan.

Except as the Committee may otherwise determine in its sole and absolute discretion, termination of a Participant's employment prior to the end of the Performance Period will result in the forfeiture of the award by the Participant, and no Bonus Award shall be received.

This Program is not a "qualified" plan for federal income tax purposes, and any payments are subject to applicable tax withholding requirements.

Other Provisions

Adjustments for Unusual or Nonrecurring Events. In addition to any adjustments enumerated by the Committee when setting the Performance Metrics, the Committee is authorized to make adjustments in the terms and conditions of, and the criteria included in, awards in recognition of unusual or nonrecurring events affecting any Participant, the Company, or any Subsidiary or affiliate, or the financial statements of the Company or of any Subsidiary or affiliate; in the event of changes in applicable laws,

regulations or accounting principles; or in the event the Committee determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Amended Plan. The Committee is also authorized to adjust performance targets or awards downward to avoid unwarranted windfalls. Notwithstanding the foregoing, the Committee shall not make any adjustments to the Program that would prevent any awards made to Covered Officers from qualifying as “performance-based compensation” pursuant to Section 162(m) of the Code.

No Right to Employment. The grant of an award shall not be construed as giving a Participant the right to be retained in the employ of the Company or any Subsidiary or affiliate.

No Trust or Fund Created. Neither the Program nor any Performance Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Subsidiary or affiliate and a Participant or any other person. To the extent that any person acquires a right to receive payments from the Company or any Subsidiary or affiliate pursuant to an award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Subsidiary or affiliate.

No Rights to Awards. No person shall have any claim to be granted any award and there is no obligation for uniformity of treatment among Participants. The terms and conditions of the awards, if any, need not be the same with respect to each Participant. The Company reserves the right to terminate the Program at any time in the Company’s sole discretion.

Section 409A of the Internal Revenue Code. This Program is intended to comply with Section 409A of the Code and will be interpreted in a manner intended to comply with Section 409A of the Code.

Application of Company Clawback Policy. All grants, awards, shares of the Company’s common stock, cash or other compensation received by any Participant pursuant to the Program that constitute incentive-based compensation may be subject to recovery by the Company under any compensation recovery, recoupment or clawback policy adopted by the Company and applicable to such Participant, including without limitation any policy that the Company may be required to adopt under Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules and regulations of the U.S. Securities and Exchange Commission thereunder or the requirements of any national securities exchange on which the Company’s common stock may be listed.

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