

FIFTH THIRD BANCORP
Form DEF 14A
December 08, 2008
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

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
- CONFIDENTIAL, FOR USE OF THE COMMISSION ONLY (AS PERMITTED BY RULE 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

FIFTH THIRD BANCORP

(NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

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 - (3) Filing Party:

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38 FOUNTAIN SQUARE PLAZA

CINCINNATI, OHIO 45263

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

December 8, 2008

To the Shareholders of Fifth Third Bancorp:

You are cordially invited to attend the Special Meeting of the Shareholders of Fifth Third Bancorp to be held at The Bankers Club of Cincinnati, located at 511 Walnut Street, 30th Floor, Cincinnati, Ohio on Monday, December 29, 2008 at 9:00 a.m. for the purposes of considering and acting upon the following:

- (1) The proposal described in the proxy statement to amend (i) Article Fourth of the Second Amended Articles of Incorporation, as amended (the Articles), to revise the terms of the authorized, unissued shares of Preferred Stock, without par value, available for issuance by Fifth Third Bancorp to allow for limited voting rights for a new series of Preferred Stock so that the new series of Preferred Stock will meet the requirements for participation in the Troubled Asset Relief Program Capital Purchase Program (TARP CPP) established by the United States Department of Treasury pursuant to the Emergency Economic Stabilization Act of 2008 (EESA), and (ii) Article III, Sections 13 and 14 of the Code of Regulations of Fifth Third Bancorp, as amended (Code of Regulations), to expressly provide that the standard for removing Directors as set forth in the Articles shall prevail over any standard for removing Directors as set forth in the Code of Regulations, and to expressly provide that any procedures for filling vacancies on the Board of Directors as set forth in the Articles, shall prevail over any procedures for filling vacancies on the Board of Directors as set forth in the Code of Regulations. In the event that both Proposals 1 and 3 are approved by shareholders, the Company will not implement the amendments contemplated by Proposal 1 (such amendments would be superseded by the amendments in Proposal 3). The proposed amendments are attached as Annex 1 to the proxy statement and are incorporated by reference therein.
- (2) The proposal described in the proxy statement to amend Article Fourth of the Second Amended Articles of Incorporation to revise the express terms of the issued and outstanding shares of the Series G Preferred Stock of Fifth Third Bancorp to allow the Series G Preferred Stock to have certain of the voting rights as may be granted by Fifth Third Bancorp if it authorizes and issues a new series of Preferred Stock pursuant to the TARP CPP established by the Department of Treasury pursuant to the EESA. The proposed amendment is attached as Annex 2 to the proxy statement and is incorporated by reference therein.
- (3) The proposal described in the proxy statement to amend (i) Article Fourth of the Articles to revise the terms of the authorized, unissued shares of Preferred Stock, without par value, available for issuance by Fifth Third Bancorp to provide greater flexibility in the terms of Preferred Stock that Fifth Third Bancorp may offer and sell in the future, including but not limited to shares of Preferred Stock that may be issued to the Department of Treasury upon participation in the TARP CPP, and to clarify the ability of Fifth Third Bancorp to issue shares of Preferred Stock without stockholder approval in accordance with the terms of Ohio law, and (ii) Article III, Sections 13 and 14 of the Code of Regulations to expressly provide that the standard for removing Directors as set forth in the Articles shall prevail over any standard for removing Directors as set forth in the Code of Regulations, and to expressly provide that any procedures for filling vacancies on the Board of Directors as set forth in the Articles, shall prevail over any procedures for filling vacancies on the Board of Directors as set forth in the Code of Regulations. In the event that both Proposals 1 and 3 are approved by shareholders, the

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Company will not implement the amendments contemplated by Proposal 1 (such amendments would be superseded by the amendments in Proposal 3). The proposed amendments are attached as Annex 3 to the proxy statement and are incorporated by reference therein.

- (4) The proposal described in the proxy statement to approve the adjournment of the Special Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Special Meeting to adopt the proposed amendments to Article Fourth of our Articles and/or our Code of Regulations.

- (5) Transaction of such other business that may properly come before the Special Meeting or any adjournment thereof.

Shareholders of record at the close of business on December 4, 2008 will be entitled to vote at the Special Meeting.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE SPECIAL MEETING TO BE HELD ON DECEMBER 29, 2008: This proxy statement is available at www.viewmaterial.com/fitb.

All shareholders who find it convenient to do so are invited to attend the Special Meeting in person. In any event, please vote at your earliest convenience by signing and returning the proxy card you receive or by voting over the internet or by telephone.

If you plan to attend the Special Meeting:

Please note that space limitations make it necessary to limit attendance only to shareholders of the Company and the holders of shareholder proxies. Admission to the Special Meeting will be on a first-come, first-served basis and will require presentation of a valid driver's license or other federal or state issued photo identification card. Shareholders of record should bring the admission ticket attached to their notice or proxy card in order to be admitted to the meeting. Street name shareholders will need to bring a copy of a brokerage statement reflecting stock ownership as of the record date in order to be admitted to the meeting. Registration and seating will begin at approximately 8:30 a.m. Communication and recording devices will not be permitted at the Special Meeting. A copy of the regulations for conduct at the Special Meeting is attached as Annex 4 to the proxy statement.

By Order of the Board of Directors

Paul L. Reynolds

Secretary

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FIFTH THIRD BANCORP

38 Fountain Square Plaza

Cincinnati, Ohio 45263

PROXY STATEMENT

The Board of Directors of Fifth Third Bancorp (the **Company**) is soliciting proxies for the Special Meeting of Shareholders to be held at The Bankers Club located at 511 Walnut Street, 30th Floor, Cincinnati, Ohio on Monday, December 29, 2008 at 9:00 a.m. (the **Special Meeting**). Each of the 577,437,040 shares of Common Stock and 44,300 shares of the 8.50% Non-Cumulative Perpetual Convertible Preferred Stock, Series G of Fifth Third Bancorp (the **Series G Preferred Stock**) outstanding as of the close of business on December 4, 2008 is entitled to one vote on all matters to be acted upon at the Special Meeting, and only shareholders of record on the books of the Company at the close of business on December 4, 2008 will be entitled to vote at the Special Meeting, either in person or by proxy. The shares represented by all properly executed proxies which are sent to the Company will be voted as designated and each not designated will be voted and counted as described in this proxy statement. Each person giving a proxy may revoke it by giving notice to the Company in writing or in open meeting at any time before it is voted.

The expense of soliciting proxies will be borne by the Company. Proxies will be solicited principally by mail, but may also be solicited by the Directors, officers, and other regular employees of the Company, who will receive no compensation therefor in addition to their regular compensation. Brokers and others who hold stock on behalf of others will be asked to send proxy material to the beneficial owners of the stock, and the Company will reimburse them for their expenses.

The Company has retained D.F. King & Co., Inc., a proxy solicitation firm, to assist the Company in soliciting proxies for a fee of \$15,000, plus out of pocket expenses.

This proxy statement and the form of proxy are first being sent or made available to shareholders on or about December 8, 2008.

INFORMATION ABOUT THE SPECIAL MEETING AND THE MATTERS TO BE VOTED UPON

Why is the Company holding a Special Meeting?

The Company is considering raising capital through the sale of Preferred Stock to the U.S. Department of the Treasury (the **Department of Treasury**) pursuant to the Department of Treasury's Troubled Asset Relief Program Capital Purchase Program (the **TARP CPP**), which was created under the Emergency Economic Stabilization Act of 2008 (**EESA**). The Special Meeting is being held to approve proposed amendments to the Company's Second Amended Articles of Incorporation, as amended (the **Articles**), and to the Company's Code of Regulations, as amended (**Code of Regulations**), to enable the Company to participate in the TARP CPP.

What is the TARP CPP?

On October 14, 2008, the Department of Treasury announced the creation of the TARP CPP to encourage U.S. financial institutions to build capital to increase the flow of financing to businesses and consumers in the U.S. and to support the U.S. economy. The TARP CPP is designed to attract broad participation by healthy financial institutions and to do so in a way that attracts private capital to them as well as with a goal of increasing confidence in U.S. banks and increasing the confidence of such banks to lend their capital. Pursuant to the TARP, up to \$700 billion can be provided to the Department of Treasury to buy mortgages and other assets from financial institutions, to guarantee assets of financial institutions, and to invest and take equity positions in financial institutions. Under the TARP CPP, the Department of Treasury will purchase up to \$250 billion of senior preferred shares from qualifying financial institutions that meet the TARP CPP's eligibility requirements and that applied to participate in the TARP CPP by November 14, 2008.

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Why would the Company consider participating in the TARP CPP?

The challenges experienced by financial institutions due to the recent economic downturn and turbulence in the financial markets make it prudent for financial institutions not only to preserve their existing capital but to supplement such capital as a protection against the uncertain duration and severity of the challenges arising from the current economic situation. Under the TARP CPP, the Department of Treasury has authorized the purchase of up to \$250 billion of preferred securities on standardized terms from qualifying financial institutions.

In June, 2008, the Company announced a capital plan that would increase its capital and capital ratio targets in anticipation of a difficult second half of 2008 and a difficult 2009. The Company's capital plan included a reduction in the current dividend on the shares of Common Stock, raising approximately \$1.0 billion in capital through a public offering of Depositary Shares in Series G Preferred Stock, and the sale of non-core assets to generate additional capital of approximately \$1.0 billion. The dividend reduction and the sale of Depositary Shares were accomplished in June, 2008 and the Company began to explore the potential for asset sales. Upon the establishment of the TARP CPP by the Department of Treasury, the Company reevaluated its capital plan. Following preliminary approval for the Company's participation in the TARP CPP, the Company determined that the available investment by the Department of Treasury in Preferred Stock of the Company should be pursued and that a sale of non-core assets would no longer be a part of the Company's near-term capital planning.

If the Company participates in the TARP CPP, how much capital could the Company raise?

Under the TARP CPP, eligible financial institutions can generally apply to issue and sell preferred stock to the Department of Treasury in aggregate amounts equal to between 1% and 3% of the institution's risk-weighted assets. The Company submitted its application for participation in the TARP CPP on October 24, 2008 and received notice of its preliminary approval from the Department of Treasury on October 28, 2008. By letter dated November 12, 2008, the Department of Treasury informed the Company to proceed with preparing the standard agreements required by the Department of Treasury. Based on the preliminary approval and the November 12, 2008 letter, if the Company participates in the TARP CPP, the Company will issue and the Department of Treasury will purchase approximately \$3.46 billion in Preferred Stock which represents approximately 3% of the Company's risk-weighted assets as of June 30, 2008. In addition, the Company will be required to issue warrants to the Department of Treasury to purchase shares of the Company's Common Stock having an aggregate value equal to 15% of the purchase price of the Preferred Stock purchased by the Department of Treasury, an amount equal to approximately \$519.66 million. The exercise price of the warrants is expected to be approximately \$11.716, which is the average closing price of a share of the Company's Common Stock for the 20 trading days ending prior to October 27, 2008 (the date on which the Department of Treasury preliminarily approved the Company for participation in the TARP CPP), subject to customary anti-dilution adjustments. Exercise of these warrants would result in the issuance of approximately 44.36 million common shares, which would represent approximately 7.68% of the Company's outstanding shares of Common Stock as of December 4, 2008.

What does the Company plan to do with the proceeds of the TARP CPP?

The Company anticipates that, upon receipt of the approximately \$3.46 billion of proceeds from the TARP CPP, it would initially use the proceeds to pay down short-term borrowings.

It is important to note that the Preferred Stock investment yields both cash proceeds and increased capital. The cash proceeds will supplement the Company's cash and other sources of liquidity, including deposits, to provide for the general operating needs of the Company. These needs are expected to include making loans to qualified borrowers; purchasing securities backed by loans; repaying liabilities in the ordinary course of business; and financing other ordinary activities of the Company.

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The capital represented by the shares of Preferred Stock anticipated to be sold to the Department of Treasury would be expected to be prudently leveraged to further enhance earnings opportunities, primarily through lending and other indirect forms of lending such as purchases of securities backed by loans. To the extent that the capital

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is not immediately deployed to a level of leverage equivalent to that of the Company's current balance sheet, due to timing or other factors, that capital would serve to enhance the Company's existing capital levels.

Why does the Company need to amend the Articles and Code of Regulations to participate in the TARP CPP?

In order for the Company to participate in the TARP CPP, the Company must be able to issue and sell Preferred Stock to the Department of Treasury upon certain standard terms required by the Department of Treasury, including certain limited class voting rights and certain rights relating to the removal of particular directors and the filling of certain director vacancies.

Although the Company's Preferred Stock currently available for issuance may be issued upon action by the Board of Directors without further shareholder approval, the Company's Articles prohibit the issuance of shares of Preferred Stock with voting rights, except for voting rights as otherwise required by law. Consequently, in order for the Company to participate in the TARP CPP, the Articles must be amended to permit the Board of Directors to include the standard limited voting rights required by the Department of Treasury in the terms of the Preferred Stock that the Company would sell to the Department of Treasury. In particular, the Department of Treasury's standard terms require, among other things, that (i) the shares of Preferred Stock purchased by it, voting as a single class with other parity shares having similar voting rights, be entitled to elect two persons to the Company's Board of Directors in the event the Company fails to pay dividends on such Preferred Stock for six quarterly periods, whether or not consecutive, and (ii) such Directors may be removed at any time, with or without cause, and any vacancy created thereby may be filled, only by the affirmative vote of the holders of a majority of such shares, voting together as a class, to the extent the voting rights of such holders described above are then exercisable.

Additionally, the Company's Code of Regulations do not allow for the removal of a director without cause or the filling of a director vacancy by the affirmative vote of certain holders of Preferred Stock. The Code of Regulations needs to be amended to eliminate any inconsistencies between the Articles and the Code of Regulations if the amendment to the Articles described herein is approved.

The Company is not seeking the approval of shareholders to authorize the issuance of a particular security. Under Proposal 1, the Company is only seeking shareholder approval to amend the Articles in order to satisfy the standard terms required under the TARP CPP and to amend the Code of Regulations to eliminate any inconsistencies between the Articles and Code of Regulations if such proposed amendment to the Articles is approved.

What will be the terms of the Preferred Stock issued to the Department of Treasury if the Company participates in the TARP CPP?

In addition to the limited class voting rights and changes with respect to the removal of directors, and the filling of director vacancies described in the previous question, Preferred Stock issued by the Company to the Department of Treasury under the TARP CPP (a) will be senior to Common Stock with respect to dividend rights and upon liquidation, (b) will rank equally with the Company's existing outstanding shares of Series G Preferred Stock with respect to dividends and upon liquidation, and (c) will not be subject to any contractual restrictions on transfer. Cumulative dividends will be payable on such Preferred Stock at a rate of 5% per annum until the fifth anniversary of the issuance of the Preferred Stock and at a rate of 9% per annum thereafter.

The Preferred Stock may not be redeemed for a period of three years from the date of issuance, except with the proceeds from the sale of Tier 1 qualifying perpetual Preferred Stock or Common Stock for cash. All redemptions of the Preferred Stock shall be at its issue price plus any

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accrued and unpaid dividends. Any redemption of the Preferred Stock also is subject to the approval of the Board of Governors of the Federal Reserve System. See Exhibit I hereto for a complete summary of the standard terms of preferred stock currently required by the Department of Treasury.

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What will happen if the proposed amendments to the Company's Articles and Code of Regulations are not adopted?

If the Company's shareholders do not approve either of the proposed amendments to the Articles and Code of Regulations set forth in Proposals 1 and 3, the Company believes that it may not be able to participate in the TARP CPP under the Department of Treasury's current standard terms. A failure to qualify for the TARP CPP will potentially eliminate a possible low-cost source of additional capital that would allow the Company to strengthen its capital position, increase its ability to extend credit to qualified borrowers, support its existing operations, improve its ability to leverage future strategic operations to grow, add value for Company shareholders and enhance its competitive position.

If the proposed Amendments to the Articles and Code of Regulations are approved, is the Company's participation in the TARP CPP guaranteed?

There can be no assurance that the Company will ultimately participate in the TARP CPP or that the Company will issue any Preferred Stock to the Department of Treasury, even if shareholders approve the proposed amendments. Until final documents have been executed by the Company and the Department of Treasury, either party could decide not to continue with the issuance and the sale of the Preferred Stock and warrants.

When and where is the Special Meeting?

The Special Meeting of shareholders of the Company will be held at The Bankers Club, 511 Walnut Street, 30th Floor, Cincinnati, Ohio on Monday, December 29, 2008 at 9:00 a.m. Eastern Time.

What matters will be voted upon at the Special Meeting?

Shareholders will be voting on the following matters:

1. To amend (i) Article Fourth of the Articles to revise the terms of the authorized, unissued shares of Preferred Stock, without par value, available for issuance by Fifth Third Bancorp to allow for limited voting rights for a new series of Preferred Stock, so that the new series of Preferred Stock will meet the requirements for participation in the TARP CPP established by the Department of Treasury pursuant to the EESA, and (ii) Article III, Sections 13 and 14 of the Code of Regulations to expressly provide that the standard for removing Directors as set forth in the Articles shall prevail over any standard for removing Directors as set forth in the Code of Regulations, and to expressly provide that any procedures for filling vacancies on the Board of Directors as set forth in the Articles shall prevail over any procedures for filling vacancies on the Board of Directors as set forth in the Code of Regulations. In the event that both Proposals 1 and 3 are approved by shareholders, the Company will not implement the amendments contemplated by Proposal 1 (such amendments would be superseded by the amendments in Proposal 3). These proposed amendments are attached as Annex 1 to this proxy statement. (Proposal 1)

2. To amend Article Fourth of the Articles to revise the express terms of the issued and outstanding shares of the Series G Preferred Stock of Fifth Third Bancorp to allow the Series G Preferred Stock to have certain of the voting rights as may be granted by Fifth Third Bancorp if it authorizes and issues a new series of Preferred Stock pursuant to the TARP CPP established by the Department of Treasury pursuant to the

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EESA. This proposed amendment is attached as Annex 2 to this proxy statement. (Proposal 2)

3. To amend (i) Article Fourth of the Articles to revise the terms of the authorized, unissued shares of Preferred Stock, without par value, available for issuance by Fifth Third Bancorp to provide greater flexibility in the terms of Preferred Stock that Fifth Third Bancorp may offer and sell in the future, including but not limited to shares of Preferred Stock that may be issued to the Department of Treasury upon participation in the TARP CPP, and to clarify the ability of Fifth Third Bancorp to issue shares of Preferred Stock without stockholder approval in accordance with the terms of Ohio law and (ii) Article III, Sections 13 and 14 of the Code of Regulations to expressly provide that the standard for removing Directors as set forth in the Articles shall prevail over any

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standard for removing Directors as set forth in the Code of Regulations, and to expressly provide that any procedures for filling vacancies on the Board of Directors as set forth in the Articles shall prevail over any procedures for filling vacancies on the Board of Directors as set forth in the Code of Regulations. In the event that both Proposals 1 and 3 are approved by shareholders, the Company will not implement the amendments contemplated by Proposal 1 (such amendments would be superseded by the amendments in Proposal 3). These proposed amendments are attached as Annex 3 to this proxy statement. (Proposal 3).

4. To approve the adjournment of the Special Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Special Meeting to adopt the proposed amendments to Article Fourth of our Articles and Article III of our Code of Regulations. (Proposal 4).

Why is the Company seeking shareholder approval to adjourn the Special Meeting in Proposal 4?

Approval of the proposed amendments to the Articles and Code of Regulations require the affirmative vote of the holders of two-thirds of the Common Stock outstanding and the affirmative vote of the holders of two-thirds of each series of Preferred Stock outstanding. In the event there are not sufficient votes at the time of the Special Meeting to adopt any of the proposed amendments, the Board of Directors is seeking shareholder approval to adjourn the Special Meeting to a later date in order to permit additional proxy solicitation. Pursuant to the Company's Code of Regulations and Ohio law, shareholders may authorize the holder of proxies solicited by the Board of Directors to vote in favor of adjourning the Special Meeting.

How many votes are needed to approve the Proposals?

The vote required to approve each of the proposals that are scheduled to be presented at the Special Meeting is as follows:

<u>Proposal</u>	<u>Vote Required</u>
Proposals 1, 2 and 3	The three proposals to amend the Company's Articles each require the affirmative vote of the holders of two-thirds of the outstanding shares of Common Stock and two-thirds of the outstanding shares of Series G Preferred Stock, each voting as a separate class. Abstentions and broker non-votes will have the same effect as votes against the proposal. While the proposed amendments to the Company's Code of Regulations contained in Proposals 1 and 3 on a stand-alone basis would only require the affirmative vote of the holders of a majority of shares of Common Stock outstanding, such amendments will be deemed approved only upon the affirmative two thirds vote of the Common Stock and Series G Preferred Stock as described above in this paragraph.
Proposal 4	The proposal to adjourn the Special Meeting requires the affirmative vote of the holders of a majority of the shares of Common Stock and Series G Preferred Stock present in person or represented by proxy at the Special Meeting, whether or not a quorum is present. Abstentions and shares not voted by shareholders of record present in person and entitled to vote will

have the same effect as votes against the proposal. Broker non-votes will have no effect on the outcome of the proposal.

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What constitutes a quorum for the Special Meeting?

Under the Code of Regulations, a majority of the votes eligible to be cast on every matter to be voted upon at the Special Meeting must be present in person or by proxy to establish a quorum at the Special Meeting. Abstentions and broker non-votes are counted as being present for purposes of determining the presence of a quorum.

Who could help answer my questions about proxy materials, the Special Meeting or the procedures for voting my shares?

Shareholders who have questions about proxy materials, need additional copies or require assistance with the procedures for voting shares may call our proxy solicitor as follows:

D.F. King & Co., Inc.

48 Wall Street

New York NY 10005

1-800-207-3158 (toll free) or

1-212-269-5550 (call collect)

**GENERAL SPECIAL MEETING INFORMATION RELATING TO
HOLDERS OF COMMON STOCK**

Who can vote?

December 4, 2008 has been fixed as the record date for the determination of shares entitled to notice of and to vote at the Special Meeting. You are entitled to vote if you are a holder of record of shares of the Company's Common Stock as of the close of business on December 4, 2008. Each eligible shareholder is entitled to one vote per share of Common Stock.

How do I vote my shares of Common Stock?

You may vote your shares of Common Stock on matters that are properly presented at the Special Meeting in four ways:

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By completing the accompanying form of proxy and returning it in the envelope provided;

By submitting your vote telephonically;

By submitting your vote electronically via the Internet; or

By attending the Special Meeting and casting your vote in person.

For the Special Meeting, the Company is offering holders of record of Common Stock the opportunity to vote their shares electronically through the Internet or by telephone. Instead of submitting your vote for shares of Common Stock by mail on the enclosed proxy card, you may vote by telephone or via the Internet by following the procedures described on your proxy card. In order to vote via telephone or the Internet, please have the enclosed proxy card in hand, and call the number or go to the website listed on the proxy card and follow the instructions. The telephone and Internet voting procedures are designed to authenticate shareholders' identities, to allow shareholders to give their voting instructions, and to confirm that shareholders' instructions have been properly recorded.

Shareholders voting through the Internet should understand that they may bear certain costs associated with Internet access, such as usage charges from their Internet service providers.

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Can the proxy materials be accessed electronically?

The Company has sent the proxy materials for the Special Meeting to shareholders on or about December 8, 2008 by first-class U.S. mail. Additionally, the Company's proxy statement for the Special Meeting sent to holders of record of the Company's shares of Common Stock is available at www.viewmaterial.com/fitb.

How do I vote if my shares of Common Stock are held in Street Name ?

If you hold your shares of Common Stock in street name with a broker, a financial institution or another holder of record, then that entity is considered the shareholder of record for voting purposes and should give you instructions for voting your shares of Common Stock. As a beneficial owner of Common Stock, you have the right to direct the record holder on how to vote the shares held on your behalf. If you hold your shares of Common Stock in street name, you may be eligible to appoint your proxy electronically via the Internet or telephonically and may incur costs associated with such electronic access or telephone usage.

If you hold your shares of Common Stock in street name and wish to attend the Special Meeting and vote in person, you must bring an account statement or letter from your broker, financial institution or other holder of record authorizing you to vote on behalf of such record holder. The account statement or letter must show that you were the direct or indirect beneficial owner of shares of Common Stock as of the close of business on December 4, 2008, the record date for voting at the Special Meeting.

How will my shares of Common Stock be voted?

Shares of Common Stock represented by properly executed proxies will be voted at the Special Meeting, and if a shareholder has specified how the shares of Common Stock represented thereby are to be voted, they will be voted in accordance with such specification. It is intended that shares of Common Stock represented by a proxy card that has been properly signed and returned but on which no specification has been made, will be voted **FOR** all of Proposals 1, 2, 3 and 4.

How do I change or revoke my proxy representing my shares of Common Stock?

A proxy may be revoked at any time before a vote is taken or the authority granted is otherwise exercised. Revocation may be accomplished by: (1) the execution of a later dated proxy; (2) the execution of a later casted telephone or Internet vote with regard to the same shares; (3) by giving notice in writing to Paul L. Reynolds, Secretary, Fifth Third Bancorp, 38 Fountain Square, Cincinnati, Ohio 45263; or (4) by notifying the Secretary in person at the Special Meeting. Any shareholder who attends the Special Meeting and revokes his/her proxy may vote in person. However, your attendance at the Special Meeting alone will not revoke your proxy. The last-dated proxy you submit (by any means) will supersede any previously submitted proxy. If you hold your shares of Common Stock in street name and instructed your broker, financial institution or other holder of record to vote your shares of Common Stock and you would like to revoke or change your vote, then you must follow the instructions provided by your record holder.

If I vote my shares of Common Stock in advance, can I still attend the Special Meeting?

Yes. You are encouraged to vote promptly by telephone, Internet or by returning your signed proxy card by mail, so that your shares of Common Stock will be represented at the Special Meeting. However, voting your shares of Common Stock by proxy does not affect your right to attend the Special Meeting in person.

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**GENERAL SPECIAL MEETING INFORMATION RELATING TO HOLDERS OF
SERIES G PREFERRED STOCK AND DEPOSITARY SHARES REPRESENTING INTERESTS THEREIN**

Why am I receiving this proxy statement?

The close of business on Thursday, December 4, 2008, has been fixed as the record date by the Company for shares of Series G Preferred Stock and by Wilmington Trust Company, as the depository, for the determination of Depositary Shares representing interests in shares of Series G Preferred Stock (the Depositary Shares) entitled to notice of and to vote at the Special Meeting. As of the close of business on December 4, 2008, Wilmington Trust Company was the sole holder of all of the outstanding shares of Series G Preferred Stock, and The Depository Trust Company was the sole holder of record of all of the outstanding Depositary Shares, held in its nominee name as Cede & Co.

You are receiving a proxy statement because you beneficially owned Depositary Shares in street name as of the close of business on December 4, 2008. That entitles you to provide instructions to your broker, bank, trustee or other nominee as to how your Depositary Shares (and in turn, the Series G Preferred Stock) will be voted at the Special Meeting. Your broker, bank, trustee or other nominee (or their respective intermediary) will provide voting results from the beneficial holders to the tabulator for the Depositary Shares who will in turn provide a summary of votes cast by the beneficial holders to Wilmington Trust Company who will then vote the Series G Preferred Stock accordingly. This proxy statement describes the matters on which we would like you to provide instructions to your broker, bank, trustee or other nominee and provides information on those matters so that you can make an informed decision.

The notice of Special Meeting, proxy statement and voting instruction card are being mailed to holders of Depositary Shares on or about December 8, 2008. Since your Depositary Shares are held in street name, please refer to the information forwarded by your bank, broker, trustee or other nominee to see the options available to you for instructing your broker, bank, trustee or other nominee how to vote Depositary Shares beneficially owned by you.

What is a voting instruction card?

Your broker, banker, trustee or other nominee will provide materials and instructions for voting Depositary Shares owned beneficially by you. You may receive a voting instruction card to be completed and returned to your broker, banker, trustee or other nominee. Alternatively, you may receive other instructions for how to indicate to your broker, banker, trustee or other nominee how you would like Depositary Shares owned beneficially by you to be voted.

When you complete and return such voting instruction card and/or comply with such other instructions to indicate how you would like Depositary Shares owned beneficially by you to be voted, you are indirectly giving the depository the authority to vote the Series G Preferred Stock represented by your Depositary Shares in the manner you indicate on your voting instruction card.

Why did I receive more than one voting instruction card for my Depositary Shares?

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You will receive multiple voting instruction cards or other instructions for how to indicate to your broker, banker, trustee or other nominee how you would like Depositary Shares owned beneficially by you to be voted, if you hold your Depositary Shares in different ways (e.g., joint tenancy, trusts or custodial accounts) or in multiple accounts.

If your Depositary Shares are held by a broker, banker, trustee or other nominee (i.e., in street name), you will receive your voting instruction card or other voting information from such person, and you will return your voting instruction card or cards to your broker, banker, trustee or other nominee.

You should indicate your vote on and sign each voting instruction card that you receive.

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What is the difference between a Shareholder of Record and a Street Name holder of Depositary Shares?

These terms describe how Depositary Shares are held. All Depositary Shares are registered in the name of Cede & Co. with Wilmington Trust Company, the depository, and Cede & Co. is the sole shareholder of record. Because your Depositary Shares are held in the name of a brokerage, bank, trust or other nominee as a custodian, you are a street name holder.

How do I vote my Depositary Shares?

Because you hold your Depositary Shares in street name, your broker/bank/trustee/nominee will provide you with materials and instructions for voting your Depositary Shares. Your nominee may be participating in a program that allows you to submit a proxy by telephone or via Internet. If so, the voting form your nominee sends you will provide instructions for submitting your vote by telephone or via the Internet. The last-dated vote you submit (by any means) will supersede any previously submitted vote. Also, if you vote by telephone or via the Internet, you may revoke your vote by following the instructions provided by your nominee.

Please consult the instructions provided by your nominee for information about the deadline for submitting a vote by telephone or via the Internet.

How are my Depositary Shares counted in the shareholder vote for the Series G Preferred Stock?

Each share of Series G Preferred Stock is entitled to one vote and, accordingly, each Depositary Share that you own is entitled to 1/250th of a vote. To the extent your instructions to your nominee request the voting of your fractional interest of a share of Series G Preferred Stock, Wilmington Trust Company, the depository, in turn shall aggregate such interest with all other fractional interests resulting from requests with the same voting instructions and shall vote the number of whole votes resulting from such aggregation in accordance with the instructions received in such requests.

Can I vote my Depositary Shares in person at the Special Meeting?

Only Wilmington Trust Company, the depository and sole record holder of the Series G Preferred Stock, may vote at the Special Meeting.

What vote is required for the Series G Preferred Stock to approve each proposal?

The vote of the Series G Preferred Stock required to approve each of the proposals that are scheduled to be presented at the Special Meeting, and on which the Series G Preferred Stock is entitled to vote, is as follows:

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Proposal 1, Proposal 2 and Proposal 3 require the affirmative vote of the holders of two-thirds of the outstanding shares of the Series G Preferred Stock (and, therefore, the holders of two-thirds of the Depositary Shares); and

Proposal 4 requires the affirmative vote of a majority of the Series G Preferred Stock (and therefore, the Depositary Shares) and of the Common Stock present in person or represented by proxy at the Special Meeting, whether or not a quorum is present. The Series G Preferred Stock and the Common Stock will vote together as a single class on Proposal 4, but will vote as separate classes on Proposal 1, Proposal 2 and Proposal 3.

How would the Series G Preferred Stock representing my Depositary Shares be voted if I do not direct my broker, bank, trust or other nominee how they should be voted?

If you sign and return your voting instruction card to your broker/banker/trustee/nominee without indicating how you want your Depositary Shares to be voted, or otherwise fail to provide voting instructions to your broker/

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banker/trustee/nominee, neither your nominee nor Wilmington Trust Company will be able to vote the Series G Preferred Stock represented by your Depositary Shares with respect to any of the Proposals. Therefore, you are urged to sign and complete the voting instruction card or otherwise provide voting instructions to your broker/banker/trustee/nominee in the manner specified by your broker/banker/trustee/nominee.

What if I do not return my voting instruction card?

Because you hold your Depositary Shares in street name, if you do not give your bank, broker, trustee or other nominee specific voting instructions for your Depositary Shares, your nominee (through its intermediary) cannot direct the depository to vote the Series G Preferred Stock represented by your Depositary Shares on any of the Proposals. Your failure to provide such instructions will be treated as a vote against Proposals 1, 2 and 3.

How are abstentions and broker non-votes treated?

If you do not give your nominee specific voting instructions and your nominee does not vote, the votes will be broker non-votes. Broker non-votes will be treated as No votes on Proposals 1, 2 and 3 for which you do not provide instructions. Similarly, abstentions as to any such Proposal will have the same effect as a vote against such Proposal.

Who will count the votes of the Depositary Shares?

The depository will count the votes of the holders of the Depositary Shares and will vote the shares of Series G Preferred Stock at the Special Meeting in accordance with such votes.

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PROPOSAL 1:

**TO AMEND ARTICLE FOURTH, SECTION (A)2)(d)1. OF
THE SECOND AMENDED ARTICLES OF INCORPORATION, AS AMENDED**

AND

TO AMEND ARTICLE III, SECTIONS 13 AND 14 OF

THE CODE OF REGULATIONS, AS AMENDED

OF FIFTH THIRD BANCORP

(Item 1 on Proxy Card)

The Board of Directors recommends approval of the amendments of Article Fourth, Section (A)2)(d)1. of the Articles and of Article III, Sections 13 and 14 of the Code of Regulations, in the manner shown in Annex 1 hereto.

What are these Amendments intended to accomplish?

The proposed Amendment to Article Fourth, Section (A)2)(d)1. of the Articles would revise the express terms of the authorized and unissued shares of Preferred Stock to allow the Board to provide limited voting rights in order to comply with the standard terms required for shares of preferred stock that may be issued in connection with the TARP CPP authorized by EESA and implemented by the Department of Treasury (the Designated Preferred Stock). The limited class voting rights currently required by the Department of Treasury to be included in the Designated Preferred Stock eligible to be purchased as a condition to participation in the TARP CPP are: (1) to allow such shares of Designated Preferred Stock to vote as a class with any other preferred stock having similar voting rights for the election and removal of two directors of the Company (the Preferred Directors) in the event the Company fails to pay dividends on such shares of preferred stock purchased by the Department of Treasury for six quarterly dividend periods, whether or not consecutive; and (2) to allow such shares of Designated Preferred Stock to vote as a class on certain significant corporate actions, namely the authorization of any senior stock, any amendment to the terms of the Designated Preferred Stock purchased by the Department of Treasury, and certain share exchanges, reclassifications, mergers and consolidations.

The proposed amendment to Article III, Section 13 of the Code of Regulations would expressly provide that any standard for removing Directors as may be contained in the Articles will govern if there is any conflict with the standards for removing Directors as set forth in the Code of Regulations. Similarly, the proposed amendment to Article III, Section 14 of the Code of Regulations would expressly provide that any procedures for filling vacancies on the Board of Directors as may be contained in the Articles will apply if there is any conflict with the procedures for filling vacancies on the Board as set forth in the Code of Regulations.

Why are these Amendments needed?

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Although the Company's Preferred Stock currently available for issuance may be issued upon action by the Board of Directors without further shareholder approval, Article Fourth, Section (A)2)(d)1. of the Articles currently provides that any and all shares of the Company's Preferred Stock will have no voting rights, except as otherwise required by law. As described above, the Department of Treasury requires in its standard terms that any shares of Designated Preferred Stock purchased by it pursuant to the TARP CPP must have certain limited class voting rights that go beyond the voting rights required by Ohio law. Therefore, unless Proposal 3 is approved or the Company's shareholders approve this proposed amendment to the Articles, the Board of Directors will not be able to include these limited class voting rights in the terms of Preferred Stock that the Company would issue to the Department of Treasury in order to participate in the TARP CPP. The inability to do so could result in the Company not being able to participate in the TARP CPP notwithstanding that the Department of Treasury has already preliminarily approved a capital investment in the Company of approximately \$3.46 billion through the sale of Designated Preferred Stock.

The proposed amendments to the Code of Regulations will eliminate any inconsistencies between the Articles and the Code of Regulations, if the foregoing amendment to the Articles is approved as described in this Proposal 1.

Table of Contents**Why does the Company want to participate in the TARP CPP?**

The recent challenges experienced as a result of turbulence in the financial markets make it important for financial institutions not only to preserve existing capital but also to supplement such capital as a protection against further economic difficulties. In June, 2008, the Company announced a capital plan that would increase its capital and capital ratios targets in anticipation of a difficult second half of 2008 and a difficult 2009. The Company's capital plan included a reduction in the current dividend for shares of Common Stock, the raising of approximately \$1.0 billion in capital through a public offering of Depositary Shares in Series G Preferred Stock, and the sale of non-core assets to generate additional capital of approximately \$1.0 billion. The dividend reduction and sale of Depositary Shares were accomplished in June, 2008 and the Company began to explore the potential for asset sales.

Upon the establishment of the TARP CPP by the Department of Treasury, which provides a low cost capital-raising opportunity to generate capital in a cost effective manner, the Company reevaluated its capital plan. Following preliminary approval for the Company's participation in the TARP CPP, the Company determined that the available investment amount of approximately \$3.46 billion by the Department of Treasury in Preferred Stock of the Company should be pursued and that a sale of non-core assets would no longer be part of the Company's near-term capital planning. Even though the Company is above well-capitalized regulatory levels, participation in the TARP CPP would provide the Company with a unique opportunity to strengthen its capital position during these uncertain times. The Company's Board of Directors and management believe that participation in the TARP CPP will increase the Company's ability to extend credit to qualified borrowers, support the Company's existing operations, improve the Company's ability to leverage future strategic opportunities to grow, add value for the Company's shareholders, and enhance the Company's competitive position.

What would be the key terms of shares of Designated Preferred Stock that the Company might sell to the Department of Treasury?

Liquidation Preferences, Dividends, and Redemption Rights. Should the Company and its Board of Directors determine to proceed with participation in the TARP CPP, the Board of Directors would authorize the Company to issue and sell to the Department of Treasury shares of Designated Preferred Stock. Such Designated Preferred Stock would have dividend and liquidation preferences senior to the Company's Common Stock and equal to the Company's Series G Preferred Stock. All shares of Designated Preferred Stock would pay cumulative dividends at a rate of 5% per annum for the first five years and 9% per annum after year five, payable quarterly in arrears. Shares of Designated Preferred Stock would be redeemable after three years at its issue price, plus accrued and unpaid dividends. Prior to the third anniversary of the Department of Treasury's investment, shares of Designated Preferred Stock could only be redeemed using the proceeds of an offering of other qualifying perpetual preferred securities of the Company or shares of Common Stock, which offering would provide the Company with proceeds of at least 25% of the issue price of the shares of Designated Preferred Stock. Any such redemption must be approved by the Company's primary federal bank regulator, currently the Board of Governors of the Federal Reserve System. The Department of Treasury would be permitted to transfer the Designated Preferred Stock to a third party at any time.

Voting Rights as to the Election of Preferred Directors. The standard terms required by the Department of Treasury for Designated Preferred Stock include that whenever, at any time or times, dividends payable on the shares of Designated Preferred Stock have not been paid for an aggregate of six quarterly dividend periods or more, whether or not consecutive, the authorized number of directors of the Company shall automatically be increased by two and the holders of the Designated Preferred Stock shall have the right, with holders of shares of any one or more other classes or series of the Company's Preferred Stock that have like voting rights with the Designated Preferred Stock with respect to such matter, voting together as a class, to elect two directors (hereinafter the Preferred Directors and each a Preferred Director) to fill such newly created directorships at the Company. Such Preferred Directors are to be in addition to the Directors elected by the holders of the Company's Common Stock. Holders of Designated Preferred Stock and any voting parity Preferred Stock will not be entitled to vote on Directors elected by the holders of the Common Stock, and vice versa.

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Additional Limited Class Voting Rights. The standard terms required by the Department of Treasury for Designated Preferred Stock also include that, for so long as such shares remain outstanding, in addition to any other vote or consent of shareholders required by law or by the Articles, the vote or consent of the holders of at least two thirds of the shares of the Designated Preferred Stock at the time outstanding, voting as a separate class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

Authorization of Senior Stock. Any amendment or alteration of the Articles to authorize or create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into or exchangeable or exercisable for shares of, any class or series of capital stock of the Company ranking senior to Designated Preferred Stock with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Company;

Amendment of Designated Preferred Stock. Any amendment, alteration or repeal of any provision of the Articles so as to adversely affect the rights, preferences, privileges or voting powers of Designated Preferred Stock; or

Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving Designated Preferred Stock, or of a merger or consolidation of the Company with another corporation or other entity, unless in each case (x) the shares of Designated Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of Designated Preferred Stock immediately prior to such consummation, taken as a whole;

provided, however, that for all the above purposes, any increase in the amount of the authorized Preferred Stock, including any increase in the authorized amount of Designated Preferred Stock necessary to satisfy preemptive or similar rights granted by the Company to other persons prior to the date that the Department of Treasury and the Company would enter into a definitive securities purchase agreement, or the creation and issuance, or an increase in the authorized or issued amount, whether pursuant to preemptive or similar rights or otherwise, of any other series of Preferred Stock, or any securities convertible into or exchangeable or exercisable for any other series of Preferred Stock, ranking equally with and/or junior to Designated Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up of the Company will not be deemed to adversely affect the rights, preferences, privileges or voting powers, and shall not require the affirmative vote or consent of, the holders of outstanding shares of the Designated Preferred Stock.

If this proposed amendment to the Articles is approved by shareholders, each share of Designated Preferred Stock issued to the Department of Treasury pursuant to the TARP CPP would have one vote per share, consistent with the Ohio Revised Code and the Company's Code of Regulations.

What other terms and conditions must the Company agree to in order to participate in the TARP CPP?

Issuance of Warrants to Purchase Common Stock. In conjunction with the sale of the Designated Preferred Stock, the Department of Treasury will receive warrants to purchase common shares with an aggregate market price equal to 15% of the investment in the Designated Preferred Stock. The exercise price of the warrants, and the market price for determining the number of shares of Common Stock subject to the warrants, is expected to be approximately \$11.716 per share, which is the average closing price of a share of the Company's Common Stock for the 20 trading days ending prior to October 27, 2008 (the date on which the Department of Treasury preliminarily approved the Company for participation in the TARP CPP), subject to customary anti-dilution

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adjustments. The warrants will have a term of 10 years. The Department of Treasury will agree not to exercise voting power with respect to any shares of Common Stock that it acquires upon exercise of the warrants. The Company will have to take the steps necessary to register, pursuant to the Securities Act of 1933, as amended, the shares of Designated Preferred Stock issued by the Company and the related warrants and underlying Common Stock purchasable upon exercise.

Restrictions on Dividends and Stock Repurchases. As long as the shares of Designated Preferred Stock remain outstanding, the Company would be permitted to declare and pay dividends on its Common Stock and Series G Preferred Stock unless the Company fails to pay the required cumulative dividends on the Designated Preferred Stock. Unless the Designated Preferred Stock has been transferred or redeemed in whole, the Department of Treasury's consent will be required until the third anniversary of the Department of Treasury's investment to declare or pay any dividends or make any distributions on the shares of Common Stock (other than for (i) regular quarterly cash dividends of not more than the amount of the last quarterly cash dividend per share declared or, if lower, publicly announced an intention to declare, on shares of Common Stock prior to October 14, 2008, (ii) dividends payable solely in shares of Common Stock, and (iii) dividends or distributions of rights or junior stock in connection with a stockholders' rights plan), and any repurchases other than repurchases of the Designated Preferred Stock or repurchases in connection with the Company's benefit plans in the ordinary course of business and consistent with past practice.

Limitations on Executive Compensation. If the Company participates in the TARP CPP, the Company would also be required to adopt and adhere to the standards for executive compensation and corporate governance established under Section 111 of the EESA, for the period during which the Department of Treasury holds equity issued under the TARP CPP. These standards would generally apply to the Company's chief executive officer, chief financial officer and the next three most highly compensated executive officers. In particular, the Company would be required to meet certain governance and executive compensation standards, including: (i) ensuring that incentive compensation for senior executives does not encourage unnecessary and excessive risks that threaten the value of the financial institution; (ii) requiring a clawback of any bonus or incentive compensation paid to a senior executive based on statements of earnings, gains or other criteria that are later proven to be materially inaccurate; (iii) prohibiting certain severance payments to an executive officer, generally referred to as "golden parachute" payments, above specified limits; and (iv) agreeing not to deduct for tax purposes executive compensation in excess of \$500,000 for each senior executive. The affected officers of the Company have executed waivers in which they have agreed to any modifications to their existing compensation arrangements that may be necessary to meet these requirements.

A complete summary of the expected terms of the securities that the Department of Treasury would purchase from qualifying financial institutions is set forth in Exhibit I, attached hereto. The final terms of the Company's participation in the TARP CPP, including the specific terms of the Designated Preferred Stock and warrants, would be set forth in definitive agreements to be executed by the Department of Treasury and the Company. The standard forms of these agreements as required by the Department of Treasury are available on the Department of Treasury's website at www.treas.gov/initiatives/eesa/application-documents.

If the Company completes the proposed sale of Preferred Stock to the Department of Treasury, what effects will such sale have on the Company's financial statements?

The following unaudited pro forma financial information of Fifth Third Bancorp for the fiscal year ended December 31, 2007 and the nine months ended September 30, 2008 show the effects of issuing \$3.46 billion of Designated Preferred Stock to the Department of Treasury pursuant to the TARP CPP. The pro forma financial data presented below may change materially based on the actual proceeds received, the timing and utilization of proceeds, as well as certain other factors including any subsequent changes in the price of the Company's Common Stock, dividends and the discount rate to determine the fair value of the Designated Preferred Stock and warrants. Accordingly, the Company can provide no assurance that the pro forma assumptions included in the following unaudited pro forma financial information will ever be achieved. The Company is providing the

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following pro forma financial information solely for the purpose of providing shareholders with information that may be useful for considering and evaluating the Proposals contained in this proxy statement.

The following unaudited pro forma financial information should be read in conjunction with the consolidated financial statements and the notes thereto, and Management's Discussion and Analysis of Financial Condition and Results of Operations and Quantitative and Qualitative Disclosures about Market Risk, from the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007 and Quarterly Report on Form 10-Q for the period ended September 30, 2008. Such historical information is included as Appendices A, B, C and D to this proxy statement.

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SUMMARIES OF INCOME (unaudited)

Historical	Pro Forma⁽¹⁾
12 Months Ended	12 Months Ended
Dec 31, 2007	

(In millions, except per share data)