

Section 1: 8-K (NATIONAL PENN BANCSHARES, INC. FORM 8-K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 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): December 15, 2008 (December 10, 2008)

NATIONAL PENN BANCSHARES, INC.

(Exact Name of Registrant as Specified in Charter)

Pennsylvania
(State or Other Jurisdiction
of Incorporation)

000-22537-01
(Commission File Number)

23-2215075
(IRS Employer Identification No.)

**Philadelphia and Reading Avenues,
Boyertown, PA**
(Address of Principal Executive Offices)

19512
(Zip Code)

Registrant's telephone number, including area code: **1-800-822-3321**

N/A
(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. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12(b) under the Exchange Act (17 CFR 240.14a-12(b))
 - 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))
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Section 5 – Corporate Governance and Management

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

As previously reported, on December 12, 2008, as part of the Capital Purchase Program established by the U.S. Department of the Treasury (“Treasury”) under the Emergency Economic Stabilization Act of 2008 (“EESA”), National Penn Bancshares, Inc. (the “Company”) entered into a Letter Agreement (including the Securities Purchase Agreement-Standard Terms incorporated by reference therein, the “Purchase Agreement”) with Treasury, dated December 12, 2008, pursuant to which the Company issued and sold to Treasury (i) 150,000 shares of the Company’s Series B Fixed Rate Cumulative Perpetual Preferred Stock and (ii) a warrant to purchase up to 1,470,588 shares of the Company’s common stock, for an aggregate purchase price of \$150,000,000 in cash.

In the Purchase Agreement, the Company agreed that, until such time as Treasury ceases to own any debt or equity securities of the Company acquired pursuant to the Purchase Agreement, the Company will take all necessary action to ensure that its benefit plans with respect to its senior executive officers comply with Section 111(b) of the EESA, as implemented by any guidance or regulation under the EESA that has been issued and is in effect as of December 12, 2008, and has agreed to not adopt any benefit plans with respect to, or which covers, its senior executive officers that do not comply with the EESA.

In this connection, on December 10, 2008 each of Messrs. Glenn E. Moyer, Gary L. Rhoads, Scott V. Fainor, Donald P. Worthington, Michael R. Reinhard, Paul W. McGloin, Bruce G. Kilroy and Garry D. Koch (the “Senior Executive Officers”) executed a CPP Clawback and Parachute Restriction Agreement (the “Clawback and Parachute Restriction Agreement”). The Clawback and Parachute Restriction Agreement (1) limits each Senior Executive Officer’s severance payments so as not to exceed the amount allowable under Section 111(b) of the EESA and applicable rules and regulations, (2) prohibits any payments that would constitute “excess parachute payments” under Section 280G of the Internal Revenue Code of 1986, as amended, and (3) provides, that to the extent required by Treasury or the EESA and applicable rules and regulations, any bonus or incentive compensation paid to the Senior Executive Officer will be subject to recovery by the Company if the payments were based on financial statements or performance metric criteria that are later proven to be materially inaccurate. Each of these requirements applies during the period that Treasury owns any securities acquired under the Purchase Agreement.

In addition, on December 10, 2008 the Company and Glenn E. Moyer, the Company’s President and Chief Executive Officer, entered into an amendment to Mr. Moyer’s employment agreement. The amendment (1) adjusts the calculation of Mr. Moyer’s supplemental retirement benefit to conform to his years of service with the Company, (2) provides that if Mr. Moyer voluntarily terminates his employment he will only receive his supplemental retirement benefit if he terminates his employment at age 60 or later, and (3) increases the supplemental retirement benefit Mr. Moyer would receive if he is terminated without cause (as defined in Mr. Moyer’s employment agreement).

Copies of the form of Clawback and Parachute Restriction Agreement and the amendment

to Mr. Moyer's employment agreement are included as exhibits to this current report on Form 8-K and are incorporated by reference into this Item 5.02. The foregoing summary of certain provisions of these documents is qualified in its entirety by reference to the complete copies of these documents included as exhibits to this current report on Form 8-K.

Section 9 – Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

[10.1 Form of CPP Clawback and Parachute Restriction Agreement](#)

[10.2 Amendment to Employment Agreement, dated as of December 10, 2008, between National Penn Bancshares, Inc. and Glenn E. Moyer](#)

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.

NATIONAL PENN BANCSHARES, INC.

By: /s/ Glenn E. Moyer
Name: Glenn E. Moyer
Title: President and CEO

Dated: December 15, 2008

EXHIBIT INDEX

Exhibit Number

Description

[10.1 Form of Clawback and Parachute Restriction Agreement](#)

[10.2 Amendment to Employment Agreement, dated as of December 10, 2008, between National Penn Bancshares, Inc. and Glenn E. Moyer](#)

Section 2: EX-10.1 (EXHIBIT 10.1)

EXHIBIT 10.1

FORM OF NATIONAL PENN BANCSHARES, INC. CPP CLAWBACK AND PARACHUTE RESTRICTION AGREEMENT

This CPP CLAWBACK AND PARACHUTE RESTRICTION AGREEMENT (this "Agreement") is made and entered into as of December 10, 2008 by and between NATIONAL PENN BANCSHARES, INC., a Pennsylvania business corporation having its principal place of business in Boyertown, Pennsylvania (the "Company"), and _____ (the "Executive").

BACKGROUND

1. Executive is currently employed as the _____ of the Company.
2. Executive currently has an Employment Agreement with the Company, dated _____ (as amended, the "Prior Agreement").
3. Company desires to participate in the U.S. Treasury Department's ("Treasury") Capital Purchase Program (the "Program"), established under the Emergency Economic Stabilization Act of 2008 (Pub.L. 110-343, Div. A, enacted October 3, 2008).
4. As required to participate in the Program, Company must adopt the Treasury standards for executive compensation and corporate governance, for the period during which Treasury holds equity or debt securities of the Company issued under this Program (the "Participation Period").
5. Under the Program, Treasury's standards apply to the senior executive officers (the "SEO's") of the Company as follows as defined under the Program.

AGREEMENT

NOW, THEREFORE, as required to participate in the Program, and in consideration of the mutual promises contained herein, and each intending to be legally bound, Executive and Company agree in its entirety as follows:

1. Background. The matters set forth in the "Background" section of this Agreement are incorporated by reference herein.
2. Terms. During the Participation Period:
 - (A) Executive shall forfeit all payments that are payable as a result of an "Applicable Severance from Employment" (defined hereafter) that would not have been made absent such event, including amounts accelerated due to such event, that exceed three (3) times the Executive's "Base Amount" (also defined hereafter).

“Base Amount” shall mean “base amount” as defined for purposes of Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”) as modified by the Final Interim Rules promulgated by the Treasury Department under the Program.

“Applicable Severance from Employment” shall mean the Executive’s severance from employment with the Company; (i) by reason of “Involuntary Termination of Employment” (defined hereafter) with the Company or with an entity that is treated as the same employer as the Company under the Code’s controlled group rules; or (ii) in connection with any bankruptcy filing, insolvency, or receivership of the Company or of an entity that is treated as the same employer as the Company under the Code’s controlled group rules.

“Involuntary Termination of Employment” shall mean a termination of employment that results from the Company’s independent exercise of unilateral authority to terminate services, other than due to Executive’s implicit or explicit request, where Executive was willing and able to continue performing services. This may include: (i) Executive’s voluntary resignation under circumstances in which Executive knew that Company would have terminated his or her employment absent resignation, (ii) a failure by Company to renew an expiring employment contract, despite Executive’s willingness to continue to provide services on substantially similar terms, and (iii) Executive’s termination for good reason, as defined under a prior agreement due to a material negative change in the employment relationship with the Company.

(B) Incentive Compensation Recovery. Executive agrees that Executive shall repay to the Company any bonus and incentive compensation paid to Executive during the Participation Period, if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria. This repayment shall not be limited to a specific recovery period, material inaccuracies in financial reporting statements, or inaccuracies that result in accounting restatements. The recovery encompasses all incentive compensation paid to Executive as a result any determination of achievement of a performance metric that is later determined to have been based on material inaccuracies related to financial reporting.

3. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic internal law of the Commonwealth of Pennsylvania.

4. Termination of Agreement. The Agreement shall automatically terminate and become null and void upon the expiration of the Participation Period.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

[EXECUTIVE]

NATIONAL PENN BANCSHARES, INC.

By: _____

By: _____

AMENDMENT TO EMPLOYMENT AGREEMENT

This Amendment to Employment Agreement (the "Amendment") is dated December 10, 2008, between National Penn Bancshares, Inc., a Pennsylvania business corporation ("NPB"), National Penn Bank, a national banking association ("Bank"), and GLENN E. MOYER ("Executive").

BACKGROUND

1. NPB, Bank and Executive entered into a certain Employment Agreement dated December 18, 2002, as amended by Amendatory Agreements dated May 25, 2005 and June 5, 2006 (as amended, the "Agreement").
2. NPB, Bank and Executive desire to amend the Agreement as hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and each intending to be legally bound, NPB, Bank and Executive agree to amend the Agreement as follows:

1. **Background.** The matters set forth in the "Background" section of this Amendatory Agreement are incorporated by reference herein.
2. **Amendment.** Section 8(a)(1)(i) is amended to delete the number 21 and replace it with the number 16.
3. **Amendment.** The language of Section 8(a)(1)(ii) is deleted in its entirety and replaced with the following:

(ii) the denominator of which is the number sixteen (16) [the number of years until Executive would reach the age of sixty (60) from the date of his commencement of employment with Elverson National Bank].

4. **Amendment.** The language of Section 12(b)(2) is deleted in its entirety and replaced with the following:

(2) Section 8 supplemental retirement benefits, at the times and in the manner set forth in Section 8, *provided, however*, only if Executive shall have reached age sixty (60) at or before the date of his termination of employment; and

5. **Amendment.** The language of Section 14(e) is deleted in its entirety and replaced with the following:

(e) Employer shall pay to Executive the payments to which Executive is entitled pursuant to Section 8(a) at the times and in the manner set forth in Section 8(a); in calculating such payments, the fraction referred to in Section 8(a)(1) should be 1/1.

6. **Ratification.** As amended hereby, the Agreement is hereby ratified, confirmed and approved.

7. **Governing Law.** This Amendatory Agreement shall be governed by and construed in accordance with the domestic internal law of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date first above written.

NATIONAL PENN BANCSHARES, INC.

NATIONAL PENN BANK

By: /s/ J. Ralph Borneman, Jr.
J. Ralph Borneman, Jr.
Chairman, Compensation Committee

By: /s/ Thomas A. Beaver
Thomas A. Beaver
Lead Independent Director

Witness: /s/ H. Anderson Ellsworth

/s/ Glenn E. Moyer
Glenn E. Moyer