

SUSSEX BANCORP  
Form S-1/A  
June 21, 2013

As filed with the Securities and Exchange Commission on June 21, 2013

**Registration No. 333-187759**

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**AMENDMENT NO. 3  
TO  
FORM S-1**

**REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933**

**SUSSEX BANCORP**

*(Exact name of registrant as specified in its charter)*

New Jersey  
(State or other jurisdiction of  
incorporation or organization)

6022  
*(Primary Standard Industrial  
Classification Code Number)*

22-3475473  
*(I.R.S. Employer Identification No.)*

**200 Munsonhurst Road, Route 517  
Franklin, New Jersey 07416  
(973) 827-2914**

*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*

**Anthony Labozzetta**  
**President and Chief Executive Officer**  
**200 Munsonhurst Road, Route 517**  
**Franklin, New Jersey 07416**  
**(973) 827-2914**

*(Name, address including zip code, and telephone number, including area code, of agent for service)*

*With Copies to:*

**Richard A. Schaberg, Esq.**  
**Hogan Lovells US LLP**  
**555 Thirteenth Street, N.W.**  
**Washington, D.C. 20004**  
**(202) 637-5600**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Richard A. Schaberg, Esq. Hogan Lovells US LLP 555 Thirteenth Street, N.W. Washington, D.C. 20004 (202) 637-5600

offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated Filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

**The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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TABLE OF CONTENTS

The information in this prospectus is not complete and may be changed. We may not sell these securities until the Securities and Exchange Commission declares our registration statement effective. This prospectus is not an offer to sell these securities, and it is not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

**Subject to Completion, dated June 21, 2013**

**PRELIMINARY PROSPECTUS**

**Up to 1,198,300 Shares of Common Stock**

We are distributing to holders of our common stock, at no charge, non-transferable subscription rights to purchase up to 1,198,300 shares of our common stock. We refer to this offering as the rights offering. In the rights offering, you will receive one subscription right for each full share of common stock owned at 5:00 p.m., Eastern time, on May 31, 2013, the record date of the rights offering.

Each subscription right will entitle you to purchase 0.35 shares of our common stock at a subscription price of \$ per share, which we refer to as the basic subscription right. If you fully exercise all of your basic subscription rights, and other shareholders do not fully exercise their basic subscription rights, you will be entitled to exercise an over-subscription privilege to purchase a portion of the unsubscribed shares at the same price of \$ per share, subject to proration and subject, further, to reduction by us under certain circumstances. To the extent you properly exercise your over-subscription privilege for an amount of shares that exceeds the number of the unsubscribed shares available to you, any excess subscription payments will be returned promptly, without interest or penalty.

The subscription rights will expire if they are not exercised by 5:00 p.m., Eastern time, on , 2013. We may extend the rights offering for additional periods at our sole discretion. Once made, all exercises of subscription rights are irrevocable.

We have entered into standby purchase agreements with certain accredited investors, whom we collectively refer to as the Standby Purchasers, pursuant to which the Standby Purchasers have agreed to purchase, upon expiration of the rights offering, at the subscription price of \$ per share, up to shares of common stock not subscribed for pursuant to the exercise of basic subscription rights and over-subscription privileges. The purchase of any shares by the Standby Purchasers, which we refer to as the standby offering, will be effected in a transaction exempt from the registration requirements of the Securities Act of 1933, as amended, and, accordingly, will not be registered pursuant to the registration statement of which this prospectus forms a part. We refer to the rights offering together with the standby offering as the offerings.

In addition to the commitments by the Standby Purchasers, certain of our directors and executive officers have expressed their intention to purchase up to approximately shares, collectively, by exercising their basic subscription rights and over-subscription privileges in the rights offering.

We have agreed with American Stock Transfer and Trust Company to serve as the subscription agent for the rights offering. The subscription agent will hold in escrow the funds we receive from subscribers until we complete or cancel the rights offering. We have also agreed with AST Phoenix Advisors to serve as information agent for the rights offering. If you want to participate in this rights offering and you are the record holder of your shares, we recommend

that you submit your subscription documents to the subscription agent before that deadline. If you want to participate in this rights offering and you hold shares through your broker, dealer, bank or other nominee, you should promptly contact your broker, dealer, bank or other nominee and submit your subscription documents in accordance with the instructions and within the time period provided by your broker, dealer, bank or other nominee. For a detailed discussion, see [The Rights Offering](#) [The Subscription Rights](#).

We are not requiring an overall minimum subscription to complete the rights offering. However, our board of directors reserves the right to cancel the rights offering for any reason at any time before it expires. If we cancel the rights offering, all subscription payments received will be returned promptly, without interest or penalty. We expect to close the rights offering on or about \_\_\_\_\_, 2013.

Our common stock is listed on the NASDAQ Global Market under the symbol [SBBX](#). On \_\_\_\_\_, 2013, the last reported sale price of our common stock was \$ \_\_\_\_\_ per share. The subscription rights are non-transferrable and therefore will not be listed for trading on the NASDAQ Global Market or any other stock exchange or market. Our principal executive offices are located at 200 Munsonhurst Road, Route 517, Franklin, New Jersey 07416, and our telephone number is (973) 827-2914.

**Investing in our common stock involves risks. You should read the [Risk Factors](#) section beginning on page 15 before making your investment decision.**

	Per Share	Total <sup>(1)</sup>
Subscription price	\$ _____	\$ _____
Estimated expenses	\$ _____	\$ _____
Proceeds, before expenses, to Sussex Bancorp	\$ _____	\$ _____

(1) Assumes the sale of all 1,198,300 shares of common stock in the rights offering.

**Our board of directors is making no recommendation regarding your exercise of the subscription rights. You should carefully consider whether to exercise your subscription rights before the expiration date. You may not revoke or revise any exercises of subscription rights once made unless we terminate or amend the rights offering.**

**Neither the Securities and Exchange Commission nor any state securities commission or other regulatory body has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**These securities are not savings accounts, deposits or obligations of our bank and are not insured or guaranteed by the Federal Deposit Insurance Corporation, the Deposit Insurance Fund or any other governmental agency or instrumentality.**

The date of this prospectus is \_\_\_\_\_, 2013.

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TABLE OF CONTENTS

**TABLE OF CONTENTS**

	Page
<u>ABOUT THIS PROSPECTUS</u>	<u>ii</u>
<u>INCORPORATION BY REFERENCE</u>	<u>ii</u>
<u>CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS</u>	<u>iii</u>
<u>QUESTIONS AND ANSWERS RELATING TO THE RIGHTS OFFERING</u>	<u>1</u>
<u>PROSPECTUS SUMMARY</u>	<u>8</u>
<u>RISK FACTORS</u>	<u>15</u>
<u>USE OF PROCEEDS</u>	<u>23</u>
<u>MARKET PRICE OF COMMON STOCK</u>	<u>24</u>
<u>DIVIDEND POLICY</u>	<u>24</u>
<u>CAPITALIZATION</u>	<u>25</u>
<u>PLAN OF DISTRIBUTION</u>	<u>26</u>
<u>THE RIGHTS OFFERING</u>	<u>27</u>
<u>THE STANDBY OFFERING</u>	<u>35</u>
<u>DESCRIPTION OF CAPITAL STOCK</u>	<u>37</u>
<u>CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES</u>	<u>40</u>
<u>LEGAL MATTERS</u>	<u>44</u>
<u>EXPERTS</u>	<u>44</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>44</u>

TABLE OF CONTENTS

## **ABOUT THIS PROSPECTUS**

You should rely only on the information contained in this prospectus and in the documents incorporated by reference herein. We have not authorized anyone to provide you with any other or different information. If anyone provides you with information that is different from, or inconsistent with, the information in this prospectus, you should not rely on it. You should assume that the information in this prospectus and the documents incorporated by reference is accurate only as of their respective dates. This document may only be used where it is legal to sell these securities. The information contained in this prospectus is current only as of its date, regardless of the time of delivery of this prospectus or of any sales of our shares of common stock.

Neither we, nor any of our officers, directors, agents or representatives, make any representation to you about the legality of an investment in our common stock. You should not interpret the contents of this prospectus to be legal, business, investment or tax advice. You should consult with your own advisors for that type of advice and consult with them about the legal, tax, business, financial and other issues that you should consider before investing in our common stock.

This prospectus does not offer to sell, or ask for offers to buy, any shares of our common stock in any state or jurisdiction where it would not be lawful or where the person making the offer is not qualified to do so.

No action is being taken in any jurisdictions outside the United States to permit a public offering of our common stock or possession or distribution of this prospectus in those jurisdictions. Persons who come into possession of this prospectus in jurisdictions outside the United States are required to inform themselves about, and to observe, any restrictions that apply in those jurisdictions to this offering or the distribution of this prospectus.

As used in this prospectus, Sussex Bancorp, Company, we, us, and our refer to Sussex Bancorp and its subsidiaries.

## **INCORPORATION BY REFERENCE**

The Securities and Exchange Commission, or SEC, allows us to incorporate by reference information we file with it, which means that we can disclose important information to you by referring you to other documents. The information incorporated by reference is considered to be a part of this prospectus. We incorporate by reference each of the documents listed below, except for portions of such reports which were deemed to be furnished and not filed:

our Annual Report on Form 10-K for the year ended December 31, 2012, filed with the SEC on March 14, 2013; our Quarterly Report on Form 10-Q for the quarter ended March 31, 2013, filed with the SEC on May 15, 2013; and our Current Report on Form 8-K, filed with the SEC on April 25, 2013.

You can also obtain these documents from us, without charge (other than exhibits, unless the exhibits are specifically incorporated by reference), by requesting them in writing or by telephone at the following address:

Sussex Bancorp  
Attn: Steven M. Fusco  
200 Munsonhurst Road, Route 517  
Franklin, New Jersey 07416  
(973) 827-2914





TABLE OF CONTENTS

## **CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

We may, from time to time, make written or oral forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including statements contained in our filings with the Securities and Exchange Commission, or the SEC, our reports to shareholders and in other communications by us. These statements can often be identified by the use of forward-looking terminology such as believe, expect, intend, may, will, planned or anticipate or similar terminology.

Forward-looking statements involve risks and uncertainties that may cause actual results to differ materially from those in such statements. Factors that could cause actual results to differ from those discussed in the forward-looking statements include, but are not limited to:

local, regional, national and international economic conditions and the impact they may have on us and our customers and our assessment of that impact;

volatility and disruption in national and international financial markets;

changes in the level of non-performing assets and charge-offs;

changes in estimates of future reserve requirements based upon the periodic review thereof under relevant regulatory and accounting requirements;

adverse conditions in the securities markets that lead to impairment in the value of securities in our investment portfolio;

inflation, interest rate, securities market and monetary fluctuations;

the timely development and acceptance of new products and services and perceived overall value of these products and services by users;

changes in consumer spending, borrowings and savings habits;

technological changes;

the ability to increase market share and control expenses;

changes in the competitive environment among banks, financial holding companies and other financial service providers;

the effect of changes in laws and regulations (including laws and regulations concerning taxes, banking, securities and insurance) with which the Company and its subsidiaries must comply, including under the Dodd-Frank Wall Street Reform and Consumer Protection Act;

the effect of changes in accounting policies and practices, as may be adopted by the regulatory agencies, as well as the Public Company Accounting Oversight Board, the Financial Accounting Standards Board and other accounting standard setters;

the costs and effects of legal and regulatory developments including the resolution of legal proceedings or regulatory or other governmental inquiries and the results of regulatory examinations or reviews; and

our success at managing the risks involved in the foregoing items.

Forward-looking statements speak only as of the date of this prospectus. Except as required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made, or to reflect the occurrence of unanticipated events.

TABLE OF CONTENTS

## **QUESTIONS AND ANSWERS RELATING TO THE RIGHTS OFFERING**

*The following are examples of what we anticipate will be common questions about the rights offering. The answers are based on selected information included elsewhere in this prospectus. The following questions and answers do not contain all of the information that may be important to you and may not address all of the questions that you may have about the rights offering. This prospectus and the documents incorporated by reference into this prospectus contain more detailed descriptions of the terms and conditions of the rights offering and provide additional information about us and our business, including potential risks related to the rights offering, the shares of our common stock offered hereby and our business. We urge you to read this entire prospectus.*

### **What is the rights offering?**

We are distributing, at no charge, to holders of our shares of common stock, non-transferable subscription rights to purchase shares of our common stock at a price of \$      per whole share. You will receive one subscription right for each share of common stock you owned as of 5:00 p.m., Eastern time, on May 31, 2013, the record date for the rights offering. Each subscription right entitles the holder to a basic subscription right and an over-subscription privilege, subject to the subscription limitations described below.

### **What is the basic subscription right?**

The basic subscription right gives our shareholders the opportunity to purchase up to an aggregate of 1,198,300 shares of our common stock at a subscription price of \$      per share. For each whole share you owned as of the record date for the rights offering, your basic subscription right gives you the opportunity to purchase 0.35 shares of our common stock. For example, if you owned 100 shares of common stock as of the record date, you would have received 100 subscription rights and would have the right to purchase 35 shares of our common stock for \$      per full share (or a total payment of \$      ). You may exercise all or a portion of your basic subscription rights, or you may choose not to exercise any subscription rights at all. If you exercise less than all of your basic subscription rights, you will not be entitled to purchase shares under your over-subscription privilege.

Fractional shares resulting from the exercise of basic subscription rights will be eliminated by rounding down to the nearest whole share, with the total subscription payment being adjusted accordingly. Any excess subscription payments received by the subscription agent will be returned promptly, without interest or penalty.

If you are a holder of record, the number of shares you may purchase pursuant to your basic subscription rights is indicated on the enclosed rights certificate. If you hold your shares in the name of a broker, dealer, custodian bank or other nominee who uses the services of the Depository Trust Company, or DTC, you will not receive a rights certificate. Instead, DTC will issue one subscription right to your nominee record holder for each share of our common stock that you own as of the record date. If you are not contacted by your nominee, you should contact your nominee as soon as possible.

### **What is the over-subscription privilege?**

If you purchase all of the shares available to you pursuant to your basic subscription right, you may also, subject to the

subscription limitations described below, choose to purchase a portion of any shares that our other shareholders do not purchase through the exercise of their basic subscription rights. You should indicate on your rights certificate, or the form provided by your nominee if your shares are held in the name of a nominee, how many additional shares you would like to purchase pursuant to your over-subscription privilege.

If sufficient shares are available, we will seek to honor your over-subscription request in full, subject to the subscription limitations described below. However, if over-subscription requests exceed the number of shares available, we will allocate the available shares pro rata among the shareholders exercising the over-subscription privilege in proportion to the number of shares of our common stock that you and the other subscription rights holders have agreed to purchase by exercising the basic subscription rights, subject to the subscription limitations described below. If this pro rata allocation results in any shareholder receiving a greater number of shares than the shareholder subscribed for pursuant to the exercise of the over-subscription privilege, then such shareholder will be allocated only that number of shares for which the shareholder over-subscribed, subject to the subscription limitations described below. We will allocate the remaining shares

1

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## TABLE OF CONTENTS

among all other shareholders exercising the over-subscription privilege. If you are not allocated the full amount of shares for which you over-subscribe, you will receive a refund of the subscription price, without interest or penalty, that you delivered for those shares of our common stock that are not allocated to you. The subscription agent will mail such refunds as soon as practicable after the completion of the rights offering.

American Stock Transfer and Trust Company, our subscription agent for the rights offering, will determine the over-subscription allocation based on the formula described above.

To properly exercise your over-subscription privilege, you must deliver to the subscription agent the subscription payment related to your over-subscription privilege before the rights offering expires. If you send payment by personal check, payment will not be deemed to have been delivered to the subscription agent until the check has cleared. Because we will not know the total number of unsubscribed shares before the rights offering expires, if you wish to maximize the number of shares you purchase pursuant to your over-subscription privilege, you will need to deliver payment in an amount equal to the aggregate subscription price for the maximum number of shares that may be available to you (i.e., the aggregate payment for both your basic subscription rights and for any additional shares you desire to purchase pursuant to your over-subscription privilege). For a detailed discussion, see [The Rights Offering](#) [The Subscription Rights](#) [Over-Subscription Privilege](#).

Fractional shares resulting from the exercise of the over-subscription privilege will be eliminated by rounding down to the nearest whole share, with the total subscription payment being adjusted accordingly. Any excess subscription payments received by the subscription agent will be returned promptly, without interest or penalty.

## **Are there any limits on the number of shares I may purchase?**

Yes, we will not issue shares of common stock pursuant to the exercise of the over-subscription privilege to the extent it would result in beneficial ownership, upon completion of the offering, of any shareholder of more than the greater of (i) 4.9% of the total outstanding shares of our common stock or (ii) such shareholder's percentage of beneficial ownership on the record date for the rights offering. Further, we will not issue shares of common stock pursuant to the exercise of basic subscription rights or over-subscription privileges to any shareholder whose beneficial ownership, in our sole opinion, would exceed 9.9% of total outstanding shares of common stock, upon completion of the offering.

The foregoing restrictions are collectively referred to in this prospectus as the [subscription limitations](#).

Any subscription rights exercised for common stock that would cause the holder to exceed the subscription limitations will not be considered exercised or subscribed for by that holder. The portion of the subscription price paid by a holder for common stock not considered subscribed for will be returned to that holder, without interest or penalty, as soon as practicable after completion of the rights offering.

For a detailed discussion, see [The Rights Offering](#) [Limitation on the Purchase of Shares](#).

## **Why are we conducting the rights offering?**

We are conducting the rights offering to support future growth such as expansion through acquisitions or branching, infrastructure growth or lines of business expansion as well as using a portion of the proceeds to accelerate the resolution of problem assets. Over the past several years, the banking industry, including Sussex Bancorp, has been facing challenges related to weakened local and national economic conditions. All of our capital ratios currently meet the regulatory capital requirements necessary for us to be considered a well-capitalized financial institution. However, especially during difficult times, high levels of capital are of critical importance. In addition, we believe that capital

requirements may increase in the future due to financial reform legislation. The desire to strengthen our balance sheet and support future growth has led the board of directors to conclude that raising capital at this time is in the best interests of our shareholders. We expect proceeds from the rights offering to be used for general corporate purposes, including to support future growth such as expansion through acquisitions or branching, infrastructure growth or lines of business expansion or resolving problem assets. For a detailed discussion, see Use of Proceeds.

Our board of directors has chosen the structure of the rights offering to raise capital while giving existing shareholders the opportunity to limit their ownership dilution from a sale of common stock to other investors.

2

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TABLE OF CONTENTS

## **Why are there Standby Purchasers?**

We entered into the standby purchase agreements with the Standby Purchasers to ensure that, if the rights offering is consummated, at least      shares of our common stock are either distributed in the rights offering or purchased subsequent to the rights offering at the same purchase price at which the rights were exercisable. Through this arrangement, we have a greater degree of certainty that we will raise gross proceeds of at least \$      million through the rights offering and the standby offering. In addition, certain of our directors and executive officers have indicated that they intend to participate in the rights offering, although they are not required to do so. Collectively, we expect our directors and executive officers, together with their affiliates, to purchase approximately      shares in the rights offering, subject to regulatory approval in certain cases, which we will raise gross proceeds of at least \$      million. Also, if our current shareholders subscribe to purchase at least      shares in the rights offering, we will raise the full \$      million contemplated by the offerings.

## **How does the standby offering work?**

The Standby Purchasers have committed to purchase an aggregate of up to      shares of common stock, to the extent that such shares are not subscribed for pursuant to the exercise of basic subscription rights and over-subscription privileges in the rights offering, which we refer to as the unsubscribed shares. If all 1,198,300 shares are sold pursuant to the exercise of basic subscription rights and over-subscription privileges in the rights offering, there will be no unsubscribed shares, and no shares will be sold to the Standby Purchasers. If we receive subscriptions for more than 1,198,300 shares in the rights offering, we will not be able to fully satisfy the commitments of the Standby Purchasers and will use our discretion to allocate the available shares among the Standby Purchasers. Any excess payments received by us from the Standby Purchasers will be returned promptly, without interest or penalty.

## **Are the Standby Purchasers receiving any compensation for their standby commitments?**

No. The Standby Purchasers are not receiving compensation for their standby commitments.

## **How was the subscription price determined?**

The price of the shares offered in the rights offering was determined by the board of directors and is based on a variety of factors, including the need to offer the shares at a price that would be attractive to investors relative to the then current trading price for our common stock, historical and current trading prices for our common stock, general conditions in the financial services industry, the need for capital, alternatives available to us for raising capital, potential market conditions, and the desire to provide an opportunity to our shareholders to participate in the rights offering on a pro rata basis. In conjunction with the board of directors' review of these factors, it also reviewed our history and prospects, including our past and present earnings, our prospects for future earnings, and the outlook for our industry, our current financial condition and regulatory status and a range of discounts to market value represented by the subscription prices in prior rights offerings of other financial institutions.

The subscription price does not necessarily bear any relationship to any other established criteria for value. You should not consider the subscription price as an indication of value of the Company or our common stock. You should not assume or expect that, after the rights offering, our shares of common stock will trade at or above the subscription price in any given time period. The market price of our common stock may decline during or after the rights offering,

and you may not be able to sell the underlying shares of our common stock purchased during the rights offering at a price equal to or greater than the subscription price. You should obtain a current quote for our common stock before exercising your subscription rights and make your own assessment of our business and financial condition, our prospects for the future, and the terms of this rights offering.

## **Am I required to exercise all of the subscription rights I receive in the rights offering?**

No. You may exercise any number of your subscription rights, subject to the subscription limitations, or you may choose not to exercise any subscription rights. If you do not exercise any subscription rights, the number of shares of our common stock you own will not change. However, if you choose not to exercise your subscription rights, your ownership interest in the Company will be diluted by other shareholders or standby purchases.

## TABLE OF CONTENTS

In addition, if you do not exercise all of your basic subscription rights in full, you will not be entitled to participate in the over-subscription privilege.

### **How soon must I act to exercise my subscription rights?**

If you received a rights certificate and elect to exercise any or all of your subscription rights, the subscription agent must receive your completed and signed rights certificate and payment, including final clearance of any uncertified check, before the rights offering expires on \_\_\_\_\_, 2013, at 5:00 p.m., Eastern time. If you hold your shares in the name of a broker, dealer, custodian bank or other nominee, your nominee may establish a deadline before the expiration of the rights offering by which you must provide it with your instructions to exercise your subscription rights. Although our board of directors may, in its discretion, extend the expiration date of the rights offering, we currently do not intend to do so. Our board of directors may cancel the rights offering at any time. If we cancel the rights offering, all subscription payments received will be returned promptly, without interest or penalty.

Although we will make reasonable attempts to provide this prospectus to our shareholders, the rights offering and all subscription rights will expire on the expiration date, whether or not we have been able to locate each person entitled to subscription rights.

### **When will subscriptions be accepted?**

We may, in our discretion, accept basic subscriptions from time to time when received rather than at the expiration of the rights offering period. If we accept any basic subscriptions prior to expiration of the offering period, all basic subscriptions then received in due form will be accepted. Over-subscription rights will not be accepted until the rights offering period has terminated.

### **May I transfer my subscription rights?**

No. You may not sell, transfer or assign your subscription rights to anyone. Subscription rights will not be listed on the NASDAQ Global Market or any other stock exchange or market. Rights certificates may be completed only by the shareholder who receives the certificate. The shares of our common stock issuable upon exercise of the subscription rights will be listed on the NASDAQ Global Market.

### **Are we requiring a minimum overall subscription to complete the rights offering?**

No. We are not requiring an overall minimum subscription to complete the rights offering.

### **How long will this rights offering last?**

You will be able to exercise your subscription rights only during a limited period. To exercise your subscription rights, you must do so by 5:00 p.m., Eastern time, on \_\_\_\_\_, 2013, unless we extend this rights offering. Accordingly, if a shareholder desires to exercise its subscription rights, unless the guaranteed delivery procedures are followed, the subscription agent must actually receive all required documents and payments from the shareholder before the expiration time. We may extend the expiration time for any reason.

Am I required to exercise all of the subscription rights I receive in the rights offering?



## **Can the board of directors cancel or extend the rights offering?**

Yes. Our board of directors may decide to cancel the rights offering at any time and for any reason before the closing of the rights offering. If our board of directors cancels the rights offering, any money received from subscribing shareholders will be returned promptly, without interest or penalty. We also have the right to extend the rights offering for additional periods at our sole discretion. We do not presently intend to extend the offerings.

## **Has the board of directors made a recommendation to shareholders regarding the rights offering?**

No. Our board of directors is not making a recommendation regarding your exercise of the subscription rights. Shareholders who exercise subscription rights will incur investment risk on new money invested. We cannot predict the price at which our shares of common stock will trade after the rights offering. The market price for our common stock may decrease to an amount below the subscription price, and if you purchase shares at the subscription price, you may not be able to sell the underlying shares of our common stock in the future at the same price or a higher price. You should make your decision based on your assessment of our

## TABLE OF CONTENTS

business and financial condition, our prospects for the future, the terms of the rights offering and the information contained in, or incorporated by reference into, this prospectus. See Risk Factors for discussion of some of the risks involved in investing in our shares of common stock.

## **Will our directors and executive officers participate in the rights offering?**

Certain of our directors and executive officers have indicated that they intend to participate in the rights offering, although they are not required to do so. Collectively, we expect our directors and executive officers, together with their affiliates, to purchase approximately shares in the rights offering, subject to regulatory approval in certain cases. For a detailed discussion, see The Rights Offering Insider Participation. Except for the ability to acquire shares that would require regulatory notice or approval in certain cases, our directors and executive officers are entitled to participate in the rights offering on the same terms and conditions applicable to all shareholders. Following the rights offering, our directors and executive officers, together with their affiliates, and inclusive of over subscription commitments are expected to own an aggregate of approximately shares of common stock, or % of our total outstanding shares of common stock if we sell 1,198,300 shares.

## **How do I exercise my subscription rights?**

If you are a shareholder of record (i.e., you hold a common stock certificate) and you wish to participate in the rights offering, you must deliver a properly completed and signed rights certificate, together with payment of the purchase price, to the subscription agent before 5:00 p.m., Eastern time, on , 2013. If you are exercising your subscription rights through your broker, dealer, bank or other nominee, you should promptly contact your broker, dealer, bank or other nominee and submit your subscription documents and payment for the common stock subscribed for in accordance with the instructions and within the time period provided by your broker, dealer, bank or other nominee.

## **What if my shares are not held in my name?**

If you hold your shares of our common stock in the name of a broker, dealer, bank or other nominee, then your broker, dealer, bank or other nominee is the record holder of the shares you own. The record holder must exercise the subscription rights on your behalf for the common stock you wish to subscribe for. Therefore, you will need to have your record holder act for you.

If you wish to participate in this rights offering and purchase shares of our common stock, please promptly contact the record holder of your shares. We will ask the record holder of your shares, who may be your broker, dealer, bank or other nominee, to notify you of this rights offering.

## **What form of payment is required?**

As described in the instructions accompanying the rights certificate, payments submitted to the subscription agent must be made in U.S. currency, by:

personal check drawn on a U.S. bank;  
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