

FIRST MARINER BANCORP
Form 10-Q
May 05, 2010
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

X **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF
THE SECURITIES EXCHANGE ACT OF 1934.**

For the quarterly period ended March 31, 2010.

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF
THE SECURITIES EXCHANGE ACT OF 1934.**

For the transition period from to

Commission file number: 0-21815

FIRST MARINER BANCORP

(Exact name of registrant as specified in its charter)

Maryland
(State of Incorporation)

52-1834860
(I.R.S. Employer Identification Number)

**1501 South Clinton Street, Baltimore,
MD**
(Address of principal executive offices)

21224
(Zip Code)

410-342-2600
(Telephone Number)

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such report, and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐ (Not Applicable)

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

Large accelerated filer ☐

Accelerated filer ☐

Non-accelerated filer ☐

Smaller reporting company ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act) Yes ☐ No ☒

The number of shares of common stock outstanding as of April 30, 2010 is 17,676,759 shares.

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	March 31, 2010 (unaudited)	December 31, 2009
ASSETS		
Cash and due from banks	\$ 287,711	\$ 166,374
Federal funds sold and interest-bearing deposits	8,154	7,329
Trading securities, at fair value	10,223	10,749
Securities available for sale, at fair value	27,382	28,275
Loans held for sale	55,360	122,085
Loans receivable	872,385	890,951
Allowance for loan losses	(12,003)	(11,639)
Loans, net	860,382	879,312
Real estate acquired through foreclosure	19,915	21,630
Restricted stock investments	7,934	7,934
Premises and equipment, net	43,556	44,504
Accrued interest receivable	4,734	4,960
Income taxes recoverable	1,461	5,670
Deferred income taxes	22,586	28,214
Bank-owned life insurance	35,126	34,773
Prepaid expenses and other assets	20,323	22,742
Total assets	\$ 1,404,847	\$ 1,384,551
LIABILITIES AND STOCKHOLDERS' EQUITY		
Liabilities:		
Deposits:		
Noninterest-bearing	\$ 108,948	\$ 112,192
Interest-bearing	1,073,870	1,034,312
Total deposits	1,182,818	1,146,504
Short-term borrowings	49,857	26,365
Long-term borrowings, at fair value	35,780	61,592
Long-term borrowings	34,035	34,080
Junior subordinated deferrable interest debentures	53,100	73,724
Accrued expenses and other liabilities (\$237 and \$0 at fair value, respectively)	12,525	15,299
Total liabilities	1,368,115	1,357,564
Stockholders' equity:		
Common stock, \$.05 par value; 75,000,000 shares authorized; 8,078,647 and 6,452,631 shares issued and outstanding at March 31, 2010 and December 31, 2009, respectively	404	323

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Additional paid-in capital	69,313	56,771
Retained deficit	(30,060)	(26,621)
Accumulated other comprehensive loss	(2,925)	(3,486)
Total stockholders' equity	36,732	26,987
Total liabilities and stockholders' equity	\$ 1,404,847	\$ 1,384,551

See accompanying notes to the consolidated financial statements

Table of Contents**First Mariner Bancorp and Subsidiaries****Consolidated Statements of Operations***(dollars in thousands except per share data)*

	Three Months Ended March 31,		
	2010	(unaudited)	2009
Interest income:			
Loans	\$	13,444	\$ 13,701
Investments and other earning assets		761	799
Total interest income		14,205	14,500
Interest expense:			
Deposits		5,610	6,418
Short-term borrowings		47	209
Long-term borrowings		1,647	1,992
Total interest expense		7,304	8,619
Net interest income		6,901	5,881
Provision for loan losses		2,190	3,400
Net interest income after provision for loan losses		4,711	2,481
Noninterest income:			
Total other-than-temporary impairment (OTTI) charges		(130)	(2,058)
Less: Portion included in other comprehensive income (pre-tax)		7	342
Net other-than-temporary impairment charges on securities available for sale		(123)	(1,716)
Origination fees and gain on sale of mortgage loans		2,050	3,614
Other mortgage-banking revenue		457	1,183
ATM fees		735	714
Service fees on deposits		1,060	1,324
Gain on financial instruments carried at fair value		847	768
Gain on sale of branch		152	
Commissions on sales of nondeposit investment products		145	136
Income from bank-owned life insurance		353	336
Other		166	1,054
Total noninterest income		5,842	7,413
Noninterest expense:			
Salaries and employee benefits		6,596	6,449
Occupancy		2,371	2,320
Furniture, fixtures, and equipment		612	835
Professional services		720	795
Advertising		178	258
Data processing		402	513
ATM servicing expenses		204	228
Write-downs, losses, and costs of real estate acquired through foreclosure		1,685	2,114
FDIC insurance premiums		934	272
Service and maintenance		683	590
Other		1,904	1,805
Total noninterest expense		16,289	16,179
Net loss from continuing operations before income taxes and discontinued operations		(5,736)	(6,285)
Income tax benefit - continuing operations		(2,497)	(2,733)
Net loss from continuing operations		(3,239)	(3,552)
(Loss) income from discontinued operations		(200)	451
Net loss	\$	(3,439)	\$ (3,101)

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First Mariner Bancorp and Subsidiaries

Consolidated Statements of Operations (Continued)

	Three Months Ended March 31,	
	2010	2009
	(dollars in thousands, except per share data)	
Net loss per common share from continuing operations:		
Basic	\$ (0.50)	\$ (0.55)
Diluted	\$ (0.50)	\$ (0.55)
Net (loss) income per common share from discontinued operations:		
Basic	\$ (0.03)	\$ 0.07
Diluted	\$ (0.03)	\$ 0.07
Net loss per common share:		
Basic	\$ (0.53)	\$ (0.48)
Diluted	\$ (0.53)	\$ (0.48)

See accompanying notes to the consolidated financial statements.

Table of Contents**First Mariner Bancorp and Subsidiaries****Consolidated Statements of Cash Flows***(dollars in thousands)*

	Three Months Ended March 31,	
	2010	2009
	(unaudited)	
Cash flows from operating activities:		
Net loss	\$ (3,439)	\$ (3,101)
Adjustments to reconcile net loss to net cash from operating activities:		
Loss (income) from discontinued operations	200	(451)
Stock-based compensation	7	12
Depreciation and amortization	1,020	1,240
Amortization of unearned loan fees and costs, net	12	143
(Accretion) amortization of premiums and discounts on mortgage-backed securities, net	(12)	2
Gain on financial instruments carried at fair value	(847)	(768)
Origination fees and gain on sale of mortgage loans	(2,050)	(3,614)
Net other-than-temporary impairment charges on securities available for sale	123	1,716
Decrease (increase) in accrued interest receivable	226	(65)
Provision for loan losses	2,190	3,400
Write-downs and losses on sale of real estate acquired through foreclosure	1,336	1,938
Gain on sale of premises and equipment	(152)	
Increase in cash surrender value of bank-owned life insurance	(353)	(336)
Originations of mortgage loans held for sale	(183,885)	(502,593)
Proceeds from mortgage loans held for sale	252,660	481,112
Net decrease in accrued expenses and other liabilities	(2,682)	(1,297)
Net decrease (increase) in prepaids and other assets	4,214	(1,521)
Net cash provided by (used in) operating activities	68,568	(24,183)
Cash flows from investing activities:		
Loan principal repayments (disbursements), net	14,524	(14,419)
Repurchase of loans previously sold	(593)	
Purchases of premises and equipment	(679)	(179)
Proceeds from disposals of premises and equipment	759	12
Purchases of restricted stock investments		(553)
Maturities/calls/repayments of trading securities	561	379
Activity in securities available for sale:		
Maturities/calls/repayments of securities available for sale	1,709	1,004
Purchase of securities available for sale		(999)
Redemptions of bank-owned life insurance		1,528
Proceeds from sales of real estate acquired through foreclosure	3,177	1,882
Net cash provided by (used in) investing activities	19,458	(11,345)
Cash flows from financing activities:		
Net increase in deposits	36,314	71,574
Net (decrease) increase in other borrowed funds	(2,178)	4,588
Net cash provided by financing activities	34,136	76,162
Increase in cash and cash equivalents	122,162	40,634
Cash and cash equivalents at beginning of period	173,703	67,339
Cash and cash equivalents at end of period	\$ 295,865	\$ 107,973
Supplemental information:		
Interest paid on deposits and borrowed funds	\$ 8,409	\$ 9,134
Income taxes paid	\$	\$
Real estate acquired in satisfaction of loans	\$ 2,798	\$ 7,229

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Forgiveness of junior subordinated deferrable interest debentures	\$	20,000	\$
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See accompanying notes to the consolidated financial statements

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First Mariner Bancorp and Subsidiaries

Notes to Consolidated Financial Statements

(Information as of and for the three months ended March 31, 2010 and 2009 is unaudited)

(1) Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements for First Mariner Bancorp have been prepared in accordance with the instructions for Form 10-Q and, therefore, do not include all information and notes necessary for a full presentation of financial condition, results of operations, and cash flows in conformity with accounting principles generally accepted in the United States of America (U.S.). The consolidated financial statements should be read in conjunction with the audited financial statements included in First Mariner Bancorp's Annual Report on Form 10-K for the year ended December 31, 2009. When used in these notes, the terms the Company, we, us, and our refer to First Mariner Bancorp and, unless the context requires otherwise, its consolidated subsidiaries.

The consolidated financial statements include the accounts of the Company's subsidiaries, First Mariner Bank (the Bank), and FM Appraisals, LLC (FM Appraisals). All significant intercompany balances and transactions have been eliminated. Events occurring after the date of the financial statements were considered in the preparation of the financial statements and are disclosed in Note 12. Certain reclassifications have been made to amounts previously reported to conform with classifications made in 2010.

The consolidated financial statements as of March 31, 2010 and for the three months ended March 31, 2010 and 2009 are unaudited but include all adjustments, consisting only of normal recurring adjustments, which we consider necessary for a fair presentation of financial position and results of operations for those periods. The results of operations for the three months ended March 31, 2010 are not necessarily indicative of the results that will be achieved for the entire year or any future interim period.

The preparation of the financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and judgments that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Material estimates that are particularly susceptible to significant change in the near-term relate to the determination of the allowance for loan losses (the allowance), loan repurchases and related valuations, real estate acquired through foreclosure, impairment of securities available for sale (AFS), and deferred taxes. In connection with these determinations, management evaluates historical trends and ratios and, where appropriate, obtains independent appraisals for significant properties and prepares fair value analyses. Actual results could differ significantly from those estimates.

(2) Discontinued Operations

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In December, 2009, we completed the sale of our consumer finance company subsidiary, Mariner Finance, LLC. The initial settlement was based on unaudited results and was subject to adjustment based upon a final audit, which concluded during the first quarter of 2010. Discontinued operations are detailed as follows for the three months ended March 31, 2010 and 2009:

(dollars in thousands)	2010	2009
Interest income	\$	\$ 6,005
Interest expense		(808)
Net interest income		5,197
Provision for loan losses		(996)
Noninterest income		913
Noninterest expenses		(4,369)
Net income before income taxes		745
Income tax expense	(200)	(294)
Net (loss) income from discontinued operations	\$ (200)	\$ 451

(3) Securities

The composition of our securities portfolio is as follows:

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March 31, 2010				
(dollars in thousands)	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Available for Sale:				
Mortgage-backed securities	\$ 9,565	\$ 483	\$ 47	\$ 10,001
Trust preferred securities	19,360	193	5,459	14,094
Equity securities - Banks	965	7	12	960
U.S. Treasury securities	1,000	4		1,004
Corporate obligations	886	87		973
Foreign government bonds	350			350
	\$ 32,126	\$ 774	\$ 5,518	27,382
Trading:				
Mortgage-backed securities				10,223
				\$ 37,605

December 31, 2009				
(dollars in thousands)	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Available for Sale:				
Mortgage-backed securities	\$ 11,272	\$ 477	\$ 7	\$ 11,742
Trust preferred securities	19,481	47	6,190	13,338
Equity securities - Banks	965	1	54	912
U.S. Treasury securities	999	4		1,003
Corporate obligations	877	53		930
Foreign government bonds	350			350
	\$ 33,944	\$ 582	\$ 6,251	28,275
Trading:				
Mortgage-backed securities				10,749
				\$ 39,024

Contractual maturities of debt securities at March 31, 2010 are shown below. Actual maturities may differ from contractual maturities because borrowers have the right to call or prepay obligations with or without call or prepayment penalties.

(dollars in thousands)	Amortized Cost	Estimated Fair Value
Available for Sale:		
Due in one year or less	\$ 1,350	\$ 1,354
Due after one year through five years	3,843	4,107
Due after five years through ten years	1,030	975
Due after ten years	15,373	9,985
Mortgage-backed securities	9,565	10,001
	\$ 31,161	26,422
Trading:		
Mortgage-backed securities		10,223
	\$	36,645

The following table shows the level of our gross unrealized losses and the fair value of the associated securities by type and maturity for securities AFS at March 31, 2010:

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(dollars in thousands)	Less than 12 months		12 months or more		Total	
	Estimated Fair Value	Unrealized Losses	Estimated Fair Value	Unrealized Losses	Estimated Fair Value	Unrealized Losses
Mortgage-backed securities	\$ 1,853	\$ 47	\$ 9,744	\$ 5,459	\$ 11,800	\$ 5,518
Trust preferred securities			9,744	5,459	9,744	5,459
Equity securities - Banks			203	12	203	12
	\$ 1,853	\$ 47	\$ 9,947	\$ 5,471	\$ 11,800	\$ 5,518

The trust preferred securities that we hold in our securities portfolio are issued by other banks and bank holding companies.

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Certain of these securities have experienced declines in value since acquisition. These declines have occurred due to changes in the market which has limited the demand for these securities and reduced their liquidity. We recorded net OTTI charges of \$123,000 and \$1.716 million on positions in pooled trust preferred collateralized debt obligations during 2010 and 2009, respectively.

The following shows the activity in OTTI related to credit losses for the three months ended March 31:

(dollars in thousands)	2010		2009	
Balance at beginning of year	\$	6,643	\$	5,605
Reduction - cumulative effect of accounting change				(1,898)
Additional OTTI taken for credit losses		123		1,716
Balance at end of period	\$	6,766	\$	5,423

All of the remaining securities that are temporarily impaired are impaired due to declines in fair values resulting from changes in interest rates or increased credit/liquidity spreads since the time they were purchased. We have the intent to hold these debt securities to maturity, and, for debt and equity securities in a loss position, for the foreseeable future and do not intend, nor do we believe it is more likely than not, that we will be required to sell the securities before anticipated recovery. We expect these securities will be repaid in full, with no losses realized. As such, management considers the impairments to be temporary.

At March 31, 2010, we held securities with an aggregate carrying value (fair value) of \$28.009 million that we have pledged as collateral for certain hedging activities, borrowings, and customer deposits.

(4) Loans Receivable and Allowance for Loan Losses

Loans receivable are summarized as follows:

(dollars in thousands)	March 31, 2010		December 31, 2009	
Loans secured by first mortgages on real estate:				
Residential	\$	168,736	\$	176,084
Commercial		331,532		340,349
Consumer residential construction		45,346		47,689
Commercial construction		95,858		99,562
		641,472		663,684
Commercial		79,207		77,474
Loans secured by second mortgages on real estate		126,236		127,011
Consumer		20,170		17,181
Loans secured by deposits and other		4,533		4,598
Total loans		871,618		889,948
Unearned loan fees, net		767		1,003
	\$	872,385	\$	890,951

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Included in consumer loan totals in the above table are overdrawn commercial and retail checking accounts totaling \$196,000 and \$247,000 as of March 31, 2010 and December 31, 2009, respectively.

In accordance with the Financial Accounting Standard Board's (FASB) guidance on mortgage-banking activities, any loans which are originally originated for sale into the secondary market and which we subsequently elect to transfer into the Company's loan portfolio are valued at fair value at the time of the transfer with any decline in value recorded as a charge to operating expense.

Information on the activity in transferred loans and related accretable yield is as follows for the three months ended March 31:

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(dollars in thousands)	Loan Balance		Accretable Yield		Total	
	2010	2009	2010	2009	2010	2009
Beginning balance	\$ 24,575	\$ 15,441	\$ 423	\$ 831	\$ 24,152	\$ 14,610
Loans moved to real estate acquired through foreclosure	(281)	(200)	(8)		(273)	(200)
Charge-offs	(146)	(1,056)	(15)	(74)	(131)	(982)
Payments/amortization	(2,454)	(30)	(67)	(41)	(2,387)	11
Ending balance	\$ 21,694	\$ 14,155	\$ 333	\$ 716	\$ 21,361	\$ 13,439

The following table provides information concerning nonperforming assets and past-due loans:

(dollars in thousands)	March 31, 2010	December 31, 2009	March 31, 2009
Nonaccruing loans	\$ 39,698	\$ 35,799	\$ 42,734
Real estate acquired through foreclosure	19,915	21,630	22,403
Total nonperforming assets	\$ 59,613	\$ 57,429	\$ 65,137
Loans past-due 90 days or more and accruing	\$ 5,038	\$ 9,224	\$ 10,742

The interest income which would have been recorded on nonaccrual loans if those loans had been performing in accordance with their contractual terms was approximately \$1.454 million and \$1.156 million for the three months ended March 31, 2010 and 2009, respectively. The actual interest income recorded on these loans for the three months ended March 31, 2010 and 2009 was approximately \$170,000 and \$298,000, respectively.

The following tables show the breakout of impaired loans:

(dollars in thousands)	Commercial Loans		Consumer Loans	
	March 31, 2010	December 31, 2009	March 31, 2010	December 31, 2009
Impaired loans with allocated allowance for loan losses	\$ 6,816	\$ 6,482	\$ 6,310	\$ 4,687
Impaired loans with no allocated allowance for loan losses	28,232	27,157	12,286	10,521
	\$ 35,048	\$ 33,639	\$ 18,596	\$ 15,208

The reserve for loan losses for commercial impaired loans was approximately \$312,000 at March 31, 2010 and \$328,000 at December 31, 2009. The reserve for loan losses for consumer impaired loans was approximately \$484,000 at March 31, 2010 and \$405,000 at December 31, 2009.

Troubled debt restructures (TDRs), which are loans that have been restructured during the period due to the borrower s inability to maintain a current status on the loan, that are not included in the nonaccrual balance above amounted to \$4.353 million as of March 31, 2010 and \$13.048 million as of December 31, 2009. Our TDRs are generally reviewed individually to determine impairment, accrual status, and the need for specific reserves. For collateral dependent loans, we utilize the fair value of the collateral in determining impairment. For noncollateral dependent loans, we calculate the present value of expected future cash flows to determine fair value and impairment.

Changes in the allowance for losses on loans are summarized as follows for the three months ended March 31:

(dollars in thousands)	2010		2009	
Balance at beginning of year	\$	11,639	\$	16,777
Provision for loan losses - Bank		2,190		3,400
Provision for loan losses - Mariner Finance				996
Charge-offs (1)		(1,938)		(5,856)
Recoveries (2)		112		198
Balance at end of year	\$	12,003	\$	15,515

(1) For the three months ended March 31, 2009, includes charge-offs of \$1.199 million related to Mariner Finance consumer loans.

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(2) For the three months ended March 31, 2009, includes recoveries of \$158,000 related to Mariner Finance consumer loans.

As of March 31, 2010, we maintained servicing on reverse mortgage loans sold to Fannie Mae of approximately \$312.000 million.

At March 31, 2010, we have pledged loans with a carrying value of \$210.785 million as collateral for short-term promissory notes and Federal Home Loan Bank (FHLB) advances.

(5) Junior Subordinated Deferrable Interest Debentures

The following table shows the subordinated debt issued by First Mariner Bancorp and the related Trust Preferred Securities issued at March 31, 2010 and December 31, 2009:

Trust	Subordinated Debt Issued to Trust		Trust Preferred Securities Issued by Trust		Date of Original Issue	Optional Redemption Date	Stated Maturity
	March 31, 2010	December 31, 2009	March 31, 2010	December 31, 2009			
MCT II	\$ 6,186	\$ 10,310	\$ 6,000	\$ 10,000	December 10, 2002	December 15, 2007	December 10, 2032
MCT III	14,949	14,949	14,500	14,500	June 18, 2003	July 7, 2008	July 7, 2033
MCT IV	6,190	12,380	6,000	12,000	August 18, 2003	August 18, 2008	August 18, 2033
MCT V	10,310	10,310	10,000	10,000	September 25, 2003	October 8, 2008	October 8, 2033
MCT VI	10,310	10,310	10,000	10,000	October 21, 2004	January 7, 2010	January 7, 2035
MCT VII	5,155	5,155	5,000	5,000	August 18, 2005	September 15, 2010	September 15, 2035
MCT VIII		10,310		10,000	December 28, 2005	December 30, 2010	December 30, 2035
	\$ 53,100	\$ 73,724	\$ 51,500	\$ 71,500			

First Mariner issued junior subordinated deferrable interest debentures to seven statutory trust subsidiaries, Mariner Capital Trust (MCT) II, MCT III, MCT IV, MCT V, MCT VI, MCT VII, and MCT VIII (collectively, the Trusts). The Trusts are Delaware business trusts for which all the common securities are owned by First Mariner and which were formed for the purpose of issuing Trust Preferred Securities. In accordance with FASB guidance, we have deconsolidated the Trusts, and their financial position and results of operations are not included in our consolidated financial position and results of operations. The payment and redemption terms of the debentures and related Trust Preferred Securities are substantially identical.

In February, 2010, the Company executed an Exchange agreement (the Exchange) with its Chairman and Chief Executive Officer (CEO), Edwin F. Hale, Sr., who purchased, from an independent third party, trust preferred securities issued by Mariner Capital Trust II, Mariner Capital Trust

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IV, and Mariner Capital Trust VIII. The Exchange was approved by the Company's stockholders on March 19, 2010. On March 30, 2010, pursuant to the terms of the Exchange, the \$20.0 million of the trust preferred securities held by Mr. Hale were exchanged for 1,626,016 shares of common stock plus warrants to purchase 325,203 shares. Upon completion of the Exchange, the Company canceled the \$20.0 million in trust preferred securities and the \$1.380 million in accrued interest on the securities in exchange for the common stock and warrants, eliminating this long term debt. As the Exchange was a related party transaction, the resultant gain, net of taxes, was recorded as an addition to additional paid in capital in accordance with FASB guidance. See Note 12 for additional information regarding the Exchange agreement.

The interest expense (including amortization of the cost of issuance) on junior subordinated deferrable interest debentures relating to the Trusts was \$652,000 and \$873,000 for the three months ended March 31, 2010 and March 31, 2009, respectively. In 2009, we elected to defer interest payments on the debentures. This deferment is permitted by the terms of the debentures and does not constitute an event of default thereunder. Interest on the debentures and dividends on the related Trust Preferred Securities continue to accrue and will have to be paid in full prior to the expiration of the deferral period. The total deferral period may not exceed 20 consecutive quarters and expires with the last quarter of 2013.

The junior subordinated deferrable interest debentures are the sole assets of the Trusts. First Mariner has fully and unconditionally guaranteed all of the obligations of the Trusts.

(6) Regulatory Matters

Various regulatory capital requirements administered by the federal banking agencies apply to First Mariner and the Bank. Failure to meet minimum capital requirements can initiate certain mandatory, and possibly additional discretionary, actions by regulators that, if undertaken, could have a direct material effect on our financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, the Bank must meet specific capital guidelines that involve quantitative measures of assets, liabilities, and certain off-balance sheet items as calculated under regulatory accounting practices. The Bank's capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings, and other factors.

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Quantitative measures established by regulation to ensure capital adequacy require the Bank to maintain minimum amounts and ratios of Total and Tier 1 capital to risk-weighted assets, and of Tier 1 capital to average assets. As of March 31, 2010 and December 31, 2009, the Bank was adequately capitalized under the regulatory framework for prompt corrective action.

Our regulatory capital amounts and ratios as of March 31, 2010 and December 31, 2009 were as follows:

(dollars in thousands)	Actual		Minimum Requirements for Capital Adequacy Purposes		To be Well Capitalized Under Prompt Corrective Action Provision	
	Amount	Ratio	Amount	Ratio	Amount	Ratio
As of March 31, 2010						
Total capital (to risk-weighted assets):						
Consolidated	\$ 74,760	7.7%	\$ 78,007	8.0%	\$ 97,509	10.0%
Bank	89,337	9.2%	77,811	8.0%	97,263	10.0%
Tier 1 capital (to risk-weighted assets):						
Consolidated	37,380	3.8%	39,003	4.0%	58,505	6.0%
Bank	77,216	7.9%	38,905	4.0%	58,358	6.0%
Tier 1 capital (to average first quarter assets):						
Consolidated	37,380	2.7%	54,428	4.0%	68,035	5.0%
Bank	77,216	5.7%	53,747	4.0%	67,183	5.0%
As of December 31, 2009						
Total capital (to risk-weighted assets):						
Consolidated	\$ 37,124	3.6%	\$ 82,070	8.0%	\$ 102,588	10.0%
Bank	92,651	9.1%	81,778	8.0%	102,222	10.0%
Tier 1 capital (to risk-weighted assets):						
Consolidated	18,562	1.8%	41,035	4.0%	61,553	6.0%
Bank	80,946	7.9%	40,889	4.0%	61,333	6.0%
Tier 1 capital (to average fourth quarter assets):						
Consolidated	18,562	1.4%	52,703	4.0%	65,879	5.0%
Bank	80,946	6.2%	51,910	4.0%	64,888	5.0%

The Federal Deposit Insurance Corporation (FDIC), through the Deposit Insurance Fund (DIF), insures deposits of accountholders up to \$250,000. The Bank pays an annual premium to provide for this insurance. As part of the Emergency Economic Stabilization Act of 2008 and subsequent regulatory developments, this maximum was raised from \$100,000 to \$250,000 through December 31, 2013. Unless extended again, the maximum will revert back to the \$100,000 amount at December 31, 2013.

The Bank is a member of the Federal Home Loan Bank System and is required to maintain an investment in the stock of the FHLB based on specific percentages of outstanding mortgages, total assets, or FHLB advances. Purchases and sales of stock are made directly with the Bank at par value.

On September 18, 2009, the Bank entered into an Agreement with the FDIC and the Commissioner of Financial Regulation for the state of Maryland (the Commissioner), pursuant to which it consented to the entry of an Order to Cease and Desist (the September Order), which directs

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the Bank to (i) increase its capitalization, (ii) improve earnings, (iii) reduce nonperforming loans, (iv) strengthen management policies and practices, and (v) reduce reliance on noncore funding. The September Order replaces the informal agreement that was previously in place among the parties. The September Order requires the Bank to adopt a plan to achieve and maintain a Tier 1 Leverage Capital ratio of at least 6.5% of the Bank's average total assets and a Total Risk-Based Capital ratio of at least 10% of the Bank's Total Risk Weighted Assets by March 31, 2010 and a Tier 1 Leverage Capital ratio of at least 7.5% and a Total Risk-Based Capital ratio of at least 11% by June 30, 2010. At March 31, 2010, the Bank reported a Tier 1 Leverage Capital ratio of 5.7% and a Total Risk-Based Capital ratio of 9.2%, which were not in compliance with the September Order with respect to the capital ratios as of March 31, 2010. As more fully described under Note 12

Subsequent Events, we completed a \$10.908 million public stock offering on April 12, 2010. This capital is not included in the ratios as of March 31, 2010. On a pro forma basis when adjusting for the completion of the April 12, 2010 offerings and the subsequent additional investment in the Bank, the Bank's Tier 1 Leverage Capital ratio would have been 6.5% and its total Risk-Based Capital ratio would have been 10.3%, which met, as of the closing date, the requirements set by the September Order for March 31, 2010.

Within 30 days after the end of each calendar year, the Bank must submit an annual budget and profit plan and a plan that takes into account the Bank's pricing structure, the Bank's cost of funds and how this can be reduced, and the level of provision

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expense for adversely classified loans. To address reliance on noncore funding, the Bank must adopt and submit a liquidity plan intended to reduce the Bank's reliance on noncore funding, wholesale funding sources, and high-cost rate-sensitive deposits. While the September Order is in effect, the Bank may not pay dividends or management fees without the FDIC's prior consent, the Bank may not accept, renew, or roll over any brokered deposits or pay effective yields on deposits that are greater than those generally paid in its markets.

First Mariner Bancorp is also a party to agreements with the Federal Reserve Board (FRB) (the FRB Agreements), which, together, require it to: (i) develop and implement a strategic business plan that includes (a) actions that will be taken to improve our operating performance and reduce the level of parent company leverage, (b) a comprehensive budget and an expanded budget review process, (c) a description of the operating assumptions that form the basis for major projected income and expense components and provisions needed to maintain an adequate loan loss reserve, and (d) a capital plan incorporating all capital needs, risks, and regulatory guidelines; and (ii) submit plans to improve enterprise-wide risk management and effectiveness of internal audit programs. First Mariner Bancorp has also agreed to provide the FRB with advance notice of any significant capital transactions. The FRB Agreements also prohibit First Mariner and the Bank from taking any of the following actions without the FRB's prior written approval: (i) declaring or paying any dividends; (ii) taking dividends from the Bank; (iii) making any distributions of interest, principal or other sums on First Mariner's subordinated debentures or trust preferred securities; (iv) incurring, increasing or guaranteeing any debt; or (v) repurchasing, redeeming any shares of its stock. First Mariner has submitted a written plan to the FRB to maintain sufficient capital, on a consolidated basis, such that First Mariner satisfies the FRB's minimum capital requirements. To satisfy the FRB's minimum capital requirements, First Mariner's consolidated Tier 1 capital to average assets, Tier 1 capital to risk-weighted assets, and total capital to risk-weighted assets ratios at each quarter end must be at least 4.0%, 4.0%, and 8.0%, respectively. At March 31, 2010, those capital ratios were 2.7%, 3.8%, and 7.7%, respectively, which were not in compliance with the minimum requirements. The failure to meet these ratios could subject us to additional enforcement restrictions. As more fully described under Note 12 Subsequent Events, we completed a \$10.908 million public stock offering on April 12, 2010. This capital is not included in the ratios as of March 31, 2010. On a pro forma basis when adjusting for the completion of the April 12 offerings, the Tier 1 Leverage Capital ratio would have been 3.9%, the Tier 1 capital to risk-weighted assets would have been 5.5%, and the total Risk-Based Capital ratio would have been 10.3%.

On April 22, 2009, the Bank entered into an agreement (the April Agreement) with the FDIC relating to alleged violations of consumer protection regulations relative to its fair lending practices pursuant to which it consented to the issuance of an Order (April Order). The April Order requires the Bank to pay up to \$950,000 in restitution to the Affected Borrowers. It also imposes a civil money penalty of \$50,000, all amounts for which were fully reserved in the final quarter of 2008. In addition to requiring the Bank to cease and desist from violating certain federal fair lending laws, the April Order also requires the Bank to develop and implement policies and procedures to (i) monitor and ensure compliance with fair lending laws and disclosure laws and regulations, (ii) ensure that the costs, terms, features and risks of the loans and services are adequately disclosed to applicants, and (iii) develop an operating plan to maintain quality control, internal audit, and compliance management systems that are effective in ensuring that the Bank's residential mortgage lending activities comply with all applicable laws, regulations, and Bank policies. The Bank must also conduct or sponsor quarterly financial literacy and education courses where it provides residential mortgage loans. Further, the Bank is prohibited from offering payment-option adjustable rate mortgage loans, although the Bank ceased offering these loans in 2007.

Management does not believe that the April Order will have a material impact on the Bank's financial performance. Management believes the successful satisfaction of the September Order's requirements and the requirements of the FRB Agreements will strengthen the financial condition of the Bank and Company for future periods.

The foregoing will subject us to increased regulatory scrutiny and may have an adverse impact on our business operations. Failure to comply with the provisions of these regulatory requirements may result in more restrictive actions from our regulators, including more severe and restrictive enforcement actions.

(7) Earnings Per Share

Basic earnings per share is computed by dividing income available to common stockholders by the weighted-average number of common shares outstanding. Diluted earnings per share is computed after adjusting the denominator of the basic earnings per share computation for the effects of all dilutive potential common shares outstanding during the period. The dilutive effects of options, warrants, and their equivalents are computed using the treasury stock method. For the three-month periods ended March 31, 2010 and 2009, all options were antidilutive and excluded from the computations due to our realized net loss.

Information relating to the calculation of earnings per common share is summarized as follows for the three months ended March 31:

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(dollars in thousands, except for per share data)	2010	2009
Weighted-average share outstanding - basic	6,470,698	6,452,631
Dilutive securities - options and warrants		
Adjusted weighted-average shares outstanding - dilutive	6,470,698	6,452,631
Net loss from continuing operations	\$ (3,239)	\$ (3,552)
Net (loss) income from discontinued operations	(200)	451
Net loss	\$ (3,439)	\$ (3,101)
Basic:		
Net loss from continuing operations	\$ (0.50)	\$ (0.55)
Net (loss) income from discontinued operations	(0.03)	0.07
Net loss	\$ (0.53)	\$ (0.48)
Diluted:		
Net loss from continuing operations	\$ (0.50)	\$ (0.55)
Net (loss) income from discontinued operations	(0.03)	0.07
Net loss	\$ (0.53)	\$ (0.48)

(8) Comprehensive Loss

Comprehensive loss is defined as net loss plus transactions and other occurrences which are the result of nonowner changes in equity. Our nonowner equity changes are comprised of unrealized gains or losses on AFS securities that are accumulated with net loss in determining comprehensive loss. In 2009, nonowner equity changes also included interest rate swaps related to Mariner Finance borrowings, which were absent in the 2010 period due to the sale of Mariner Finance in December 2009.

Components of our comprehensive loss are as follows for the three months ended March 31:

(dollars in thousands)	2010	2009
Net loss	\$ (3,439)	\$ (3,101)
Other comprehensive income items:		
Cumulative effect of accounting change for certain investments (net of tax expense of \$0 and \$750, respectively)		1,148
Unrealized holding gains (losses) on securities arising during the period (net of tax expense (benefit) of \$330 and \$(1,153), respectively)	487	(1,771)
Unrealized holding losses on swaps arising during the period (net of tax benefit of \$0 and \$371, respectively)		(569)
Less: reclassification adjustment for losses on securities (net of tax benefit of \$49 and \$677, respectively) included in net loss	74	1,039
Total other comprehensive income (loss)	561	(153)
Total comprehensive loss	\$ (2,878)	\$ (3,254)

(9) Employee Benefit Plans

Profit Sharing Plan

We established a defined contribution plan in 1997, covering our employees meeting certain age and service eligibility requirements. The Plan provides for cash deferrals qualifying under Section 401(k). In December 31, 2008, we suspended the company-match contributions.

Stock Options and Warrants

We have stock option plans, which provide for the granting of options to acquire First Mariner common stock to our directors and key employees. Option exercise prices are equal to or greater than the fair market value of the common stock on the date of the grant.

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We account for stock options issued under our stockholder-approved Long-Term Incentive Plan (the "Plan") in accordance with FASB guidance on share-based payments. The plan permits the granting of share options and shares to our directors and key employees. We recognized stock based compensation cost of \$7,000 and \$12,000 for the three months ended March 31, 2010 and 2009, respectively.

During the first quarter of 2010, we issued warrants to purchase 325,203 shares of common stock in the Exchange transaction with Mr. Hale, the Company's Chairman and CEO. The warrants vested immediately upon issuance. See additional information on the transaction in Notes 5 and 12.

As of March 31, 2010, options and warrants to purchase 884,357 shares of common stock were fully vested and options to purchase 11,000 shares of common stock vest over a two-year period. All options expire 10 years after the date of grant. The warrants expire five years after date of issuance.

Information with respect to stock options and warrants is as follows for the three months ended March 31, 2010 and 2009:

	2010				2009		
	Number	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)	Number	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)
	of Shares	Price			of Shares	Price	
Outstanding at beginning of year	668,593	\$ 12.20			850,919	\$ 12.09	
Granted	325,203	1.23					
Forfeited/cancelled	(98,439)	11.81			(20,500)	12.54	
Outstanding at end of year	895,357	8.26	4.1	\$	830,419	12.08	4.5
Exercisable at end of year	884,357	8.29	4.1	\$	806,925	12.26	4.3

The weighted average fair value of the warrants issued for the three months ended March 31, 2010 was \$0.73. There were no options granted or warrants issued in 2009. The fair value of the warrants was calculated using the Black-Scholes-Merton option-pricing model with the following weighted average assumptions for the three months ended March 31:

	2010
Dividend yield	
Expected volatility	92.75%
Risk-free interest rate	2.60%
Expected lives	5 years

There were no options or warrants exercised during 2010 or 2009.

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Options and warrants outstanding are summarized as follows at March 31, 2010:

Exercise Price	Options and Warrants Outstanding (shares)	Weighted Average Remaining Contractual Life (in years)	Options and Warrants Exercisable (shares)
\$ 1.23(1)	325,203	5.0	325,203
4.00	1,200	0.8	1,200
4.15	12,100	8.1	12,100
5.41	2,754	7.8	2,754
5.50	72,750	0.8	72,750
5.70	34,500	8.0	23,500
6.25	3,000	0.2	3,000
6.45	400	1.2	400
7.10	2,500	1.1	2,500
7.40	250	1.5	250
9.16	850	1.7	850
9.86	1,350	2.5	1,350
10.45	94,000	1.8	94,000
10.70	650	2.0	650
11.68	128,000	2.8	128,000
11.95	600	2.8	600
12.03	2,500	2.1	2,500
13.00	700	3.0	700
13.33	7,800	7.1	7,800
13.52	3,000	3.1	3,000
16.67	4,800	5.1	4,800
16.70	1,800	5.6	1,800
16.95	2,300	3.6	2,300
17.45	21,250	5.7	21,250
17.77	135,850	4.8	135,850
18.20	4,950	4.1	4,950
18.38	21,400	3.8	21,400
18.94	2,350	6.6	2,350
19.30	6,550	6.1	6,550
	895,357		884,357

(1) Exercise price reduced to \$1.15 on April 12, 2010 in accordance with the Exchange agreement between the Company and its CEO, Edwin F. Hale, Sr. See Notes 5 and 12 for details of the Exchange transaction.

(10) Fair Value of Financial Instruments

We group financial assets and financial liabilities measured at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. These levels are:

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Level 1	Valuations for assets and liabilities traded in active exchange markets. Valuations are obtained from readily available pricing sources for market transactions involving identical assets or liabilities.
Level 2	Valuations for assets and liabilities traded in less active dealer or broker markets. Valuations are obtained from third party pricing services for identical or comparable assets or liabilities which use observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
Level 3	Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Table of Contents***Financial Instruments Measured on a Recurring Basis***

The following table presents fair value measurements for assets, liabilities, and off-balance sheet items that are measured at fair value on a recurring basis as of March 31, 2010:

(dollars in thousands)	Carrying Value	Quoted Prices (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Trading Gains and (Losses)	Total Changes In Fair Values Included In Period Earnings
Trading securities	\$ 10,223	\$	\$ 10,223	\$	\$ 35	\$ 35
Securities available for sale	27,382		26,080	1,302		(123)(1)
Long-term borrowings at fair value	35,780		35,780		812	812
Mortgage servicing rights	1,086			1,086		(90)
Interest rate lock commitments (notional amount of \$76,333)	77,022		77,022			643
Forward contracts to sell mortgage-backed securities (notional amount of \$64,500)	64,625		64,625			(1,017)
Warrants	237,398			237,398		

(1) Represents net other-than-temporary-impairment charges taken on certain Level 3 securities

Securities (trading and AFS)

The fair value of trading securities is based on bid quotations received from securities dealers or modeling utilizing estimated cash flows, depending on the circumstances of the individual security. The fair value of securities AFS is based on bid quotations received from securities dealers, bid prices received from an external pricing service, or modeling utilizing estimated cash flows, depending on the circumstances of the individual security.

During the three months ended March 31, 2010, we determined that, based on our most recent estimate of cash flows, other-than-temporary-impairment had occurred with respect to two of our pooled preferred securities. The amount of OTTI that is recognized through earnings is determined by comparing the present value of the expected cash flows to the amortized cost of the security. The discount rate used to determine the credit loss is the expected book yield on the security. The credit loss estimated under this method totaled \$123,000 and was charged to operating earnings during the three months ended March 31, 2010.

The tables later in this Note show details concerning assumptions used to determine credit- and noncredit-related losses and other details on the our pooled preferred securities.

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies, or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. As of March 31, 2010, \$1.302 million (\$10.938 million par value) of our securities AFS (four securities) were classified as Level 3, all of which are pooled trust preferred securities. The market environment has continued to be inactive for these security types and made fair value pricing more subjective. The amount of Level 3 securities will likely continue to be a function of market conditions and additional security transfers from Level 2 to Level 3 could result if further market inactivity occurs.

The following table details the four Level 3 securities:

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(dollars in thousands)	Class	Remaining Par Value	Current Rating/Outlook (1) Moody's	Fitch	Maturity	(2) Auction Call Date	(3) Index
ALESCO Preferred Funding VII	C-1	\$ 1,000	Ca	C	07/23/2035	MAR 2015	3ML + 1.5%
ALESCO Preferred Funding XI	C-1	4,938	Ca	C	12/23/2036	JUNE 2016	3ML + 1.2%
MM Community Funding	B	2,500	Ca	C	08/1/2031	N/A	6ML + 3.1%
MM Community Funding IX	B-1	2,500	Caa3	C	05/1/2033	N/A	3ML + 1.8%

(1) Ratings as of March 31, 2010

(2) Under the terms of the offering, if the notes have not been redeemed in full prior to the indicated call date then an auction of the Collateral Debt Securities will be conducted and the collateral will be sold and the notes redeemed. If the auction is not successful, the Collateral Manager will conduct auctions on a quarterly basis until the rated notes are redeemed in full.

(3) 3/6ML - 3 or 6 Month LIBOR. LIBOR (London Interbank Offered Rate) daily reference rate based on the interest rates at which banks offer to lend unsecured funds to other banks in the London wholesale money market or interbank market.

Classification of Level 3 indicates that significant valuation assumptions are not consistently observable in the market and, as such, fair values are derived using the best available data. We calculated fair value for these four securities by using a present value of future cash flows model, which incorporated assumptions as follows:

	Cumulative Default (1)	Key Model Assumptions Used In Pricing Deferrals Cured (2)	Credit MTM (3) (6)	Liquidity Premium (4)	Liquidity MTM Adj (5) (6)
ALESCO Preferred Funding VII	36.0%	1.3%	\$ 47.12	12.00%	\$ 36.51
ALESCO Preferred Funding XI	36.0%	4.1%	48.98	12.00%	41.63
MM Community Funding	55.0%	17.3%	57.06	12.00%	33.23
MM Community Funding IX	45.0%	11.6%	52.91	12.00%	43.44

(1) The anticipated level of total defaults from the issuers within the pool of performing collateral as of March 31, 2010. There are no recoveries assumed on any default.

(2) Deferrals that are cured occur 60 months after the initial deferral starts.

(3) The credit mark to market represents the discounted value of future cash flows after the assumption of current and future defaults discounted at the book rate of interest on the security.

(4) The risk of being unable to sell the instrument for cash at short notice without significant costs, usually indicative of the level of trading activity for a specific security or class of securities.

(5) The liquidity mark to market adjustment on the security represents the difference between the value of the discounted cash flows based on the book interest rate and the value discounted at the liquidity premium. The credit MTM less the liquidity MTM equals the estimated fair value

price of the security.

(6) Price per \$100

	Model Result (1)	Fair Value (in thousands)
ALESCO Preferred Funding VII	\$ 10.61	\$ 106
ALESCO Preferred Funding XI	7.35	363
MM Community Funding	23.83	596
MM Community Funding IX	9.47	237