

SANDY SPRING BANCORP INC

Form S-3

February 06, 2009

As filed with the Securities and Exchange Commission on February 6, 2009

Registration No. 333-

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

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

SANDY SPRING BANCORP, INC.  
(Exact name of registrant as specified in its charter)

Maryland	52-1532952
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

17801 Georgia Avenue  
Olney, MD 20832  
(301) 774-6400  
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Ronald E. Kuykendall  
General Counsel  
Sandy Spring Bancorp, Inc.  
17801 Georgia Avenue  
Olney, MD 20832  
(301) 774-6400  
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copy to:  
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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

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, other than securities offered only in connection with dividend or interest

reinvestment plans, check the following box. ☒ [X]

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

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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 registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐ [ ]

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐ [ ]

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 ☒ [X]

Non-accelerated filer ☐ [ ] Smaller reporting company ☐ [ ]

CALCULATION OF REGISTRATION FEE

Title of Shares to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Fixed Rate Cumulative Perpetual Preferred, Series A, par value \$1.00 per share	83,094	\$1,000(1)	\$83,094,000(1)	
Warrant to Purchase Common Stock, \$1.00 par value per share, and underlying shares of Common Stock (2)	651,547(2)	\$19.13(3)	\$12,464,094(3)	
Total:			\$95,558,094	\$3,755

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

(2) There are being registered hereunder (a) a warrant for the purchase of 651,547 shares of common stock with an initial per share exercise price of \$19.13 per share, (b) the 651,547 shares of common stock issuable upon exercise of such warrant and (c) such additional number of shares of common stock, of a currently indeterminable amount, as may from time to time become issuable by reason of stock splits, stock dividends and certain anti-dilution provisions set forth in such warrant, which shares of common stock are registered hereunder pursuant to Rule 416.

(3) Calculated in accordance with Rule 457(i) with respect to the per share exercise price of the warrant of \$19.13.

The Company hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Company 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), shall determine.



The information in this prospectus is not complete and may be changed. The selling securityholders named in this prospectus may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and neither we nor the selling securityholders are soliciting offers to buy the common stock in any jurisdiction where the offer, solicitation or sale is not permitted.

Subject to completion, dated February 6, 2009

PROSPECTUS

SANDY SPRING BANCORP, INC.

83,094 SHARES OF FIXED RATE CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES A  
WARRANT TO PURCHASE 651,547 SHARES OF COMMON STOCK  
651,547 SHARES OF COMMON STOCK

This prospectus relates to the offer and resale by the selling securityholders identified in this prospectus of up to 83,094 shares of our Fixed Rate Cumulative Perpetual Preferred Stock, Series A, par value \$1.00 and liquidation preference \$1,000 per share (the “Series A preferred stock”), a warrant to purchase 651,547 shares of our common stock, and any shares of our common stock issuable upon exercise of the warrant. The warrant is exercisable at \$19.13 per share at any time on or before December 5, 2018. The Series A preferred stock and the warrant were originally issued by us pursuant to the Letter Agreement dated December 5, 2008, and the related Securities Purchase Agreement – Standard Terms, between us and the United States Department of the Treasury, which we refer to as the initial selling securityholder, in a transaction exempt from the registration requirements of the Securities Act of 1933, as amended.

The initial selling securityholder and its transferees or assignees, which we refer to as the selling securityholders, may offer the securities offered by this prospectus from time to time through public or private transactions at prevailing market prices, at prices related to prevailing market prices or at privately negotiated prices.

Although we will incur expenses in connection with the registration of the securities, we will not receive any proceeds from the sale of securities by the selling securityholders. We will receive gross proceeds of up to \$12.5 million from the exercise of the warrant, if and when it is exercised, if the exercise price is paid in cash instead of via “net exercise.”

The Series A preferred stock is not listed on any exchange or quoted in any interdealer quotation system, and, unless requested by the initial selling securityholder, we do not intend to list the Series A preferred stock on an exchange.

Our common stock is traded on the NASDAQ Global Select Market under the symbol “SASR.” On January \_\_, 2008, the closing sale price of the common stock on NASDAQ Global Select Market was \$\_\_\_\_\_ per share. You are urged to obtain current market quotations for the common stock.

Investing in the securities offered under this prospectus involves a high degree of risk. See “Risk Factors” beginning on page \_\_\_\_ of this prospectus.

These securities are not deposits or obligations of a bank or savings association and are not insured or guaranteed by the Federal Deposit Insurance Corporation or any other governmental agency.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is \_\_\_\_\_, 2009

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You should rely only on the information contained or incorporated by reference in this prospectus. Neither we nor the selling securityholders have authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. The selling securityholders are not making an offer to sell these securities in any jurisdiction where the offer or sale of these securities is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus and that any information we have incorporated by reference is accurate only as of the date of the document incorporated by reference, regardless of the time of the delivery of this prospectus or any sale of these securities. Our business, financial condition, results of operation and prospects may have changed since these dates.

All references in this prospectus to “Sandy Spring Bancorp,” “we,” “us,” and “our,” refer to Sandy Spring Bancorp, Inc. and its subsidiaries on a consolidated basis, unless the context otherwise requires.





SANDY SPRING BANCORP, INC.

Sandy Spring Bancorp, Inc. is the one-bank holding company for Sandy Spring Bank. We are registered as a bank holding company pursuant to the Bank Holding Company Act of 1956, as amended. As such, we are subject to supervision and regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Sandy Spring Bancorp began operating in 1988. Sandy Spring Bank was founded in 1868, and is the oldest banking business based in Montgomery County, Maryland. Sandy Spring Bank is independent, community oriented, and conducts a full-service commercial banking business through 42 community offices located in Anne Arundel, Carroll, Frederick, Howard, Montgomery and Prince George's counties in Maryland, and Fairfax and Loudoun counties in Virginia. Sandy Spring Bank is a state chartered bank subject to supervision and regulation by the Federal Reserve and the state of Maryland. Sandy Spring Bank's deposit accounts are insured by the Deposit Insurance Fund administered by the Federal Deposit Insurance Corporation (the "FDIC") to the maximum permitted by law. Sandy Spring Bank is a member of the Federal Reserve System and is an Equal Housing Lender. We are an Affirmative Action/Equal Opportunity Employer.

As of September 30, 2008, Sandy Spring Bancorp had consolidated assets of \$3,195 million, consolidated deposits of \$2,249 million and consolidated stockholders' equity of \$320 million. Shares of our common stock are traded on the NASDAQ Global Select Market under the trading symbol "SASR."

Our executive offices are located at 17801 Georgia Avenue, Olney, Maryland 21202, and our telephone number at these offices is (301) 774-6400. Our Internet address is [www.sandyspringbank.com](http://www.sandyspringbank.com). The information on our Web site is not incorporated by reference in this prospectus.

RISK FACTORS

An investment in our securities involves significant risks. You should carefully consider the risks and uncertainties and the risk factors set forth in the documents and reports filed with the SEC that are incorporated by reference into this prospectus, as well as any risks described in any applicable prospectus supplement, before you make an investment decision regarding the securities. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations.

SPECIAL NOTE REGARDING FORWARD-LOOKING INFORMATION

This prospectus, as well as other written communications made from time to time by us and oral communications made from time to time by our authorized officers, may contain statements relating to our future results (including certain projections and business trends) that are considered "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995 (the "PSLRA"). Such forward-looking statements may be identified by the use of such words as "believe," "expect," "anticipate," "should," "planned," "estimated," "intend" and "potential." Examples of forward-looking statements include, but are not limited to, possible or assumed estimates with respect to the financial condition, expected or anticipated revenue, and results of our operations and business, including earnings growth determined using GAAP; revenue growth in retail banking, lending and other areas; origination volume in our consumer, commercial and other lending businesses; asset quality and levels of non-performing assets; impairment charges with respect to investment securities; current and future capital management programs; non-interest income levels, including fees from services and product sales; tangible capital generation; market share; expense levels; and other business operations and strategies. For these statements, we claim the protection of the safe harbor for forward-looking statements contained in the PSLRA.

We caution you that a number of important factors could cause actual results to differ materially from those currently anticipated in any forward-looking statement. Such factors include, but are not limited to:

- the factors identified in this document under the headings “Special Note Regarding Forward-Looking Statements” and “Risk Factors;”
- prevailing economic conditions, either nationally or locally in some or all areas in which we conduct business, or conditions in the banking industry;

- changes in interest rates, deposit flows, loan demand, real estate values and competition, which can materially affect, among other things, consumer banking revenues, revenues from sales on non-deposit investment products, origination levels in our lending businesses and the level of defaults, losses and prepayments on loans we have made and make, whether held in portfolio or sold in the secondary markets;
  - changes in the quality or composition of the loan or investment portfolios;
    - factors driving impairment charges on investments;
- our ability to successfully integrate any assets, liabilities, customers, systems and management personnel we may acquire into our operations and our ability to realize related revenue synergies and cost savings within expected time frames;
- our timely development of new and competitive products or services in a changing environment, and the acceptance of such products or services by customers;
- operational issues and/or capital spending necessitated by the potential need to adapt to industry changes in information technology systems, on which we are highly dependent;
  - changes in accounting principles, policies, and guidelines;
  - changes in any applicable law, rule, regulation or practice with respect to tax or legal issues;
  - risks and uncertainties related to mergers and related integration and restructuring activities;
- litigation liabilities, including related costs, expenses, settlements and judgments, or the outcome of other matters before regulatory agencies, whether pending or commencing in the future; and
- other economic, competitive, governmental, regulatory and technological factors affecting our operations, pricing, products and services.

Additionally, the timing and occurrence or non-occurrence of events may be subject to circumstances beyond our control. Readers are cautioned not to place undue reliance on these forward-looking statements which are made as of the date of this prospectus. Except as may be required by applicable law or regulation, we assume no obligation to update the forward-looking statements or to update the reasons why actual results could differ from those projected in the forward-looking statements.

#### USE OF PROCEEDS

We will not receive any proceeds from the sale of securities by the selling securityholders. We will receive gross proceeds of \$12,464,094 from the exercise of the warrant, if and when it is exercised, assuming that the exercise price of the warrant is paid in cash and not via the “net exercise” method. If received, we expect to use these proceeds for general corporate purposes.

The selling securityholders will pay any underwriting discounts and commissions and expenses incurred by the selling securityholders for brokerage, accounting, tax or legal services or any other expenses incurred by the selling securityholders in disposing of the securities. We will bear all other costs, fees and expenses incurred in effecting the registration of the shares covered by this prospectus, including, without limitation, all registration and filing fees, NASDAQ listing fees and fees and expenses of our counsel and our accountants.



### RATIOS OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

The historical consolidated ratios of earnings to combined fixed charges and preferred stock dividends for the periods indicated is as follows:

	Nine Months Ended September 30,	Year Ended December 31,				
	2008	2007	2006	2005	2004	2003
Excluding Interest on Deposits	2.84	3.50	3.19	4.27	1.55	2.67
Including Interest on Deposits	1.56	1.58	1.76	2.28	1.35	2.08

For the purpose of computing the consolidated ratio of earnings to fixed charges, “earnings” consist of income before income taxes and extraordinary items plus fixed charges, excluding capitalized interest. “Fixed charges” consist of interest on short-term and long-term debt, including interest related to capitalized leases and capitalized interest, and one-third of rent expense (net of rental income), which approximates the interest component of that net expense. We did not pay any preferred stock dividends during any of the periods presented. In addition, where indicated, fixed charges include interest on deposits. The ratios are based solely on historical financial information, and no pro forma adjustments have been made thereto.

### SELLING SECURITYHOLDERS

The initial selling securityholder is the United States Department of the Treasury. We issued 83,094 shares of our Series A preferred stock and a warrant to purchase 651,547 shares of our common stock to the initial selling securityholder on December 5, 2008 in a transaction exempt from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”). In connection with that transaction, we granted registration rights to the initial selling securityholder and its transferees or assigns with respect to the resale or other disposal of the Series A preferred stock, the warrant and the common stock that may be issued pursuant to the exercise of the warrant.

In accordance with the registration rights granted to the selling securityholders, we have filed with the Securities and Exchange Commission (referred to in this prospectus as the “SEC”) a registration statement on Form S-3, of which this prospectus forms a part, with respect to the resale or other disposal of the securities covered by this prospectus. We have agreed to prepare and file amendments and supplements to the registration statement to the extent necessary to keep the registration statement effective until the securities are sold pursuant to this prospectus or are no longer required to be registered for resale by the selling securityholders.

The following table presents information regarding the beneficial ownership of our outstanding securities by the initial selling securityholder, including shares of common stock that the initial selling securityholder has the right to acquire within 60 days of the date of this prospectus upon exercise of the warrant. The information in the table assumes that the initial selling securityholder sells all of the securities covered by this prospectus. However, we do not know when or in what amounts the selling securityholders may offer the securities for sale. The selling securityholders might not sell any or all of the securities offered by this prospectus. Information about the selling securityholders may change over time and changed information will be set forth in supplements to this prospectus if and when necessary.

Class of Security	Shares Beneficially Owned		Number of Shares That May Be Sold in this Offering	Shares Beneficially Owned Following this Offering	
	Number	Percent		Number	Percent
Fixed Rate Cumulative Perpetual Preferred Stock, Series A	83,094	100%	83,094	0	0%
Common stock	651,547	3.8%	651,547	0	0%

#### PLAN OF DISTRIBUTION

The securities covered by this prospectus may be offered and sold from time to time by the initial selling securityholder and its transferees and assignees who hold Series A preferred stock with a liquidation preference, or the warrant or common stock with a market value, of no less than \$1,662,000. The selling securityholders will act independently of us in making decisions with respect to the timing, manner and size of each sale. Such sales may be made on one or more exchanges or in the over-the-counter market or otherwise, at prices and under terms then prevailing or at prices related to the then current market price or in negotiated transactions. The selling securityholders may sell their securities by one or more of, or a combination of, the following methods:

purchases by a broker-dealer as principal and resale by such broker-dealer for its own account pursuant to this prospectus;

- ordinary brokerage transactions and transactions in which the broker solicits purchasers;

block trades in which the broker-dealer so engaged will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;

- an over-the-counter distribution in accordance with the rules of the NASDAQ Global Select Market;
- in privately negotiated transactions; and
- in options transactions.

In addition, any shares that qualify for sale pursuant to Rule 144 may be sold under Rule 144 rather than pursuant to this prospectus.

The selling securityholders may transfer or assign its Series A preferred stock, the warrant or common stock, in which case the transferees or assignees will be the selling beneficial owners for purposes of this prospectus.

In connection with distributions of the securities or otherwise, the selling securityholders may enter into hedging transactions with broker-dealers or other financial institutions. In connection with such transactions, broker-dealers or other financial institutions may engage in short sales of our common stock in the course of hedging the positions they assume with selling securityholders. The selling securityholders may also sell the common stock short and redeliver the shares to close out such short positions. The selling securityholders may also enter into option or other transactions with broker-dealers or other financial institutions which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may

resell pursuant to this prospectus (as supplemented or amended to reflect such transaction). The selling securityholders may also pledge securities to a broker-dealer or other financial institution, and, upon a default, such broker-dealer or other financial institution may effect sales of the pledged securities pursuant to this prospectus (as supplemented or amended to reflect such transaction).

In effecting sales, broker-dealers or agents engaged by the selling securityholders may arrange for other broker-dealers to participate. Broker-dealers or agents may receive commissions, discounts or concessions from the selling securityholders in amounts to be negotiated immediately prior to the sale.

The aggregate proceeds to the selling securityholders from the sale of the securities will be the purchase price of the securities less discounts and commissions, if any.

In offering the securities covered by this prospectus, the selling securityholders and any broker-dealers who execute sales for the selling securityholders may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. Any profits realized by the selling securityholders and the compensation of any broker-dealer may be deemed to be underwriting discounts and commissions. Selling securityholders who are “underwriters” within the meaning of Section 2(a)(11) of the Securities Act will be subject to the prospectus delivery requirements of the Securities Act and may be subject to certain statutory and regulatory liabilities, including liabilities imposed pursuant to Sections 11, 12 and 17 of the Securities Act and Rule 10b-5 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

In order to comply with the securities laws of some states, if applicable, the securities must be sold in such jurisdictions only through registered or licensed brokers or dealers. In addition, the securities may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

The anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of shares in the market and to the activities of the selling securityholders. In addition, we will make copies of this prospectus available to the selling securityholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling securityholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

At the time a particular offer of shares is made, if required, a prospectus supplement will be distributed that will set forth the number of shares being offered and the terms of the offering, including the name of any underwriter, dealer or agent, the purchase price paid by any underwriter, any discount, commission and other item constituting compensation, any discount, commission or concession allowed or reallocated or paid to any dealer, and the proposed selling price to the public.

We do not intend to apply for listing of the Series A preferred stock on any securities exchange or for inclusion of the Series A preferred stock in any automated quotation system unless requested by the initial selling securityholder. No assurance can be given as to the liquidity of the trading market, if any, for the Series A preferred stock.

We have agreed to indemnify the selling securityholders against certain liabilities, including certain liabilities under the Securities Act. We have also agreed, among other things, to bear substantially all expenses (other than underwriting discounts and selling commissions) in connection with the registration and sale of the securities covered by this prospectus.

#### SECURITIES TO BE REGISTERED

This prospectus covers 83,094 shares of Series A preferred stock, a warrant to purchase 651,547 shares of our common stock, and 651,547 shares of our common stock. Our authorized capital stock consists of 50,000,000 shares of capital stock, par value \$1.00 per share. As of December 31, 2008, we had 16,398,523 shares of common stock and 83,094 shares of Series A preferred stock outstanding. The following is a summary of the securities included in this prospectus. For more detailed information, see our articles of incorporation, articles supplementary for the Series A preferred stock, bylaws and warrant to purchase common stock, copies of which have been filed with the SEC and are also available upon request from us.

#### DESCRIPTION OF SERIES A PREFERRED STOCK



The following is a brief description of the terms of the Series A preferred stock that may be resold by the selling securityholders. This summary does not purport to be complete in all respects. This description is subject to and qualified in its entirety by reference to our articles of incorporation, as amended, including the articles supplementary with respect to the Series A preferred stock.

## Dividends

Holders of the Series A preferred stock are entitled to receive, if, as and when declared by our board of directors out of assets legally available for payment, cumulative cash dividends at a rate of 5% per annum on the liquidation preference per share, accruing from the beginning of the relevant dividend period. Accrued and unpaid dividends compound quarterly. Beginning February 15, 2014, the dividend rate will increase to 9% per annum.

Dividends are paid quarterly in arrears on each February 15, May 15, August 15 and November 15, beginning on February 15, 2009. If any dividend payment date is not a business day, then the next business day will be the applicable dividend payment date, and no additional dividends will accrue as a result of the applicable postponement of the dividend payment date. Dividend record dates are the 15th calendar day immediately preceding the applicable dividend payment date or such other date designated by our board of directors not more than 60 nor less than 10 days before such dividend payment date. Dividends payable on the Series A preferred stock will be computed on the basis of a 360-day year consisting of twelve 30-day months.

If we determine not to pay any dividend or a full dividend with respect to the Series A preferred stock, we are required to provide written notice to the holders of shares of Series A preferred stock prior to the applicable dividend payment date.

Holders of the Series A preferred stock will not be entitled to any participate in any dividends, whether payable in cash, property or shares, paid on any other securities issued by us, including our common stock and other junior stock.

## Payment Restrictions

So long as any shares of Series A preferred stock remain outstanding, no dividends or distributions will be declared or paid on our common stock or any class or series of our equity securities ranking junior, as to dividends and upon liquidation, to the Series A preferred stock ("junior stock") (other than dividends payable solely in shares of our common stock) or on any other class or series of our equity securities ranking, as to dividends and upon liquidation, on a parity with the Series A preferred stock ("parity stock"), and no common stock, junior stock or parity stock may be repurchased or redeemed by us unless all accrued and unpaid dividends for past dividend periods, including the latest completed dividend period, have been paid or have been declared and a sufficient sum has been set aside for the benefit of the holders of the Series A preferred stock. The foregoing limitation does not apply to: