

STERLING BANCORP

Form S-3

January 24, 2011

As filed with the Securities and Exchange Commission on January 24, 2011

Registration No. 333-\_\_\_\_\_

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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM S-3

REGISTRATION STATEMENT UNDER THE

SECURITIES ACT OF 1933

STERLING BANCORP

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

**New York**

*(State or other jurisdiction of  
incorporation or organization)*

**650 Fifth Avenue**

**New York, New York 10019-6108**

**(212) 757-3300**

*(Address, including zip code, and telephone number,*

*including area code, of registrants' principal executive offices)*

**John W. Tietjen**

**Executive Vice President and Chief Financial Officer**

**Sterling Bancorp**

**650 Fifth Avenue**

**New York, New York 10019-6108**

**(212) 757-3300**

**13-2565216**

*(IRS Employer  
Identification No.)*

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*(Name, address, including zip code, and telephone number,*

*including area code, of agent for service)*

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*Copy to:*

**Andrew D. Sousloff, Esq.**

**Sullivan & Cromwell LLP**

**125 Broad Street**

**New York, New York 10004**

**(212) 558-4000**

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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.

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.

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       Non-accelerated filer       Smaller reporting company   
 (Do not check if a smaller reporting company)

### CALCULATION OF REGISTRATION FEE

Titles in Each Class of Securities to be Registered	Amount to be Registered (1)(2)(3)	Proposed Maximum Offering Price per Security (1)	Proposed Maximum Aggregate Offering Price (1)(2)(3)	Amount of Registration Fee (4)
Common Shares, par value \$1.00 per share				
Preferred Shares, par value \$5.00 per share				
Warrants to Purchase Common Shares or Preferred Shares				
<b>Total:</b>	\$ 100,000,000		\$ 100,000,000	\$ 11,610

(1) Not specified as to each class of securities to be registered pursuant to General Instruction II.D of Form S-3 under the Securities Act of 1933, as amended (the "Securities Act").

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- (2) The Registrant is hereby registering an indeterminate principal amount and number of each identified class of its securities up to a proposed maximum aggregate offering price of \$100,000,000, which may be offered from time to time in unspecified numbers at unspecified prices. The Registrant has estimated the proposed maximum aggregate offering price solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act. Securities registered hereunder may be sold separately, together or as units with other securities registered hereunder.

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- (3) The Registrant is hereby registering such indeterminate amount and number of each identified class of the identified securities as may be issued upon conversion, exchange, or exercise of any other securities that provide for such conversion, exchange or exercise.
- (4) Calculated pursuant to Rule 457(o) under the Securities Act. \$1,729.80 of this amount has been previously paid in connection with Sterling Bancorp's filing on Form S-3 (File No. 333-158115) filed with the Commission on March 19, 2009 and will be offset from the amount of the current registration fee, resulting in an amount due and payable of \$9,880.20 in connection with this filing.

**Pursuant to Rule 429 under the Securities Act of 1933, as amended (the "Securities Act"), the prospectus contained in this Registration Statement will be used as a combined prospectus in connection with this Registration Statement and Registration Statement No. 333- 158115 which was filed on March 19, 2009 and became effective on April 13, 2009 (the "Prior Registration Statement") under which \$31,000,000 in aggregate principal amount of securities remain unsold. This Registration Statement is a new registration statement and also constitutes Post-Effective Amendment No. 1 to the Prior Registration Statement. Such Post-Effective Amendment will become effective concurrently with the effectiveness of this Registration Statement in accordance with Section 8(c) of the Securities Act.**

**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 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

The information in this prospectus is not complete and may be changed or supplemented. The securities described in this prospectus cannot be sold until the registration statement that we have filed to cover the securities has become effective under the rules of the Securities and Exchange Commission. This prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities in any state where such offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JANUARY 24, 2011

## PROSPECTUS

### STERLING BANCORP

#### Common Shares

#### Preferred Shares

#### Warrants

Sterling Bancorp (“Sterling Bancorp” or the “Company”) may offer, issue and sell from time to time, together or separately, (i) our common shares, (ii) our preferred shares, which we may issue in one or more series, and (iii) warrants to purchase our common shares or preferred shares, up to a maximum aggregate offering price of \$100,000,000.

We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and the accompanying prospectus supplement carefully before you make your investment decision. Our common shares are listed on the New York Stock Exchange and trade on the exchange under the symbol “STL.” Each prospectus supplement will indicate if the securities offered thereby will be listed on any securities exchange.

**This prospectus may not be used to sell securities unless accompanied by a prospectus supplement or a free writing prospectus.**

We may offer securities through underwriting syndicates managed or co-managed by one or more underwriters, or directly to purchasers. The prospectus supplement for each offering of securities will describe in detail the plan of distribution for that offering. For general information about the distribution of securities offered, please see “Plan of Distribution” in this prospectus.

**Investing in our securities involves risks. You should carefully consider the risk factors referred to on page 7 of this prospectus and set forth in the documents incorporated by reference herein before making any decision to invest in our securities.**

**None of the Securities and Exchange Commission (the “SEC”), the Federal Deposit Insurance Corporation (the “FDIC”), the Board of Governors of the Federal Reserve System (the “Federal Reserve Board”) or any state securities commission or any other federal or state bank regulatory agency 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.**

**The Securities offered by this prospectus are not savings accounts, deposits or other obligations of any bank and are not insured or guaranteed by the FDIC, the Bank Insurance Fund or any other government agency.**

The date of this prospectus is \_\_\_\_\_, 2011.

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**ABOUT THIS PROSPECTUS**

This prospectus is a part of a registration statement that we filed with the SEC utilizing a “shelf” registration process. Under this shelf registration process, we may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings.

The registration statement containing this prospectus, including the exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus. The registration statement, including the exhibits and the documents incorporated herein by reference, can be read on the SEC website or at the SEC offices mentioned under the heading “Where You Can Find More Information.”

We may provide a prospectus supplement containing specific information about the terms of a particular offering by us. The prospectus supplement may add, update or change information in this prospectus. If the information in the prospectus is inconsistent with a prospectus supplement, you should rely on the information in that prospectus supplement. You should read both this prospectus and, if applicable, any prospectus supplement. See “Where You Can Find More Information” for more information.

We have not authorized any dealer, salesman or other person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus or any prospectus supplement. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus or any prospectus supplement. This prospectus and any prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor do this prospectus and any prospectus supplement constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus or any prospectus supplement is accurate on any date subsequent to the date set forth on the front of such document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus and any prospectus supplement is delivered or securities are sold on a later date.

Unless otherwise stated or the context otherwise requires, all references to “Sterling Bancorp,” “the Company,” “we,” “our,” “us” and similar terms refer to Sterling Bancorp and its consolidated subsidiaries, except that such terms refer to only Sterling Bancorp and not its consolidated subsidiaries in the sections entitled “Description of Common Shares,” “Description of Preferred Shares” and “Description of Warrants.”

Unless otherwise indicated, currency amounts in this prospectus and in any applicable prospectus supplement are stated in U.S. dollars.

**ABOUT STERLING BANCORP**

Sterling Bancorp is a bank holding company and a financial holding company as defined by the Bank Holding Company Act of 1956, which was organized in 1966. Sterling Bancorp and its subsidiaries derive substantially all of their revenue and income from providing banking and related financial services and products to customers primarily in New York, New Jersey and Connecticut (the “New York metropolitan area”). Sterling Bancorp has operations in the New York metropolitan area and conducts business throughout the United States.

Sterling Bancorp owns, directly or indirectly, all of the outstanding shares of Sterling National Bank (the “bank”), its principal subsidiary, and all of the outstanding common shares of Sterling Banking Corporation and Sterling Bancorp Trust I. Sterling National Mortgage Company, Inc., Sterling Factors Corporation, Sterling Trade Services, Inc., Sterling Resource Funding Corp. and Sterling Real Estate Holding Company, Inc. are wholly-owned subsidiaries of the bank. Sterling Trade Services, Inc. owns all of the outstanding common shares of Sterling National Asia Limited, Hong Kong.

Our principal executive offices are located at 650 Fifth Avenue, New York, New York 10019-6108, and our telephone number is 212-757-3300.



## FORWARD-LOOKING STATEMENTS

Certain statements contained or incorporated by reference in this prospectus, including but not limited to, statements concerning future results of operations or financial position, borrowing capacity and future liquidity, future investment results, future credit exposure, future loan losses and plans and objectives for future operations, the economic environment, asset quality and future levels of nonaccrual loans, charge-offs, and/or provisions for loan losses, the Company's position for future growth and ability to benefit from an economic recovery, and other statements regarding matters that are not historical facts, are "forward-looking statements" as defined in the Securities Exchange Act of 1934. These statements are not historical facts but instead are subject to numerous assumptions, risks and uncertainties, and represent only our belief regarding future events, many of which, by their nature, are inherently uncertain and outside our control. Any forward-looking statements we may make speak only as of the date on which such statements are made. Our actual results and financial position may differ materially from the anticipated results and financial condition indicated in or implied by these forward-looking statements and we make no commitment to update or revise forward-looking statements in order to reflect new information, subsequent events or changes in expectations after this date.

Factors that could cause our actual results to differ materially from those in the forward-looking statements include, but are not limited to, the following: inflation, interest rates, market and monetary fluctuations; geopolitical developments including acts of war and terrorism and their impact on economic conditions; the effects of, and changes in, trade, monetary and fiscal policies and laws, including interest rate policies of the Federal Reserve Board and laws and regulations concerning taxes, banking and securities with which the Company must comply; changes, particularly declines, in general economic conditions and in the local economies in which the Company operates; the financial condition of the Company's borrowers; competitive pressures on loan and deposit pricing and demand; changes in technology and their impact on the marketing of new products and services and the acceptance of these products and services by new and existing customers; the willingness of customers to substitute competitors' products and services for the Company's products and services; the impact of changes in financial services laws and regulations (including laws concerning taxes, banking, securities and insurance); changes in accounting principles, policies and guidelines; the risks and uncertainties described in "Risk Factors" below; other risks and uncertainties described from time to time in press releases and other public filings; and the Company's performance in managing the risks involved in any of the foregoing. The foregoing list of important factors is not exclusive, and we will not update any forward-looking statement, whether written or oral, that may be made from time to time. You should not put undue reliance on any forward-looking statements.

## 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.

## WHERE YOU CAN FIND MORE INFORMATION

We are subject to the information reporting requirements of the Securities Exchange Act of 1934. Accordingly, we file annual, quarterly and current reports, proxy statements and other information with the SEC and filed a registration statement on Form S-3 under the Securities Act of 1933 (the "Securities Act") relating to the securities offered by this prospectus. This prospectus, which forms part of the registration statement, does not contain all of the information included in the registration statement. For further information, you should refer to the registration statement and its exhibits.

You may read and copy the registration statement and any document we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the Public Reference Room. You can also review our filings by accessing the website maintained by the SEC at <http://www.sec.gov>. The site contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. In addition, to the foregoing, we maintain a website at <http://www.sterlingbancorp.com>. Our website content is made available for informational purposes only. It should neither be relied upon for investment purposes nor is it incorporated by reference into this prospectus. We make available on our internet website copies of our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and any amendments to such document as soon as practicable after we electronically file such material with or furnish such documents to the SEC.

## INCORPORATION BY REFERENCE

The SEC allows us to “incorporate by reference” information that we file with the SEC into this prospectus, which means we can disclose important information to you by referring you to another document. The information incorporated by reference is considered to be part of this prospectus from the date on which we file that document. Any reports filed by us with the SEC after the date of this prospectus and before the termination of the offering of the securities by means of this prospectus will automatically update and, where applicable, supersede information contained in this prospectus or incorporated by reference into this prospectus. We incorporate by reference the following documents (other than information “furnished” and not “filed”):

- our Annual Report on Form 10-K for the year ended December 31, 2009;
- our Quarterly Reports on Form 10-Q for the periods ending March 31, 2010, June 30, 2010, and September 30, 2010;
- our Current Reports on Form 8-K, filed on February 3, 2010, February 22, 2010, March 19, 2010, April 29, 2010, May 7, 2010, May 12, 2010, July 28, 2010, August 9, 2010, November 4, 2010, and November 5, 2010 (as amended by Amendment No. 1 filed December 22, 2010);
- the description of our common shares contained in our Registration Statement filed with the SEC pursuant to Section 12 of the Securities Exchange Act of 1934, including any amendment or report filed for the purpose of updating such description; and
- any documents we file with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of this prospectus and before the termination of the offering of the securities offered hereby.

You may request a copy of these filings, at no cost, by writing or calling us at the following address:

Sterling Bancorp

650 Fifth Avenue

New York, New York 10019-6108

Attn: Investor Relations

(212) 757-3300

## USE OF PROCEEDS

Unless otherwise set forth in a prospectus supplement, we intend to use the net proceeds from the sale of the securities for general corporate purposes. We may temporarily invest funds that we do not immediately need for these purposes in short-term marketable securities or use them to make payments on our borrowings. We may set forth additional information on the use of proceeds from the sale of securities offered by this prospectus in the applicable prospectus supplement.

## RATIOS OF EARNINGS TO FIXED CHARGES AND PREFERRED SHARE DIVIDENDS

The following table sets forth our consolidated ratios of earnings to combined fixed charges and preferred share dividends for the periods shown. For purposes of computing the ratios, earnings represent the sum of income from continuing operations before taxes plus fixed charges and preferred share dividend requirements. Fixed charges represent total interest expense, including and excluding interest on deposits. Preferred share dividend requirements represent the amount of pre-tax income required to pay the dividends on preferred shares. Before we issued the Fixed Rate Cumulative Perpetual Preferred Shares, Series A, par value \$5.00 per share (the “Series A Preferred Shares”), on December 23, 2008, we had had no preferred shares outstanding since February 2004 and had not paid any dividends on preferred shares since 2003. Therefore, the ratio of earnings to combined fixed charges and preferred share dividends is (i) identical to the ratio of earnings to fixed charges for the periods from 2005 to 2007 set forth below, and (ii) substantially the same as the ratio of earnings to fixed charges for the year ended December 31, 2008.

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	Nine Months Ended	Year Ended December 31,				
	September 30, 2010	2009	2008	2007	2006	2005
Ratio of earnings to fixed charges and preferred share dividends:						
Including interest on deposits	1.26x	1.57x	1.72x	1.49x	1.61x	2.32x
Excluding interest on deposits	1.48x	2.08x	2.84x	3.34x	2.82x	4.82x

### DESCRIPTION OF COMMON SHARES

The following is a description of our common shares and certain provisions of our Restated Certificate of Incorporation and Bylaws and certain provisions of applicable law. The following is only a summary and is qualified by applicable law and by the provisions of our Restated Certificate of Incorporation and Bylaws, copies of which have been filed with the SEC and are also available upon request from us.

#### General

Under our Restated Certificate of Incorporation, as amended, we have authority to issue up to 50,000,000 common shares, par value \$1.00 per share. As of January 18, 2011, 26,840,763 of our common shares were issued and outstanding.

Our common shares are listed on the New York Stock Exchange. Outstanding common shares are validly issued, fully paid and non-assessable.

#### Voting Rights

Holders of common shares are entitled to one vote per share on all matters submitted to a vote of shareholders. Holders of common shares do not have cumulative voting rights.

#### Dividend Rights

Holders of our common shares are entitled to dividends when, as, and if declared by our board of directors out of funds legally available for the payment of dividends. Holders of Series A Preferred Shares have (and other series of preferred shares may in the future have) a priority over holders of common shares with respect to dividends.

Until the earlier of December 23, 2011 and the date on which The United States Department of Treasury no longer holds any Series A Preferred Shares, we may not declare or pay any dividend or make any distribution on the common shares, other than regular quarterly cash dividends of not more than \$0.19 per share, as adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction; dividends payable solely in common shares; and dividends or distributions of rights or junior shares in connection with a shareholders' rights plan.

#### Liquidation and Dissolution

In the event of the liquidation, dissolution and winding up of the Company, the holders of our common shares are entitled to receive ratably all of the assets of the Company available for distribution after satisfaction of all liabilities of the Company, subject to the rights of the holders of any of the Company's preferred shares that may be issued from time to time.

**Other Rights**

Holders of our common shares have no preferential or preemptive rights with respect to any securities of Sterling Bancorp and there are no conversion rights or redemption or sinking fund provisions applicable to our common shares.

**Restrictions on Ownership**

The Bank Holding Company Act requires any “bank holding company,” as defined in the Bank Holding Company Act, to obtain the approval of the Federal Reserve Board prior to the acquisition of 5% or more of our common shares. Any person, other than a bank holding company, is required to obtain prior approval of the Federal Reserve Board to acquire 10% or more of our common shares under the Change in Bank Control Act. Any holder of 25% or more of our common shares, or a holder of 5% or more if such holder otherwise exercises a “controlling influence” over us, is subject to regulation as a bank holding company under the Bank Holding Company Act.

Certain provisions included in our Restated Certificate of Incorporation, our Bylaws, as well as certain provisions of the New York Business Corporation Law and federal law, may discourage, delay or prevent potential acquisitions of control of us, particularly when attempted in a transaction that is not negotiated directly with, and approved by, our board of directors, despite possible benefits to our shareholders. These provisions are more fully described in the documents and reports filed with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference into this prospectus.

**Transfer Agent**

The transfer agent and registrar for our common shares is BNY Mellon Shareowner Services, 480 Washington Boulevard, Jersey City, New Jersey 07310-1900.

## DESCRIPTION OF PREFERRED SHARES

Our Board of Directors has the authority, without further action by the shareholders, to issue preferred shares in one or more series and to fix the number of shares, dividend rights, conversion rights, voting rights, redemption rights, liquidation preferences, sinking funds, and any other rights, preferences, privileges and restrictions applicable to each such series of preferred shares.

Prior to the issuance of a new series of preferred shares, we will amend our certificate of incorporation, designating the number of shares of that series and the terms of that series. Each series of preferred shares that we issue will constitute a separate class of stock. The issuance of any preferred shares could adversely affect the rights of the holders of common shares and, therefore, reduce the value of the common shares. The ability of our Board of Directors to issue preferred shares could discourage, delay or prevent a takeover or other corporate action.

The terms of any particular series of preferred shares will be described in the prospectus supplement relating to that particular series of preferred shares, including, where applicable:

- the designation, stated value and liquidation preference of such preferred shares and the number of shares offered;
- the offering price;
- the dividend rate or rates (or method of calculation), the date or dates from which dividends shall accrue, and whether such dividends shall be cumulative or noncumulative and, if cumulative, the dates from which dividends shall commence to cumulate;
- any redemption or sinking fund provisions;
- the amount that shares of such series shall be entitled to receive in the event of our liquidation, dissolution or winding-up;
- the terms and conditions, if any, on which shares of such series shall be convertible or exchangeable for shares of our stock of any other class or classes, or other series of the same class;
- the voting rights, if any, of shares of such series;
- the status as to reissuance or sale of shares of such series redeemed, purchased or otherwise reacquired, or surrendered to us on conversion or exchange;
- the conditions and restrictions, if any, on the payment of dividends or on the making of other distributions on, or the purchase, redemption or other acquisition by us or any subsidiary, of the common shares or of any other class of our shares ranking junior to the shares of such series as to dividends or upon liquidation;
- the conditions and restrictions, if any, on the creation of indebtedness of us or of any subsidiary, or on the issuance of any additional stock ranking on a parity with or prior to the shares of such series as to dividends or upon liquidation; and
- any additional dividend, liquidation, redemption, sinking or retirement fund and other rights, preferences, privileges, limitations and restrictions of such preferred shares.

The description of the terms of a particular series of preferred shares in the applicable prospectus supplement will not be complete. You should refer to the applicable amendment to the certificate of incorporation for complete information regarding a series of preferred shares.

The preferred shares will, when issued, be fully paid and nonassessable. Unless otherwise specified in the applicable prospectus supplement, each series of preferred shares will, upon issuance, rank senior to the common shares and on a parity in all respects with each other outstanding series of preferred shares. The rights of the holders of our preferred shares will be subordinate to that of our general creditors.

**DESCRIPTION OF WARRANTS**

**General**

We may issue, together with other securities or separately, warrants to purchase our common shares or preferred shares. We may issue the warrants under warrant agreements to be entered into between us and a bank or trust company, as warrant agent, all as set forth in the applicable prospectus supplement. The warrant agent would act solely as our agent in connection with the warrants of the series being offered and would not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

This section, along with the description in the applicable prospectus supplement, is a summary of certain provisions of the forms of warrant agreements and warrant certificates and is not complete. We urge you to read any applicable warrant agreements and warrant certificates, because those documents, and not these descriptions, define your rights as a holder of warrants. We will file copies of the forms of the warrant agreements and warrant certificates as exhibits to the Registration Statement of which this prospectus i