

SQUARE 1 FINANCIAL INC  
Form 425  
March 05, 2015

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM 8-K**

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

Date of Report (Date of earliest  
event reported) **March 1, 2015**

**PacWest Bancorp**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State of  
Incorporation)

**00-30747**  
(Commission File Number)

**33-0885320**  
(IRS Employer  
Identification No.)

**10250 Constellation Blvd., Suite 1640, Los Angeles, California 90067**

(Address of principal executive offices and zip code)

**(310) 286-1144**

(Registrant's telephone number, including area code)

N/A

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(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230-425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

*Merger Agreement*

On March 1, 2015, PacWest Bancorp, a Delaware corporation ( PacWest ), entered into an Agreement and Plan of Merger (the Merger Agreement ), with Square 1 Financial, Inc., a Delaware corporation ( Square 1 ), pursuant to which Square 1 will merge (the Merger ) with and into PacWest, with PacWest as the surviving corporation. The Merger Agreement also provides that immediately after the Merger, Square 1 Bank, a *de novo* North Carolina commercial bank and a wholly owned subsidiary of Square 1 ( Square 1 Bank ), will merge with and into Pacific Western Bank, a California state-chartered bank and wholly owned subsidiary of PacWest ( PWB ), with PWB as the surviving bank.

Subject to the terms and conditions of the Merger Agreement, upon consummation of the Merger, each outstanding share of Square 1 common stock, par value \$0.01 per share ( Square 1 Common Stock ), excluding certain specified shares, will be converted into the right to receive 0.5997 of a share of PacWest common stock, par value \$0.01 per share ( PacWest Common Stock ) (the Merger Consideration ).

In addition, each outstanding option to acquire shares of Square 1 Common Stock issued under Square 1's stock plan, whether vested or unvested, will be cancelled and will entitle the holder of such option to receive an amount in cash equal to the product of (i) the total number of shares of Square 1 Common Stock subject to such option and (ii) the excess, if any, of (A) the product of (1) the average closing price of shares of PacWest Common Stock over a 15-trading day period described in the Merger Agreement (the PacWest Average Closing Price ) and (2) 0.5997 over (B) the exercise price per share of Square 1 Common Stock underlying such option, less any applicable taxes to be withheld with respect to such payment. Each outstanding restricted stock unit issued under Square 1's stock plan, whether vested or unvested, will be cancelled and will entitle the holder to receive an amount in cash equal to the product of (i) the number of shares of Square 1 Common Stock subject to such restricted stock unit award and (ii) the product of (A) the PacWest Average Closing Price and (B) 0.5997.

PacWest and Square 1 have made customary representations, warranties and covenants in the Merger Agreement for a transaction of this nature. Subject to certain exceptions, each of Square 1 and PacWest have agreed, among other things, to covenants relating to (i) the conduct of its business during the interim period between the execution of the Merger Agreement and the consummation of the Merger and (ii) the use of reasonable best efforts to obtain governmental and regulatory approvals. In addition, Square 1 has agreed, among other things, to covenants relating to (i) obligations to facilitate Square 1's stockholders' consideration of, and voting upon, the adoption of the Merger Agreement and certain related matters as applicable, (ii) the recommendations by the board of directors of Square 1 in favor of the adoption by Square 1's stockholders of the Merger Agreement and certain related matters as applicable and (iii) non-solicitation obligations relating to alternative business combination transactions.

Completion of the Merger is subject to certain customary conditions, including (i) approval by Square 1's stockholders, (ii) the absence of any governmental order or law prohibiting the consummation of the Merger and (iii) effectiveness of the registration statement for the PacWest Common Stock to be issued as consideration in the Merger. The obligation of each party to consummate the Merger is also conditioned upon (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) performance in all material respects by the other party of its obligations under the Merger Agreement, (iii) receipt by such party of a tax opinion to the effect that the Merger will qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, and (iv) the absence of a material adverse effect with respect to the other party since the date of the Merger Agreement. The obligation of PacWest to consummate the Merger is also conditioned upon (i) the adjusted stockholders' equity of Square 1 being in excess of a specified level, (ii) the receipt of certain required regulatory approvals and such approvals not containing materially burdensome regulatory conditions and (iii) the receipt by PacWest of a certificate as to certain tax matters. The obligation of Square 1 to consummate the Merger is also conditioned upon the receipt of certain required regulatory approvals.

The Merger Agreement contains certain termination rights for both PacWest and Square 1, including if (i) the Merger is not consummated by March 31, 2016 (the End Date), (ii) the necessary regulatory approvals are denied, (iii) the approval of Square 1's stockholders is not obtained or (iv) there has been a breach by the other party that is not cured such that the applicable closing conditions are not satisfied. In addition, in certain circumstances, PacWest may terminate the Merger Agreement prior to Square 1's stockholder approval of the Merger in the event that (A) Square 1 materially breaches its non-solicitation obligations relating to alternative business combination transactions, (B) Square 1's board withdraws or adversely modifies its recommendation to stockholders or fails to affirm its recommendation within the required time period after an acquisition proposal is made or (C) Square 1's board recommends a tender offer or fails to recommend against such tender offer within 10 business days after commencement thereof. The Merger Agreement also provides that Square 1 will be obligated to pay a termination fee of \$32.5 million to PacWest if the Merger Agreement (i) is terminated by PacWest in the circumstances described in the preceding sentence or (ii) (A) if an acquisition proposal is made to Square 1 or to its stockholders publicly, (B) the Merger Agreement is terminated for failure to consummate the Merger by the End Date without the approval of Square 1's stockholders being obtained or for failure to obtain the approval of Square 1's stockholders and (C) Square 1 enters into a definitive agreement with respect to or consummates certain acquisition proposals within 12 months of termination of the Merger Agreement.

Pursuant to the Merger Agreement, effective immediately following the effective time of the Merger, the number of members of the PacWest Board of Directors will be increased by one, which vacancy will be filled by a current director of Square 1 selected by Square 1 and reasonably acceptable to PacWest.

*Voting Agreements*

PacWest also entered into voting agreements with Patriot Financial Partners L.P., Castle Creek Capital Partners IV L.P., Endicott Opportunity Partners III L.P. and Northaven Management, Inc. (and certain affiliates thereof), as stockholders of Square 1. The voting agreements generally require such stockholders to vote all of their shares of Square 1 Common Stock in favor of adoption of the Merger Agreement and certain related matters as applicable and against alternative transactions and generally prohibit them from transferring their shares, subject to certain exceptions. The voting agreements will terminate in certain circumstances, including upon the consummation of the Merger or the termination of the Merger Agreement in accordance with its terms.

The foregoing descriptions of the Merger Agreement and the voting agreements do not purport to be complete and are qualified in their entirety by reference to the respective agreements attached hereto as Exhibits 2.1 and 99.1, respectively, which are incorporated by reference herein.

The Merger Agreement and the above description of the Merger Agreement have been included to provide investors and security holders with information regarding the terms of the Merger Agreement and the voting agreements. The Merger Agreement and the above description are not intended to provide any other factual information about PacWest, Square 1, or their respective subsidiaries or affiliates. The representations, warranties and covenants contained in the Merger Agreement were made only for purposes of the Merger Agreement and as of specific dates; were solely for the benefit of the parties to the Merger Agreement; may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures made by each contracting party to the other for the purposes of allocating contractual risk between them rather than establishing these matters as facts; and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors should not rely on the representations, warranties and covenants or any description thereof as characterizations of the actual state of facts or condition of PacWest, Square 1 or any of their respective subsidiaries, affiliates or businesses. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in public disclosures by PacWest or Square 1. Accordingly, investors should read the representations and warranties in the Merger Agreement not in isolation but only in conjunction with the other information about PacWest or Square 1 and their respective subsidiaries that the respective companies include in reports, statements and other filings they make with the SEC.

### **Forward-Looking Statements**

This communication contains certain forward-looking information about PacWest, Square 1, and the combined company after the close of the transaction that is intended to be covered by the safe harbor for forward-looking statements provided by the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical fact are forward-looking statements. Such statements involve inherent risks and uncertainties, many of which are difficult to predict and are generally beyond the control of PacWest, Square 1 and the combined company. Forward-looking statements speak only as of the date they are made and we assume no duty to update such statements. We caution readers that a number of important factors could cause actual results to differ materially from those expressed in, or implied or projected by, such forward-looking statements. In addition to factors previously disclosed in reports filed by PacWest and Square 1 with the SEC, risks and uncertainties for each institution and the combined institution include, but are not limited to: lower than expected revenues; credit quality deterioration or a reduction in real estate values could cause an increase in the allowance for credit losses and a reduction in net earnings; increased competitive pressure among depository institutions; the ability to complete the proposed transaction, including obtaining regulatory approvals and approval by the stockholders of Square 1, or any future transaction, successfully integrate such acquired entities, or achieve expected beneficial synergies and/or operating efficiencies, in each case within expected time-frames or at all; regulatory approvals may not be received on expected timeframes or at all; the possibility that personnel changes will not proceed as planned; the possibility that the cost of additional capital may be more than expected; the possibility that a change in the interest rate environment may reduce net interest margins; asset/liability re-pricing risks and liquidity risks; pending legal matters may take longer or cost more to resolve or may be resolved adversely; general economic conditions, either nationally or in the market areas in which the entities operate or anticipate doing business, are less favorable than expected; and environmental conditions, including natural disasters, may disrupt business, impede operations, or negatively impact the values of collateral securing loans.

### **Additional Information About the Proposed Transaction and Where to Find It**

Investors and security holders are urged to carefully review and consider each of PacWest's and Square 1's public filings with the SEC, including but not limited to their Annual Reports on Form 10-K, their proxy statements, their Current Reports on Form 8-K and their Quarterly Reports on Form 10-Q. The documents filed by PacWest with the SEC may be obtained free of charge at PacWest's website at [www.pacwestbancorp.com](http://www.pacwestbancorp.com) or at the SEC's website at [www.sec.gov](http://www.sec.gov). These documents may also be obtained free of charge from PacWest by requesting them in writing to PacWest Bancorp, c/o Pacific Western Bank, 130 S. State College Boulevard, Brea, CA 92821; Attention: Investor Relations, by telephone at (714) 671-6800 or via e-mail to [investor-relations@pacwestbancorp.com](mailto:investor-relations@pacwestbancorp.com).

The documents filed by Square 1 with the SEC may be obtained free of charge at Square 1's website at [www.square1financial.com](http://www.square1financial.com) or at the SEC's website at [www.sec.gov](http://www.sec.gov). These documents may also be obtained free of charge from Square 1 by requesting them in writing to Square 1 Inc., 406 Blackwell Street, Suite 240, Durham, NC 27701; Attention: Investor Relations, or by telephone at (866) 355-0468.

PacWest intends to file a registration statement with the SEC which will include a proxy statement of Square 1 and a prospectus of PacWest, and each party will file other documents regarding the proposed transaction with the SEC. **Before making any voting or investment decision, investors and security holders of Square 1 are urged to carefully read the entire registration statement and proxy statement/prospectus, when they become available, as well as any amendments or supplements to these documents, because they will contain important information about the proposed transaction.** A definitive proxy statement/prospectus will be sent to the stockholders of Square 1 seeking any required stockholder approvals. Investors and security holders will be able to obtain the registration statement and the proxy statement/prospectus free of charge from the SEC's website or from PacWest or Square 1 by writing to the addresses provided for each company set forth in the paragraphs above.

PacWest, Square 1, their directors, executive officers and certain other persons may be deemed to be participants in the solicitation of proxies from Square 1 stockholders in favor of the approval of the transaction. Information about the directors and executive officers of PacWest and their ownership of PacWest common stock is set forth in the proxy statement for PacWest's 2014 annual meeting of stockholders, as previously filed with the SEC. Information about the directors and executive officers of Square 1 and their ownership of Square 1 common stock is set forth in the proxy statement for Square 1's 2014 annual meeting of stockholders, as previously filed with the SEC. Stockholders may obtain additional information regarding the interests of such participants by reading the registration statement and the proxy statement/prospectus when they become available.

#### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated March 1, 2015, between PacWest and Square 1.*
99.1	Form of Voting Agreement, dated March 1, 2015, between PacWest and certain stockholders of Square 1.

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\*Schedules and exhibits omitted pursuant to Item 601(b)(2) of Regulation S-K. PacWest agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon request.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PacWest Bancorp

By:	/s/ Kori L. Ogrosky
Name:	Kori L. Ogrosky
Title:	Executive Vice President, General Counsel & Corporate Secretary

Date: March 5, 2015



**EXHIBIT INDEX**

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