
Section 1: S-8 (S-8)

As filed with the Securities and Exchange Commission on December 20, 2017.

Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Merchants Bancorp

(Exact Name of Registrant as Specified in its Charter)

Indiana
(State or Other Jurisdiction of
Incorporation)

11555 North Meridian Street, Suite 400
Carmel, Indiana
(Address of Principal Executive Offices)

20-5747400
(I.R.S. Employer
Identification No.)

46032
(Zip Code)

Merchants Bancorp 2017 Equity Incentive Plan
(Full Title of Plans)

John Macke
Principal Financial Officer
Merchants Bancorp
11555 North Meridian Street, Suite 400
Carmel, Indiana 46032
(317) 569-7420

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

With copies to:

Michael J. Messaglia
Robert J. Wild
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204
(317) 569-7420

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

Large accelerated filer

Accelerated filer

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per share(2)	Proposed maximum aggregate offering price(2)	Amount of registration fee(2)
Common Stock, without par value per share	1,500,000	\$19.92	\$29,880,000	\$3,721.00

(1) Any additional shares of common stock of Merchants Bancorp to be issued as a result of stock dividends, stock splits or similar transactions shall be covered by this Registration Statement as provided in Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act").

(2) Calculated in accordance with Rule 457(h) and (c) under the Securities Act, solely for the purpose of calculating the registration fee, which is based on the average of the high and low prices of Merchant Bancorp's common stock as reported on The Nasdaq Stock Market on December 19, 2017.

PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The documents containing information specified by Part I of Form S-8 will be sent or given to participants in the Merchants Bancorp 2017 Equity Incentive Plan (the "Plan"), as specified in Rule 428(b)(1) promulgated by the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). Such documents are not being filed with the Commission but constitute (along with the documents incorporated by reference into this Registration Statement on Form S-8 (this "Registration Statement") pursuant to Item 3 of Part II hereof), a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents By Reference

The following documents that Merchants Bancorp (the "Company") has filed with the Commission under the Securities Act and the Securities Exchange Act of 1934 (the "Exchange Act") are incorporated by reference into this Registration Statement:

- The Company's prospectus filed with the Commission on October 30, 2017, pursuant to Rule 424(b) under the Securities Act relating to the Registration Statement on Form S-1, as amended (File No. 333-220623), which contains the Company's audited financial statements for the latest fiscal year for which such statements have been filed;
- The Quarterly Report on Form 10-Q for the quarter ended September 30, 2017 filed on December 7, 2017;
- The Current Reports on Form 8-K filed on November 1, 2017, November 6, 2017 and November 20, 2017; and
- The description of the Company's common stock contained in the Company's Registration Statement on Form 8-A (File No. 001-38258) filed with the Commission on October 24, 2017 pursuant to Section 12(b) of the Exchange Act, including any amendment or report filed for the purpose of updating such description.

In addition, all reports and other documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part thereof from the date of filing of such documents with the Commission. Any statement contained in a document incorporated, or deemed to be incorporated, by reference in this Registration Statement shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in this Registration Statement, or in any other subsequently filed document that also is or is deemed to be incorporated by reference in this Registration Statement, modifies or supersedes such prior statement. Any statement contained in this Registration Statement shall be deemed to be modified or superseded to the extent that a statement contained in a subsequently filed document that is, or is deemed to be incorporated, by reference in this Registration Statement modifies or supersedes such prior statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

No document or information deemed to be furnished and not filed in accordance with rules of the Commission shall be deemed to be incorporated herein by reference unless such document or information expressly provides to the contrary.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

The Company is an Indiana corporation. The Company's officers and directors are and will be indemnified under Indiana law and the First Amended and Restated Articles of Incorporation (the "Articles") of the Company against certain liabilities. Chapter 37 of the Indiana Business Corporation Law (the "IBCL") requires a corporation, unless limited by its articles of incorporation, to indemnify a director or an officer of the corporation who is wholly successful, on the merits or otherwise, in the defense of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, against reasonable expenses, including counsel fees, incurred in connection with the proceeding. The Articles do not contain any provision limiting such indemnification.

The IBCL also permits a corporation to indemnify a director, officer, employee, or agent who is made a party to a proceeding because the person was a director, officer, employee, or agent of the corporation against liability incurred in the proceeding if (i) the individual's conduct was in good faith, and (ii) the individual reasonably believed (A) in the case of conduct in the individual's official capacity with the corporation, that the conduct was in the corporation's best interests, and (B) in all other cases, that the individual's conduct was at least not opposed to the corporation's best interests, and (iii) in the case of a criminal proceeding, the individual either (A) had reasonable cause to believe the individual's conduct was lawful, or (B) had no reasonable cause to believe the individual's conduct was unlawful. The IBCL also permits a corporation to pay for or reimburse reasonable expenses incurred before the final disposition of the proceeding and permits a court of competent jurisdiction to order a corporation to indemnify a director or officer if the court determines that the person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the person met the standards for indemnification otherwise provided in the IBCL.

The Articles require the Company to provide indemnification to its officers and directors to the fullest extent authorized by the IBCL and to pay for or reimburse reasonable expenses incurred before the final disposition of the proceeding as authorized by the IBCL. The Articles also authorize the Company to maintain insurance at its expense to protect itself and any of its directors, officers, employees or agents or those of another corporation, partnership, joint venture, trust, or other entity against expense, liability or loss, whether or not the Company would have the power to indemnify such person against such expense, liability or loss under the IBCL. The Company currently maintains officer and director liability insurance.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

Exhibit No.	Description
3.1	First Amended and Restated Articles of Incorporation of Merchants Bancorp (incorporated by reference to Exhibit 3.1 to the Registration Statement on Form S-1, as amended (File No. 333-220623))
3.2	Second Amended and Restated By-laws of Merchants Bancorp (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on November 20, 2017 (File No. 001-38258))
5.1	Opinion of Krieg DeVault LLP*
10.1	Merchants Bancorp 2017 Equity Incentive Plan (incorporated by reference to Exhibit 10.16 to the Registration Statement on Form S-1, as amended (File No. 333-220623))
23.1	Consent of BKD, LLP*
23.2	Consent of Krieg DeVault LLP (included in Exhibit 5.1)*
24.1	Power of Attorney*

* Filed herewith.

Item 9. Undertakings

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration

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Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement; and

- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Carmel, State of Indiana, on December 20, 2017.

MERCHANTS BANCORP

By: /s/ MICHAEL F. PETRIE
Michael F. Petrie
Chairman and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ MICHAEL F. PETRIE</u> Michael F. Petrie	Director (Chairman); Chief Executive Officer (Principal Executive Officer)	December 20, 2017
<u>/s/ JOHN F. MACKE</u> John F. Macke	Chief Financial Officer (Principal Financial Officer)	December 20, 2017
<u>/s/ BILL D. BUCHANAN</u>	Senior Vice President and Chief Accounting Officer	

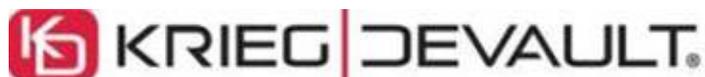
Bill D. Buchanan	(Principal Accounting Officer)	December 20, 2017
<u>/s/ RANDALL D. ROGERS</u> Randall D. Rogers	Director	December 20, 2017
<u>/s/ MICHAEL J. DUNLAP</u> Michael J. Dunlap	Director	December 20, 2017
<u>/s/ SCOTT A. EVANS*</u> Scott A. Evans	Director	December 20, 2017
<u>/s/ SUE ANN GILROY*</u> Sue Ann Gilroy	Director	December 20, 2017
<u>/s/ PATRICK D. O'BRIEN*</u> Patrick D. O'Brien	Director	December 20, 2017
<u>/s/ JOHN W. PERRY*</u> John W. Perry	Director	December 20, 2017
<u>/s/ ANNE E. SELLERS*</u> Anne E. Sellers	Director	December 20, 2017
<u>/s/ DAVID N. SHANE*</u> David N. Shane	Director	December 20, 2017

*By: /s/ JOHN F. MACKE
John F. Macke
Attorney-in-Fact

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Section 2: EX-5.1 (EX-5.1)

Exhibit 5.1



WWW.KRIEGDEVALT.COM

December 20, 2017

Merchants Bancorp
11555 North Meridian Street, Suite 400
Carmel, Indiana 46032

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Merchants Bancorp, an Indiana corporation (“Merchants”), in connection with the preparation of a Registration Statement on Form S-8 (the “Registration Statement”) filed by Merchants with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”). The Registration Statement relates to the registration of 1,500,000 shares of common stock, without par value (the “Shares”) issuable pursuant to the Merchants Bancorp 2017 Equity Incentive Plan (the “Plan”). This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

In connection with the preparation and rendering of the opinion set forth herein, we have reviewed, examined and relied upon the accuracy of, among other things, copies, certified or otherwise identified to our satisfaction, of the following documents:

1. the Registration Statement;
2. the Plan; and
3. such other documents, certificates, and corporate records as we have deemed necessary or appropriate as a basis for the opinion set forth herein.

Based on and subject to the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that the Shares issuable pursuant to the Plan have been duly authorized and, when issued by Merchants in accordance with the Plan, the Shares will be validly issued, fully paid and non-assessable.

This opinion is limited to the Indiana Business Corporation Law, including all applicable Indiana statutory provisions and published judicial decisions interpreting these laws, as in effect on the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act, or the rules or regulations of the Commission promulgated thereunder.

Sincerely,

/s/Krieg DeVault LLP

Krieg DeVault LLP

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Section 3: EX-23.1 (EX-23.1)

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the inclusion in this Registration Statement on Form S-8 of Merchants Bancorp filed with the Securities and Exchange Commission of our report dated July 25, 2017, on our audits of the consolidated financial statements which report appears in the Registration Statement on Form S-1 (No. 333-220623) of Merchants Bancorp incorporated by reference herein.

/s/ BKD, LLP

BKD, LLP

Indianapolis, Indiana
December 20, 2017

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Section 4: EX-24.1 (EX-24.1)

Exhibit 24.1

Form S-8 Power of Attorney

Each of the undersigned officers and directors of Merchants Bancorp does hereby severally constitute and appoint Michael F. Petrie, John F. Macke, Bill D. Buchanan and Brian J. Sullivan, and each of them singly (with full power to each of them to act alone), his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him or her and in his or her name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement (under the Securities Act), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ MICHAEL F. PETRIE</u> Michael F. Petrie	Director (Chairman); Chief Executive Officer (Principal Executive Officer)	November 17, 2017
<u>/s/ JOHN F. MACKE</u> John F. Macke	Chief Financial Officer (Principal Financial Officer)	November 17, 2017

<u>/s/ BILL D. BUCHANAN</u> Bill D. Buchanan	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	November 17, 2017
<u>/s/ RANDALL D. ROGERS</u> Randall D. Rogers	Director	November 17, 2017
<u>/s/ MICHAEL J. DUNLAP</u> Michael J. Dunlap	Director	November 17, 2017
<u>/s/ SCOTT A. EVANS</u> Scott A. Evans	Director	November 17, 2017
<u>/s/ SUE ANN GILROY</u> Sue Ann Gilroy	Director	November 17, 2017
<u>/s/ PATRICK D. O'BRIEN</u> Patrick D. O'Brien	Director	November 17, 2017
<u>/s/ JOHN W. PERRY</u> John W. Perry	Director	November 17, 2017
<u>/s/ ANNE E. SELLERS</u> Anne E. Sellers	Director	November 17, 2017
<u>/s/ DAVID N. SHANE</u> David N. Shane	Director	November 17, 2017

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