

FIFTH THIRD BANCORP
Form 8-K
September 30, 2005

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): **September 26, 2005**

FIFTH THIRD BANCORP

(Exact name of registrant as specified in its charter)

Ohio

(State or other jurisdiction of incorporation)

0-8076

(Commission File Number)

31-0854434

(IRS Employer Identification No.)

**Fifth Third Center
38 Fountain Square Plaza, Cincinnati, Ohio**
(Address of principal executive offices)

45263
(Zip Code)

(513) 534-5300

(Registrant's telephone number, including area code)

Not Applicable

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

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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.

On September 26, 2005, Fifth Third Bancorp amended and restated The Fifth Third Bancorp Nonqualified Deferred Compensation Plan. The changes in the plan were mostly designed to comply with the enactment of new Internal Revenue Code Section 409A.

As part of this amendment and restatement, the procedures to defer compensation and to select the date a benefit is to be paid under the plan have been revised to meet the requirements of Section 409A. As permitted by the new legislation, the plan also provides participants a one-time election to either take a complete taxable payout in 2005 or to continue the deferral under the amended and restated plan. For administrative convenience, a cash-out rule has been included in the plan to provide that a participant who has terminated service will receive a complete payout if the value of his vested account as of any December 31st does not exceed \$25,000.

Other amended provisions of the plan allow for the inclusion of benefits from other nonqualified plans that Fifth Third has assumed in acquisitions. It is anticipated that Fifth Third will give participants in certain of those acquired plans the ability to take a 2005 taxable payout or, in the alternative, to have their benefit deferred and administered under The Fifth Third Bancorp Nonqualified Deferred Compensation Plan.

Additionally, in a change unrelated to Section 409A, the amended and restated plan now requires that profit sharing and matching contributions vest over time rather than immediately as has been the case.

This description of the amended and restated plan is qualified in its entirety by reference to the plan itself, a copy of which is filed herewith as Exhibit 10.1 and is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit 10.1 The Fifth Third Bancorp Nonqualified Deferred Compensation Plan, as amended and restated.

SIGNATURES

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.

FIFTH THIRD BANCORP
(Registrant)

September 30, 2005

By: /S/ PAUL L. REYNOLDS

Paul L. Reynolds

Executive Vice President, Secretary

and General Counsel