

OLD SECOND BANCORP INC
Form PRE 14A
March 21, 2019
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant
Filed by a Party other than the Registrant
Check the appropriate box:
Preliminary Proxy Statement
Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
Definitive Proxy Statement
Definitive Additional Materials
Soliciting Material under §240.14a-12

Old Second Bancorp, Inc.
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

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PRELIMINARY COPY, DATED MARCH 21, 2019

SUBJECT TO COMPLETION

OLD SECOND BANCORP, INC.

37 South River Street, Aurora, Illinois 60507

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

TO BE HELD MAY 21, 2019

TO THE STOCKHOLDERS:

The annual meeting of stockholders of Old Second Bancorp, Inc., will be held on Tuesday, May 21, 2019, at 9:00 a.m., central time, at Waubensee Community College, 18 South River Street, Aurora, Illinois, 60506 for the following purposes:

1. to elect the four director nominees named in the accompanying proxy statement;
2. to conduct an advisory, non-binding vote to approve the compensation of our named executive officers;
3. to conduct an advisory, non-binding vote on the frequency of future advisory votes on compensation of our named executive officers;
4. to approve the 2019 Equity Incentive Plan;
5. to approve an amendment to our certificate of incorporation eliminating the mandatory retirement age for directors;
6. to ratify the appointment of Plante & Moran, PLLC as our independent registered public accounting firm for the year ending December 31, 2019;
7. to approve the adjournment, postponement or continuance of the annual meeting, if necessary, if there are insufficient votes at the time of the annual meeting to approve the 2019 Equity Incentive Plan or the amendment to our certificate of incorporation eliminating the mandatory retirement age for directors, or if a quorum is not present at the time of the annual meeting, in order to solicit additional proxies; and
8. to transact such other business as may properly be brought before the meeting or any postponements or adjournments of the meeting.

The board of directors is not aware of any other business to come before the meeting. Stockholders of record at the close of business on March 29, 2019 are the stockholders entitled to vote at the meeting and any and all adjournments or postponements of the meeting.

Important Notice Regarding Availability of Proxy Materials for the Annual Meeting: Our 2019 proxy statement, proxy card and 2018 Annual Report to Shareholders are available free of charge online at www.oldsecond.com under "2019 Annual Meeting Materials."

By order of the board of directors

James L. Eccher
Chief Executive Officer and President

Aurora, Illinois

April [], 2019

IMPORTANT: THE PROMPT RETURN OF PROXIES WILL SAVE US THE EXPENSE OF FURTHER REQUESTS FOR PROXIES TO ENSURE A QUORUM AT THE MEETING. A SELF-ADDRESSED ENVELOPE IS ENCLOSED FOR YOUR CONVENIENCE. NO POSTAGE IS REQUIRED IF MAILED WITHIN THE UNITED STATES.

PRELIMINARY COPY, DATED MARCH 21, 2019

SUBJECT TO COMPLETION

OLD SECOND BANCORP, INC.

37 South River Street, Aurora, Illinois 60507

PROXY STATEMENT

This proxy statement is furnished in connection with the solicitation by the board of directors of Old Second Bancorp, Inc., a Delaware corporation, of proxies to be voted at the annual meeting of stockholders. This meeting is to be held at Waubensee Community College, 18 South River Street, Aurora, Illinois, 60506, on May 21, 2019 at 9:00 a.m., central time, or at any postponements or adjournments of the meeting. Old Second conducts full service community banking and trust business through its wholly owned subsidiary, Old Second National Bank.

A copy of our annual report for the year ended December 31, 2018, which includes audited financial statements, is enclosed. This proxy statement was first mailed to stockholders on or about April 19, 2019. As used in this proxy statement, the terms “Old Second,” “the Company,” “we,” “our” and “us” all refer to Old Second Bancorp, Inc., and its subsidiaries. Additionally, the term “the Bank” refers to Old Second National Bank.

Why am I receiving this proxy statement and proxy form?

You are receiving a proxy statement and proxy form from us because on March 29, 2019, the record date for the annual meeting, you owned shares of our common stock. This proxy statement describes the matters that will be presented for consideration by the stockholders at the annual meeting. It also gives you information concerning these matters to assist you in making an informed decision.

When you sign the enclosed proxy form, you appoint the proxy holder as your representative at the meeting. The proxy holder will vote your shares as you have instructed in the proxy form, ensuring that your shares will be voted whether or not you attend the meeting. Even if you plan to attend the annual meeting, complete, sign and return your proxy form in advance of the annual meeting in case your plans change.

What matters will be voted on at the meeting?

You are being asked to vote on seven matters:

- the election of the four director nominees named in this proxy statement;
- a non-binding, advisory proposal to approve the compensation of our named executive officers, which is referred to as the “say-on-pay” proposal;
- a non-binding, advisory vote on the frequency of future say-on-pay advisory votes on compensation of our named executive officers, which is referred to as the “say-on-frequency” proposal;
- a proposal to approve the 2019 Equity Incentive Plan;
- a proposal to approve an amendment to our certificate of incorporation eliminating the mandatory retirement age for directors;
- the ratification of Plante & Moran, PLLC as our independent registered public accounting firm for the year ending December 31, 2019; and

· a proposal to approve the adjournment, postponement or continuance of the annual meeting, if necessary, if there are insufficient votes at the time of the annual meeting to approve the 2019 Equity Incentive Plan or the amendment to our certificate of incorporation eliminating the mandatory retirement age for directors, or if a quorum is not present at the time of the annual meeting, in order to solicit additional proxies (the “adjournment proposal”).
How do I vote?

A form of proxy is enclosed for use at the meeting. If the proxy is executed and returned, it may nevertheless be revoked at any time insofar as it has not been exercised. Stockholders attending the meeting may, on request, vote their own shares even though they have previously sent in a proxy. Unless revoked or instructions to the contrary are contained in the proxies, the shares represented by validly executed proxies will be voted at the meeting and will be voted “FOR” the election of the nominees for director named in this proxy statement, “FOR” the say-on-pay proposal, “FOR” the “every year” frequency alternative for the say-on-frequency proposal, “FOR” approval of the 2019 Equity Incentive Plan, “FOR” the amendment to our certificate of incorporation eliminating the mandatory retirement age for directors, “FOR” the ratification of our independent registered public accounting firm, and “FOR” the adjournment proposal, and in accordance with the proxy holder’s judgement on any other business that is properly brought before the meeting.

If you want to vote in person, please come to the meeting. We will distribute written ballots to anyone who wants to vote at the meeting. Please note, however, that if your shares are held in the name of a broker or other fiduciary (or what is usually referred to as “street name”), you will need to arrange to obtain a proxy from the record holder in order to vote in person at the meeting. Even if you plan to attend the annual meeting, we ask that you complete, sign and return your proxy card in advance of the annual meeting in case your plans change.

What does it mean if I receive more than one proxy form?

It means that you have multiple holdings reflected in our stock transfer records and/or in accounts with stockbrokers. Please sign and return ALL proxy forms to ensure that all your shares are voted.

If I hold shares in the name of a broker, who votes my shares?

If you received this proxy statement from your broker, your broker should have given you instructions for directing how your broker should vote your shares. It will then be your broker’s responsibility to vote your shares for you in the manner you direct.

Under the applicable stock exchange rule, brokers may generally vote on routine matters, but cannot vote on non routine matters, such as the election of directors, the say-on-pay proposal, the say-on-frequency proposal, and the 2019 Equity Incentive Plan proposal, unless they have received voting instructions from the person for whom they are holding shares. If there is a matter presented to stockholders at the meeting and your broker does not receive instructions from you on how to vote on that matter, your broker will return the proxy card to us, indicating that he or she does not have the authority to vote on that matter. This is generally referred to as a “broker non vote.”

Each of the proposals you will be asked to consider and vote upon at the annual meeting, other than the ratification of the appointment of our independent registered accountants, the proposed amendment to our certificate of incorporation eliminating the mandatory retirement age for directors, and the adjournment proposal, is considered a non routine matter. Therefore, we encourage you to provide directions to your broker as to how you want your shares voted on all matters to be brought before the 2019 annual meeting upon receipt of our proxy materials. You should do this by carefully following the instructions your broker gives you concerning its procedures. This ensures that your shares will be voted at the meeting.

What if I change my mind after I return my proxy card?

If you hold your shares in your own name, you may revoke your proxy and change your vote at any time before the polls close at the meeting. You may do this by:

- signing another proxy card with a later date and returning that proxy card to us, or
- sending notice to us that you are revoking your proxy, or
- voting in person at the meeting.

If you hold your shares in the name of your broker or other fiduciary and desire to revoke your proxy, you will need to contact that party to revoke your proxy.

How many shares must be represented for us to hold the annual meeting?

A majority of the shares that were outstanding and entitled to vote as of the record date must be present in person or by proxy at the meeting in order to hold the meeting and conduct business. On March 29, 2019, the record date, there were [] shares of common stock outstanding. A majority of these shares must be present in person or by proxy at the meeting.

Shares are counted as present at the meeting if the stockholder either:

- is present in person at the meeting, or
- has properly submitted a signed proxy form or other proxy.

What happens if any nominee is unable to stand for re-election?

The board may, by resolution, provide for a lesser number of directors or designate a substitute nominee. In the latter case, shares represented by proxies may be voted for a substitute nominee. Proxies cannot be voted for more than four nominees. The board has no reason to believe any nominee will be unable to stand for re-election.

What options do I have in voting on each of the proposals?

You may vote “FOR,” “AGAINST” or “ABSTAIN” on each proposal properly brought before the meeting, other than the say-on-pay frequency proposal, including the election of directors. You may vote for “EVERY YEAR,” “EVERY TWO YEARS,” “EVERY THREE YEARS,” or “ABSTAIN” on the say-on-frequency proposal.

How many votes may I cast?

You are entitled to cast one vote for each share of stock you owned on the record date with respect to each of the proposals. Stockholders do not have cumulative voting rights. The proxy card included with this proxy statement indicates the number of shares owned by an account attributable to you.

What is the quorum for the annual meeting?

A majority of our outstanding shares of common stock as of the record date must be present at the meeting, either in person or by proxy, to hold the meeting and conduct business. This is called a quorum. In determining whether we have a quorum at the annual meeting for purposes of all matters to be voted on, all votes “FOR” or “AGAINST” and all votes to “ABSTAIN” will be counted. Shares will be counted for quorum purposes if they are represented at the meeting for any purpose other than solely to object to holding the meeting or transacting business at the meeting. If you hold your shares in street name, your brokerage firm may vote your shares under certain circumstances.

Brokerage firms have authority under stock exchange rules to vote their customers’ unvoted shares on certain “routine” matters. We

expect that brokers will be allowed to exercise discretionary authority for beneficial owners who have not provided voting instructions ONLY with respect to Proposal 5 – the amendment of our certificate of incorporation, Proposal 6 – the ratification of Plante & Moran, PLLC as our independent registered public accounting firm for the year ending December 31, 2019, and Proposal 7 – the adjournment proposal, but not with respect to any of the other proposals to be voted on at the annual meeting. If you hold your shares in street name, please provide voting instructions to your bank, broker or other nominee so that your shares may be voted on all other proposals.

When a brokerage firm votes its customers' unvoted shares on routine matters, these shares are counted for purposes of establishing a quorum to conduct business at the meeting. If a brokerage firm indicates on a proxy that it does not have discretionary authority to vote certain shares on a particular matter, then those shares will be treated as "broker non votes". Shares represented by broker non votes will be counted in determining whether there is a quorum.

No notice of an adjourned meeting need be given if the time and place of the adjourned meeting are announced at the annual meeting, unless the adjournment is for more than 30 days or if, after the adjournment, a new record date is fixed for the adjourned meeting, in which case a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting. At an adjourned meeting, all proxies will be voted in the same manner as they would have been voted at the original convening of the annual meeting, except for any proxies that have been effectively revoked or withdrawn prior to the adjourned meeting.

How many votes are needed for each proposal?

Assuming a quorum is present, a majority of the shares having voting power present in person or represented by proxy must approve each proposal brought before the annual meeting other than the say-on-frequency proposal and the proposal to amend our certificate of incorporation (meaning that the number of votes cast "FOR" each proposal must exceed the number of votes cast "AGAINST" or "ABSTAIN" with respect to that proposal). This includes the proposal regarding the election of directors in accordance with the policy of majority voting in uncontested director elections set forth in our bylaws. The proposal to amend our certificate of incorporation must be approved by 75% of the voting power of all outstanding shares of our common stock. With respect to the say-on-frequency proposal, the alternative receiving the highest number of votes will be considered the preference of our stockholders.

Broker non votes will not affect the outcome of voting on a particular proposal other than the proposal to amend our certificate of incorporation or the election of directors, but abstentions will have the effect of a vote against the applicable proposal or director. Broker non-votes will have the effect of a vote against the proposal to amend our certificate of incorporation.

Please note that, because the say on pay and say-on-frequency votes are advisory, they will not be binding upon the board of directors or the Compensation Committee.

Where do I find the voting results of the meeting?

If available, we will announce voting results at the meeting. The voting results will also be disclosed in a Form 8-K filed with the Securities and Exchange Commission (the "SEC") within four business days of the meeting. The determination of the board of directors with respect to the frequency of the say-on-pay vote also will be disclosed in a Form 8-K filed with the SEC.

PROPOSAL 1:

ELECTION OF DIRECTORS

Old Second's board of directors is divided into three classes approximately equal in number, serving staggered three year terms. As a result, the terms of only approximately one third of our board members expire at each annual meeting. The current terms of our Class III directors will expire at this year's annual meeting. The terms of our Class I directors will expire at the 2020 annual meeting and the terms of our Class II directors will expire at the 2021 annual meeting.

Each proposed Class III director nominee currently serves as a Class III director.

Following a review and nomination from our Corporate Governance and Nominating Committee, our board has proposed that the following Class III directors be elected as Class III directors at our 2019 annual meeting of shareholders for a term that will expire at our 2022 annual meeting and until their respective successors are duly elected and qualified.

Class III Director Nominees

Name	Age	Served as Director Since
Edward Bonifas	59	2000
Gary Collins	60	2016
William B. Skoglund	68	1992
Duane Suits	69	2012

Each Class III director nominee will be elected if the number of shares voted "FOR" the nominee constitutes a majority of the shares having voting power present in person or represented by proxy at the meeting. Accordingly, broker non votes will not have any effect on the outcome of voting, but abstentions will have the effect of a vote "AGAINST" the applicable nominee.

The board of directors recommends you vote your shares "FOR" each of the above Class III director nominees.

Set forth below is information concerning our other directors, whose term of office will continue after the annual meeting, including their age, year first elected or appointed as a director.

Continuing Directors

Name	Age	Served as Director Since
Class I (term expires 2020)		
William Kane	68	1999
John Ladowicz	66	2008
Patti Temple Rocks	59	2015