

Edgar Filing: OHIO VALLEY BANC CORP - Form 10-K/A

OHIO VALLEY BANC CORP
Form 10-K/A
May 02, 2005

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

FORM 10-K/A
(Amendment No. 1)

X ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended: DECEMBER 31, 2004

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period ended:_____

Commission file number: 0-20914

Ohio Valley Banc Corp.

(Exact name of registrant as specified in its charter)

Ohio

(State or other jurisdiction or organization)

31-1359191

(I.R.S. Employer Identification Number)

420 Third Avenue, Gallipolis, Ohio 45631

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (740) 446-2631

Securities registered pursuant to Section 12 (b) of the Act: None
Securities registered pursuant to Section 12 (g) of the Act:

Common Shares, Without Par Value

(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S - K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. []

Indicate by check mark whether the Registrant is an accelerated filer (as defined by Rule 12b-2 of the Act). Yes No

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The aggregate market value of the common shares of the Registrant held by non-affiliates computed by reference to the average bid and asked price of the common shares as of June 30, 2004 was \$108,077,532.

The number of common shares of the Registrant outstanding as of April 29, 2005 was 3,430,859 common shares.

Exhibit Index begins on page 8.

EXPLANATORY NOTE

On November 30, 2004, the Securities and Exchange Commission issued an exemptive order (SEC Release No. 50754) (the "Exemptive Order") providing certain companies with a market capitalization under \$700 million with an extension of up to 45 days for filing under Item 9A of Form 10-K management's report on internal controls over financial reporting (as required by Item 308(a) of Regulation S-K) and the required attestation on those controls from the company's independent registered public accounting firm (as required by Item 308(b) of Regulation S-K). Ohio Valley Banc Corp. ("Ohio Valley") is filing this Form 10-K/A to amend its Form 10-K for the year ended December 31, 2004, filed with the Securities and Exchange Commission on March 16, 2005 (the "Original Filing"), in accordance with the Exemptive Order to:

- o amend and restate Part II, Item 9A, Controls and Procedures, to include Management's Report on Internal Control over Financial Reporting and the report of Crowe Chizek and Company LLC, Ohio Valley's independent registered public accounting firm, on management's assessment and the effectiveness of internal control over financial reporting, and
- o include a revised Consent of Independent Registered Public Accounting Firm required as a result of the revisions discussed above.

Ohio Valley is also filing this Form 10-K/A amend and restate Part IV, Item 15, Exhibits and Financial Statement Schedules, in order to file Exhibit 3(b) and to update the Exhibit Index accordingly.

As a result of these amendments, the certifications pursuant to Section 302 and Section 906 of the Sarbanes-Oxley Act of 2002, filed as exhibits to the Original Filing, have been re-executed and re-filed as of the date of this Form 10-K/A.

Except for the amendments described above, this Form 10-K/A does not modify or update other disclosures in, or exhibits to, the Original Filing.

PART II

ITEM 9A - CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

With the participation of the President and Chief Executive Officer (the principal executive officer) and the Vice President and Chief Financial Officer (the principal financial officer) of Ohio Valley, Ohio Valley's management has evaluated the effectiveness of Ohio Valley's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this Annual

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Report on Form 10-K.

Based on that evaluation, Ohio Valley's President and Chief Executive Officer and Vice President and Chief Financial Officer have concluded that:

- o information required to be disclosed by Ohio Valley in this Annual Report on Form 10-K would be accumulated and communicated to Ohio Valley's management, including its principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure;

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- o information required to be disclosed by Ohio Valley in this Annual Report on Form 10-K would be recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms; and
- o Ohio Valley's disclosure controls and procedures are effective as of December 31, 2004 to ensure that material information relating to Ohio Valley and its consolidated subsidiaries is made known to them, particularly during the period for which the periodic reports of Ohio Valley, including this Annual Report on Form 10-K, are being prepared.

Management's Report On Internal Control Over Financial Reporting

To the Board of Directors and Shareholders of Ohio Valley Banc Corp.:

The management of Ohio Valley Banc Corp. ("Ohio Valley") is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended. Ohio Valley's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States. Ohio Valley's internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of Ohio Valley; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles in the United States, and that receipts and expenditures of Ohio Valley are being made only in accordance with authorizations of management and directors of Ohio Valley; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of Ohio Valley's assets that could have a material effect on the financial statements.

Ohio Valley's internal control over financial reporting as it relates to the financial statements is evaluated for effectiveness by management and tested for reliability through a program of internal audits. Actions are taken to correct potential deficiencies as they are identified.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Accordingly, even an effective system of internal control over financial

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reporting will provide only reasonable assurance with respect to financial statement preparation.

With the supervision and participation of our President and Chief Executive Officer and our Vice President and Chief Financial Officer, management assessed the effectiveness of Ohio Valley's internal control over financial reporting as of December 31, 2004. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework. Based on management's assessment and those criteria, management concluded that Ohio Valley maintained effective internal control over financial reporting as of December 31, 2004.

Ohio Valley's independent registered public accounting firm, Crowe Chizek and Company LLC, has issued their report on management's assessment of Ohio Valley's internal control over financial reporting. That report follows under the heading, "Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting."

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Board of Directors and Shareholders
Ohio Valley Banc Corp.
Gallipolis, Ohio

We have audited management's assessment, included in the accompanying Management's Report on Internal Control over Financial Reporting, that Ohio Valley Banc Corp. (the "Company") maintained effective internal control over financial reporting as of December 31, 2004, based on Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Ohio Valley Banc Corp.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are

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being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that Ohio Valley Banc Corp. maintained effective internal control over financial reporting as of December 31, 2004, is fairly stated, in all material respects, based on Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Also in our opinion, Ohio Valley Banc Corp. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2004, based on Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

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We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Ohio Valley Banc Corp. as of December 31, 2004 and 2003, and the related consolidated statements of income, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2004 and our report dated February 11, 2005 expressed an unqualified opinion on those consolidated financial statements.

/s/ Crowe Chizek and Company LLC

Crowe Chizek and Company LLC

Columbus, Ohio
April 6, 2005

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Changes in Internal Control Over Financial Reporting

There were no changes in Ohio Valley's internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that occurred during Ohio Valley's fiscal quarter ended December 31, 2004, that have materially affected, or are reasonably likely to materially affect, Ohio Valley's internal control over financial reporting.

PART IV

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ITEM 15 - EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

A. (1) Financial Statements

The following consolidated financial statements of Ohio Valley appear in the 2004 Annual Report to Shareholders, the relevant portions of which were previously filed as Exhibit 13 to the Original Filing and specifically incorporated by reference under Item 8 of the Original Filing:

Consolidated Statements of Condition as of December 31, 2004 and 2003
Consolidated Statements of Income for the years ended December 31,
2004, 2003 and 2002
Consolidated Statements of Changes in Shareholders' Equity for the
years ended December 31, 2004, 2003 and 2002
Consolidated Statements of Cash Flows for the years ended December 31,
2004, 2003 and 2002
Notes to the Consolidated Financial Statements
Report of Independent Registered Public Accounting Firm on Financial
Statements

(2) Financial Statement Schedules

Financial statement schedules are omitted as they are not required or are not applicable, or the required information is included in the financial statements.

(3) Exhibits

Reference is made to the Exhibit Index beginning on page 8 of this Form 10-K/A.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, Ohio Valley has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

OHIO VALLEY BANC CORP.

Date: April 29, 2005

By: /s/ Jeffrey E. Smith

Jeffrey E. Smith, President
and Chief Executive Officer

EXHIBIT INDEX

The following exhibits are included in this Form 10-K/A or were incorporated by reference into or previously filed with the Original Filing as noted in the following table:

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| Exhibit No. ----- | Description ----- | Location ----- |
|----------------------|--|---|
| 3(a) | Amended Articles of Incorporation of Ohio Valley. | Incorporated here to Ohio Valley' fiscal year end No. 0-20914). |
| 3(b) | Amendment to the Articles of Incorporation of Ohio Valley (filed with the Ohio Secretary of State on April 15, 1999). | Filed herewith. |
| 3(c) | Code of Regulations of Ohio Valley. | Incorporated here to Ohio Valley' File No. 0-20914). |
| 4 | Agreement to furnish instruments and agreements defining rights of holders of long-term debt. | Previously filed |
| 10.1 | Split Dollar Agreement, dated November 11, 1996, between Jeffrey E. Smith and The Ohio Valley Bank Company. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.2 | Schedule A to Exhibit 10.1 identifying other identical Split Dollar Agreements between The Ohio Valley Bank Company and executive officers of Ohio Valley Banc Corp. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.3 | Director Retirement Plan, dated October 10, 2002, between Brent A. Saunders and The Ohio Valley Bank Company. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.4 | Schedule A to Exhibit 10.3 identifying other identical director retirement plans between The Ohio Valley Bank Company and executive officers who are directors of Ohio Valley Banc Corp. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.5 | Salary Continuation Plan, dated January 2, 1997, between Jeffrey E. Smith and The Ohio Valley Bank Company. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |

| Exhibit No. ----- | Description ----- | Location ----- |
|----------------------|--|---|
| 10.6 | Schedule A to Exhibit 10.5 identifying other identical salary continuation plans between The Ohio Valley Bank Company and executive officers of Ohio Valley Banc Corp. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |

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| | | |
|-------|---|---|
| 10.7 | Deferred Compensation Plan, dated November 11, 2002, between Barney A. Molnar and The Ohio Valley Bank Company. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.8 | Schedule A to Exhibit 10.7 identifying other identical deferred compensation plans between The Ohio Valley Bank Company and executive officers or directors of Ohio Valley Banc Corp. | Incorporated here to Ohio Valley' fiscal year end 0-20914). |
| 10.9 | Summary of Compensation for Directors of Ohio Valley Banc Corp. | Previously filed |
| 10.10 | Summary of Long Range Bonus Program of Ohio Valley Banc Corp. | Previouly filed |
| 11 | Statement regarding computation of per share earnings. | Previously filed |
| 13 | Ohio Valley's Annual Report to Shareholders for the fiscal year ended December 31, 2004. | Previously filed |
| 21 | Subsidiaries of Ohio Valley. | Previously filed |
| 23 | Consent of Independent Accountant - Crowe Chizek and Company LLC. | Filed herewith. |
| 31.1 | Rule 13a-14(a)/15d-14(a) Certification (Principal Executive Officer). | Filed herewith. |
| 31.2 | Rule 13a-14(a)/15d-14(a) Certification (Principal Financial Officer). | Filed herewith. |
| 32 | Section 1350 Certifications (Principal Executive Officer and Principal Accounting Officer). | Filed herewith. |
| 99 | Press Release issued by Ohio Valley on March 2, 2005. | Previously filed |