

LAKELAND BANCORP INC
Form 425
August 24, 2018

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): August 23, 2018

Lakeland Bancorp, Inc.
(Exact Name of Registrant as Specified in Charter)

NEW JERSEY
(State or Other Jurisdiction
of Incorporation)

000-17820
(Commission
File Number)
250 Oak Ridge Road, Oak Ridge, New Jersey 07438

22-2953275
(I.R.S. Employer
Identification Number)

(Address of Principal Executive Offices) (Zip Code)

(973) 697-2000

(Registrant's telephone number, including area code)

(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:

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))
Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). Emerging growth company

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 13(a) of the Exchange Act.

Item 1.01. Entry Into a Material Definitive Agreement.

On August 23, 2018, Lakeland Bancorp, Inc., a New Jersey corporation (Lakeland Bancorp), entered into an Agreement and Plan of Merger (the Merger Agreement) with Highlands Bancorp, Inc., a New Jersey corporation (Highlands Bancorp). The Merger Agreement provides that, upon the terms and subject to the conditions set forth therein, Highlands Bancorp will merge with and into Lakeland Bancorp, with Lakeland Bancorp continuing as the surviving entity (the Merger). The Merger Agreement also provides that, immediately following the consummation of the Merger, Highlands State Bank, a New Jersey-chartered commercial bank (Highlands State Bank) and a wholly-owned subsidiary of Highlands Bancorp, will merge with and into Lakeland Bank, a New Jersey-chartered commercial bank (Lakeland Bank) and a wholly-owned subsidiary of Lakeland Bancorp, with Lakeland Bank continuing as the surviving bank (the Bank Merger and, collectively with the Merger, the Mergers). The Merger Agreement was approved by the Boards of Directors of each of Lakeland Bancorp and Highlands Bancorp.

Subject to the terms and conditions of the Merger Agreement, upon completion of the Merger (the Effective Time), shareholders of Highlands Bancorp will receive, for each outstanding share of Highlands Bancorp common stock that they own at the Effective Time, 1.015 shares of Lakeland Bancorp common stock (the ratio of such number to one, the Exchange Ratio). Cash will be paid in lieu of fractional shares.

Also at the Effective Time (i) all shares of Highlands Bancorp common stock owned by Highlands Bancorp as treasury stock and (ii) all shares of Highlands Bancorp common stock owned directly or indirectly by Lakeland Bancorp or Highlands Bancorp or any of their respective subsidiaries (other than shares of Highlands Bancorp common stock (x) held in trust accounts, managed accounts and the like or otherwise held in a fiduciary capacity for the benefit of third parties or (y) held by Lakeland Bancorp or Highlands Bancorp or any of their respective subsidiaries in respect of a debt previously contracted), shall be canceled and no consideration will be delivered in exchange therefor. Outstanding Highlands Bancorp stock options will be cashed out in the Merger. Each outstanding share of Lakeland common stock will remain outstanding and be unaffected by the Merger.

The Merger Agreement provides that the directors and officers of Lakeland Bancorp immediately prior to the Effective Time shall be the directors and officers of the surviving corporation.

The Merger Agreement contains customary representations and warranties from both Lakeland Bancorp and Highlands Bancorp.

Highlands Bancorp has agreed to various customary covenants and agreements, including (i) to conduct its business in the ordinary and usual course consistent with past practices and prudent banking practice during the interim period between the execution of the Merger Agreement and the consummation of the Merger, (ii) not to engage in certain kinds of transactions or take certain actions during this period without the written consent of Lakeland Bancorp, such consent not to be unreasonably withheld, and (iii) to convene and hold a meeting of its shareholders for the purpose of voting upon the approval and adoption of the Merger Agreement and the Merger. Highlands Bancorp has also agreed not to, subject to certain exceptions generally related to its Board's evaluation and exercise of its fiduciary duties, solicit or facilitate proposals with respect to, engage in any negotiations concerning, or provide any confidential information or engage in any discussions relating to, any alternative business combination transactions.

No approval is required from Lakeland Bancorp's shareholders in connection with the Merger or the Bank Merger.

Highlands Bancorp's directors and certain of its executive officers, owning in the aggregate approximately 12.65% of Highlands Bancorp's outstanding shares, have signed voting agreements (collectively, the Voting Agreements), pursuant to which they have agreed to vote their shares in favor of the Merger. Pursuant to the Voting Agreements, among other things, such persons have irrevocably agreed (i) to vote any Highlands Bancorp stock held by them (or to use reasonable best efforts to vote any Highlands Bancorp stock for which they have joint or shared voting power with

their respective spouses) in favor of the Merger Agreement and the Merger at any meeting of the shareholders of Highlands Bancorp called for such purpose (or in connection with any written consent of Highlands Bancorp shareholders for such purpose), (ii) to abide by certain transfer restrictions with respect to their Highlands

Bancorp stock, (iii) to not solicit, initiate, encourage or facilitate any alternative acquisition proposal, subject to certain limited exceptions and (iv) to not commence, join as a plaintiff, participate as a member of any purported or actual class, or otherwise assist, facilitate or encourage, any legal proceeding which seeks to prohibit or restrain, or which, if successful, would have the effect of preventing or restraining, or otherwise having an impact on the consideration to be received with respect to, the Merger or the Bank Merger.

Completion of the Merger is subject to various conditions, including, among others, (i) approval by Highlands Bancorp shareholders of the Merger Agreement and the transactions contemplated thereby, (ii) effectiveness of the registration statement on Form S-4 for the Lakeland Bancorp common stock issuable in the Merger, (iii) approval of the listing on the NASDAQ Global Select Market of the Lakeland Bancorp common stock issuable in the Merger, (iv) the receipt of all necessary approvals and consents of governmental entities required to consummate the transactions contemplated by the Merger Agreement (including without limitation approvals or waivers of the Federal Deposit Insurance Corporation, the New Jersey Department of Banking and Insurance and the Federal Reserve Board), (v) the absence of any order or proceeding which prohibits the Merger or the Bank Merger and (vi) the receipt by each of Lakeland Bancorp and Highlands Bancorp of an opinion to the effect that the Merger will be treated as a reorganization qualifying under Section 368(a) of the Internal Revenue Code of 1986, as amended. Each party's obligation to consummate the Merger is also subject to certain customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) performance in all material respects of its agreements, covenants and obligations and (iii) the delivery of certain certificates and other documents.

The Merger Agreement provides that the Merger Agreement may be terminated in certain instances, including (i) by mutual agreement of the parties, (ii) by either party if the approval of any governmental entity of the Merger Agreement transactions is denied through no failure of the terminating party to comply with the Merger Agreement, (iii) by either party if the Merger shall not have been consummated by the one-year anniversary of the execution of the Merger Agreement (the Cut-Off Date) or such later date as mutually agreed, unless the failure to close is due to the terminating party's failure to perform or observe its covenants and agreements, (iv) by either party if the Highlands Bancorp shareholders fail to approve the Merger, (v) subject to certain exceptions, by either party not in material breach of the Merger Agreement if there shall have been a breach by the other party of its representations or warranties, which breach is not cured within 30 days following written notice, or which breach, by its nature, cannot be cured prior to the Cut-Off Date, (vi) by either party not in material breach if there shall have been a material breach of any of the covenants or agreements of the other party not cured within 30 days written notice, or which breach, by its nature, cannot be cured prior to the Cut-Off Date, (vii) by Highlands Bancorp if prior to the approval of its shareholders, Highlands Bancorp enters into an alternative acquisition agreement with respect to a Superior Proposal (as defined in the Merger Agreement) and pays to Lakeland Bancorp a termination fee of \$2,250,000 (the Termination Fee) and Lakeland Bancorp's out-of-pocket expenses in an amount up to \$325,000 (the Termination Expenses), (viii) by Lakeland Bancorp if (1) prior to Highlands Bancorp shareholder approval, Highlands Bancorp refuses to recommend that its shareholders approve the Merger or adopts an alternative acquisition proposal, breaches its non-solicitation obligations with respect to alternative acquisition proposals in any material respect adverse to Lakeland Bancorp or recommends that Highlands Bancorp shareholders tender their shares (or fail to reject) a tender offer or exchange offer for 10% or more of the Highlands Bancorp common stock, or (2) any other event occurs that gives rise to the payment of a Termination Fee and Termination Expenses pursuant to the Merger Agreement, provided that upon a termination by Lakeland Bancorp pursuant to clause (viii), Highlands Bancorp is required to pay Lakeland Bancorp the Termination Fee and the Termination Expenses, or (ix) by Highlands Bancorp during the five day period following the date on which all bank regulatory approvals (and waivers, if applicable) for the Merger and the Bank Merger have been received (the Determination Date), if (1) the average of the closing prices of a share of Lakeland Common Stock for the 20 trading days ending at the close of trading on the Determination Date (the Parent Common Stock Average Price) is less than \$15.60 (the Base Amount) and (2) (a) the number obtained by dividing the Parent Common Stock Average Price by \$19.50 (the Parent Initial Price) (the quotient resulting from clause (2)(a) being referred to as the Parent Ratio) is less than (b) the number obtained by dividing the average of the closing prices of the Nasdaq Bank Index for the 20 consecutive trading days immediately preceding the Determination Date

(the Final Index Price) by \$4,308.44 (the Initial Index Price) and subtracting 0.20 from the quotient in clause (2)(b) (such number referred to as the Index Ratio); provided that upon receiving notice of Highlands Bancorp s intended exercise of its termination right pursuant to clause (ix), Lakeland Bancorp shall have the right to increase the Exchange Ratio as described in the Merger Agreement to prevent such termination.

The foregoing descriptions of the Merger Agreement and the Voting Agreements do not purport to be complete and are subject to and are qualified in their entirety by reference to the full text of those respective documents, which are filed as Exhibits to this Current Report on Form 8-K and incorporated herein by reference. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for purposes of, were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that may differ from those applicable to investors. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any other factual information regarding Lakeland Bancorp, Highlands Bancorp, their respective affiliates or their respective businesses. Rather, investors and the public should look to other disclosures contained in Lakeland Bancorp's filings with the Securities and Exchange Commission (the Commission).

Item 7.01. Regulation FD Disclosure.

Lakeland Bancorp is furnishing as Exhibit 99.1 to this report pursuant to Item 7.01 of Form 8-K updated presentation materials for various investor meetings which may be held prior to the consummation of the Merger. A printable version of the presentation also is available on Lakeland Bancorp's website at <http://www.lakelandbank.com>. Lakeland Bancorp is not undertaking to update this presentation. The information in this Item 7.01 (including Exhibit 99.1) is being furnished pursuant to Item 7.01 and shall be not deemed to be filed for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section. The furnishing of this information under Item 7.01 of Form 8-K will not be deemed an admission as to the materiality of any information herein (including Exhibit 99.1).

Item 8.01. Other Events.

On August 23, 2018, Lakeland Bancorp and Highlands Bancorp disseminated a joint press release announcing entry into the Merger Agreement described in Item 1.01 of this Current Report on Form 8-K. A copy of the press release is attached as Exhibit 99.2 and is incorporated into this Item 8.01 by reference.

Additional Information and Where to Find It

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. In connection with the proposed Merger, Lakeland Bancorp intends to file a registration statement that will include a proxy statement to be distributed to Highlands Bancorp's shareholders as a prospectus, with the Commission. **INVESTORS AND SECURITY HOLDERS ARE ADVISED TO READ THE PROXY STATEMENT/PROSPECTUS WHEN IT BECOMES AVAILABLE, BECAUSE IT WILL CONTAIN IMPORTANT INFORMATION.** Investors and security holders may obtain a free copy of the registration statement (when available) and other documents filed by Lakeland Bancorp with the Commission at the Commission's web site at www.sec.gov. These documents may be accessed and downloaded for free at Lakeland Bancorp's website at www.lakelandbank.com or by directing a request to Investor Relations, Lakeland Bancorp, Inc., 250 Oak Ridge Road, Oak Ridge, New Jersey 07438 (973-697-2000). Requests for the Proxy Statement/Prospectus may also be made to Steven C. Ackmann, President & CEO, Highlands Bancorp, Inc., 310 Route 94, PO Box 160, Vernon, New Jersey 07462 (973-658-4573).

Participants in the Solicitation

This communication is not a solicitation of a proxy from any security holder of Lakeland Bancorp or Highlands Bancorp. However, Lakeland Bancorp, Highlands Bancorp and their respective directors and executive officers may

be deemed to be participants in the solicitation of proxies from Highlands Bancorp's shareholders in respect of the proposed transaction. Information regarding the directors and executive officers of Lakeland Bancorp may be found in its definitive proxy statement relating to its 2018 Annual Meeting of Shareholders, which was filed with the Commission on April 3, 2018, and can be obtained free of charge from Lakeland Bancorp's website. Information regarding the directors and executive officers of Highlands Bancorp may be found in its definitive

proxy statement relating to its 2018 Annual Meeting of Shareholders, and can be obtained free of charge from Highlands Bancorp by requesting a copy from Steven C. Ackmann, President & CEO, Highlands Bancorp, Inc., 310 Route 94, PO Box 160, Vernon, NJ 07462 (973-658-4573). Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interest, by security holdings or otherwise, will be contained in the proxy statement/prospectus and other relevant materials to be filed with the Commission when they become available.

Cautionary Statements Regarding Forward-Looking Information

This Current Report on Form 8-K (including Exhibits 99.1 and 99.2 hereto) contains forward-looking statements with respect to the proposed mergers and the timing of consummation of the mergers that are made in reliance upon the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The words "anticipates", "projects", "intends", "estimates", "expects", "believes", "plans", "may", "will", "should", "could" and other similar expressions are used to identify such forward looking statements. Statements concerning the transaction being accretive to Lakeland Bancorp's earnings and dilutive to tangible book value with an estimated earnback in under 2.0 years using the crossover method are also forward looking statements. These forward-looking statements are necessarily speculative and speak only as of the date made, and are subject to numerous assumptions, risks and uncertainties, all of which may change over time. Actual results could differ materially from such forward-looking statements. The following factors, among others, could cause actual results to differ materially and adversely from such forward-looking statements: failure to obtain Highlands Bancorp shareholder approval for the Merger of Highlands Bancorp into Lakeland Bancorp; failure to receive regulatory approval for the Merger of Highlands Bancorp into Lakeland Bancorp or the Bank Merger of Highlands State Bank into Lakeland Bank; failure to realize anticipated efficiencies and synergies if the Mergers are consummated; material adverse changes in Lakeland Bancorp's or Highlands Bancorp's operations or earnings; decline in the economy in Lakeland Bancorp's and Highlands Bancorp's primary market areas; as well as the risk factors set forth in the periodic reports filed by Lakeland Bancorp with the Commission. Neither Lakeland Bancorp nor Highlands Bancorp assumes any obligation for updating any such forward-looking statements at any time.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits.

Exhibit Number	Description
Exhibit 2.1	<u>Agreement and Plan of Merger, dated as of August 23, 2018, by and between Lakeland Bancorp, Inc. and Highlands Bancorp, Inc., with the Forms of Bank Merger Agreement and Voting Agreement attached as Exhibits.*</u>
Exhibit 99.1	<u>Lakeland Bancorp, Inc. investor presentation materials for various investor meetings.**</u>
Exhibit 99.2	<u>Joint Press Release of Lakeland Bancorp, Inc. and Highlands Bancorp, Inc., dated August 23, 2018.</u>

* The schedules to Exhibit 2.1 have been omitted pursuant to Item 601(b)(2) of Regulation S-K. Lakeland Bancorp will furnish any schedules to the Commission upon request.

** Exhibit 99.1 is furnished with this Current Report on Form 8-K.

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.

Lakeland Bancorp, Inc.

Date: August 24, 2018

By: /s/ Thomas Splaine
Name: Thomas Splaine
Title: Executive Vice President and Chief Financial
Officer