

FIRST MERCHANTS CORP
Form 10-K/A
September 29, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

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

[Mark One]

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2016

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 0-17071

FIRST MERCHANTS CORPORATION

(Exact name of registrant as specified in its charter)

Indiana 35-1544218

(State or other jurisdiction of
incorporation or organization) (I.R.S. Employer Identification No.)

200 East Jackson

Muncie, Indiana 47305-2814

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (765)747-1500

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of each exchange on which registered
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Common Stock, \$0.125 stated value per share	The NASDAQ Stock Market
--	-------------------------

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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 whether the registrant has submitted electronically and posted on its corporate website, if any, every interactive data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files) 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

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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. [X]

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. Large accelerated filer [X] Accelerated filer [] Non-accelerated filer [] Small Reporting Company []

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes [] No[X]

The aggregate market value (not necessarily a reliable indication of the price at which more than a limited number of shares would trade) of the voting stock held by non-affiliates of the registrant was \$1,016,468,000 as of the last business day of the registrant's most recently completed second fiscal quarter (June 30, 2016).

As of February 22, 2017 there were 41,248,140 outstanding common shares, without par value, of the registrant.

DOCUMENTS INCORPORATED BY REFERENCE

Documents	Part of Form 10-K into which incorporated
Portions of the Registrant's Definitive	Part III (Items 10 through 14)
Proxy Statement for Annual Meeting of	
Shareholders to be held May 1, 2017	

EXPLANATORY NOTE

First Merchants Corporation (the "Company") is filing this Amendment No. 1 to its Annual Report on Form 10-K for the year ended December 31, 2016 for the sole purpose of satisfying the requirements of Rule 15d-21 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to the First Merchants Corporation Employee Stock Purchase Plan (2009). This Amendment also serves to update the exhibit description and index in connection therewith.

In addition, as required by Rule 12b-15 of the Exchange Act, new certifications by the Company's principal executive officer and principal financial officer are filed as exhibits to this Amendment. This Amendment does not reflect events occurring after the date of the initial Annual Report on Form 10-K or modify or update any disclosures that may have been affected by subsequent events. Other than the changes referred to above, all other information in the initial Annual Report on Form 10-K, as amended, remains unchanged.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) 3. Exhibits:

Exhibit No: Description of Exhibits:

- | | |
|-----|--|
| | <u>Agreement and Plan of Reorganization and Merger among First Merchants Corporation, First Merchants Bank and The Arlington Bank, dated as of January 25, 2017 (Incorporated by reference to registrant's Form 8-K filed on January 25, 2017) (SEC No. 000-17071)</u> |
| 2.1 | |
| | <u>Voting Agreement, dated January 25, 2017, among First Merchants Corporation and certain shareholders of The Arlington Bank (Incorporated by reference to registrant's Form 8-K filed on January 25, 2017) (SEC No. 000-17071)</u> |
| 2.2 | |
| | <u>Agreement and Plan of Reorganization and Merger among First Merchants Corporation and Independent Alliance Banks, Inc., dated as of February 17, 2017 (Incorporated by reference to registrant's Form 8-K filed on February 17, 2017) (SEC No. 000-17071)</u> |
| 2.3 | |
| | <u>Voting Agreement, dated February 17, 2017, among First Merchants Corporation and certain shareholders of Independent Alliance Banks, Inc. (Incorporated by reference to registrant's Form 8-K filed on February 17, 2017) (SEC No. 000-17071)</u> |
| 2.4 | |
| | <u>First Merchants Corporation Articles of Incorporation, as amended (Incorporated by reference to registrant's Form 10-Q filed on November 9, 2011) (SEC No. 000-17071)</u> |
| 3.1 | |
| | <u>Bylaws of First Merchants Corporation, as amended (2)</u> |
| 3.2 | |
| | <u>First Merchants Corporation Articles of Amendment of the Articles of Incorporation for the Series B Preferred Stock (Incorporated by reference to registrant's Form 8-K filed on September 23, 2011) (SEC No. 000-17071)</u> |
| 3.3 | |
| | <u>First Merchants Corporation Amended and Restated Declaration of Trust of First Merchants Capital Trust II dated as of July 2, 2007 (Incorporated by reference to registrant's Form 8-K filed on July 3, 2007) (SEC No. 000-17071)</u> |
| 4.1 | |
| | <u>Indenture dated as of July 2, 2007 (Incorporated by reference to registrant's Form 8-K filed on July 3, 2007) (SEC No. 000-17071)</u> |
| 4.2 | |
| | <u>Guarantee Agreement dated as of July 2, 2007 (Incorporated by reference to registrant's Form 8-K filed on July 3, 2007) (SEC No. 000-17071)</u> |
| 4.3 | |
| 4.4 | |

- Form of Capital Securities Certification of First Merchants Capital Trust II (Incorporated by reference to registrant's Form 8-K filed on July 3, 2007) (SEC No. 000-17071)
- 4.5 First Merchants Corporation Dividend Reinvestment and Stock Purchase Plan (Incorporated by reference to registrant's Post-Effective Amendment No. 1 to Form S-3 filed on August 21, 2009) (SEC 033-45393)
- 4.6 Upon request, the registrant agrees to furnish supplementally to the Commission a copy of the instruments defining the rights of holders of its (a) 5.00% Fixed-to-Floating Rate Senior Notes due 2028 in the aggregate principal amount of \$5 million and (b) 6.75% Fixed-to-Floating Rate Subordinated Notes due 2028 in aggregate principal amount of \$65 million.
- 10.1 First Merchants Corporation Senior Management Incentive Compensation Program, dated February 13, 2017 (1)
- 10.2 First Merchants Corporation Equity Compensation Plan for Non-Employee Directors, effective as amended January 1, 2015 (Incorporated by reference to the registrant's Form 10-K filed on February 27, 2015) (1)
- 10.3 First Merchants Corporation 2009 Long-Term Equity Incentive Plan, effective as amended January 1, 2015 (Incorporated by reference to registrant's Form 10-K filed on February 27, 2015) (1)
- 10.4 First Merchants Corporation Change of Control Agreement, as amended, with Michael C. Rechin dated June 1, 2011 (Incorporated by reference to registrant's Form 10-Q filed on August 9, 2011) (SEC No. 000-17071) (1)
- 10.5 First Merchants Corporation Change of Control Agreement, as amended, with Mark K. Hardwick dated June 1, 2011 (Incorporated by reference to registrant's Form 10-Q filed on August 9, 2011) (SEC No. 000-17071) (1)
- 10.6 First Merchants Corporation Change of Control Agreement, as amended, with Michael J. Stewart dated June 1, 2011 (Incorporated by reference to registrant's Form 10-Q filed on August 9, 2011) (SEC No. 000-17071) (1)
- 10.7 First Merchants Corporation Change of Control Agreement, as amended, with John J. Martin dated June 1, 2011 (Incorporated by reference to registrant's Form 10-Q filed on August 9, 2011) (SEC No. 000-17071) (1)
- 10.8 First Merchants Corporation Change of Control Agreement, as amended, with Jeffery B. Lorentson dated June 1, 2011 (Incorporated by reference to registrant's Form 10-Q filed on August 9, 2011) (SEC No. 000-17071) (1)
- 10.9 First Merchants Corporation Change of Control Agreement, effective February 11, 2014, with Stephan H. Fluhler (Incorporated by reference to registrant's Form 8-K filed on May 12, 2014) (SEC No. 000-17071) (1)
- 10.10 Resolution of the Board of Directors of First Merchants Corporation on director compensation dated December 4, 2007 (Incorporated by reference to the registrant's Form 10-K for year ended December 31, 2007) (SEC No. 000-17071) (1)
- 10.11 First Merchants Corporation Supplemental Executive Retirement Plan and amendments thereto (Incorporated by reference to registrant's Form 10-K for year ended December 31, 1997) (SEC No. 000-17071) (1)
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(a) 3. Exhibits (continued):

- 10.12 First Merchants Corporation Defined Contribution Supplemental Retirement Plan dated January 1, 2006 (Incorporated by reference to registrant's Form 8-K filed on February 6, 2007) (SEC No. 000-17071) (1)
- 10.13 First Merchants Corporation Participation Agreement of Michael C. Rechin dated January 26, 2007 (Incorporated by reference to registrant's Form 8-K filed on February 6, 2007) (SEC No. 000-17071) (1)
- 10.14 First Merchants Corporation 2009 Employee Stock Purchase Plan effective July 1, 2009 (Incorporated by reference to registrant's Form 8-K filed on May 11, 2009) (SEC No. 000-17071) (1)
- 10.15 2011 Executive Deferred Compensation Plan, effective January 1, 2011 (Incorporated by reference to registrant's Form 8-K filed on November 3, 2011) (SEC No. 000-17071) (1)
- 10.16 Stock Purchase Agreement among First Merchants Corporation and Leland Boren as Sellers' Representative, dated September 20, 2016 (Incorporated by reference to registrant's Form 8-K filed on September 26, 2016) (SEC No. 000-17071)
- 21 Subsidiaries of registrant (2)
- 23 Consent of Independent Registered Public Accounting Firm (2)
- 24 Limited Power of Attorney (2)
- 31.1 Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes - Oxley Act of 2002 (2)
- 31.2 Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes - Oxley Act of 2002 (2)
- 32 Certifications Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (2)
- 99.1 Financial statements and independent registered public accounting firm's report for First Merchants Corporation 2009 Employee Stock Purchase Plan (2004) (2)
- 101.INS XBRL Instance Document (3)
- 101.SCH XBRL Taxonomy Extension Schema Document (3)
- 101.CAL XBRL Taxonomy Extension Calculation Linkbase Document (3)
- 101.DEF XBRL Taxonomy Extension Definition Linkbase Document (3)
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- 101.PRE XBRL Taxonomy Extension Presentation Linkbase Document (3)

- (1) Management contract or compensatory plan
- (2) Filed herewith.
- (3) Furnished herewith.

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to its Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on this 29th day of September, 2017.

FIRST MERCHANTS CORPORATION

By: /s/ Michael C. Rechin
Michael C. Rechin,
President and Chief
Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this Amendment No. 1 to the Annual Report on Form 10-K has been signed by the following persons on behalf of the registrant and in the capacities indicated, on this 29th day of September, 2017.

/s/ Michael C. Rechin Michael C. Rechin, President and Chief Executive Officer (Principal Executive Officer)	/s/ Mark K. Hardwick Mark K. Hardwick, Executive Vice President, Chief Financial Officer and Chief Operating Officer (Principal Financial and Accounting Officer)
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/s/ Michael R. Becher* Michael R. Becher, Director	/s/ Michael C. Rechin Michael C. Rechin, Director
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/s/ Michael J. Fisher* Michael J. Fisher, Director	/s/ Charles E. Schalliol* Charles E. Schalliol, Director
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/s/ F. Howard Halderman* F. Howard Halderman, Director	/s/ Patrick A. Sherman* Patrick A. Sherman, Director
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/s/ William L. Hoy* William L. Hoy, Director	/s/ Terry L. Walker* Terry L. Walker, Director
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/s/ Gary J. Lehman* Gary J. Lehman, Director	/s/ Jean L. Wojtowicz* Jean L. Wojtowicz, Director
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By Mark K. Hardwick as Attorney-in Fact pursuant to a Limited Power of Attorney executed by the directors listed *above, which Power of Attorney was filed with Securities and Exchange Commission as an exhibit to the initial Annual Report on Form 10-K, filed March 1, 2017.

By: /s/ Mark K. Hardwick
Mark K. Hardwick

As Attorney-in-Fact
September 29, 2017

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