

COMMUNITY BANK SYSTEM INC
Form S-4/A
February 15, 2011

As filed with the Securities and Exchange Commission on February 15, 2011
Registration No. 333-171656

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

Amendment No. 1 to
FORM S-4
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

COMMUNITY BANK SYSTEM, INC.
(Exact name of registrant as specified in its charter)

Delaware	6712	16-1213679
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

5790 Widewaters Parkway
DeWitt, New York 13214
(315) 445-2282
(Address, including zip code, and telephone number,
including area code, of registrant's principal executive offices)

Mark E. Tryniski
President and Chief Executive Officer
Community Bank System, Inc.
5790 Widewaters Parkway
DeWitt, New York 13214
(315) 445-2282
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

With copies to:

Ronald C. Berger, Esq. Bond, Schoeneck & King, PLLC One Lincoln Center Syracuse, New York 13202-1355 (315) 218-8000	George J. Getman, Esq. Executive Vice President and General Counsel Community Bank System, Inc.	Clifford S. Weber, Esq. Hinman, Howard & Kattell, LLP 700 Security Mutual Building 80 Exchange Street
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5790 Widewaters Binghamton, New York
Parkway 13902-5250
DeWitt, New York 13214 (607) 723-5341
(315) 445-2282

Approximate date of commencement of proposed sale to the public: _____ As soon as practicable after the effective date of the registration statement.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12 b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
 Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Share	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee (3) (4)
Common Stock, \$1.00 par value	4,133,394 Shares	N/A	\$40,548,592	\$4,707.69
.....				

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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(1) Represents the maximum number of shares of Community Bank System, Inc. (NYSE: CBU) common stock estimated to be issuable upon the completion of the merger, which may be higher or lower in accordance with the formula described below. This number is based upon the product of (x) the number of shares of The Wilber Corporation (NYSE Amex: GIW) common stock outstanding and reserved for issuance as of January 10, 2011; (y) an exchange ratio of .4820, solely for purposes of calculating the registration fee, issuable in exchange for each share of The Wilber Corporation common stock in accordance with the Agreement and Plan of Merger, dated October 22, 2010, by and among Community Bank System, Inc. and The Wilber Corporation (attached hereto as Annex A); and (z) 80% (the portion of the merger consideration consisting of Community Bank System common stock issuable in the merger).

(2) Estimated solely for the purpose of calculating the registration fee required by Section 6(b) of the Securities Act and computed pursuant to Rules 457(f)(1) and 457(c) of the Securities Act, based on the market value of the Wilber common stock expected to be exchanged in connection with the merger, as established by the average of the high and low sales price of Wilber common stock on NYSE Amex on January 10, 2011 of \$9.81.

(3) Calculated in accordance with Section 6(b) of the Securities Act and SEC Fee Advisory #5 for Fiscal Year 2011 at a rate equal to 0.0001161 multiplied by the proposed maximum aggregate offering price.

(4) Previously paid.

The information in this proxy statement/prospectus is subject to completion or amendment. A registration statement relating to the shares of Community Bank System, Inc. common stock to be issued in the merger has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This proxy statement/prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation, or sale is not permitted or would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

PRELIMINARY - SUBJECT TO COMPLETION DATED FEBRUARY 15, 2011

PROXY STATEMENT/ PROSPECTUS

THE WILBER
CORPORATION
245 Main Street
Oneonta, New York 13820

Dear Shareholder:

On October 22, 2010, The Wilber Corporation (“Wilber”) entered into an Agreement and Plan of Merger (“Merger Agreement”) with Community Bank System, Inc. (“Community Bank System”) in a stock and cash transaction. If Wilber’s shareholders approve the Merger Agreement and the merger it provides for is subsequently completed, Wilber will merge with and into Community Bank System (the “Merger”) with Community Bank System being the surviving entity.

In the Merger, you will have an opportunity to elect to receive merger consideration in the form of either cash, Community Bank System common stock, or a combination of both in exchange for your shares of Wilber common stock, as follows:

- \$9.50 in cash;
- shares of Community Bank System common stock calculated pursuant an exchange ratio based upon the average closing sale price of Community Bank System common stock over the 10 trading days before the consummation of the Merger (the “Average Closing Price”). The exchange ratio will be:
 - 0.4820 shares of Community Bank System common stock for each share of Wilber common stock that you own if the Average Closing Price is less than \$19.71 per share;
 - 0.3748 shares of Community Bank System common stock for each share of Wilber common stock that you own if the Average Closing Price is greater than \$25.35 per share; or
 - the quotient obtained by dividing \$9.50 by the Average Closing Price if the Average Closing Price is between \$19.71 and \$25.35 per share; or
- a combination of both cash and shares of Community Bank System common stock, at the respective rates described above, whereby 80% of your Wilber common stock will be exchanged for shares of Community Bank System common stock and the remaining 20% of your Wilber common stock will be exchanged for cash.

You will receive a separate mailing containing instructions on how to make your election as to whether you desire cash, stock or a combination of cash and stock. Under the election and allocation procedures that we have described in this document, shareholders who elect to receive all cash or all stock may actually receive a combination of cash and shares of Community Bank System common stock, depending on elections made by the other Wilber shareholders. The maximum number of shares to be issued by Community Bank System in the Merger is 4,133,394 shares of common stock. Community Bank System's common stock is listed on the NYSE under the symbol "CBU."

The accompanying document is also being delivered to Wilber shareholders as Community Bank System's prospectus for its offering of Community Bank System common stock in connection with the Merger, and as a proxy statement for the solicitation of proxies from Wilber shareholders to vote for the adoption of the Merger Agreement and approval of the Merger. This proxy statement/prospectus provides you with detailed information about the proposed Merger. It also contains or references information about Wilber, Community Bank System and related matters. You are encouraged to read this document carefully. In particular, you should read the "Risk Factors" section beginning on page [____] for a discussion of the risks you should consider in evaluating the proposed Merger and how it will affect you.

The Merger cannot be completed unless at least two thirds of the issued and outstanding shares of Wilber common stock vote in favor of the Merger. If you fail to vote, or you do not instruct your broker how to vote any shares held for you in "street name," it will have same effect as voting "AGAINST" the Merger Agreement. Your Board of Directors has unanimously determined that the Merger and the Merger Agreement are fair and in the best interest of Wilber and its shareholders and unanimously recommends that you vote "FOR" adoption of the Merger Agreement.

On behalf of the Board of Directors, I thank you for your prompt attention to this matter.

Sincerely,

Brian R. Wright
Chairman of the Board

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the Merger, the issuance of the Community Bank System common stock in connection with the Merger or the other transactions described in this proxy statement/prospectus, or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense. The securities to be issued in connection with the Merger are not savings accounts, deposits or other obligations of any bank or savings association and are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

This proxy statement/prospectus is dated [_____, 2011], and is first being mailed to shareholders of Wilber on or about [_____, 2011].

THE WILBER CORPORATION
245 Main Street
Oneonta, New York 13820

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
TO BE HELD ON [_____], 2011

A special meeting of the shareholders of The Wilber Corporation, a New York corporation (“Wilber”), will be held at [_____], on [_____], 2011, at [_____] [a.m. / p.m.], Eastern Time, for the following purposes:

1. Merger. To consider and vote upon a proposal to adopt and approve the Agreement and Plan of Merger, dated as of October 22, 2010 (the “Merger Agreement), by and between Community Bank System, Inc., a Delaware corporation (“Community Bank System”) and Wilber, which provides for the merger of Wilber with and into Community Bank System (the “Merger”);
2. Adjournments. To approve one or more adjournments of the special meeting, if necessary or appropriate, including adjournments to permit further solicitations of proxies in favor of the Merger; and
3. Other Business. To transact such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

Only holders of record of Wilber common stock at the close of business on [_____], 2011 are entitled to the notice of and to vote at the special meeting and any adjournments or postponements of the special meeting.

Please vote as soon as possible. The affirmative vote of two-thirds of all outstanding shares of Wilber common stock is required for approval of the Merger Agreement. This means that a failure to vote for approval of the Merger Agreement would have the same effect as a vote against it. Therefore, your vote is important regardless of the number of shares you own. Even if you plan to attend the special meeting, we urge you to vote by Internet, by telephone or by completing and returning the enclosed proxy without delay in the enclosed postage-paid envelope. You may revoke your proxy at any time prior to the special meeting. If you hold Wilber common stock in your own name and you are present at the special meeting, or at any adjournments or postponements of the special meeting, you may revoke your proxy and vote personally on each matter brought before the special meeting.

If you hold Wilber common stock in the name of a broker, bank or other fiduciary, please follow the instructions on the voting card provided by that broker, bank or other fiduciary. If you wish to attend the special meeting and vote in person, you must bring a letter or proxy from your broker, bank or other fiduciary to confirm your beneficial ownership of the shares.

If you have any questions or require assistance, please call Joseph E. Sutaris, Executive Vice President and Chief Financial Officer, at (607) 432-1700.

BY ORDER OF THE BOARD OF DIRECTORS

Joseph E. Sutaris
Secretary
Oneonta, New York

[], 2011

IMPORTANT

Your vote is important. Whether or not you plan to attend the special meeting in person, Wilber urges you to submit your proxy as soon as possible by (1) calling the toll free telephone number specified on the enclosed proxy card, (2) accessing the Internet website specified in the enclosed proxy card, or (3) completing, signing and dating the enclosed proxy card and returning it in the postage paid envelope provided. If your shares are held in the name of a bank, broker or other fiduciary, please follow the instructions on the voting card provided by such entity.

The Board of Directors of Wilber unanimously recommends that the shareholders vote "FOR" the approval of the Merger Agreement.

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