

BERKSHIRE HILLS BANCORP INC

Form 424B3

August 16, 2012

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Filed Pursuant to Rule 424(b)(3)

Registration No. 333-182517

**MERGER PROPOSED YOUR VOTE IS VERY IMPORTANT**

The boards of directors of Berkshire Hills Bancorp, Inc. ( BHLB ) and Beacon Federal Bancorp, Inc. ( Beacon ) have agreed to a merger of our companies. If the merger is completed, each share of Beacon common stock, par value \$0.01 per share, will be converted into the right to receive either 0.92 of a share of BHLB common stock, par value \$0.01 per share, or \$20.50 in cash, or a combination of BHLB common stock and cash, subject to 50% of Beacon s common stock being exchanged for BHLB s common stock and 50% of Beacon s common stock being exchanged for cash. BHLB s shareholders will continue to own their existing shares. After completion of the merger, we expect that current BHLB shareholders will own approximately 89% of the combined company and Beacon shareholders will own approximately 11% of the combined company based on the shares outstanding as of May 31, 2012. BHLB common stock is listed on the NASDAQ Global Select Market under the symbol BHLB. Beacon common stock is listed on the NASDAQ Global Market under the symbol BFED. On August 6, 2012, the closing price of BHLB common stock was \$22.51 and the closing price of Beacon common stock was \$20.25. BHLB is offering approximately 2,852,000 shares of its common stock to Beacon shareholders.

We expect the merger to generally be tax-free for federal income tax purposes to holders of Beacon common stock to the extent they receive BHLB common stock. Any cash consideration received will be taxable to Beacon shareholders.

We cannot complete the merger unless we obtain the necessary regulatory approvals and unless the shareholders of Beacon approve the merger agreement. Beacon is asking its shareholders to consider and vote on this merger proposal at its special meeting of shareholders in addition to considering and voting on a proposal to approve, by a non-binding, advisory vote, certain compensation arrangements for Beacon s named executive officers in connection with the merger and a proposal to adjourn the special meeting, if necessary, in order to solicit additional proxies to vote in favor of the merger agreement. Whether or not you plan to attend the Beacon shareholder s meeting, please take the time to vote by completing and mailing the enclosed proxy card in accordance with the instructions. If you sign, date and mail your proxy card without indicating how you want to vote, your proxy will be counted as a vote **FOR** the merger and the transactions contemplated by the merger agreement, the proposal regarding certain merger-related executive compensation arrangements and an adjournment of the special meeting, if necessary. If you do not return your proxy card, or if you do not instruct your broker how to vote any shares held for you in street name, the effect will be a vote against the merger agreement. Beacon shareholders do not have dissenters rights under its articles of incorporation.

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Beacon's board of directors has unanimously determined that the merger is advisable, fair to, and in the best interests of Beacon and its shareholders and recommends that you vote **FOR** the approval of the merger agreement, the proposal regarding certain merger-related executive compensation arrangements and the adjournment of the special meeting, if necessary, in order to solicit additional proxies to vote in favor of the merger agreement.

The place, date and time of the Beacon shareholders' meeting is as follows:

Beacon Federal Bancorp, Inc.

6611 Manlius Center Road

East Syracuse, New York 13057

September 20, 2012, 10:30 a.m.

This document contains a more complete description of the Beacon shareholders' meeting and the terms of the merger. **We urge you to review this entire document carefully, including the Risk Factors beginning on page 11 for a discussion of the risks related to the proposed merger.** You may also obtain information about BHLB and Beacon from documents both companies have filed with the Securities and Exchange Commission.

Ross J. Prossner  
President and Chief Executive Officer  
Beacon Federal Bancorp, Inc.

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the merger or the securities to be issued under this proxy statement/prospectus or determined if this proxy statement/prospectus is accurate or adequate. Any representation to the contrary is a criminal offense.**

**The securities we are offering through this document are not savings or deposit accounts or other obligations of any bank or non-bank subsidiary of either of our companies, and they are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.**

Proxy Statement/Prospectus dated August 6, 2012

and first mailed to shareholders on or about August 16, 2012

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This document incorporates important business and financial information about BHLB and Beacon from documents filed with the Securities and Exchange Commission that have not been included in or delivered with this document. You may read and copy these documents at the Securities and Exchange Commission's public reference facilities. Please call the SEC at 1-800-SEC-0330 for information about these facilities. This information is also available at the Internet site the SEC maintains at <http://www.sec.gov>. See *Where You Can Find More Information* on page 77.

You also may request copies of these documents from BHLB and Beacon. BHLB and Beacon will provide you with copies of these documents, without charge, upon written or oral request to:

Berkshire Hills Bancorp, Inc.

24 North Street

Pittsfield, Massachusetts 01201

Attention: Investor Relations Department

Telephone: (413) 236-3239

Beacon Federal Bancorp, Inc.

6611 Manlius Center Road

East Syracuse, New York 13057

Attn: Darren T. Crossett

Telephone: (315) 433-0111

*If you are a Beacon shareholder and would like to request documents from BHLB or Beacon, please do so by September 13, 2012 to receive them before the Beacon shareholders' meeting.*

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**BEACON FEDERAL BANCORP, INC.  
6611 Manlius Center Road  
East Syracuse, New York 13057**

Notice of Special Meeting of Shareholders  
to be held September 20, 2012

A special meeting of shareholders of Beacon Federal Bancorp, Inc. will be held at 10:30 a.m., local time, on September 20, 2012 at 6611 Manlius Center Road, East Syracuse, New York 13057. Any adjournments or postponements of the special meeting will be held at the same location.

At the special meeting, you will be asked to:

1. Consider and vote upon a proposal to approve the Agreement and Plan of Merger, dated as of May 31, 2012, by and between Berkshire Hills Bancorp, Inc. and Beacon Federal Bancorp, Inc. A copy of the merger agreement is included as Annex A to the accompanying proxy statement/prospectus;
2. Consider and vote upon a proposal to approve, by non-binding, advisory vote, certain compensation arrangements for Beacon Federal Bancorp, Inc.'s named executive officers in connection with the merger;
3. Consider and vote upon a proposal to adjourn the special meeting to a later date or dates, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to approve the merger agreement; and
4. Transact such other business as may be properly presented at the special meeting and any adjournments or postponements of the special meeting.

The enclosed proxy statement/prospectus describes the merger agreement and the proposed merger in detail. We urge you to read these materials carefully. The enclosed proxy statement/prospectus forms a part of this notice.

**The board of directors of Beacon Federal Bancorp, Inc. unanimously recommends that Beacon Federal Bancorp, Inc. shareholders vote FOR the proposal to approve the merger agreement, FOR the proposal to approve, by non-binding advisory vote, certain compensation arrangements for Beacon Federal Bancorp, Inc.'s named executive officers in connection with the merger and FOR the proposal to adjourn the special meeting, if necessary, to solicit additional proxies to vote in favor of the merger agreement.**

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The board of directors of Beacon Federal Bancorp, Inc. has fixed the close of business on August 3, 2012 as the record date for determining the shareholders entitled to notice of, and to vote at, the special meeting and any adjournments or postponements of the special meeting.

**Your vote is very important.** Your proxy is being solicited by Beacon Federal Bancorp, Inc. board of directors. The proposal to approve the merger agreement must be approved by the affirmative vote of holders of at least a majority of the outstanding shares of Beacon Federal Bancorp, Inc. common stock entitled to vote in order for the proposed merger to be consummated. Whether or not you plan to attend the special meeting in person, we urge you to complete and mail the enclosed proxy card, in the accompanying envelope, which requires no postage if mailed in the United States. You may revoke your proxy at any time before the special meeting. If you attend the special meeting and vote in person, your proxy vote will not be used.

Beacon Federal Bancorp, Inc. shareholders do not have dissenters' rights under Beacon's articles of incorporation. See *Questions and Answers About the Merger and the Special Meeting* on page 1 and *No Dissenters' Rights* on page 36.

By Order of the Board of Directors

Darren T. Crossett  
Corporate Secretary

East Syracuse, New York

August 16, 2012

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**QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING**

***Q: What am I being asked to vote on? What is the proposed transaction?***

A: You are being asked to vote on the approval of a merger agreement that provides for the acquisition of Beacon Federal Bancorp, Inc. ( Beacon ) by Berkshire Hills Bancorp, Inc. ( BHLB ) and the merger of Beacon 's banking subsidiary Beacon Federal into BHLB 's banking subsidiary, Berkshire Bank. A copy of the merger agreement is provided as Annex A to this document. The Beacon board of directors has determined that the proposed merger is advisable and in the best interests of its shareholders, has unanimously approved the merger agreement and recommends that its shareholders vote FOR the approval of the merger agreement.

***Q: What will Beacon shareholders be entitled to receive in the merger?***

A: Under the merger agreement, at the election of each Beacon shareholder, each share of Beacon common stock will be exchanged for either 0.92 of a share of BHLB common stock (the Exchange Ratio ) or \$20.50 in cash. Each Beacon shareholder may elect either of these options or each Beacon shareholder may elect to exchange some of his or her Beacon shares for cash and some of his or her Beacon shares for BHLB shares.

Elections will be limited by, among other things, a requirement that 50% of the total number of outstanding shares of Beacon common stock be exchanged for BHLB common stock. Therefore, the form of consideration received will depend in part on the elections of other Beacon shareholders.

BHLB will not issue fractional shares in the merger. Instead, each Beacon shareholder will receive a cash payment, without interest, for the value of any fraction of a share of BHLB common stock that such shareholder would otherwise be entitled to receive. See *Description of the Merger Consideration to be Received in the Merger* on page 47 and *Description of Berkshire Hills Bancorp, Inc. Capital Stock* on page 64.

***Q: What dividends will be paid after the merger?***

A: BHLB currently pays a quarterly dividend of \$0.17 per share. Although BHLB has paid quarterly dividends on its common stock without interruption since November 2000, there is no guarantee that BHLB will continue to pay dividends on its common stock. All dividends on BHLB common stock are declared at the discretion of the BHLB board of directors.

***Q: How does a Beacon shareholder elect to receive cash, stock or a combination of both for his or her Beacon stock?***



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A: For each registered Beacon shareholder, a form for making an election will be provided under separate cover. For the election to be effective, the properly completed election form, along with the Beacon stock certificates or an appropriate guarantee of delivery, must be sent to and received by Registrar and Transfer Company, the exchange agent, on or before 5:00 p.m., Eastern time, on the date specified on the election form. The election form should not be sent together with your proxy card. Instead, use the separate envelope specifically provided for the election form and your stock certificates. If a timely and properly completed election is not made, you will be allocated BHLB common stock and/or cash depending on your election and the elections made by other shareholders.

If the shares you own are held in street name by a bank or brokerage firm, your bank or brokerage firm, as the record holder of your shares, is required to provide you with an election form. In order to make an election for your shares held in street name, you will need to follow the instructions your bank or brokerage firm provides to you.

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**Q:** *How does a Beacon shareholder exchange his or her stock certificates?*

A: If an election is made, the Beacon stock certificates or an appropriate guarantee of delivery must be returned with the election form. Shortly after the merger, the exchange agent will allocate cash and BHLB common stock among Beacon shareholders, consistent with their elections and the allocation and proration procedures in the merger agreement. If a Beacon shareholder does not submit an election form, BHLB's exchange agent will send instructions on how and where to surrender the Beacon stock certificates after the merger is completed. Please do not send Beacon stock certificates with the proxy card.

**Q:** *What are the tax consequences of the merger to Beacon shareholders?*

A: The tax consequence of the merger to Beacon shareholders will depend on whether only cash, only BHLB common stock, or a combination of cash and BHLB common stock is received in exchange for shares of Beacon common stock. If shares are exchanged solely for BHLB common stock, no gain or loss should be recognized except with respect to the cash received instead of any fractional share of BHLB common stock. If shares are exchanged solely for cash, a gain or loss should be recognized on the exchange. If shares were exchanged for a combination of BHLB common stock and cash, a gain should be recognized equal to the lesser of the cash received or the gain realized in the merger (that is, the fair market value of the BHLB common stock received, plus the cash received, and minus the Beacon shareholder's basis in the shareholder's Beacon common stock). No loss should be recognized. See *Description of the Merger Material Tax Consequences of the Merger* on page 50.

Because the allocations of cash and BHLB common stock received will depend on the elections of other Beacon shareholders, the actual tax consequences of the merger will not be known until the allocations are completed.

**Q:** *Are Beacon shareholders entitled to dissenters' rights?*

A: No. As permitted by Maryland law, the Beacon articles of incorporation provide that the holders of Beacon common stock are not entitled to exercise the rights of an objecting shareholder.

**Q:** *Why do Beacon and BHLB want to merge?*

A: Beacon believes that the proposed merger will provide Beacon shareholders with substantial benefits, and BHLB believes that the merger will further its strategic growth plans. As a larger company, BHLB can provide the capital and resources that Beacon needs to compete more effectively and to offer a broader array of products and services to better serve its banking customers. To review the reasons for the merger in more detail, see *Description of the Merger Beacon's Reasons for the Merger* on page 36.

**Q:** *What vote is required to approve the merger agreement?*

**A:** Holders of at least a majority of the outstanding shares of Beacon common stock entitled to vote must vote in favor of the proposal to approve the merger agreement.

**Q:** *Why are Beacon shareholders being asked to approve, on a non-binding advisory basis, certain merger-related executive compensation arrangements?*

**A:** The SEC has recently adopted new rules that require Beacon to seek a non-binding advisory vote with respect to certain payments that may be made to Beacon's named executive officers in connection with the merger.

**Q:** *What will happen if Beacon shareholders do not approve certain merger-related executive compensation arrangements at the special meeting?*

**A:** Approval of merger-related executive compensation arrangements, payable under existing agreements, that certain Beacon named executive officers may receive in connection with the merger is not a condition to completion of the merger. The vote with respect to the merger-related executive compensation arrangements is

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an advisory vote and will not be binding on Beacon. Therefore, if the merger agreement is approved by Beacon's shareholders the merger-related executive compensation arrangements may still be paid to the Beacon named executive officers if and to the extent required or allowed under applicable law.

**Q:** *When and where is the Beacon special meeting?*

A: The special meeting of Beacon shareholders is scheduled to take place at 6611 Manlius Center Road, East Syracuse, New York 13057 at 10:30 a.m., local time, on September 20, 2012.

**Q:** *Who is entitled to vote at the Beacon special meeting?*

A: Holders of shares of Beacon common stock at the close of business on August 3, 2012, which is the record date, are entitled to vote on the proposal to adopt the merger agreement and the other proposals in this proxy statement/prospectus. As of the record date, 6,203,900 shares of Beacon common stock were outstanding and entitled to vote.

**Q:** *If I plan to attend the Beacon special meeting in person, should I still return my proxy?*

A: Yes. Whether or not you plan to attend the Beacon special meeting, you should complete and return the enclosed proxy card. The failure of a Beacon shareholder to vote in person or by proxy will have the same effect as a vote AGAINST the merger agreement.

**Q:** *What do I need to do now to vote my shares of Beacon common stock?*

A: After you have carefully read and considered the information contained in this proxy statement/prospectus, please complete, sign, date and mail your proxy card in the enclosed return envelope as soon as possible. This will enable your shares to be represented at the special meeting. You may also vote in person at the special meeting. If you do not return a properly executed proxy card and do not vote at the special meeting, this will have the same effect as a vote against the merger agreement. If you sign, date and send in your proxy card, but you do not indicate how you want to vote, your proxy will be voted in favor of adoption of the merger agreement, the proposal regarding certain merger-related executive compensation arrangements and an adjournment of the special meeting, if necessary. You may change your vote or revoke your proxy before the special meeting by filing with the Corporate Secretary of Beacon a duly executed revocation of proxy, submitting a new proxy card with a later date, or voting in person at the special meeting.

**Q:** *If my shares are held in street name by my broker, will my broker automatically vote my shares for me?*

A: No. Your broker will not be able to vote your shares of Beacon common stock on the proposal to adopt the merger agreement unless you provide instructions on how to vote. Please instruct your broker how to vote your shares, following the directions that your broker provides. If you do not provide instructions to your broker on the proposal to approve the merger agreement, the proposal regarding certain merger-related executive compensation arrangements or the proposal regarding adjournment, your shares will not be voted, and this will have the effect of voting against the merger agreement, the proposal regarding certain merger-related executive compensation arrangements and the proposal regarding adjournment. Please check the voting form used by your broker to see if it offers telephone or Internet voting.

**Q:** *When is the merger expected to be completed?*

A: We will try to complete the merger as soon as possible. Before that happens, the merger agreement must be approved by Beacon shareholders and we must obtain the necessary regulatory approvals. Assuming holders of at least a majority of the outstanding shares of Beacon common stock vote in favor of the merger agreement and we obtain the other necessary approvals, we expect to complete the merger in the fourth calendar quarter of 2012.

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**Q:** *Is completion of the merger subject to any conditions besides shareholder approval?*

A: Yes. The transaction must receive the required regulatory approvals, and there are other customary closing conditions that must be satisfied. To review the conditions of the merger in more detail, see *Description of the Merger - Conditions to Completing the Merger* on page 57.

**Q:** *Who can answer my other questions?*

A: If you have more questions about the merger, or how to submit your proxy or if you need additional copies of this proxy statement/prospectus or the enclosed proxy form, Beacon shareholders should contact its proxy solicitor:

Phoenix Advisory Partners, LLC

110 Wall Street, 27th Floor

New York, New York 10005

(877) 478-5038

Banks and brokers should call:

(212) 493-3910

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**SUMMARY**

*This summary highlights selected information in this proxy statement/prospectus and may not contain all of the information important to you. To understand the merger more fully, you should read this entire document carefully, including the documents attached to this proxy statement/prospectus.*

**The Companies**

***Berkshire Hills Bancorp, Inc.***

24 North Street

Pittsfield, Massachusetts 01201

(413) 443-5601

Berkshire Hills Bancorp, Inc., a Delaware corporation, is a savings and loan holding company headquartered in Pittsfield, Massachusetts that was incorporated and commenced operations in 2000. BHLB's common stock is listed on The NASDAQ Global Select Market under the symbol

BHLB. BHLB conducts its operations primarily through Berkshire Bank, a Massachusetts chartered savings bank with 68 full service branch offices in Massachusetts, Connecticut, New York and Vermont. Berkshire Bank, America's Most Exciting Bank(SM) is one of Massachusetts oldest and largest independent banks and is the largest banking institution based in Western Massachusetts. Berkshire Bank provides personal and business banking, insurance, and wealth management services. Berkshire Bank provides 100% deposit insurance protection for all deposit accounts, regardless of amount, based on a combination of FDIC insurance and the Depositors Insurance Fund ( DIF ). BHLB is also the holding company for Berkshire Insurance Group, an insurance agency in Western Massachusetts. At March 31, 2012, BHLB had total assets of \$4.0 billion, total deposits of \$3.2 billion and total shareholders' equity of \$556.8 million. On April 20, 2012, BHLB completed its acquisition of The Connecticut Bank and Trust Company, a \$280.0 million bank with eight banking offices in the greater Hartford, Connecticut area.

***Beacon Federal Bancorp, Inc.***

6611 Manlius Center Road

East Syracuse, New York 13057

(315) 336-7300

Beacon Federal Bancorp, Inc., a Maryland corporation, is the holding company for Beacon Federal, a federally chartered savings association that converted to a stock savings association in connection with its initial public offering of common stock in October 2007. Beacon Federal offers banking and related financial services to both individual and commercial customers. Beacon Federal is headquartered in East Syracuse, New York and operates from six other full-service offices in East Syracuse, Marcy and Rome, New York, Smartt and Smyrna, Tennessee, and Chelmsford, Massachusetts.

At March 31, 2012, Beacon had total assets of \$1.0 billion, total deposits of \$677.3 million and total shareholders' equity at \$113.9 million.

Beacon's executive offices are located at 6611 Manlius Center Road, East Syracuse, New York 13057. Its telephone number at this address is (315) 433-0111.

**Special Meeting of Beacon Shareholders; Required Vote (page 34)**

A special meeting of Beacon shareholders is scheduled to be held at 6611 Manlius Center Road, East Syracuse, New York 13057 at 10:30 a.m., local time, on September 20, 2012. At the special meeting, you will be asked to vote on a proposal to approve the merger agreement between Beacon and BHLB and a proposal regarding certain merger-related executive compensation arrangements. You may also be asked to vote to adjourn the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the meeting to approve the merger agreement.

Only Beacon shareholders of record as of the close of business on August 3, 2012 are entitled to notice of, and to vote at, the Beacon special meeting and any adjournments or postponements of the meeting.



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Approval of the merger agreement requires the affirmative vote of holders of at least a majority of the outstanding shares of Beacon common stock entitled to vote. Approval of the non-binding proposal regarding certain merger-related executive compensation arrangements requires the affirmative vote of a majority of the votes cast on the matter. As of the record date, there were 6,203,900 shares of Beacon common stock outstanding. The directors and executive officers of Beacon, as a group, beneficially owned 440,512 shares of Beacon common stock (not including shares that may be acquired upon the exercise of stock options), representing 7.1% of the outstanding shares of Beacon common stock as of the record date and have agreed to vote their shares in favor of the merger at the special meeting.

**The Merger and the Merger Agreement (page 36)**

BHLB's acquisition of Beacon is governed by a merger agreement. The merger agreement provides that, if all of the conditions are satisfied or waived, Beacon will be merged with and into BHLB, with BHLB as the surviving entity. Additionally, Beacon Federal will be merged with and into Berkshire Bank, with Berkshire Bank as the surviving entity. **We encourage you to read the merger agreement, which is included as Annex A to this proxy statement/prospectus.**

**What Beacon Shareholders Will Receive in the Consideration to be Received in the Merger (page 47)**

Under the merger agreement, at your election, each share of Beacon common stock you own will be exchanged for either 0.92 of a share of BHLB common stock, \$20.50 in cash, or a combination of cash and BHLB common stock, subject to 50% of the aggregate merger consideration being exchanged for BHLB common stock.

**Comparative Market Prices (page 33)**

The following table shows the closing price per share of BHLB common stock and the equivalent price per share of Beacon common stock, giving effect to the merger, on May 30, 2012, which is the last day on which shares of BHLB common stock traded preceding the public announcement of the proposed merger, and on August 6, 2012, the most recent practicable date prior to the mailing of this proxy statement/prospectus. The equivalent price per share of Beacon common stock was computed by multiplying the price of a share of BHLB common stock by the 0.92 exchange ratio and does not include the value of any cash received by a Beacon shareholder. Shareholders who elect to receive cash consideration in the merger will receive \$20.50 for each share of Beacon common stock that they hold, subject to the allocation and proration provisions of the merger agreement. See *Description of the Merger Consideration to be Received in the Merger* on page 47.

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	BHLB Common Stock	Beacon Common Stock	Equivalent Price Per Share of Beacon Common Stock
May 30, 2012	\$ 21.96	\$ 13.67	\$ 20.20
August 6, 2012	\$ 22.51	\$ 20.25	\$ 20.71

**Recommendation of Beacon's Board of Directors (page 36)**

The Beacon board of directors has unanimously approved the merger agreement and the proposed merger. The Beacon board believes that the merger agreement, including the merger contemplated by the merger agreement, is fair to, and in the best interests of, Beacon and its shareholders, and therefore **unanimously recommends that Beacon shareholders vote FOR the proposal to approve the merger agreement.** In reaching this decision, Beacon's board of directors considered a variety of factors, which are described in the section captioned *Description of the Merger Beacon's Reasons for the Merger* beginning on page 39.

The Beacon board of directors **unanimously recommends that Beacon shareholders vote FOR approval of the non-binding proposal regarding certain merger-related executive compensation arrangements and FOR the proposal to adjourn the special meeting to a later date or dates, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to approve the merger agreement.**

**Opinion of Beacon's Financial Advisor (page 40)**

In deciding to approve the merger, one of the factors considered by Beacon's board of directors was the opinion of Keefe, Bruyette & Woods, Inc., ( KBW ) which served as financial advisor to Beacon's board of directors. KBW delivered its written opinion on May 31, 2012, that the merger consideration is fair to the holders of Beacon common stock from a financial point of view. The full text of this opinion is included as Annex B to the proxy statement/prospectus. You should read the opinion carefully to understand the procedures followed, assumptions made, matters considered and limitations of the review conducted by KBW. Beacon has agreed to pay KBW a fee equal to \$200,000 plus 1.00% of the aggregate consideration offered in exchange for the outstanding shares of common stock or assets of Beacon in the merger. KBW has received a fee of \$200,000 for the rendering of its fairness opinion, which fee shall be credited against the fee referenced above if the merger is completed.

**Regulatory Matters Relating to the Merger (page 53)**

Under the terms of the merger agreement, the merger cannot be completed unless it is first approved by the Massachusetts Division of Banks, the Massachusetts Board of Bank Incorporation and the Federal Deposit Insurance Corporation. BHLB filed the required applications in July, 2012. As of the date of this document, BHLB has not received any approvals from those regulators. While BHLB does not know of any reason why it would not be able to obtain approval in a timely manner, BHLB cannot be certain when or if it will receive regulatory approval.

**Conditions to Completing the Merger (page 57)**

The completion of the merger is subject to the fulfillment of a number of conditions, including:

- approval of the merger agreement at the special meeting by at least a majority of the outstanding shares of Beacon common stock entitled to vote;
- approval of the transaction by the appropriate regulatory authorities;

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- receipt by each party of opinions from their respective legal counsel to the effect that the merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code;
- the accuracy of representations and warranties made on the date of the merger agreement;
- no material adverse effect on either party has occurred; and
- such other conditions customary to merger transactions.

**Terminating the Merger Agreement (page 63)**

The merger agreement may be terminated by mutual consent of BHLB and Beacon at any time prior to the completion of the merger. Additionally, subject to conditions and circumstances described in the merger agreement, either BHLB or Beacon may terminate the merger agreement if, among other things, any of the following occur:

- the merger has not been consummated by May 31, 2013;
- Beacon shareholders do not approve the merger agreement at the Beacon special meeting;
- a required regulatory approval is denied or a governmental authority enjoins or prohibits the merger; or
- there is a breach by the other party of any representation, warranty, covenant or agreement contained in the merger agreement, which cannot be cured, or has not been cured within 30 days after the giving of written notice to such party of such breach.

BHLB may also terminate the merger agreement if Beacon has received a Superior Proposal and Beacon has entered into an acquisition agreement with respect to such Superior Proposal or if the board of directors of Beacon does not recommend approval of the merger in the proxy statement/prospectus or withdraws or revises its recommendation in a manner adverse to BHLB.

Additionally, Beacon may terminate the merger agreement if, at any time during the five-day period commencing on the first date on which all bank regulatory approvals (and waivers, if applicable) necessary for consummation of the merger have been received (disregarding any waiting period) (the Determination Date), such termination to be effective if both of the following conditions are satisfied:

- the average of the daily closing price of BHLB common stock for the twenty consecutive trading days preceding the Determination Date ( BHLB Market Value ) is less than \$17.82; and

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- the number obtained by dividing the BHLB Market Value by \$22.28 on the Determination Date is less than the number obtained by dividing (i) the weighted average of the daily closing prices for the ten consecutive trading days immediately preceding the Determination Date of the bank index included in the merger agreement (the Final Index Price ) by (ii) the weighted average closing price of the bank index included in the merger agreement on the last trading date immediately preceding the public announcement of the entry into the merger agreement (the Initial Index Price ), minus 0.20.

If Beacon elects to terminate the merger agreement under this provision, BHLB may elect to adjust the exchange ratio to an amount that would not make termination under this event possible, in which case no termination would occur.

### **Termination Fee (page 64)**

Under certain circumstances described in the merger agreement, BHLB may demand from Beacon a \$5.28 million termination fee in connection with the termination of the merger agreement. See *Description of the Merger Termination Fee* on page 64 for a list of the circumstances under which a termination fee is payable.