

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

FORM S-8
REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

FIVE STAR BANCORP

(Exact name of registrant as specified in charter)

California
(State of incorporation)

75-3100966
(IRS Employer Identification No.)

**3100 Zinfandel Drive
Suite 100
Rancho Cordova, CA 95670
(916) 626-5000**

(Address of principal executive offices / Zip Code)

**Five Star Bancorp
2021 Equity Incentive Plan**
(Full title of the Plan)

**James Beckwith
President and Chief Executive Officer
Five Star Bancorp
3100 Zinfandel Drive
Suite 650
Rancho Cordova, CA 95670
(916) 626-5000**

(Name, address and telephone number, including area code, of agent for service)

Copy to:
**Frank M. Conner III
Christopher J. DeCresce
Charlotte May
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
(202) 662-6000**

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

| | | | |
|-------------------------|-------------------------------------|---------------------------|-------------------------------------|
| Large accelerated filer | <input type="radio"/> | Accelerated filer | <input type="radio"/> |
| Non-accelerated filer | <input checked="" type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |
| | | Emerging growth company | <input checked="" type="checkbox"/> |

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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered (1) (2) | Proposed Maximum Offering Price Per Share (3) | Proposed Maximum Aggregate Offering Price (3) | Amount of Registration Fee (4) |
|--------------------------------------|---------------------------------|---|---|--------------------------------|
| Common Stock, no par value per share | 1,700,000 shares | \$ 25.08 | \$ 42,636,000 | \$ 4,652 |

- (1) Registration Statement covers 1,700,000 shares of common stock, no par value per share (“Common Stock”), of Five Star Bancorp (“Five Star” or the “Registrant”), that are available for issuance under the Five Star Bancorp 2021 Equity Incentive Plan (the “Plan”).
- (2) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement also includes an indeterminate number of shares of Common Stock that may be offered and sold as a result of future stock splits, stock dividends or similar transactions under the Plan.
- (3) Estimated pursuant to Rule 457(c) and Rule 457(h) under the Securities Act, solely for the purpose of calculating the amount of the registration fee, based on the average of the high and low prices of the Registrant’s Common Stock as reported on The Nasdaq Global Select Market on May 14, 2021.
- (4) Determined in accordance with Section 6(b) of the Securities Act at a rate equal to \$109.100 per \$1,000,000 of the proposed maximum aggregate offering price.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.

Information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the “Securities Act”), and the introductory note to the instructions to Part I of Form S-8. In accordance with the rules and regulations of the Securities and Exchange Commission (the “Commission”) and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act.

Item 2. Registrant Information and Employee Plan Annual Information.

Information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act, and the introductory note to the instructions to Part I of Form S-8. In accordance with the rules and regulations of the Commission and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents, filed with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”), are hereby incorporated by reference in this registration statement:

- (a) The Registrant’s prospectus, dated May 4, 2021, filed with the Commission pursuant to [Rule 424\(b\)](#) under the Securities Act, relating to the Registrant’s Registration Statement on Form S-1, as amended (File No. 333-255143), which contains audited financial statements for the Registrant’s latest fiscal year, for which such statements have been filed;
- (b) The Registrant’s Current Report on [Form 8-K](#), filed with the Commission on May 12, 2021; and
- (c) The description of Common Stock contained in the Registrant’s Registration Statement on [Form 8-A](#) (File No. 001-40379), filed with the Commission on May 3, 2021, under Section 12(b) of the Exchange Act, including any amendments or reports filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to filing a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing such documents, except for the documents, or portions thereof, that are “furnished” (e.g., the portions of those documents set forth under Items 2.02 or 7.01 of Form 8-K or other information “furnished” to the Commission) rather than filed with the Commission. Any statement contained in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is, or is deemed to be, incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

None.

Item 6. Indemnification of Directors and Officers.

Section 317 of the General Corporation Law of California (“CGCL”) provides that a California corporation may indemnify any person who was or is, or is threatened to be made, a party to any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation, or is or was serving at the request of such corporation as an officer, director, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys’ fees), judgments, fines, settlements and other amounts actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation’s best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. Section 317 of the CGCL further authorizes a corporation to purchase and maintain insurance on behalf of any indemnified person against any liability asserted against and incurred by such person in any indemnified capacity, or arising out of such person’s status as such, regardless of whether the corporation would otherwise have the power to indemnify such person under the CGCL.

Section 204(a)(10) of the CGCL provides that a corporation’s articles of incorporation may include provisions eliminating or limiting the personal liability of a director for monetary damages for breach of fiduciary duties as a director, except for liability (i) for acts or omissions that involve intentional misconduct or a knowing and culpable violation of law, (ii) for acts or omissions that a director believes to be contrary to the best interests of the corporation or its shareholders or that involve the absence of good faith on the part of the director, (iii) for any transaction from which a director derived an improper personal benefit, (iv) for acts or omissions that show a reckless disregard for the director’s duty to the corporation or its shareholders in circumstances in which the director was aware, or should have been aware, in the ordinary course of performing a director’s duties, of a risk of a serious injury to the corporation or its shareholders, (v) for acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the director’s duty to the corporation or its shareholders, (vi) for interested party transactions that violate Section 310 of the CGCL, (vii) loan guaranties contrary to Section 315 of the CGCL or (viii) for unlawful payment of dividends, distributions or distributions of assets to shareholders after institution of dissolution proceedings that violate Section 316 of the CGCL.

The Registrant’s Amended and Restated Articles of Incorporation provide for the elimination of liability for the Registrant’s directors for monetary damages to the fullest extent permissible under the CGCL and authorize the Registrant to indemnify its directors and officers in excess of the indemnification otherwise permitted by Section 317 of the CGCL, subject only to the applicable limits set forth in Section 204 of the CGCL with respect to actions for breach of duty to the corporation and its shareholders.

The Registrant’s Amended and Restated Bylaws (the “Amended Bylaws”) provide that the Registrant must indemnify any person who is or was a director or officer of the Registrant, or was serving at the request of the Registrant as a director or officer of another corporation or enterprise to the fullest extent authorized by law. The Amended Bylaws further provide that the Registrant must pay expenses incurred in defending any such proceeding in advance of its final disposition; provided that, if required by CGCL, such payment of expenses will only be made upon delivery of an undertaking, by or on behalf of an indemnified person, to repay all amounts so advanced if it should be determined ultimately that such person is not entitled to be indemnified under this section or otherwise.

The Registrant maintains insurance policies covering its officers and directors with respect to certain liabilities, including liabilities arising under the Securities Act, the Exchange Act and otherwise.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|--|
| 4.1 | Amended and Restated Articles of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrant’s Current Report on Form 8-K filed with the Commission on May 12, 2021, File No. 001-40379) |
| 4.2 | Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant’s Current Report on Form 8-K filed with the Commission on May 12, 2021, File No. 001-40379) |
| 4.3 | Specimen Common Stock Certificate of the Registrant (incorporated by reference to Exhibit 4.1 to the Registrant’s Registration Statement on Form S-1 (File No. 333-255143), filed with the Commission on April 26, 2021) |
| 5.1 | Opinion of Covington & Burling LLP |
| 23.1 | Consent of Covington & Burling LLP (included in Exhibit 5.1) |
| 23.2 | Consent Moss Adams LLP |
| 24.1 | Power of Attorney (set forth on signature page hereto) |
| 99.1 | Five Star Bancorp 2021 Equity Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant’s Registration Statement on Form S-1 (File No. 333-255143), filed with the Commission on April 26, 2021) |

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement.

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Rancho Cordova, California, on May 21, 2021.

FIVE STAR BANCORP

By: /s/ James Beckwith

Name: James Beckwith

Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints James Beckwith and Heather Luck, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power to act separately and full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or his or her or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Name | Position | Date |
|---|---|--------------|
| <u>/s/ James Beckwith</u> James Beckwith | President and Chief Executive Officer and Director (Principal Executive Officer) | May 21, 2021 |
| <u>/s/ Heather Luck</u> Heather Luck | Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer) | May 21, 2021 |
| <u>/s/ David J. Lucchetti</u> David J. Lucchetti | Director | May 21, 2021 |
| <u>/s/ David F. Nickum</u> David F. Nickum | Director | May 21, 2021 |
| <u>/s/ Larry Allbaugh</u> Larry Allbaugh | Director | May 21, 2021 |
| <u>/s/ Michael Campbell</u> Michael Campbell | Director | May 21, 2021 |
| <u>/s/ Shannon Deary-Bell</u> Shannon Deary-Bell | Director | May 21, 2021 |
| <u>/s/ Philip M. Joffe</u> Philip M. Joffe | Director | May 21, 2021 |
| <u>/s/ Robert T. Perry-Smith</u> Robert T. Perry-Smith | Director | May 21, 2021 |
| <u>/s/ Kevin Ramos</u> Kevin Ramos | Director | May 21, 2021 |
| <u>/s/ Judson Riggs</u> Judson Riggs | Director | May 21, 2021 |

May 21, 2021

Five Star Bancorp
3100 Zinfandel Drive, Suite 100
Rancho Cordova, California 95670

Ladies and Gentlemen:

We have acted as counsel to Five Star Bancorp, a California corporation (the “Company”), in connection with the registration by the Company under the Securities Act of 1933, as amended (the “Act”), of 1,700,000 shares of the Company’s common stock, no par value per share (the “Shares”), issuable pursuant to the Five Star Bancorp 2021 Equity Incentive Plan (the “Plan”), pursuant to the registration statement on Form S-8 filed with the Securities and Exchange Commission on the date hereof (such registration statement is referred to herein as the “Registration Statement”).

We have reviewed the Registration Statement and such corporate records, certificates and other documents, and such questions of law, as we have considered necessary for the purposes of this opinion. We have assumed that all signatures are genuine, that all documents submitted to us as originals are authentic and that all copies of such documents submitted to us conform to the originals.

We have relied as to certain matters on information obtained from public officials, officers of the Company and other sources believed by us to be responsible.

Based upon the foregoing, we are of the opinion that the Shares have been duly authorized and, when issued in accordance with the terms of the Plan and any individual agreements relating to such Shares, will be validly issued, fully paid and nonassessable.

We are members of the bar of the State of California. We do not express any opinion herein on any laws other than the law of the State of California.

We do hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act.

Very truly yours,

/s/ Covington & Burling LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 of Five Star Bancorp, of our report dated January 29, 2021, relating to the consolidated financial statements of Five Star Bancorp and Subsidiary as of December 31, 2020 and 2019 and for the years then ended, which report appears in the Registration Statement on Form S-1 of Five Star Bancorp (File No. 333-255143).

/s/ Moss Adams LLP

San Francisco, California
May 21, 2021
