

CULLEN FROST BANKERS INC  
Form S-8  
February 11, 2009

As filed with the Securities and Exchange Commission on February 11, 2009.

Registration No. 333-\_\_\_\_\_

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

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

**CULLEN/FROST BANKERS, INC.**

(Exact name of registrant as specified in its charter)

**Texas**  
(State or other jurisdiction of  
incorporation or organization)

100 W. Houston Street

**74-1751768**  
(I.R.S. employer  
identification number)

78205

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San Antonio, Texas  
(Address of principal executive offices)

(ZIP code)

**The 401(k) Stock Purchase Plan for Employees of**

**Cullen/Frost Bankers, Inc. and Affiliates**

(Full title of the plan)

**Phillip D. Green**

**Group Executive Vice President**

**and Chief Financial Officer**

**Cullen/Frost Bankers, Inc.**

**100 W. Houston Street**

**San Antonio, Texas 78205**

(Name and address of agent for service)

**(210) 220-4011**

(Telephone number, including area code, of agent for service)

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 the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-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**

<b>Title of Securities</b>	<b>Amount to be Registered (1)</b>	<b>Proposed Maximum Offering Price Per Share (2)</b>	<b>Proposed Maximum Aggregate Offering Price (2)</b>	<b>Amount of Registration Fee</b>
<b>to be Registered</b> Common Stock, \$0.01 par value	4,000,000	\$ 43.21	\$172,840,000.00	\$6,792.61

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- (1) This Registration Statement shall also cover any additional shares of Common Stock which become issuable under The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates, as amended, by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant's receipt of consideration which results in an increase in the number of outstanding shares of the Registrant's Common Stock. Pursuant to Rule 416(c) under the Securities Act of 1933, this Registration Statement also covers an indeterminate amount of interests to be offered or sold pursuant to The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates.
- (2) Estimated solely for the purpose of calculating the registration fee in accordance with this offering under Rule 457(h) and 457(c) under the Securities Act of 1933, as amended, based on the average of the high and low selling prices per share of the Registrant's Common Stock on February 4, 2009, as reported on the New York Stock Exchange, Inc.

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**REGISTRATION OF ADDITIONAL SECURITIES**

This registration statement on Form S-8 registers additional securities of the same class as other securities of Cullen/Frost Bankers, Inc. ( Cullen/Frost ) for which a registration statement, also filed on Form S-8 by Cullen/Frost and relating to The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates (the Plan ), is effective. The contents of Cullen/Frost s earlier registration statement on Form S-8 relating to the Plan (File No. 333-108321), filed with the Securities and Exchange Commission ( SEC ) on August 28, 2003 is hereby incorporated by reference.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference**

The following documents have been filed by Cullen/Frost and the Plan with the SEC and are incorporated herein by reference:

- (a) Cullen/Frost s Annual Report on Form 10-K for the year ended December 31, 2008, filed with the SEC on February 3, 2009;
- (b) Cullen/Frost s Current Report on Form 8-K, filed with the SEC on January 28, 2009;
- (c) the Plan s Annual Report on Form 11-K for the year ended December 31, 2007, filed with the SEC on June 26, 2008;
- (d) Cullen/Frost s Registration Statement on Form S-8 relating to The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates filed with the SEC on August 28, 2003 (File No. 333-108321); and
- (e) the description of Cullen/Frost s Common Stock included in Cullen/Frost s Registration Statement on Form 8-A12B (SEC File No. 001-13221), filed with the SEC on July 30, 1997 pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended by Form 8-A12B/A filed with the SEC on August 31, 1998, including any amendments or reports filed for the purpose of updating such description, in which there is described the terms, rights and provisions applicable to Cullen/Frost s outstanding Common Stock.

All documents filed by Cullen/Frost pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold, or which de-registers all such securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the filing date of such documents. Any statement contained in a document incorporated by reference herein 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 5. Interests of Named Experts and Counsel.**

Certain legal matters with respect to the validity of Cullen/Frost Common Stock registered hereby have been passed upon for Cullen/Frost by Stan McCormick, Executive Vice President and Corporate Counsel of Cullen/Frost. Mr. McCormick owns shares of Cullen/Frost Common Stock and holds options to purchase additional shares of Cullen/Frost Common Stock.

**Item 8. Exhibits**

The following documents are filed as exhibits to this Registration Statement:

<b>Exhibit Number</b>	<b>Exhibit</b>
4.1	Restated Articles of Incorporation of Cullen/Frost Bankers, Inc.
4.2	Amended Bylaws of Cullen/Frost Bankers, Inc.
4.3	The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates
5.1	Opinion and Consent of Stan McCormick as to the validity of the securities being registered
23.1	Consent of Ernst & Young LLP
23.2	Consent of Stan McCormick (included in the opinion of Stan McCormick filed as Exhibit 5.1 hereto)
24.1	Power of Attorney

**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 of 1933;

(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 hereof) 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 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

(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) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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 that 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 of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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 of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 Act and will be governed by the final adjudication of such issue.
- (d) In reliance upon the requirements of this Form S-8, Cullen/Frost has not obtained an opinion of counsel concerning compliance with the requirements of the Employee Insurance Security Act of 1974 or a determination letter from the Internal Revenue Service (the Service) that the Plan is qualified under Section 401 of the Internal Revenue Code, as amended. The registrant hereby undertakes to submit the Plan and, from time to time, any amendments thereto to the Service in a timely manner and to make all changes required by the Service in order to continue to qualify the Plan.

## 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 the City of San Antonio, State of Texas, on February 11, 2009.

CULLEN/FROST BANKERS, INC.  
(Registrant)

By: /s/ PHILLIP D. GREEN  
Phillip D. Green  
Group Executive Vice President  
  
and Chief Financial Officer

(Signature and Title)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

Signature	Title	Date
/s/ RICHARD W. EVANS, JR.* <b>Richard W. Evans, Jr.</b>	Chairman of the Board and Director  (Principal Executive Officer)	February 11, 2009
/s/ PHILLIP D. GREEN <b>Phillip D. Green</b>	Group Executive Vice President and Chief Financial Officer (Principal Financial Officer  and Principal Accounting Officer)	February 11, 2009
/s/ R. DENNY ALEXANDER* <b>R. Denny Alexander</b>	Director	February 11, 2009
/s/ CARLOS ALVAREZ* <b>Carlos Alvarez</b>	Director	February 11, 2009
/s/ ROYCE S. CALDWELL* <b>Royce S. Caldwell</b>	Director	February 11, 2009
/s/ CRAWFORD H. EDWARDS* <b>Crawford H. Edwards</b>	Director	February 11, 2009
/s/ RUBEN M. ESCOBEDO* <b>Ruben M. Escobedo</b>	Director	February 11, 2009
/s/ PATRICK B. FROST* <b>Patrick B. Frost</b>	Director and President of  The Frost National Bank	February 11, 2009
/s/ DAVID J. HAEMISEGGER* <b>David J. Haemisegger</b>	Director	February 11, 2009





Signature	Title	Date
/s/ KAREN E. JENNINGS* <b>Karen E. Jennings</b>	Director	February 11, 2009
/s/ RICHARD M. KLEBERG, III* <b>Richard M. Kleberg, III</b>	Director	February 11, 2009
/s/ ROBERT S. McCLANE* <b>Robert S. McClane</b>	Director	February 11, 2009
/s/ IDA CLEMENT STEEN* <b>Ida Clement Steen</b>	Director	February 11, 2009
/s/ HORACE WILKINS, JR* <b>Horace Wilkins, Jr.</b>	Director	February 11, 2009
*By: /s/ PHILLIP D. GREEN <b>Phillip D. Green</b>	Group Executive Vice President	February 11, 2009
As attorney-in-fact for the persons indicated	and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	

**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Exhibit</b>
4.1*	Restated Articles of Incorporation of Cullen Frost Bankers, Inc. (filed as Exhibit 3.1 to Cullen/Frost's Annual Report on Form 10-Q for the quarter ended June 30, 2006, filed with the SEC on July 26, 2006, Commission File No. 0-7275)
4.2*	Amended Bylaws of Cullen/Frost Bankers, Inc. (filed as Exhibit 3.2 to Cullen/Frost's Annual Report on Form 10-K for the year ended December 31, 2007, filed with the SEC on February 1, 2008, Commission File No. 0-7275)
4.3	The 401(k) Stock Purchase Plan for Employees of Cullen/Frost Bankers, Inc. and its Affiliates
5.1	Opinion and Consent of Stan McCormick as to the validity of the securities being registered.
23.1	Consent of Ernst & Young LLP
23.2	Consent of Stan McCormick (included in the opinion of Stan McCormick filed as Exhibit 5.1 hereto)
24.1	Power of Attorney

\* Incorporated herein by reference to the indicated filing.