

# Report of Organizational Actions Affecting Basis of Securities

OMB No. 1545-0123

▶ See separate instructions.

### Part I Reporting Issuer

<b>1</b> Issuer's name Fidelity Federal Bancorp		<b>2</b> Issuer's employer identification number (EIN) 35-1894432	
<b>3</b> Name of contact for additional information Doug Boggs	<b>4</b> Telephone No. of contact 317-587-0329	<b>5</b> Email address of contact dboggs@pedcor.net	
<b>6</b> Number and street (or P.O. box if mail is not delivered to street address) of contact 770 3rd Avenue SW		<b>7</b> City, town, or post office, state, and ZIP code of contact Carmel, IN 46032	
<b>8</b> Date of action November 30, 2021		<b>9</b> Classification and description Common Stock of American Capital Bancorp	
<b>10</b> CUSIP number N/A	<b>11</b> Serial number(s) N/A	<b>12</b> Ticker symbol N/A	<b>13</b> Account number(s) N/A

### Part II Organizational Action Attach additional statements if needed. See back of form for additional questions.

**14** Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action ▶  
See attached statement

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**15** Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis ▶  
See attached statement

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**16** Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates ▶  
See attached statement

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**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶  
See attached statement

18 Can any resulting loss be recognized? ▶  
See attached statement

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶  
See attached statement

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

Signature ▶ *Donald R. Neel* Date ▶ 12-14-21

Print your name ▶ Donald R. Neel Title ▶ Chief Executive Officer

<b>Paid Preparer Use Only</b>	Print/Type preparer's name Joseph D. Demko	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN P00444454
	Firm's name ▶ SmithAmundsen LLC			Firm's EIN ▶ 36-4189382	
	Firm's address ▶ 120 S. Central Avenue, Suite 700, St. Louis, MO 63105			Phone no. 314-719-3738	

**ATTACHMENT TO FORM 8937**  
**REPORT OF ORGANIZATIONAL ACTIONS AFFECTING BASIS OF SECURITIES**

**Fidelity Federal Bancorp**  
**EIN: 35-1894432**

**Part II, Line 14:**

On November 30, 2021, American Capital Bancorp (“ACB”) was merged with and into Affiliation Subsidiary, Inc. (“**Merger Sub**”), a wholly-owned subsidiary of Fidelity Federal Bancorp (“**FFED**”), with ACB as the surviving entity and as a wholly-owned subsidiary of FFED (the “**Merger**”), pursuant to the terms and conditions of the Agreement and Plan of Merger dated July 8, 2021 by and among ACB, Merger Sub and FFED (“**Merger Agreement**”).

**Part II, Line 15:**

As a result of the Merger, each share of ACB common stock (other than (i) shares held as treasury stock of ACB, (ii) shares held directly or indirectly by FFED, except shares held in a fiduciary capacity or in satisfaction of a debt previously contracted, if any, and (iii) dissenting shares) was converted into the right to receive (a) 0.2083 shares of FFED common stock, no par value (the “**Stock Consideration**”), plus cash in lieu of any fractional shares of FFED common stock, or (b) \$16.25 in cash (the “**Cash Consideration**”). Cash was paid in lieu of fractional shares of FFED common stock based on a price of \$78.00 per share.

Each ACB shareholder will allocate basis between each share of common stock of ACB converted into the Stock Consideration. The Cash Consideration received for each share of common stock of ACB represents a reduction in the shareholder’s basis as a return of capital.

Gain may be recognized by each ACB shareholder based on the following scenarios to the extent such ACB shareholder receives Cash Consideration:

- If the adjusted basis in an individual share of ACB stock is greater than or equal to \$16.25, recognized gain should be \$0.
- If the adjusted basis in an individual share of ACB stock is less than \$16.25, recognized gain should equal the excess of \$16.25 over the ACB stock basis.

**Part II, Line 16:**

The Merger should qualify as a tax-free reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “**Code**”).

The effect of the Merger on the tax basis of ACB common stock held by ACB shareholders is summarized as follows:

- All ACB Shareholders. The tax basis of the shares of FFED common stock received by each ACB shareholder will be the same as the basis of the shares of ACB common stock surrendered in exchange for the shares of FFED common stock, plus any gain recognized by such shareholder in the Merger, and minus any cash received by the shareholder in the Merger.

- ACB Shareholders Who Received Cash in Lieu of Fractional Shares. Each ACB shareholder who received cash in lieu of a fractional share interest in FFED common stock will be treated as having received such cash in full payment for such fractional share of common stock. Consequently, since the shareholder did not receive FFED common stock in exchange for the fractional share interest, there will be no new basis to compute.

The closing price of a share of FFED common stock on November 29, 2021, the last trading day prior to the closing date of the Merger, was \$78.00.

The basis of shares of FFED common stock received, once computed as per above, must be allocated to the individual FFED shares received in accordance with Treasury Regulation §1.358-2(a). *See also* Treasury Regulation §1.358-2(b). Since fewer shares of FFED common stock were received than shares of ACB common stock surrendered, the basis of the ACB shares surrendered must be allocated to the shares of FFED stock received in a manner that reflects, to the greatest extent possible, that a share of FFED stock received is received in respect of ACB shares of stock that were acquired on the same date and at the same price. To the extent it is not possible to allocate basis in this manner, the basis of the ACB shares surrendered must be allocated to the shares of FFED stock received in a manner that minimizes the disparity in the holding periods of the surrendered shares whose basis is allocated to any particular FFED share received. This could result in a single share of FFED stock having a split basis and a split holding period. *See* Example (14) of Treasury Regulation §1.358-2(c) for an illustration of this principle.

**Part II, Line 17:**

The acquisition of ACB by FFED should qualify as a tax-free reorganization within the meaning of Section 368(a) of the Code. In general, the federal income tax consequences to the ACB shareholder are determined under Code Sections 302, 318, 354, 356, 358, 368(a), 1001, 1011, 1221, 1223 and 1411.

**Part II, Line 18:**

In general, each ACB shareholder cannot recognize any loss. An ACB shareholder who received cash in lieu of a fractional share of FFED common stock may recognize loss if the amount of cash received is less than the tax basis in the shareholder's fractional share of ACB common stock.

**Part II, Line 19:**

In general, any adjustment to the tax basis that causes gain or loss recognized by a ACB shareholder as a result of the completion of the Merger should be reported for the taxable year which includes November 30, 2021 (e.g., a calendar year shareholder should report the transaction on the shareholder's federal income tax return filed for the 2021 calendar year).

For additional information, please refer to the full text of the Merger Agreement, which is included as Annex A to the Amended Proxy Statement filed by FFED with the U.S. Securities and Exchange Commission on October 22, 2021, as amended.

**No ruling from the Internal Revenue Service ("IRS") has been requested, or will be obtained, regarding the federal income tax consequences of the Merger described in this attachment. This attachment is not binding on the IRS and the IRS and the courts could disagree with one or more of the positions described herein.**

**The above information does not constitute tax advice. It does not address the tax consequences that may apply to any particular shareholder and each shareholder is urged to consult his or her own tax advisor regarding the tax consequences of the Merger.**