

HERITAGE COMMERCE CORP
Form S-4
February 26, 2018

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As filed with the Securities and Exchange Commission on February 26, 2018

Registration Statement No. 333-[•]

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-4

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Heritage Commerce Corp

(Exact Name of Registrant as Specified in its Charter)

California
(State or Other Jurisdiction of
Incorporation or Organization)

6022
(Primary Standard Industrial
Classification Code Number)
150 Almaden Boulevard
San Jose, California 95113
(408) 947-6900

77-0469558
(I.R.S. Employer
Identification Number)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Lawrence D. McGovern
Executive Vice President
Chief Financial Officer
150 Almaden Boulevard
San Jose, California 95113
(408) 947-6900

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

With a copy to:

Mark A. Bonenfant, Esq.
Buchalter
A Professional Corporation
1000 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90017
(213) 891-0700

David J. Gershon, Esq.
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111
(415) 434-3947

Approximate date of commencement of proposed sale of the securities to the public:
As soon as practicable after the effective date of this Registration Statement and the satisfaction or waiver of all other conditions to the merger described herein, and consummation of the merger.

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.

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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 the definitions of "large accelerated filer", "accelerated filer", "small reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated
filer

Accelerated
filer

Non-accelerated
filer

Smaller reporting company

(Do not check if a
smaller reporting
company)

Emerging growth Company

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 13(a) of the Exchange Act

If applicable, place an in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

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
Common Stock, no par value	2,826,131 shares	N/A	\$44,838,906	\$5,582

(1) Based upon an estimate of the maximum number of the shares of common stock of Heritage Commerce Corp to be issued pursuant to the agreement and plan of merger and reorganization, dated as of January 10, 2018, by and among Heritage Commerce Corp, Heritage Bank of Commerce, ATBancorp and United American Bank based on (a) 950,178 shares of United American Bank common stock outstanding, (b) rights equivalent to 355,556 shares of United American Bank common stock underlying outstanding United American Bank Series D Preferred Stock and Series E Preferred Stock common stock rights to be cancelled and exchanged for shares of Heritage Commerce Corp common stock, and (c) an exchange ratio 2.1644 shares of Heritage Commerce Corp common stock for each share of United American Bank common stock and each common stock equivalent underlying the United American Bank Series D Preferred Stock and Series E Preferred Stock being exchanged for shares of Heritage Commerce Corp common stock. Pursuant to Rule 416 under the Securities Act of 1933, this Registration Statement also covers additional securities that may be issued as a result of stock splits, stock dividends or similar transactions.

(2) The proposed maximum aggregate offering price of the registrant's common stock was calculated based upon the market value of the shares of United American Bank common stock, and Series D Preferred Stock and Series E Preferred Stock common stock rights (the securities to be cancelled in the merger) in accordance with Rules 457(c) and 457(f) under the Securities Act of 1933, as follows: the product of (i) \$34.34, which is the average high and low prices reported for United American Bank common stock on the OTC Market Group's OTC Pink market on February 20, 2018, which is within five business days prior to the date of filing this Registration Statement multiplied by (ii) 1,305,734 the estimated maximum number of the shares of United American Bank common stock, Series D Preferred Stock common stock rights and Series E Preferred Stock common stock rights that may be exchanged for the merger consideration.

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 which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement becomes effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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Information contained herein is subject to completion or amendment. A registration statement relating to the shares of Heritage Commerce Corp 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 PROXY STATEMENT/PROSPECTUS

SUBJECT TO COMPLETION, DATED FEBRUARY 26, 2018

United American Bank

To: The Shareholders of United American Bank:

On January 10, 2018, Heritage Commerce Corp, which we refer to as Heritage and its wholly owned subsidiary, Heritage Bank of Commerce, which we refer to as HBC, entered into an agreement and plan of reorganization and merger, which we refer to as the merger agreement, to acquire United American Bank. If the required shareholder and regulatory approvals are obtained, all closing conditions are satisfied or waived and the merger is subsequently completed, United American Bank will be merged with and into HBC, with HBC as the surviving bank, which we refer to as the merger.

You are cordially invited to attend a special shareholders' meeting of United American Bank, to be held at [•], Pacific Time, on [•], 2018 at [•] located at [•], San Mateo, California 94401. At the special shareholders' meeting, the United American Bank shareholders will be asked to consider and vote upon a proposal to approve the merger agreement. United American Bank cannot complete the proposed merger unless shareholders holding at least a majority of the United American Bank shares of common stock vote to approve the merger agreement. This letter is accompanied by the attached proxy statement/prospectus, which the United American Bank board of directors is providing to solicit your proxy to vote for the approval of the merger agreement.

Subject to the terms of the merger agreement, upon completion of the merger, each outstanding share of United American Bank: (i) common stock (other than dissenting shares) will be converted into the right to receive 2.1644 shares of Heritage common stock, which we refer to as the per share exchange ratio; (ii) Series D Non-Cumulative Voting Preferred Stock, no par value ("*Series D Preferred Stock*") will be converted into the right to receive the per share exchange ratio multiplied by the number of common stock equivalent rights underlying the Series D Preferred Stock; (iii) Series E Non-Cumulative Voting Preferred Stock, no par value ("*Series E Preferred Stock*") will be converted into the right to receive the per share exchange ratio multiplied by the number of common stock equivalent rights underlying the Series E Preferred Stock; (iv) Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series A, no par value ("*Series A Preferred Stock*") will be converted into the right to receive \$1,000 in cash; and (v) Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series B, no par value ("*Series B Preferred Stock*") will be converted into the right to receive \$1,000 in cash. Based on the closing price of \$15.65 per share of Heritage common stock on January 9, 2018, the penultimate trading date before the transaction was announced, the total aggregate consideration for the merger (including the payment of cash to the holders of the Series A Preferred Stock and Series B Preferred Stock) is \$53.3 million, or an implied value of \$33.87 per United American Bank common share and common stock equivalent represented by the Series D Preferred Stock and Series E Preferred Stock. United American Bank shareholders will receive cash in lieu of any fractional shares of Heritage common stock, without interest.

Based on the closing price per share of Heritage common stock on [•] [•], 2018 (the most recent day for which information was available prior to the printing and mailing of this proxy statement/prospectus) the implied value of the merger consideration payable to holders of United American Bank common stock, Series D Preferred Stock and Series E Preferred Stock was \$[•] per share of common stock and common stock equivalent. The value of the merger consideration will fluctuate based on the market price of Heritage common stock prior to the closing of the merger. Consequently, the value of the merger consideration will not be known at the time you vote on the proposal to approve the merger agreement.

We expect the merger to be generally tax free to United American Bank holders of common stock for U.S. federal income tax purposes, except for cash received by United American Bank shareholders in lieu of fractional Heritage shares, and except for United American Bank shareholders who exercise their dissenters' rights with respect to the merger.

You should obtain current stock price quotations for Heritage common stock and United American Bank common stock. United American Bank's common stock is traded on the OTC Market Group's OTC Pink market under the symbol "UABK" and Heritage common stock is traded on the NASDAQ Global Select Market under the symbol "HTBK."

Based on our reasons for the merger described in the accompanying document, our board of directors believes that the merger consideration is fair to the United American Bank shareholders and in your best interests. **Accordingly, our board of directors unanimously recommends that you vote "FOR" the approval of the merger agreement.** The accompanying proxy statement/prospectus gives you detailed information about the United American Bank special shareholders' meeting, the merger, the merger agreement and related matters. In addition to being a proxy statement of United American Bank, this proxy statement/prospectus is the prospectus of Heritage for the shares of its common stock that will be issued to the United American Bank shareholders in connection with the merger.

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To ensure your representation at the United American Bank special shareholders' meeting, please complete, sign, date and return your proxy card in the enclosed envelope or submit your proxy by telephone or through the Internet pursuant to the instructions provided on the enclosed proxy card. Whether or not you expect to attend the United American Bank special shareholders' meeting, please vote promptly. Submitting a proxy now will not prevent you from being able to vote in person at the United American Bank special shareholders' meeting.

You are encouraged to read this proxy statement/prospectus carefully. **In particular, you should read the "Risk Factors" section beginning on page 20 for a discussion of the risks you should consider in evaluating the proposed merger and how it will affect you.**

Sincerely,

John Schrup

President and Chief Executive Officer

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the merger, the issuance of the Heritage 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 proxy statement/prospectus. 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.

The information contained in this proxy statement/prospectus speaks only as of its date unless the information specifically indicates that another date applies. The information contained in this proxy statement/prospectus regarding United American Bank has been furnished by United American Bank, and the information contained in this proxy statement/prospectus regarding Heritage has been furnished by Heritage.

This proxy statement/prospectus is dated [•] [•], 2018 and is first being mailed to United American Bank shareholders on or about [•] [•], 2018.

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United American Bank

101 South Ellsworth Avenue
San Mateo, California 94401
(650) 579-1500

Notice of Special Shareholders' Meeting
[•], [•] [•], 2018

To: The Shareholders of United American Bank:

Notice is hereby given that, pursuant to its bylaws and the call of its board of directors, a special shareholders' meeting of United American Bank will be held at [•], located at [•], San Mateo, California 94401 on [•], [•] [•], 2018 at [•] a.m. Pacific Time, for the purpose of considering and voting upon the following matters:

1. **Approval of the Merger Agreement and Merger.** To approve the Agreement and Plan of Merger and Reorganization, dated January 10, 2018, which is attached as *Appendix A* to the accompanying proxy statement/prospectus, providing for the merger of United American Bank with and into Heritage Bank of Commerce, a wholly-owned subsidiary of Heritage Commerce Corp, and the transactions contemplated by the merger agreement, which we refer to as the merger proposal.

2. **Adjournment.** To approve one or more adjournments of the special shareholders' meeting, if necessary or appropriate, including adjournments to permit further solicitation of proxies in favor of the merger proposal, which is referred to as the adjournment proposal.

The board of directors of United American Bank has fixed the close of business on [•] [•], 2018 as the record date for determining the shareholders entitled to notice of, and the right to vote at, the special shareholders' meeting.

The merger is more fully described in this proxy statement/prospectus and in the merger agreement. The affirmative vote of shareholders holding at least a majority of the outstanding common stock and the Series D Preferred Stock and Series E Preferred Stock of United American Bank, voting together as a class as of the record date is required to approve the merger and merger agreement. The affirmative vote of shareholders holding common stock and the Series D Preferred Stock and Series E Preferred Stock represented in person or by proxy voting together as a class at the special shareholders' meeting is required to approve the adjournment proposal.

The directors of United American Bank beneficially owning an aggregate of approximately 82.5% of the common stock as of the record date have agreed to vote their shares in favor of the merger. ATBancorp, which owns an aggregate of 83.3% of the voting power of United American Bank, has also agreed to vote its shares in favor of the merger.

The United American Bank board of directors has approved the merger agreement and the transactions contemplated therein and determined that the merger is in the best interests of United American Bank and its shareholders, and unanimously recommends that shareholders vote "FOR" approval of the merger agreement and "FOR" approval of the proposal to adjourn the United American Bank special shareholders' 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 United American Bank special shareholders' meeting to approve the merger agreement.

Holders of United American Bank common stock have the right to dissent from the merger and assert dissenters' rights, provided the requirements of California law governing dissenters' rights are followed. A copy of the provisions of the California General Corporation Law, which govern dissenters' rights, is attached as *Appendix C* to the accompanying proxy statement/prospectus.

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Whether or not you plan to attend the special shareholders' meeting, please promptly complete, sign, date and return your proxy card in the enclosed envelope or submit your proxy by telephone or through the Internet pursuant to the instructions provided on the enclosed proxy card.

By Order of the Board of Directors

John Marshall
Corporate Secretary

Dated: [•] [•], 2018

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REFERENCES TO ADDITIONAL INFORMATION

This proxy statement/prospectus incorporates important business and financial information about Heritage Commerce Corp documents that is not included in or delivered with this document. United American Bank shareholders can obtain these documents through the website of the Securities and Exchange Commission, which we refer to as the SEC, at <http://www.sec.gov>, or by requesting them, free of charge, in writing or by telephone from Heritage Commerce Corp as follows:

**Heritage Commerce Corp
150 Almaden Boulevard
San Jose, California 95113
Attention: Corporate Secretary
(408) 947-6900**

To obtain timely delivery of these documents, you must request the information no later than [•] [•], 2018 in order to receive them before the United American Bank special shareholders' meeting.

United American Bank Shareholders

If you are a United American Bank shareholder and have questions about the issuance of shares of Heritage Commerce Corp common stock in connection with the merger or the United American Bank special shareholders' meeting, need additional copies of this proxy statement/prospectus or need to obtain proxy cards or other information related to the United American Bank proxy solicitation, you may contact John Schrup, United American Bank's president and chief executive officer, at the following address or by telephone:

**United American Bank
101 South Ellsworth Avenue
San Mateo, California 94401
(650) 579-1500**

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QUESTIONS AND ANSWERS ABOUT THE MERGER

This question and answer summary highlights selected information contained in other sections of this proxy statement/prospectus. To understand the merger more fully, you should carefully read this entire proxy statement/prospectus, including all appendices. References in this Q&A section to "you" and "your" refer to holders of common stock of United American Bank who are being asked to cast votes on the matters described herein. Additional important information is also contained in documents incorporated by reference into this proxy statement/prospectus. See "Where You Can Find More Information" beginning on page [•].

Q: What am I being asked to vote on?

A: Heritage Commerce Corp, which we refer to as Heritage, Heritage Bank of Commerce, which we refer to as HBC, ATBancorp and United American Bank have entered into a merger agreement, pursuant to which United American Bank will merge with and into HBC, a wholly owned subsidiary of Heritage, with HBC continuing as the surviving corporation, in a transaction which we refer to as the merger.

United American Bank shareholders are being asked to vote on the following proposals:

to approve the merger and to approve and adopt the merger agreement, a copy of which is attached as *Appendix A* to this proxy statement/prospectus, which is referred to as the merger proposal; and

to approve one or more adjournments of the special shareholders' meeting, if necessary or appropriate, including adjournments to permit further solicitation of proxies in favor of the merger proposal, which is referred to as the adjournment proposal.

Shareholder approval of the merger proposal is required for completion of the merger. United American Bank will transact no other business at the special shareholders' meeting.

Q: What vote is required to approve each proposal at the special shareholders' meeting?

A: *Merger proposal:* The affirmative vote of a majority of the issued and outstanding shares of United American Bank common stock entitled to vote is required to approve the merger proposal. In addition, United American Bank's Series D Non-Cumulative Voting Preferred Stock, no par value, which we refer to as Series D Preferred Stock, and Series E Non-Cumulative Voting Preferred Stock, no par value, which we refer to as Series E Preferred Stock, are entitled to vote with the holders of a common stock common stock as a single class on all matters to be presented to shareholders at the special shareholders' meeting at the rate of 13.04 votes per preferred share. Therefore, approval of the merger proposal requires (i) the affirmative vote of a majority of the issued and outstanding combined voting power of the common stock, Series D Preferred Stock and Series E Preferred Stock entitled to vote, and (ii) 66²/₃% of the Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series A, no par value, which we refer to as Series A Preferred Stock, and 66²/₃% of the Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series B, no par value, which we refer to as Series B Preferred Stock, each voting as a separate class.

Adjournment proposal: Assuming a quorum is present, the affirmative vote of a majority of the shares of United American Bank common stock Series D Preferred Stock and Series E Preferred Stock voting power represented (in person or by proxy) at the special shareholders' meeting and entitled to vote on the proposal is required to approve the adjournment proposal.

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Q: What does the United American Bank board of directors recommend?

A: After careful consideration, the United American Bank board of directors unanimously recommends that shareholders vote "**FOR**" the merger proposal and "**FOR**" the adjournment proposal (if necessary or appropriate).

You are urged to vote in favor of the merger by signing and returning the enclosed proxy as promptly as possible, or voting your proxy by phone or internet as promptly as possible, whether or not you plan to attend the special shareholders' meeting in person. If you submit a proxy and then decide to attend the meeting in person, you need not vote at the meeting unless you wish to change your proxy voting instructions. The proxy may be revoked at any time prior to its exercise.

Q: Why am I receiving this proxy statement/prospectus?

A: United American Bank is sending these materials to its shareholders to help them decide how to vote their shares of United American Bank common stock with respect to the merger and other matters to be considered at the special shareholders' meeting.

The merger cannot be completed unless United American Bank shareholders approve the merger and approve and adopt the merger agreement. At the special shareholders' meeting, United American Bank shareholders will vote on the proposals necessary to complete the merger. Information about the special shareholders' meeting, the merger and the other business to be considered by shareholders at the meeting is contained in this proxy statement/prospectus.

This proxy statement/prospectus constitutes both a proxy statement of United American Bank and a prospectus of Heritage. It is a proxy statement because the board of directors of United American Bank is soliciting proxies using this proxy statement/prospectus from its shareholders. It is a prospectus because Heritage, in connection with the merger, is offering shares of its common stock in exchange for outstanding shares of United American Bank common stock in the merger.

Q: Who is eligible to vote?

A: Holders of United American Bank common stock and preferred stock are eligible to vote their shares at the United American Bank special shareholders' meeting if they were holders of record of those shares at the close of business on [•] [•], 2018 (the "record date").

Q: What will happen if United American Bank shareholders approve the merger?

A: If the United American Bank shareholders approve the merger, and other conditions set forth in the merger agreement are fulfilled, United American Bank will merge with and into HBC. United American Bank will cease to exist as a separate entity. Branch offices of United American Bank will become branch offices of HBC.

The directors of United American Bank beneficially owning an aggregate of approximately 82.5% of the common stock outstanding as of the record date have agreed to vote their shares in favor of the merger. **ATBancorp which owns common stock, Series D Preferred Stock and Series E Preferred Stock representing an aggregate of approximately 83.3% of the voting power of United American Bank, has agreed to vote its shares in favor of the merger.**

Q: What will I receive in exchange for my United American Bank common shares in the merger?

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A:

In the merger, each share of United American Bank common stock owned by a United American Bank shareholder will be converted into the right to receive 2.1644 shares of Heritage common stock, which we refer to as the per share exchange ratio. A United American Bank shareholder will receive any whole shares of Heritage common stock such holder is entitled to receive and cash

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in lieu of any fractional shares of Heritage common stock such holder is entitled to receive, without interest.

Q: What will the holders of United American Bank Preferred Stock Receive in the merger?

A: ATBancorp owns all of the issued and outstanding shares of United American Bank preferred stock. In the merger: (i) each share of Series D Preferred Stock, will be converted into the right to receive the per share exchange ratio multiplied by the number of common stock equivalent rights underlying the Series D Preferred Stock; (ii) each share of Series E Preferred Stock, will be converted into the right to receive the per share exchange ratio multiplied by the number of common stock equivalent rights underlying the Series E Preferred Stock; (iii) each share of Series A Preferred Stock will be converted into the right to receive \$1,000 in cash; and (iv) each share of Series B Preferred Stock will be converted into the right to receive \$1,000 in cash. We sometimes refer to the Series A Preferred Stock, Series B Preferred Stock, Series D Preferred Stock and Series E Preferred Stock collectively as preferred stock. We also refer to the equivalent number of shares of common stock participation rights underlying the Series D Preferred stock and Series E Preferred Stock as common stock equivalents.

Q: Is the exchange ratio subject to adjustment based on changes in the price of Heritage and/or United American Bank common stock?

A: No. The exchange ratio of 2.1644 shares of Heritage common stock for each share of United American Bank common stock and common stock equivalent is fixed and no adjustments to the exchange ratio will be made based on changes in the price of either Heritage or United American Bank common stock prior to the completion of the merger. As a result of any such changes in stock price, the aggregate market value of the shares of Heritage common stock that a United American Bank shareholder is entitled to receive at the time that the merger is completed could vary significantly from the value of such shares on the date of this proxy statement/prospectus, the date of the United American Bank special shareholders' meeting or the date on which United American Bank shareholders actually receive shares of Heritage common stock in the merger.

Q: Will United American Bank shareholders be able to trade the Heritage common stock that they receive in the merger?

A: The Heritage common stock issued in the merger to United American Bank shareholders will be listed on the NASDAQ Capital Global Select Market under the symbol "HTBK." Unless you are deemed an "affiliate" of Heritage, you may sell or transfer the shares of Heritage common stock you receive in the merger without restriction.

Q: What risks should I consider before I vote on the merger?

A: Certain risks that you should consider in deciding how to vote on the merger are described in the section of this proxy statement/prospectus entitled "Risk Factors." You are urged to read that section, as well as the rest of this proxy statement/prospectus, before deciding how to vote.

Q: What do I need to do now?

A: After you have carefully read this proxy statement/prospectus and have decided how you wish to vote your shares, please vote your shares promptly so that your shares are represented and voted at the special shareholders' meeting. If you hold your shares in your name as a shareholder of record, you must complete, sign, date and mail your proxy card in the enclosed postage-paid return envelope as soon as possible.

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Q: What happens if I do not return my proxy card?

A: If you fail to execute and return your proxy card, it will have the same effect as voting against the merger, unless you vote in person at the meeting.

Q: How do I vote?

A: Holders of a valid proxy card should indicate on their proxy card how they want to vote. Sign and mail your proxy card in the enclosed envelope as soon as possible so that your shares will be represented at the United American Bank special shareholders' meeting or vote by the methods described below. Alternatively, you may attend the meeting and vote in person.

Giving a proxy means that a United American Bank shareholder authorizes the persons named in the enclosed proxy card to vote its shares at the special shareholders' meeting in the manner it directs.

If you sign and send in your proxy card and do not indicate how you want to vote, your shares will be voted in favor of the merger and in favor of the adjournment proposal.

If you do not sign and send in your proxy card or you abstain from voting, it will have the same effect as voting your shares against the merger proposal and the adjournment proposal.

You may vote by phone using the toll-free number on your proxy card.

You may vote on the Internet by visiting the website shown on your proxy card.

You may attend the meeting and vote your shares in person, rather than voting by proxy.

Q: If my shares are held in "street name" by a broker, bank or other nominee, will my broker, bank or other nominee vote my shares for me?

A: If your shares are held in "street name" in a stock brokerage account or by a bank or other nominee, you must provide the record holder of your shares with instructions on how to vote your shares. Please follow the voting instructions provided by your broker, bank or other nominee. Please note that you may not vote shares held in street name by returning a proxy card directly to United American Bank or by voting in person at the shareholders' special shareholders' meeting unless you provide a "legal proxy," which you must obtain from your broker, bank or other nominee.

Under the rules of the stock exchanges and other self-regulatory agencies, brokers who hold shares in street name for a beneficial owner of those shares typically have the authority to vote in their discretion on "routine" proposals when they have not received instructions from beneficial owners. However, brokers are not allowed to exercise their voting discretion with respect to the approval of matters that the rules of the stock exchanges and other self-regulatory agencies determines to be "non-routine" without specific instructions from the beneficial owner. All proposals to be voted on at the special shareholders' meeting are "non-routine" matters. Broker non-votes occur when a broker or nominee is not instructed by the beneficial owner of shares to vote on a particular proposal for which the broker does not have discretionary voting power.

Q: **What if I abstain from voting or fail to instruct my broker?**

A: If you are a holder of United American Bank common stock and you abstain from voting or fail to instruct your broker to vote your shares and the broker submits an unvoted proxy, referred to as a broker non-vote, then the abstention or broker non-votes will be counted towards a quorum at the special shareholders' meeting, but it will have the same effect as a vote against approval of the merger proposal.

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Abstentions and broker non-votes of shares of United American Bank common stock will not have any effect on the adjournment proposal, if the number of affirmative votes cast for the proposal is a majority of the votes cast and such votes constitute a majority of the quorum required to transact business at the special shareholders' meeting. However, if the number of affirmative votes cast for the adjournment proposal is a majority of the votes cast, but such votes do not constitute a majority of the quorum required to transact business at the special shareholders' meeting, then abstentions and broker non-votes will have the same effect as a vote against the merger proposal.

Q: What will happen if I return my proxy or voting instruction card without indicating how to vote?

A: If you sign and return your proxy or voting instruction card without indicating how to vote on any particular proposal, common stock represented by your proxy will be voted as recommended by the United American Bank board of directors with respect to that proposal, including "FOR" the merger proposal, in which case you will be prohibited from asserting dissenters' rights, and "FOR" the adjournment Proposal.

Q: May I change my vote after I have delivered my proxy or voting instruction card?

A: You may change your vote at any time before your proxy is voted at the United American Bank special shareholders' meeting. You may do this in one of the following ways:

by sending a notice of revocation to the corporate secretary of United American Bank;

by logging onto the Internet website specified on your proxy card in the same manner you would to submit your proxy electronically or by calling the telephone number specified on your proxy card, in each case if you are eligible to do so and following the instructions on the proxy card; or

by sending a completed proxy card bearing a later date than your original proxy card.

If you choose any of these methods, you must take the described action such that the notice, Internet vote or proxy card, as applicable, is received no later than the beginning of the special shareholders' meeting.

You may also change your vote by attending the special shareholders' meeting and voting in person.

If your shares are held in an account at a broker, bank or other nominee, you should contact your broker, bank or other nominee to change your vote.

Q: How do United American Bank's directors plan to vote on the merger?

A: The directors of United American Bank beneficially owning common stock representing an aggregate of approximately 82.5% of the voting power as of the record date have agreed to vote their shares in favor of the merger proposal.

Q: How does ATBancorp plan to vote on the merger?

A: ATBancorp owns an aggregate of approximately 83.3% of the voting power voting on the merger and has agreed to vote in favor of the merger.

Q: What are the material United States federal income tax consequences of the merger to United American Bank common shareholders?

The merger is intended to qualify, as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, which we refer to as the Internal Revenue Code.

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Based on the qualification of the merger as a "reorganization," United American Bank common shareholders generally will not recognize any gain or loss in connection with the merger, except with respect to the cash received instead of a fractional share of Heritage common stock. United American Bank common shareholders who exercise their dissenters' rights with respect to the merger generally will recognize taxable gain or loss.

Tax matters are very complicated, and the tax consequences of the merger to a particular shareholder will depend in part on such shareholder's circumstances. Accordingly, you should consult your tax advisor for a full understanding of the tax consequences of the merger to you, including the applicability and effect of federal, state, local and foreign income and other tax consequences.

Q:

What happens if the merger is not completed?

A:

If the merger is not completed, United American Bank shareholders will not receive any consideration for their shares of United American Bank common stock in connection with the merger. Iimes New Roman" style="font-size:10.0pt;">Title:

Plan Administrator

Exhibit Index

Exhibit No.	Description
3.1	Restated Certificate of Incorporation of Caterpillar Inc. effective June 13, 2012 (incorporated by reference from Exhibit 3.1 to Caterpillar's Quarterly Report on Form 10-Q filed on August 6, 2012)
3.2	Bylaws of Caterpillar Inc., as amended and restated as of June 13, 2012 (incorporated by reference from Exhibit 3.2 to Caterpillar's Quarterly Report on Form 10-Q filed on August 6, 2012)
4.1	Amended and Restated Caterpillar Global Mining Legacy Hourly Employees' Savings Plan effective January 1, 2013
23.1	Consent of PricewaterhouseCoopers LLP
24	Powers of Attorney (contained in the signature page to this Registration Statement)

In lieu of the opinion of counsel or determination letter with respect to the Plan, the Company hereby undertakes that it will submit or has submitted the Plan and any amendment to the Plan to the Internal Revenue Service (the "IRS") in a timely manner and has made or will make all changes required by the IRS in order to qualify the Plan under Section 401 of the Internal Revenue Code of 1986, as amended.