

MARSHALL & ILSLEY CORP/WI/  
Form 8-K  
January 14, 2005

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 12, 2005

MARSHALL & ILSLEY CORPORATION

(Exact name of registrant as specified in its charter)

Wisconsin

1-15403

39-0968604

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(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

(IRS Employer  
Identification No.)

770 North Water Street  
Milwaukee, Wisconsin

(Address of principal executive offices)

53202  
(Zip Code)

Registrant's telephone number, including area code: (414) 765-7801

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Securities Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01.

Entry Into a Material Definitive Agreement.

On January 12, 2005, Marshall & Ilsley Corporation (the Company) entered into a Change of Control Agreement (the Agreement) with Thomas J. O'Neill, Senior Vice President of the Company, Executive Vice President of M&I Marshall & Ilsley Bank and President of M&I Bank FSB.

The Agreement guarantees Mr. O'Neill specific payments and benefits upon a termination of his employment as a result of a change of control of the Company. If a change of control occurs, the contract becomes effective and continues for a term of three years. The employment term renews on a daily basis until the Company gives notice to terminate the daily renewal.

The Agreement provides for specified benefits after a change of control if Mr. O Neill voluntarily terminates for good reason or is involuntarily terminated other than for cause (as such terms are defined in the Agreement). In addition, at the end of six months after a change of control, Mr. O Neill may terminate employment for any reason and is entitled to receive full benefits. Upon a termination, Mr. O Neill is entitled to (a) a lump sum payment equal to three times the sum of his current base salary plus the higher of his bonus for the last year or his average bonus for the past three years, (b) a proportionate amount of any unpaid bonus deemed earned for the year of termination, (c) a lump sum payment equal to the retirement benefits lost as a result of not having been employed for the remaining contract term, (d) health and other benefits for the remaining contract term, and (e) payments for certain other fringe benefits. In the event of a termination of employment as a result of his death, Mr. O Neill's beneficiary is entitled to six months of his base salary. No additional benefits are guaranteed under the contract upon Mr. O Neill's disability or termination of employment by the Company for cause.

The Agreement further provides that upon a change of control most restrictions limiting the exercise, transferability or other incidents of ownership of any outstanding award, restricted stock, options, stock appreciation rights, or other property rights of the Company granted to Mr. O Neill will lapse, and such awards will become fully vested, except in certain circumstances. In addition, the Agreement provides that, upon certain events following a change of control, Mr. O Neill's options will remain exercisable for the lesser of (a) the remainder of their respective terms or (b) one year after Mr. O Neill's death.

The Agreement also provides for gross-up payments in the event payments to Mr. O Neill under the Agreement are subject to the excise tax (the Excise Tax) provided for under Section 4999 of the Internal Revenue Code of 1986, as amended, or any similar federal, state or local tax which may be imposed, in an amount such that the net amount retained by Mr. O Neill, after deduction of any Excise Tax on the payments and any federal, state and local income tax and Excise Tax on the gross-up payment, will be equal to the payments then due.

Item 1.02.

Termination of a Material Definitive Agreement.

The Agreement described in Item 1.01 hereof supercedes the Change of Control Agreement between the Company and Mr. O Neill dated August 12, 1999, as amended October 18, 2001 (the Previous Agreement). The terms of the Previous Agreement were substantially identical to the terms of the Agreement, except that the Previous Agreement would have become effective and continued for a term of two years after the occurrence of a change of control of the Company.

A copy of the Agreement is attached hereto as Exhibit 10.1 and incorporated herein by reference.

Item 9.01.

Financial Statements and Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	Change of Control Agreement by and between the Company and Thomas J. O Neill, dated as of January 12, 2005.

SIGNATURES

