

GOLDEN WEST FINANCIAL CORP /DE/

Form 425

May 08, 2006

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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

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**FORM 8-K**

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**CURRENT REPORT PURSUANT**  
**TO SECTION 13 OR 15(D) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934**

**Date of report (Date of earliest event reported) May 7, 2006**

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**Wachovia Corporation**

**(Exact Name of Registrant as Specified in Its Charter)**

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**North Carolina**

**(State or Other Jurisdiction of Incorporation)**

**1-10000**  
**(Commission File Number)**

**56-0898180**  
**(IRS Employer Identification No.)**

**One Wachovia Center Charlotte,**

**North Carolina**  
**(Address of Principal Executive Offices)**

**28288-0013**  
**(Zip Code)**

**(704) 374-6565**

**(Registrant's Telephone Number, Including Area Code)**

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(Former Name or Former Address, if Changed Since Last Report)

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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 Exchange 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))
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**Item 1.01. Entry into a Material Definitive Agreement.**

On May 7, 2006, Wachovia Corporation ( Wachovia ) and Golden West Financial Corporation ( Golden West ) announced that they had entered into an Agreement and Plan of Merger, dated as of May 7, 2006 (the Merger Agreement ), that provides, among other things, for Golden West to be merged with and into a wholly-owned subsidiary of Wachovia (the Merger ). As a result of the Merger, the outstanding shares of Golden West common stock, with respect to each shareholder of record of Golden West common stock, will be converted into the right to receive (A) a number of shares of Wachovia common stock equal to the product of (i) 1.365 times (ii) the number of shares of Golden West common stock held by such holder of record times (iii) 77%, and (B) an amount in cash equal to the product of (i) \$81.07 times (ii) the number of shares of Golden West common stock held by such holder of record times (iii) 23%. Wachovia also entered into Voting Agreements, dated as of May 7, 2006 (the Voting Agreements ), with the co-chairman and chief executive officers of Golden West, Marion Sandler and Herbert Sandler, and with one other director, Bernard Osher. Under the Voting Agreements, the Sandler and Mr. Osher gave Wachovia an irrevocable proxy to vote, and they agreed to vote, their Golden West shares in favor of the Merger and agreed that they will not vote those shares in favor of another acquisition transaction. In the Merger Agreement, Golden West agreed to pay Wachovia a termination fee of \$995 million under certain circumstances generally arising if Golden West or a third party takes certain actions that could prevent or impede consummation of the Merger. Wachovia agreed to elect two current Golden West directors to its board of directors upon consummation of the Merger.

The Merger is intended to be treated as a tax-free reorganization to Wachovia and Golden West and otherwise tax free to Golden West s shareholders, except to the extent they receive cash, and is to be accounted for as a purchase. Consummation of the Merger is subject to various conditions, including: (i) receipt of the approvals of Wachovia s and Golden West s shareholders; (ii) receipt of requisite regulatory approvals from the Board of Governors of the Federal Reserve System and other regulatory authorities; (iii) receipt of legal opinions as to the tax treatment of the Merger; (iv) listing on the New York Stock Exchange, Inc., subject to notice of issuance, of Wachovia s common stock to be issued in the Merger; and (v) satisfaction of certain other conditions.

The news release jointly issued by Wachovia and Golden West announcing the Merger is included as Exhibit (99)(a) to this report and is incorporated into this Item 1.01 by reference (the News Release ).

**Item 7.01. Regulation FD Disclosure.**

On May 8, 2006, Wachovia and Golden West intend to hold a presentation for analysts and others regarding the proposed Merger (the Meeting ), which will be accessible via the Internet and by conference call. At the Meeting, Wachovia and Golden West will discuss certain financial and other information relating to the Merger (the Merger Presentation Materials ), the Merger Agreement, as well as other items in the News Release, and intend to hold a live question and answer session following such discussion. Information regarding the Meeting is included in the News Release.

The Merger Presentation Materials are included as Exhibit (99)(b) to this report and are incorporated into this Item 7.01 by reference. The information in Exhibit (99)(b) shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall it be incorporated by reference in any filing under the Securities Act of 1933, as amended.

**Item 9.01. Financial Statements and Exhibits.**

- (c) Exhibits.
- (99)(a) The News Release.
- (99)(b) The Merger Presentation Materials (solely furnished and not filed for purposes of Item 7.01).

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This Current Report on Form 8-K (including information included or incorporated by reference herein), the News Release, the Merger Presentation Materials, and any statements Wachovia makes at the Meeting and during any other conference call/webcast may contain, among other things, certain forward-looking statements, with respect to each of Wachovia, Golden West and the combined company following the Merger, as well as the goals, plans, objectives, intentions, expectations, financial condition, results of operations, future performance and business of Wachovia, including, without limitation, (i) statements relating to the benefits of the Merger, including future financial and operating results, cost savings, enhanced revenues and the accretion/dilution to reported earnings that may be realized from the Merger, (ii) statements relating to the benefits of the merger between Wachovia and Westcorp and Wachovia's related acquisition of WFS Financial Inc, a subsidiary of Westcorp, completed on March 1, 2006 (the Westcorp Transaction), including future financial and operating results, cost savings, enhanced revenues and the accretion/dilution to reported earnings that may be realized from the Westcorp Transaction, (iii) statements regarding certain of Wachovia's and/or Golden West's goals and expectations with respect to earnings, earnings per share, revenue, expenses and the growth rate in such items, as well as other measures of economic performance, including statements relating to estimates of credit quality trends, and (iv) statements preceded by, followed by or that include the words may, could, should, would, believe, anticipate, estimate, expect, intend, projects, outlook or similar expressions. These statements are based upon the current beliefs and expectations of Wachovia's and/or Golden West's management and are subject to significant risks and uncertainties. Actual results may differ from those set forth in the forward-looking statements. These forward-looking statements involve certain risks and uncertainties that are subject to change based on various factors (many of which are beyond Wachovia's control).

The following factors, among others, could cause Wachovia's financial performance to differ materially from that expressed in such forward-looking statements: (1) the risk that the businesses of Wachovia and/or Golden West in connection with the Merger or the businesses of Wachovia, Westcorp and WFS Financial in connection with the Westcorp Transaction will not be integrated successfully or such integration may be more difficult, time-consuming or costly than expected; (2) expected revenue synergies and cost savings from the Merger or the Westcorp Transaction may not be fully realized or realized within the expected time frame; (3) revenues following the Merger or the Westcorp Transaction may be lower than expected; (4) deposit attrition, operating costs, customer loss and business disruption following the Merger or the Westcorp Transaction, including, without limitation, difficulties in maintaining relationships with employees, may be greater than expected; (5) the ability to obtain governmental approvals of the Merger on the proposed terms or schedule; (6) the failure of Wachovia's or Golden West's shareholders to approve the Merger; (7) the strength of the United States economy in general and the strength of the local economies in which Wachovia and/or Golden West conducts operations may be different than expected resulting in, among other things, a deterioration in credit quality or a reduced demand for credit, including the resultant effect on Wachovia's and/or Golden West's loan portfolio and allowance for loan losses; (8) the effects of, and changes in, trade, monetary and fiscal policies and laws, including interest rate policies of the Board of Governors of the Federal Reserve System; (9) inflation, interest rate, market and monetary fluctuations; (10) adverse conditions in the stock market, the public debt market and other capital markets (including changes in interest rate conditions) and the impact of such conditions on Wachovia's capital markets and capital management activities, including, without limitation, Wachovia's mergers and acquisition advisory business, equity and debt underwriting activities, private equity investment activities, derivative securities activities, investment and wealth management advisory businesses, and brokerage activities; (11) the timely development of competitive new products and services by Wachovia and the acceptance of these products and services by new and existing customers; (12) the willingness of customers to accept third party products marketed by Wachovia; (13) the willingness of customers to substitute competitors' products and services for Wachovia's products and services and vice versa; (14) the impact of changes in financial services laws and regulations (including laws concerning taxes, banking, securities and insurance); (15) technological changes; (16) changes in consumer spending and saving habits; (17) the effect of corporate restructurings, acquisitions and/or dispositions, including, without limitation, the Merger (and any required divestitures related thereto) and the Westcorp Transaction, and the actual restructuring and other expenses related thereto, and the failure to achieve the expected revenue growth and/or expense savings from such corporate restructurings, acquisitions and/or dispositions; (18) the growth and profitability of Wachovia's non-interest or fee income being less than expected; (19) unanticipated regulatory or judicial proceedings or rulings; (20) the impact of changes in accounting principles; (21) adverse changes in financial performance and/or condition of Wachovia's and/or Golden West's borrowers which could impact repayment of such borrowers' outstanding loans; (22) the impact on Wachovia's and/or Golden West's businesses, as well as on the risks set forth above, of various domestic or international military or terrorist activities or conflicts; and (23) Wachovia's success at managing the risks involved in the foregoing.

Wachovia cautions that the foregoing list of factors is not exclusive. All subsequent written and oral forward-looking statements concerning Wachovia, the Merger, the Westcorp Transaction or other matters and attributable to Wachovia or any person acting on its behalf are expressly qualified in their entirety by the cautionary statements above. Wachovia does not undertake any obligation to update any forward-looking statement, whether written or oral, relating to the matters discussed in this Current Report on Form 8-K.

The proposed Merger will be submitted to Wachovia's and Golden West's shareholders for their consideration. Wachovia will file a registration statement, which will include a joint proxy statement/prospectus, and Golden West will file the joint proxy statement, and each of Wachovia and Golden West may file other relevant documents concerning the proposed Merger with the SEC. Shareholders are urged to read the registration statement and the joint proxy statement/prospectus regarding the proposed Merger when they become available and any other relevant documents filed with the SEC, as well as any amendments or supplements to those documents, because they will contain important information. You will be able to obtain a free copy of the joint proxy statement/prospectus, as well as other filings containing information about Wachovia and Golden West, at the SEC's website (<http://www.sec.gov>). You will also be able to obtain these documents, free of charge, at Wachovia's website (<http://www.wachovia.com>) under the tab "Inside Wachovia" "Investor Relations" and then under the heading "Financial Reports - SEC Filings". Copies of the joint proxy statement/prospectus and the SEC filings that will be incorporated by reference in the joint proxy statement/prospectus can also be obtained, free of charge, by directing a request to Wachovia Corporation, Investor Relations, One Wachovia Center, 301 South College Street, Charlotte, NC 28288-0206, (704)-374-6782; or to Golden West, Investor Relations Department, 1901 Harrison Street, Oakland, CA 94612, (510)-446-3420.

Wachovia and Golden West and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the shareholders of Wachovia and/or Golden West in connection with the proposed Merger. Information about the directors and executive officers of Wachovia is set forth in the proxy statement for Wachovia's 2006 annual meeting of shareholders, as filed with the SEC on a Schedule 14A on March 13, 2006. Information about the directors and executive officers of Golden West is set forth in the proxy statement for Golden West's 2006 annual meeting of shareholders, as filed with the SEC on a Schedule 14A on March 10, 2006. Additional information regarding the interests of those participants and other persons who may be deemed participants in the transaction may be obtained by reading the joint proxy statement/prospectus regarding the proposed Merger when it becomes available. You may obtain free copies of these documents as described in the preceding paragraph.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

WACHOVIA CORPORATION

Date: May 8, 2006

By: /s/ Thomas J. Wurtz  
Name: Thomas J. Wurtz  
Title: Senior Executive Vice President

and Chief Financial Officer

**Exhibit Index**

<b>Exhibit No.</b>	<b>Description</b>
(99)(a)	The News Release.
(99)(b)	The Merger Presentation Materials.