

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

NYSE has requested accelerated approval of the proposed rule change in order that the rule can become effective on June 7, 1995.<sup>7</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of NYSE. All submissions should refer to file number SR-NYSE-95-19 and should be submitted by June 23, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 95-13534 Filed 6-1-95; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. IC-21098; 812-6902]

#### IDS Certificate Company, Notice of application

May 26, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** IDS Certificate Company ("IDSC").

**RELEVANT ACT SECTIONS:** Order requested under sections 6(c), 28(b), 18(j)(1), and 28(c).

**SUMMARY OF APPLICATION:** IDSC requests an order under section 28(b) to permit

it to hold as "qualified investments" those investments permitted under the Minnesota life insurance code ("Minnesota Code") and to value these investments in accordance with the Minnesota Code; under section 6(c) to adopt a more conservative formula to calculate its minimum reserve requirements; under section 18(j)(1) to engage in certain hedging transactions that are permitted under the Minnesota Code; and under section 28(c) to authorize certain custodial arrangements. The order under section 6(c) would supersede a prior order (the "Interest Rate Order") relating to IDSC's reserve calculations.<sup>1</sup> In addition, the order under section 28(c) would amend two prior orders (the "Custody Orders") concerning IDSC's custodial arrangements.<sup>2</sup>

**FILED DATE:** The application was filed on October 15, 1987, and amended on March 30, 1988, March 3, 1989, December 22, 1989, May 24, 1990, August 20, 1990, September 27, 1994, and May 26, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 20, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, IDS Tower 10, Minneapolis, Minnesota 55440, Attn: Bruce A. Kohn.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Robertson, Branch Chief, at (202) 942-0564, or Elizabeth G. Osterman, Assistant Director, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the

<sup>1</sup> *IDS Certificate Company*, Investment Company Act Release Nos. 14981 (Mar. 11, 1986) (notice) and 15045 (Apr. 7, 1986) (order).

<sup>2</sup> *IDS Certificate Company*, Investment Company Act Release Nos. 14652 (July 31, 1985) (notice) and 14712 (Sept. 11, 1985) (order); *IDS Certificate Company*, Investment Company Act Release Nos. 17652 (Aug. 3, 1990) (notice) and 17723 (Aug. 31, 1990).

application. The complete application may be obtained for a fee for the SEC's Public Reference Branch.

#### Applicant's Representations

1. IDSC, a registered face-amount certificate company, is a wholly-owned subsidiary of IDS Financial Corporation, a registered broker-dealer and investment adviser. IDSC issues several types of "face-amount certificates" with varying terms and maturities. Face-amount certificates are debt obligations of the issuing company. These certificates obligate the issuer to pay a certain amount to the holder thereof upon maturity or to pay a specified surrender value prior to maturity.

2. IDSC is located in Minnesota. A specific statutory mandate subjects IDSC to oversight and periodic inspections by the Minnesota Department of Commerce, which administers the Minnesota Code and also regulates insurance companies. The Department inspects IDSC at least annually, and focuses particularly on portfolio quality and the adequacy of reserves for losses.

#### A. Qualified Investments

1. As a face-amount certificate company, the Act requires IDSC to hold assets having a value of not less than the aggregate amount of its required paid-in capital and certificate reserves. Section 28(b) provides that these assets must consist of cash or "qualified investments," which are defined as those investments that life insurance companies are permitted to invest in or hold under the Code of the District of Columbia (the "D.C. Code") or investments that the SEC may authorize by rule, regulation, or order. In addition, the section provides that these investments must be valued in accordance with the D.C. Code.

2. Investments available in the marketplace have changed substantially since the adoption of the D.C. Code, and applicants believe that the D.C. Code is largely outdated as the last substantive amendments were passed in 1960. Under the D.C. Code, life insurance companies may not invest more than 5% of their assets in investments not expressly permitted by the D.C. Code (the "5% Limitation").

3. IDSC requests and order under section 28(b) to permit it to hold as "qualified investments" those financial instruments that life insurance companies may hold under the Minnesota Code, as in effect at the time relief is granted. In addition, if the requested relief is granted, these investments will be valued in accordance with the Minnesota Code. The Minnesota Code allows "financial

<sup>7</sup> *Supra* note 3 and accompanying text.

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).

transactions solely for the purpose of managing the interest rate risk associated with the Company's assets and liabilities and not for speculative or other purposes."<sup>3</sup> These transactions may involve "futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors."<sup>4</sup>

4. IDSC's current procedures for hedging include approval of any hedging program by an asset/liability committee that has been created by IDSC's investment adviser and includes senior managers of the investment adviser and managers of IDSC. The investment adviser is IDSC's parent company, IDS Financial Corporation. The committee does not review specific transactions before the fact. However, both the committee and IDSC's board of directors are informed of the implementation at their meetings or in written materials prepared for those meetings.

5. There are other significant differences between the D.C. Code and the Minnesota Code:

a. Under the D.C. Code, there is no limit on investments in high-yield, lower grade bonds. In contrast, the Minnesota Code permits no more than 15% of a company's assets to be invested in bonds rated below investment grade by a nationally recognized rating agency or below the two highest of the six rating categories of the National Association of Insurance Commissioners ("NAIC").

b. The percentage of a portfolio that may be invested in equities is not limited under the D.C. Code, whereas the Minnesota Code permits no more than 20% to be invested in common stock, and no more than 25% to be invested in common and preferred stocks combined. No more than five percent may be invested in preferred stock rated in one of the four lowest NAIC rating categories.

c. Under the D.C. Code, foreign investments other than in Canada are subject to the 5% Limitation. In addition to the investments in Canada, the Minnesota Code allows a company to invest up to ten percent of its assets in certain foreign investments in countries where the obligations of the government are rated in one of the two highest rating categories by a U.S. rating agency.

6. In both Minnesota and the District of Columbia, NAIC principles are used to value the investments of life insurance companies, and most

investments are valued at acquisition cost, with amortization of premiums and accretion of discounts, when applicable. IDSC states that there are few differences in valuation requirements between the two jurisdictions. In Minnesota, securities rated by the NAIC in its category 6—the lowest NAIC rating category—are required to be marked to a market value determined by the NAIC, which the D.C. Code does not require. In addition, unlike the D.C. Code, the Minnesota Code contains rules on valuation of commercial mortgage loans and real estate owned as a result of foreclosure on such loans.

7. Section 28(b) provides that the SEC may authorize face-amount certificate companies to invest in qualified investments in addition to those permitted under the D.C. Code. IDSC requests an order under the section to permit it to use the Minnesota Code—instead of the D.C. Code—to determine its qualified investments. IDSC believes that the Minnesota Code governing investments by insurance companies contains several provisions that would enhance the protection of investors and be consistent with the policies and purposes of the Act.

8. IDSC will explain its expanded use of derivative instruments in its prospectus and in a publication to its current certificate holders. In particular, IDSC will explain that it may enter into financial transactions, including futures and other derivatives, for the purpose of managing the interest rate exposures associated with its assets or liabilities. IDSC also will explain that derivatives are financial instruments whose performance is derived, at least in part, from the performance of an underlying asset, security or index, and that a small change in the value of the underlying asset, security or index may cause a sizable gain or loss in the fair value of the derivative.

#### *B. Reserves*

1. IDSC also requests an order to change the formula for calculating its minimum reserves. Sections 28(a) and 28(i) specify the amount of reserves required to be maintained on fully paid (or single pay) certificates and installment certificates. The underlying principle in calculating a face-amount certificate company's reserves is to start with the amount of money that will have to be paid at maturity and then to work backward through an analysis similar to a present value calculation. For instance, with a fully paid (or single pay) certificate, section 28(a) requires IDSC to maintain reserves at least equal to the amount, when accumulated at

3½% per annum compounded annually, that will provide the value payable at maturity.

2. The Interest Rate Order permits IDSC to calculate its minimum reserves using a weighted Moody's Corporate Bond Yield Average ("Moody's Index"), as opposed to using the statutory 3½%. IDSC believes that a different formula for calculating its reserves could more closely approximate the usual average maturity of the investments in IDSC's portfolio. Accordingly, IDSC requests an order under section 6(c) to calculate its reserves using the rate of Treasury bonds with seven years remaining to maturity. IDSC requests this order such that, if it so chose, it could comply with the condition to, and rely on, this amended exemption without complying with the other conditions to, or relying on, the other exemptions requested in this application. However, if IDSC relies on the relief requested herein to determine qualified investments, it will comply with all the conditions set forth in this application.

3. Section 6(c) provides that the SEC may exempt any person from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Congress sought adequate and secure reserves for face-amount certificate companies. While it could not have specifically anticipated the country's recent history of widely fluctuating interest rates, Congress did recognize a need for flexibility with changing conditions. Section 6(c) was adopted by Congress to permit the SEC to grant exemptions consistent with the Act's purpose of protecting investors. IDSC believes that its proposal would continue to meet Congress' goal of adequate reserves.

#### *C. Issuing Additional Securities*

1. IDSC also requests an order under section 18(j)(1). The section generally provides that face-amount certificate companies may not issue any securities other than face-amount certificates, common stock, and private short-term debt, except as the SEC authorizes by rule, regulation, or order.

2. As discussed above, the Minnesota Code permits companies to engage in certain hedging transactions. To the extent these transactions may involve the issuance of securities other than those permitted by section 18(j)(1), IDSC requests approval to issue these securities.

<sup>3</sup>Minn. Stat. § 61A.28, subdib. 9a (emphasis added).

<sup>4</sup>Minn. Stat. § 61A.28, subd. 9a.

#### D. Custody

1. Section 28(c) requires a face-amount certificate company to deposit and maintain, upon such terms and conditions as the SEC may prescribe by rule, regulation, or order, all certificate reserve investments with a bank. The Custody Orders approve various custodial arrangements for IDSC. Under these arrangements, IDSC's custodian holds assets either directly or in the book entry system of the Depository Trust Company or the Federal Reserve. In addition, a transnational depository, Centrale de Livraison de Valeurs Mobilieres, S.A., holds a small number of foreign bonds. From time to time, the custodian's agent bank, State Street Bank and Trust Co. in New York City, holds short-term securities. Finally, the custodian's agent, Marquette Bank Minneapolis, holds a small number of unregistered bearer securities. IDSC believes that it can maintain custody for most of the investments permitted under the Minnesota Code in accordance with the Custody Orders.

2. IDSC, however, requests an order under section 28(c) to allow certain custody arrangements for exchange-traded options. IDSC proposes to maintain custody of exchange-traded options indirectly through clearing members who will be participating members in the Options Clearing Corporation ("OCC"). The clearing member will hold such options in nonproprietary accounts. IDSC or its custodian will prepare an activity report of every option transaction or exercise, and will identify on its records the quantity of options belonging or attributable to IDSC on the books of the clearing member. IDSC or its custodian will monitor account activity to assure that IDSC's options are appropriately recorded. IDSC's board of directors initially will approve IDSC's use of the OCC system and will review it annually thereafter, together with the annual report from IDSC or its custodian, in conjunction with its overall review of IDSC's custody arrangements.

3. IDSC believes that, in general, these custodial arrangements will be similar to how a management investment company may maintain custody of similar investments under section 17(f). Thus, IDSC believes that it would be appropriate to permit custody of options under safeguards similar to those that apply to custody of such investments when they are made by management investment companies.

#### Applicant's Conditions

As conditions to the requested relief, applicant agrees to the following,

provided that only condition 6 applies to applicant's request to amend applicant's exemption related to its calculation of reserves in order to change the benchmark for such calculation:

1. Qualified investments under section 28(b) of the Act will be determined by reference to Minnesota law governing investments by life insurance companies as such law exists as of the date of the order granting the relief requested in this application, and such other investments as the Commission shall by rule, regulation, or order authorize as qualified investments. However, any investment in municipal revenue bonds held by applicant that is a qualified investment under applicable law immediately prior to the time that the requested exemptions are granted will continue to be a qualified investment even if it would not otherwise be a qualified investment under the requested exemptions.

2. Qualified investments under section 28(b) of the Act will be determined by reference to Minnesota law governing investments by life insurance companies only so long as applicant remains subject to the jurisdiction of and periodic examinations by the Minnesota Commissioner of Commerce.

3. Applicant will not invest in an illiquid security if, immediately after the investment, more than 15% of its investment portfolio would be held in illiquid securities. For these purposes, an illiquid security will be any security which may not be sold or disposed of in the ordinary course of business within seven days at approximately the current market value at which applicant has valued the investment.

4. To the extent required by generally accepted accounting principles, applicant will employ market-based accounting in valuing its portfolio investments for financial reporting purposes.

5. In its prospectuses and in a communication to existing certificate owners, applicant will explain its expanded use of derivative instruments. In particular, applicant will explain that it may enter into financial transactions, including futures and other derivatives, for the purpose of managing interest rate exposures associated with its assets or liabilities. Applicant also will explain that derivatives are financial instruments whose performance is derived, at least in part, from the performance of an underlying asset, security or index, and that a small change in the value of the underlying asset, security or index may cause a

sizable gain or loss in the fair value of the derivative. For these purposes, derivatives are interest rate futures, options, forwards, swaps, caps and similar financial transactions.

6. Applicant will maintain an amount of unappropriated earned surplus and capital equal to at least 5% of net certificate reserves. Net certificate reserves means certificate reserves less outstanding certificate loans. In determining compliance with this condition, qualified investments shall be valued in accordance with the provisions of Minnesota Statutes where such provisions are applicable.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-13464 Filed 6-1-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-26296]

#### Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

May 26, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 19, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.