

The RRB estimates that approximately 8,000 responses are received annually.

**ADDITIONAL INFORMATION OR COMMENTS:**

To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 00-1614 Filed 1-21-00; 8:45 am]

**BILLING CODE 7905-01-M**

**RAILROAD RETIREMENT BOARD**

**Agency Forms Submitted for OMB Review**

**SUMMARY:** In accordance with the Paperwork Reduction act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

**Summary of Proposal(s)**

(1) *Collection title:* Application and Claim for RUIA Benefits Due at Death.

(2) *Form(s) submitted:* UI-63.

(3) *OMB Number:* 3220-0055.

(4) *Expiration date of current OMB clearance:* 4/30/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 200.

(8) *Total annual responses:* 200.

(9) *Total annual reporting hours:* 23.

(10) *Collection description:* The collection obtains the information needed by the Railroad Retirement Board to pay, under section 2(g) of the RUIA, benefits under that Act accrued, but not paid because of the death of the employee.

**ADDITIONAL INFORMATION OR COMMENTS:**

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and the OMB reviewer, Joe Lackey (202-395-7316), Office of Management and

Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 00-1615 Filed 1-21-00; 8:45 am]

**BILLING CODE 7905-01-M**

**SECURITIES AND EXCHANGE COMMISSION**

**[Investment Company Act Release No. 24254; 812-11250]**

**Franklin Capital Corporation; Notice of Application**

January 18, 2000.

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

**ACTION:** Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the "Act").

**SUMMARY OF APPLICATION:** Applicant, Franklin Capital Corporation, requests an order approving its Non-Statutory Stock Option Plan (the "Director Plan") and the grant of certain stock options under the Director Plan.

**FLING DATES:** The application was filed on August 6, 1998, and amended on April 14, 1999. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 11, 2000, 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 Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 5th Street, NW, Washington, DC 20549-0609. Applicant, 450 Park Avenue, New York, New York 10022.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Senior Counsel, at (202) 942-0574, or George J. Zornada, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (tel. 202-942-8090).

**Applicant's Representations**

1. Applicant is an internally-managed business development company ("BDC") within the meaning of section 2(a)(48) of the Act.<sup>1</sup> Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving the Director Plan for directors who are not employees, officers, or interested persons (as defined in section 2(a)(9) of the Act) of the applicant ("Eligible Directors").<sup>2</sup> Applicant has a five member board of directors (the "Board"), four of whom are Eligible Directors. On August 5, 1997, applicant's Board adopted the Director Plan, and on September 9, 1997, applicant's shareholders approved the Director Plan. The Director Plan will become effective on the date that the Commission issues an order on the application (the "Approval Date").

3. The Director Plan provides for the grant of stock options to purchase shares of applicant's common stock ("Options") to each of the Eligible Directors on the Approval Date. A total of 30,000 shares of applicant's common stock is reserved for issuance under the Director Plan. Pursuant to the Director Plan, on the Approval Date, each of the Eligible Directors will be granted Options for 5,000 shares of common stock (20,000 shares total). The Options vest as follows: one-third of each Eligible Director's 5,000 Options will vest immediately, one-third will vest one year from the date of grant, and the remaining one-third will vest two years from the date of grant. The remaining 10,000 shares will be granted in the following manner: Options to purchase an additional 1,250 shares of common stock will be automatically granted to each Eligible Director upon his election, re-election, or appointment to the Board at the Year 2000 and Year 2001 annual shareholders' meetings.

<sup>1</sup> Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

<sup>2</sup> Each Eligible Director receives director's fees equal to \$12,000 per year. The Eligible Directors do not receive any other compensation for their services.

4. Under the Director Plan, the exercise price for Options will be the fair market value of the applicant's stock, defined as the closing price on the American Stock Exchange on the date of grant. Options granted under the Director Plan are exercisable for a period of 10 years from the date of grant or a shorter period as the Board may establish. Options will become exercisable, in accordance with the vesting schedule prescribed in each Eligible Director's Option agreement. In the event of death or permanent and total disability of an Eligible Director during the Director's service, unexercised Options will become exercisable only during the period of twelve months following the date of death or disability. In the event of the termination of an Eligible Director's directorship for a reason other than by death or permanent and total disability, an Option shall be exercisable only during a period of thirty days following the date of termination. The Options will not be transferable except for disposition by gift, will, intestacy, or pursuant to a qualified domestic relations order as defined by section 414(p) of the Internal Revenue Code of 1986, as amended.

5. Applicant's officers and employees, including any employee directors, are eligible to receive stock options under the Franklin Holding Corporation Stock Incentive Plan (the "Employee Plan"). Eligible Directors are not eligible to receive stock options under the Employee Plan. The total number of shares of common stock issuable under the Director Plan and the Employee Plan is 75,000 shares (30,000 shares under the Director Plan and 45,000 shares under the Employee Plan), representing 10.3% of the 730,588 shares of applicant's stock outstanding as of December 31, 1999. Applicant has no warrants, options or rights to purchase its outstanding voting securities other than those granted to its directors, officers, and employees pursuant to the Employee Plan and the Director Plan.

#### Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) the options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value

of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that the terms of the Director Plan meet all the requirements of section 61(a)(3)(B) of the Act. Applicant states in support of the application that the Eligible Directors are actively involved in the oversight of applicant's affairs and that it relies on the judgment and experience of the Board. Applicant also states that the Eligible Directors provide guidance and advice on financial and operational issues, credit and loan policies, asset valuation, and strategic direction, as well as serve on committees. Applicant believes that the Options to be granted to the Eligible Directors provide significant incentives for the Eligible Directors to remain on the Board and to devote their best efforts to the success of applicant's business and the enhancement of shareholder value. Applicant also states that the Options will provide a means for the Eligible Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with the interests of applicant's shareholders.

4. Applicant submits that the terms of the Director Plan are fair and reasonable and do not involve overreaching of applicant or its shareholders. Applicant states that the number of voting securities that would result from the exercise of all Options issued or issuable to the directors, officer, and employees under the Director Plan and the Employee Plan is 75,000 shares, or 10.3% of the company's outstanding stock, which is below the percentage limitations in the Act. Applicant asserts that, given the small amount of common stock issuable upon the exercise of Options under the Director Plan, the exercise of Options would not have a substantial dilutive effect on the net asset value of the applicant's stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

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

[FR Doc. 00-1635 Filed 1-21-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA-1851/803-140]

### Ibbotson Associates, Inc.; Notice of Application

January 18, 2000.

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

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

**APPLICANT:** Ibbotson Associates, Inc.

**RELEVANT ADVISERS ACT SECTIONS:** Exemption requested under section 203A(c) from section 203A(a).

**SUMMARY OF APPLICATION:** Applicant requests an order to permit it to register with the SEC as an investment adviser.

**FILING DATES:** The application was filed on August 2, 1999, and amended on December 8, 1999.

**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 February 14, 2000, 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