

IBERIABANK CORP
Form S-8
December 12, 2005

As filed with the Securities and Exchange Commission on December 12, 2005

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

IBERIABANK CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Louisiana
(State or Other Jurisdiction of
Incorporation or Organization)

200 West Congress Street

Lafayette, Louisiana
(Address of Principal Executive Offices)

72-1280718
(I.R.S. Employer
Identification No.)

70501
(Zip Code)

IBERIABANK Corporation

2005 Stock Incentive Plan

(Full title of the Plan)

Daryl G. Byrd, President

IBERIABANK Corporation

200 West Congress Street

Lafayette, Louisiana 70501

(Name and Address of Agent For Service)

(337) 521-4003

(Telephone Number, Including Area Code, of Agent for Service)

Copies to:

**Edward B. Crosland, Jr., Esquire
Jones, Walker, Waechter, Poitevent,
Carrère & Denègre L.L.P.
2600 Virginia Avenue, N.W.
Washington, D.C. 20037
(202) 944-1100**

**J. Mark Poerio, Esquire
Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, N.W.
Washington, D.C. 20004
(202) 551-1700**

CALCULATION OF REGISTRATION FEE

| Title Of Securities | Amount To Be Registered (1) | Proposed Maximum Offering Price Per Share (2) | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|------------------------------------|--|--|-----------------------------------|
| To Be Registered Common Stock, \$1.00 par value | 562,500 | \$ 55.155 | \$ 31,024,687 | \$ 3,320 |

- (1) Upon a stock split, stock dividend or similar transaction during the effectiveness of this Registration Statement, the number of shares registered shall be automatically increased to cover the additional shares in accordance with Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act).
 - (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and (h) under the Securities Act, based on the average of the high and low selling prices of the Common Stock as reported on The NASDAQ National Market on December 8, 2005.
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PART I

INFORMATION REQUIRED IN THE SECTION

10(a) PROSPECTUS

Item 1. Plan Information*

Item 2. Registrant Information and Employee Plan Annual Information*

*Documents containing the information required by Part I of this Registration Statement will be sent or given to participants in the IBERIABANK Corporation 2005 Stock Incentive Plan (the Plan) in accordance with Rule 428(b)(1) of the General Rules and Regulations under the Securities Act of 1933. In accordance with Note to Part I of Form S-8, such documents are not filed with the Securities and Exchange Commission (the Commission) either as part of this Registration Statement or as prospectuses or prospectus supplements.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

IBERIABANK Corporation (the Company) is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the 1934 Act) and, accordingly, files periodic reports and other information with the Commission. Reports, proxy statements and other information concerning the Company filed with the Commission may be inspected and copies may be obtained (at prescribed rates) at the Commission's Public Reference Section, 100 F Street, N.E., Room 1580, Washington, D.C. 20549. The Commission also maintains a Web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the Commission, including the Company. The address for the Commission's Web site is <http://www.sec.gov>.

The following documents are incorporated by reference in this Registration Statement:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2004 (Commission File No. 0-25756);
- (b) The Company's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2005, June 30, 2005, and September 30, 2005;

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(c) The Company's Current Reports on Form 8-K dated March 21, 2005, July 20, 2005, August 15, 2005, September 19, 2005, and November 15, 2005;

(d) The description of the Company's securities contained in the Company's Registration Statement on Form 8-A filed with the Commission on March 28, 1995.

All documents filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement, and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement.

Item 4. Descriptions of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

Section 83 of the Louisiana Business Corporation Law (the "LBCL") gives Louisiana corporations broad powers to indemnify their present and former directors, officers, agents and employees and those of affiliated corporations against expenses incurred in the defense of any lawsuit to which they are, or might be, made parties by reason of being, or having been, such directors, officers, agents or employees; subject to specific conditions and exclusions, gives a director, officer, agent or employee who successfully defends an action the right to be so indemnified, and in some cases permits even those who unsuccessfully defend actions to be so indemnified; and authorizes Louisiana corporations to buy liability insurance on behalf of any current or former director, officer, agent or employee. Such indemnification is not exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, authorization of shareholders or otherwise.

In accordance with LBCL, Article 8 of the Company's Articles of Incorporation provides as follows:

Article 8. Personal Liability, Indemnification, Advancement of Expenses and Other Rights of Officers, Directors, Employees and Agents.

A. Personal Liability of Directors and Officers. A director or officer of the Corporation shall not be personally liable for monetary damages for any action taken, or any failure to take any action, as a director or officer except to the extent that by law a director's or officer's liability for monetary damages may not be limited.

B. Indemnification. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, including actions by or in the right of the Corporation, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding to the full extent permissible under Louisiana law.

C. Advancement of Expenses. Reasonable expenses incurred by an officer, director, employee or agent of the Corporation in defending an action, suit or proceeding described in Section B of this Article 8 may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding if authorized by the board of directors (without regard to whether participating members thereof are parties to such action, suit or proceeding), upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be

determined that the person is not entitled to be indemnified by the Corporation.

D. Other Rights. The indemnification and advancement of expenses provided by or pursuant to this Article 8 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, insurance or other agreement, vote of stockholders or directors (regardless of whether directors authorizing such indemnification are beneficiaries thereof) or otherwise, both as to actions in their official capacity and as to actions in another capacity while holding an office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

E. Insurance. The Corporation shall have the power to purchase and maintain insurance or other similar arrangement on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation,

partnership, joint venture or other enterprise, against any liability asserted against or incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article 8.

F. Security Fund; Indemnity Agreements. By action of the Board of Directors (notwithstanding their interest in the transaction), the Corporation may create and fund a trust fund or other fund or form of self-insurance arrangement of any nature, and may enter into agreements with its officers, directors, employees and agents for the purpose of securing or insuring in any manner its obligation to indemnify or advance expenses provided for in this Article 8.

G. Modification. The duties of the Corporation to indemnify and to advance expenses to any person as provided in this Article 8 shall be in the nature of a contract between the Corporation and each such person, and no amendment or repeal of any provision of this Article 8, and no amendment or termination of any trust or other fund or form of self-insurance arrangement created pursuant to Section F of this Article 8, shall alter to the detriment of such person the right of such person to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment, repeal or termination.

H. Proceedings Initiated by Indemnified Persons. Notwithstanding any other provision of this Article 8, the Corporation shall not indemnify a director, officer, employee or agent for any liability incurred in an action, suit or proceeding initiated (which shall not be deemed to include counter-claims or affirmative defenses) or participated in as an intervenor or amicus curiae by the person seeking indemnification unless such initiation of or participation in the action, suit or proceeding is authorized, either before or after its commencement, by the affirmative vote of a majority of the directors in office.

The foregoing discussion of the Company's Articles of Incorporation and the LBCL is not intended to be exhaustive and is qualified in its entirety by such Articles of Incorporation and the LBCL, respectively.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

For a list of all exhibits filed or included as part of this Registration Statement, see Index to Exhibits at the end of this Registration Statement.

Item 9. Undertakings

1. The undersigned registrant hereby undertakes:

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(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(i) and (a)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(b) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

3. Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned thereunto duly authorized, in the City of Lafayette, State of Louisiana, on this 9th day of December, 2005.

IBERIABANK CORPORATION

By: /s/ Daryl G. Byrd

 Daryl G. Byrd
 President and Chief Executive Officer
 (Duly Authorized Representative)

POWER OF ATTORNEY

We, the undersigned directors and officers of the registrant, hereby severally constitute and appoint Daryl G. Byrd, Anthony J. Restel and Joseph B. Zanco, or any of them, our true and lawful attorney and agent, to do any and all things in our names in the capacities indicated below which said person may deem necessary or advisable to enable the registrant to comply with the Securities Act of 1933, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with the registration statement on Form S-8 relating to the offering of the registrant's Common Stock, including specifically, but not limited to, power and authority to sign for us in our names in the capacities indicated below the registration statement and any and all amendments (including post-effective amendments) thereto; and we hereby approve, ratify and confirm all that said person shall do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| <u>Signatures</u> | <u>Title</u> | <u>Date</u> |
|--------------------------------|---|------------------|
| /s/ Daryl G. Byrd _____ | President, Chief Executive Officer and Director | December 9, 2005 |
| Daryl G. Byrd | | |
| /s/ Anthony J. Restel _____ | Executive Vice President and Chief Financial Officer | December 9, 2005 |
| Anthony J. Restel | | |
| /s/ Joseph B. Zanco _____ | Controller and Principal Accounting Officer | December 9, 2005 |
| Joseph B. Zanco | | |
| /s/ Elaine D. Abell _____ | Director | December 9, 2005 |
| Elaine D. Abell | | |

| <u>Signatures</u> | <u>Title</u> | <u>Date</u> |
|--|-----------------------|------------------|
| _____ /s/ Harry V. Barton, Jr. _____ Harry V. Barton, Jr. | Director | December 9, 2005 |
| _____ Ernest P. Breaux, Jr. | Director | _____, 2005 |
| _____ /s/ John N. Casbon _____ John N. Casbon | Director | December 9, 2005 |
| _____ /s/ William H. Fenstermaker _____ William H. Fenstermaker | Chairman of the Board | December 9, 2005 |
| _____ /s/ Larrey G. Mouton _____ Larrey G. Mouton | Director | December 9, 2005 |
| _____ /s/ Jefferson G. Parker _____ Jefferson G. Parker | Director | December 9, 2005 |
| _____ /s/ O. Miles Pollard _____ O. Miles Pollard | Director | December 9, 2005 |
| _____ /s/ E. Stewart Shea, III _____ E. Stewart Shea, III | Director | December 9, 2005 |
| _____ David H. Welch | Director | _____, 2005 |

INDEX TO EXHIBITS

| Exhibit | Description |
|----------------|--|
| 5 | Opinion of Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P. as to the legality of the Common Stock being registered |
| 23.1 | Consent of Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P. (included in Exhibit 5) |
| 23.2 | Consent of Castaing, Hussey & Lolan, LLC |
| 24 | Power of Attorney (contained in the signature page to this registration statement) |
| 99.1 | IBERIABANK Corporation 2005 Stock Incentive Plan (previously filed as an Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2005, filed with the Commission August 8, 2005, and incorporated herein by reference thereto) |
| 99.2 | Form of Award Agreement under IBERIABANK Corporation 2005 Stock Incentive Plan (previously filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2005, filed with the Commission August 8, 2005, and incorporated herein by reference thereto) |
| 99.3 | Form of SAR Agreement |
| 99.4 | Form of Restricted Stock Unit Award Agreement |
| 99.5 | Deferral Election Agreement for Deferred Share Units |