

1940 Act.<sup>1</sup> HESCO, the designated principle underwriter for the Contracts, was an applicant in the previous applications for exemptive relief from Sections 26(a)(2)(C) and 27(c)(2). This application seeks relief to permit Applicants to substitute HSD for HESCO as the designated principal underwriter for the Contracts, which would allow HESCO to continue as broker-dealer engaged in distribution functions with respect to HESCO's own registered representatives, and would permit HSD to serve as principal underwriter and distributor with respect to entering into sales agreements with independent broker-dealers.

4. Applicants reaffirm all facts, representations and undertakings contained in the applications for exemptive relief referenced in footnote 1 above, and incorporate those applications herein by reference. To the extent that there have been any material changes in those facts, representations or undertakings, the changes have been disclosed herein. Except for the replacement of the principal underwriter, there are no material changes in the Separate Accounts or the Contracts as described in the previous applications.

5. The contingent deferred sales charge, annual maintenance fee and annual asset charge for providing mortality and expense risk guarantees are fully described in the applications for exemptive relief which were previously granted.

6. ITT Hartford will make a daily charge at the rate of 1.25% annually from each Contract held in the Separate Accounts for providing mortality and expense guarantees with respect to the Contracts. Applicants estimate that .90% of the charge is attributable to mortality risks and .35% of the charge is attributable to expense risks.

7. The mortality and expense risk charge will not be increased. If the charge is insufficient to cover the actual

costs, ITT Hartford will bear the loss. Conversely, if the charge proves more than sufficient to meet actual expenses, the excess will be surplus to ITT Hartford and will be available for any proper corporate purpose. ITT Hartford expects a reasonable profit from the mortality and expense risk charge.

#### Applicants' Legal Analysis and Representations

1. Applicants request an exemption from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the Separate Accounts.

2. Sections 26(a)(2)(C) and 27(c)(2), in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales loads) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants request that the Commission enter an Order that applies to the Separate Accounts and to future separate accounts issuing contracts that are materially similar to the Contracts exempting them from the provisions of Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction by ITT Hartford, and the payment to ITT Hartford, of the fee for providing the mortality and expense undertakings (deducted on a daily basis.)

4. Applicants represent that:

(a) the mortality and expense risk charge is reasonable in relation to the risks assumed by ITT Hartford under the Contracts;

(b) the mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by a large number of other insurance companies. ITT Hartford will undertake to maintain and make available to the Commission upon request a memorandum outlining the methodology and the contracts of other insurance companies underlying this representation;

(c) there is the likelihood that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the contracts. Any shortfall will be covered from the assets

of the general account, which may include profit from the mortality and expense risk charge. ITT Hartford has concluded that there is a reasonable likelihood that the Separate Accounts' distribution financing arrangement will benefit the Separate Accounts and Contract owners. ITT Hartford will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation;

(d) the Separate Accounts will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end and management company, formulate and approve any plan under rule 12b-1 to finance distribution expenses; and

(e) future variable annuity contracts for which class relief is sought will be materially similar to the existing Contracts covered by this application.

#### Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,  
Deputy Secretary.

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#### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (L. Luria & Son, Inc., Common Stock, \$.01 Par Value) File No. 1-8057

January 11, 1995.

L. Luria & Son, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex,

<sup>1</sup> Orders granting exemptive relief were issued as follows:

(a) *ITT Hartford Life and Annuity Insurance Company*, Investment Company Act Release Nos. 20463 (notice) (Aug. 9, 1994) and 20539 (order) (Sept. 8, 1994);

(b) *ITT Life Insurance Company*, Investment Company Act Release Nos. 19443 (notice) (Apr. 30, 1993) and 19495 (order) (May 26, 1993);

(c) *ITT Hartford Life and Annuity Insurance Company*, Investment Company Act Release Nos. 20205 (notice) (Apr. 8, 1994), and 20279 (order) (May 5, 1994); and

(d) *ITT Hartford Life and Annuity Insurance Company*, Investment Company Act Release Nos. 20219 (notice) (Apr. 14, 1994) and 20289 (order) (May 11, 1994), which amended a prior order for exemptive relief, Investment Company Act Release Nos. 19331 (notice) (Mar. 15, 1993) and 19401 (order) (Apr. 13, 1993).

the Security is listed on the New York Stock Exchange, Inc. ("NYSE"). The Security commenced trading on the NYSE at the opening of business on December 14, 1994 and concurrently therewith the Security was suspended from trading on the Amex.

In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of its Security on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Security and believes that dual listing would fragment the market for the Security.

Any interested person may, on or before February 2, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
*Deputy Secretary.*

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BILLING CODE 8010-01-M

[Rel. No. IC-20831; 34-35225; 812-9028]

**MACC Private Equities Inc., et al.;  
Notice of Application**

January 12, 1995.

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

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Investment Company Act") and the Securities Exchange Act of 1934 (the "Exchange Act").

**APPLICANTS:** MACC Private Equities Inc. ("Private Equities"), MorAmerica Capital Corporation ("MorAmerica Capital"), and InvestAmerica Investment Advisors, Inc. ("InvestAmerica").

**RELEVANT ACT SECTIONS:** Order requested under sections 17(d) and 57(a)(4) of the Investment Company Act and rule 17d-1 thereunder authorizing certain joint transactions, under section 57(c) of the

Act for an exemption from sections 57(a) (1), (2), and (3) of the Act, and under section 6(c) of the Act for an exemption from sections 12(d), 18(a), and 61(a) of the Act. Order also requested under section 12(h) of the Exchange Act for an exemption from section 13(a) of the Exchange Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit Private Equities to engage in certain transactions with its wholly-owned subsidiary, MorAmerica Capital. The order also would permit modified asset coverage requirements for Private Equities and MorAmerica Capital, and permit Private Equities and MorAmerica Capital to co-invest with certain affiliated entities. In addition, the order would permit Private Equities and MorAmerica Capital to file certain Exchange Act reports on a consolidated basis.

**FILING DATE:** The application was filed on May 31, 1994 and amended on August 8, 1994, and November 9, 1994. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

**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 applicants 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 6, 1995, and should be accompanied by proof of service on applicants, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicants, Suite 310, 101 Second Street S.E., Cedar Rapids, Iowa 52401.

**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Boggs, Staff Attorney, at (202) 942-0576, or Robert A. Robertson, 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 may be obtained for a fee at the SEC's Public Reference Branch.

**Applicants' Representations**

1. Private Equities and its wholly-owned subsidiary, MorAmerica Capital, intend to register under the Investment Company Act as business development companies ("BDCs"). The investment objective of Private Equities is long-term capital appreciation through venture capital investments in small companies ("Portfolio Companies"). MorAmerica Capital is licensed to operate as a small business investment company ("SBIC") under the Small Business Investment Act of 1958. Applicants chose a two-tier structure so that Private Equities could hold certain assets that a SBIC is not permitted to hold.

2. Private Equities has been formed pursuant to a plan of reorganization (the "Plan") for the MorAmerica Financial Corporation ("MFC") and Morris Plan Liquidation Company ("Morris Plan"). Under the Plan, Private Equities will be the successor by merger to MFC, Morris Plan, and certain affiliates. In addition to cash and miscellaneous assets, many of which are being held for sale, Private Equities' primary asset will be all of the issued and outstanding common stock of MorAmerica Capital.

3. InvestAmerica is the investment adviser for both Private Equities and MorAmerica Capital. The principals of InvestAmerica are the founders and principals of InvestAmerica Venture Group, Inc. ("Venture Group") (collectively with InvestAmerica, the "InvestAmerica Companies"). The Venture Group manages the Iowa Venture Capital Fund L.P. (the "Iowa Fund"), which is a venture capital fund that is exempt from the Investment Company Act pursuant to section 3(c)(1) of the Act. The Iowa Fund is not presently making any new investments but is making distributions to partners as investments mature or are sold. The Iowa Fund and MorAmerica Capital presently are co-invested in the securities of five Portfolio Companies.

4. The requested order would permit Private Equities and MorAmerica Capital to operate effectively as one company. Specifically, the requested relief would permit MorAmerica Capital and Private Equities to (a) engage in transactions with each other, (b) engage in transactions with Portfolio Companies that would not otherwise be prohibited if MorAmerica Capital and Private Equities were one company, and (c) allow MorAmerica Capital to have the maximum amount of borrowing permitted by the Small Business Investment Act of 1958 and the Investment Company Act. The order also would permit MorAmerica Capital and/or Private Equities to co-invest with