

IBERIABANK CORP
Form S-8
November 14, 2012

As filed with the Securities and Exchange Commission on November 14, 2012

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 Company as Specified in Its Charter)

Louisiana
(State or Other Jurisdiction of
Incorporation or Organization)

200 West Congress Street

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

70501

Lafayette, Louisiana
(Address of Principal Executive Offices)

(Zip Code)

IBERIABANK Corporation

Deferred Compensation 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., Esq.

Peter J. Rivas, Esq.

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.

499 South Capitol Street, SW, Suite 600

Washington, D.C. 20003

CALCULATION OF REGISTRATION FEE

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| Title of securities | Amount | Proposed maximum | Proposed maximum | Amount of |
|-----------------------------------|-------------------------|----------------------------------|---------------------------------|-------------------------|
| to be registered | to be registered | offering price | aggregate offering price | registration fee |
| Deferred Compensation Obligations | \$10,000,000 | per share ⁽¹⁾ 100% | \$10,000,000 | \$1,364 |

- (1) The Deferred Compensation Obligations are unsecured obligations of IBERIABANK Corporation to pay deferred compensation in the future in accordance with the terms of the IBERIABANK Corporation Deferred Compensation Plan.
- (2) Estimated pursuant to rule 457(h) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation by Reference

The following documents, which have been filed by IBERIABANK Corporation (the Company) with the Securities and Exchange Commission (the Commission) 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, 2011 (Commission File No. 0-25756);
- (b) The Company's Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2012, June 30, 2012 and September 30, 2012;
- (c) The Company's Current Reports on Form 8-K dated January 23, 2012, January 27, 2012, February 10, 2012, February 13, 2012, February 22, 2012, March 19, 2012, May 16, 2012, May 21, 2012, May 29, 2012, June 4, 2012, June 18, 2012, July 25, 2012, July 31, 2012 and August 7, 2012; and
- (d) All other reports filed by the Company with the Commission pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act) since the end of the fiscal year covered by the Annual Report referred to in (a) above.

In addition, all documents subsequently filed by the Company with the Commission, pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, except to the extent otherwise provided in Regulation S-K of any other rule promulgated by the Commission, shall be deemed to be incorporated herein by reference and to be a part hereof from the date of filing of such documents with the Commission. Any statements contained in this Registration Statement, or 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 herein or in any other subsequently filed document which is also deemed to be incorporated by reference herein modifies or supersedes such statement.

Item 4. Description of Securities.

The following description of the securities offered hereby is qualified by reference to the Company's Deferred Compensation Plan (the Plan), incorporated by reference as an exhibit to this Registration Statement.

Under the Plan, the Company may permit eligible employees, independent contractors and directors to defer a specified percentage of their future cash compensation from the Company. The obligations of the Company under the Plan, as described below (collectively, the Obligations), will be unsecured general obligations of the Company to pay the deferred compensation in the future in accordance with the terms of the Plan. The Obligations will rank equally with other unsecured and unsubordinated indebtedness of the Company from time to time outstanding and payable from the general assets of the Company.

The amount of compensation to be deferred by each participating service provider (a Participant) will be based on elections by each Participant. The Company may also make discretionary contributions to Participant accounts. This Registration Statement relates to \$10,000,000 in deferred compensation. Each obligation will be treated as invested in one or more investment funds chosen by each Participant from a list of investment funds designated by the Company; provided however, that the Company may designate the use of a particular investment fund for amounts contributed by it as employer contributions. The available investment funds will include a fund that is deemed to be invested in the common stock of the Company. The Obligations will be adjusted to reflect the investment results, whether positive or negative, of the selected investment fund(s), including any appreciation or depreciation. The Obligations will be payable to Participants in cash upon the distribution event or date selected by the Participant.

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The Plan is not required to be funded and the amount of compensation deferred by each Participant is subject to all the risks of the Company's business and may be deposited, invested or expended in any manner

whatsoever by the Company. The Company may choose to establish a trust for the purpose of funding the Obligations. Participants and their beneficiaries, however, have no secured interest or special claim to the assets of any trust, which would be subject to the payment of claims of creditors of the Company upon the insolvency or bankruptcy of the Company.

The Obligations are not subject to redemption, in whole or in part, prior to the scheduled payment dates or events, although the Obligations could be redeemed in the event of termination of the Plan in accordance with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and guidance thereunder (Section 409A). The Company reserves the right to amend or terminate the Plan at any time, except that no such amendment or termination may reduce the balance of a Participant s Plan account or may affect the terms of payment unless permitted under Section 409A.

The Obligations are not convertible into another security of the Company. The Obligations will not have the benefit of any affirmative or negative covenant on the part of the Company. The trustee or any trust established for purposes of the Plan will not have the authority to take action with respect to the Obligations and each Participant will be responsible for acting independently with respect to, among other things, the making of elections and the giving of notices.

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 Company 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 Company 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 Company, 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 Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another company, 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 Company in defending an action, suit or proceeding described in Section B of this Article 8 may be paid by the Company 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 Company.

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 Company 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 Company, or is or was serving at the request of the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 8. Exhibits

- 4 IBERIABANK Corporation Deferred Compensation Plan (incorporated by reference from Exhibit 10.1 of the Company's report on Form 8-K filed with the Commission on December 21, 2007).
- 5 An opinion of counsel of Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.
- 23.1 Consent of Ernst & Young LLP
- 23.2 Consent of Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P. (included in Exhibit 5)

Item 9. Undertakings

1. The undersigned Company hereby undertakes:

- (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 Company 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 Company hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Company'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 Company pursuant to the foregoing provisions, or otherwise, the Company 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 Company of expenses incurred or paid by a director, officer or controlling person of the Company 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 Company 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

The Company. Pursuant to the requirements of the Securities Act of 1933, as amended, the Company 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 14th day of November, 2012.

IBERIABANK CORPORATION

By: /s/ Daryl G. Byrd
 Daryl G. Byrd
 President and Chief Executive Officer
 (Duly Authorized Representative)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that each person whose signature appears below constitutes and appoints Daryl G. Byrd or Anthony J. Restel, or either of them, his true and lawful attorney-in-fact and agent, with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto such attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and ratifying and confirming all that such attorney-in-fact and agent or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

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

| Signatures | Title | Date |
|--|--|-------------------|
| /s/ Daryl G. Byrd | President, Chief Executive | November 14, 2012 |
| Daryl G. Byrd | Officer and Director (Principal Executive Officer) | |
| /s/ Anthony J. Restel | Senior Executive Vice President and | November 14, 2012 |
| Anthony J. Restel | Chief Financial Officer (Principal Financial Officer) | |
| /s/ Michael S. Price | Senior Vice President, Controller and | November 14, 2012 |
| Michael S. Price | Chief Accounting Officer (Principal Accounting Officer) | |
| /s/ Elaine D. Abell Elaine D. Abell | Director | November 14, 2012 |

| Signatures | Title | Date |
|--|-----------------------|-------------------|
| /s/ Harry V. Barton, Jr. Harry V. Barton, Jr. | Director | November 14, 2012 |
| /s/ Ernest P. Breaux, Jr. Ernest P. Breaux, Jr. | Director | November 14, 2012 |
| /s/ Angus R. Cooper, II Angus R. Cooper, II | Director | November 14, 2012 |
| /s/ William H. Fenstermaker William H. Fenstermaker | Chairman of the Board | November 14, 2012 |
| /s/ John N. Casbon John N. Casbon | Director | November 14, 2012 |
| O. Miles Pollard, Jr. | Director | November 14, 2012 |
| /s/ E. Stewart Shea, III E. Stewart Shea, III | Director | November 14, 2012 |
| /s/ David H. Welch David H. Welch | Director | November 14, 2012 |
| /s/ John E. Koerner, III John E. Koerner, III | Director | November 14, 2012 |