

Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

MACC PRIVATE EQUITIES INC  
Form 10-K  
December 29, 2005

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C.

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2005

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File No. 0-24412  
MACC PRIVATE EQUITIES INC.  
(Exact Name of Registrant as specified in Charter)

Delaware 42-1421406  
(State or Other Jurisdiction (I.R.S. Employer  
of Incorporation) Identification No.)  
101 Second Street SE, Ste. 800 52401  
Cedar Rapids, Iowa (Zip Code)

Registrant's Telephone Number  
Including Area Code: (319) 363-8249  
Securities Registered Pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Name of Each Exchange On Which Registered</u>
None	None

Securities Registered Pursuant to Section 12(g) of the Act:  
Common Stock, \$.01 par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act) during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  
Yes  No

Indicate by check mark whether the registrant is a not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934.  
Yes  No

Aggregate market value of the voting stock held by non-affiliates of the

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

registrant as of March 31, 2005, based upon the closing sale price reported by the Nasdaq Capital Market on that date: \$3,192,441.90.

Number of shares outstanding of the registrant's Common Stock, \$.01 par value, as of November 30, 2005: 2,464,621

### DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Annual Report to Stockholders for the year ended September 30, 2005 are incorporated by reference into Parts II and IV of this Report. Portions of the registrant's definitive Proxy Statement for the

---

Annual Meeting of Stockholders to be held on February 28, 2006, are incorporated by reference into Part III of this Report.

This Annual Report on Form 10-K of MACC Private Equities Inc. (the "Corporation" or "we" or "us") and its subsidiary, MorAmerica Capital Corporation (together, the "Companies") contains forward-looking statements. All statements in this Annual Report on Form 10-K, including those made by the management of the Companies, other than statements of historical fact, are forward-looking statements. Examples of forward-looking statements include statements regarding the Companies' future financial results, operating results, business strategies, projected costs, competitive positions, management's plans and objectives for future operations, and industry trends. These forward-looking statements are based on management's estimates, projections and assumptions as of the date hereof and include the assumptions that underlie such statements. Forward-looking statements may contain words such as "may," "will," "should," "could," "would," "expect," "plan," "anticipate," "believe," "estimate," "predict," "potential," and "continue," the negative of these terms, or other comparable terminology. Any expectations based on these forward-looking statements are subject to risks and uncertainties and other important factors, including those discussed below and in the section titled "Risk Factors." Other risks and uncertainties are disclosed in the Corporation's prior Securities and Exchange Commission ("SEC") filings. These and many other factors could affect the Corporation's future financial condition and operating results and could cause actual results to differ materially from expectations based on forward-looking statements made in this document or elsewhere by the Corporation or on its behalf. The Corporation undertakes no obligation to revise or update any forward-looking statements.

The following information should be read in conjunction with the Consolidated Financial Statements and the accompanying Notes to Consolidated Financial Statements included in this Annual Report. All references to fiscal year apply to the Companies' fiscal year which ends on September 30 of each year.

### Part I

#### Item 1. Business.

##### General

MACC Private Equities Inc. was formed as a Delaware corporation on March 3, 1994. It is qualified as a business development company ("BDC") under the Investment Company Act of 1940, as amended (the "1940 Act"). The Corporation has one direct wholly-owned subsidiary, MorAmerica Capital Corporation ("MorAmerica"). As of September 30, 2005, MorAmerica comprised approximately 99% of the Corporation's assets. MorAmerica is an Iowa corporation incorporated in 1959 and which has been licensed as a small business investment company ("SBIC") since that year. It has also elected treatment as a BDC under the 1940 Act.

**The Corporation's Operation as a BDC**

As noted above, both the Corporation and its wholly-owned subsidiary, MorAmerica, have elected treatment as BDCs under the 1940 Act. Under the 1940 Act, a BDC may not acquire any asset other than Qualifying Assets as defined under the 1940 Act, unless, at the time the acquisition is made, Qualifying Assets represent at least 70 percent of the value of the BDC's total assets. The principal categories of Qualifying Assets relevant to the business of the Companies are the following:

- (1) Securities purchased in transactions not involving any public offering from the issuer of such securities, which issuer is an eligible portfolio company. An eligible portfolio company is defined in the 1940 Act as any issuer that:
  - (a) is organized under the laws of, and has its principal place of business in, the United States;
  - (b) is not an investment company; and
  - (c) does not have any class of securities with respect to which a broker may extend margin credit.

-2-

---

The Corporation's investment in all of the issued and outstanding common stock of MorAmerica is also a Qualifying Asset under the 1940 Act.

- (2) Cash, cash items, government securities, or high quality debt securities maturing in one year or less from the time of investment.

In addition, a BDC must have been organized (and have its principal place of business) in the United States for the purpose of making investments in the types of securities described in (1) above and, in order to count the securities as Qualifying Assets for the purpose of the 70 percent test, the BDC must make available to the issuers of the securities significant managerial assistance. Making available significant managerial assistance means, among other things, any arrangement whereby the BDC, through its directors, officers or employees offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations or business objectives and policies of a portfolio company.

Under the 1940 Act, once a company has elected to be regulated as a BDC, it may not change the nature of its business so as to cease to be, or withdraw its election as, a BDC unless authorized by vote of a majority, as defined in the 1940 Act, of the company's shares. In order to maintain their status as BDCs, the Corporation and MorAmerica each must have at least 50% of their total assets invested in the types of portfolio companies described by Sections 55(a)(1) through 55(a)(3) of the 1940 Act. Accordingly, the Corporation and MorAmerica may not withdraw their BDC elections or otherwise change their business so as to cease to qualify as BDCs without shareholder approval.

**Investments and Divestitures**

MorAmerica invested \$781,611 in follow-on investments in three existing portfolio companies in fiscal year 2005. The Companies' investment-level

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

objectives on a consolidated basis call for follow-on investments of approximately \$500,000 during fiscal year 2006, unless the Companies raise additional capital, subject to adjustment based upon current economic and operating conditions.

During fiscal year 2005, the Corporation recorded a net realized gain on investments of \$3,672,664.

### **Item 1A. Risk Factors.**

AN INVESTMENT IN THE CORPORATION IS SUBJECT TO A NUMBER OF RISKS AND SPECIAL CONSIDERATIONS, INCLUDING THE FOLLOWING. YOU SHOULD CAREFULLY CONSIDER THESE RISK FACTORS, TOGETHER WITH ALL OF THE OTHER INFORMATION INCLUDED IN OUR PROSPECTUS, BEFORE YOU DECIDE WHETHER TO MAKE AN INVESTMENT. THE RISKS SET OUT BELOW ARE THE PRINCIPAL RISK FACTORS ASSOCIATED WITH AN INVESTMENT IN THE CORPORATION, AS WELL AS THOSE FACTORS GENERALLY ASSOCIATED WITH AN INVESTMENT IN A COMPANY WITH INVESTMENT OBJECTIVES, INVESTMENT POLICIES, CAPITAL STRUCTURE OR TRADING MARKETS SIMILAR TO THE CORPORATION'S.

#### **RISKS RELATED TO OUR INVESTMENTS**

**Our investments may be risky, and you could lose all or part of your investment.**

The Corporation is designed for long-term investors. Investors should not rely on the Corporation for their short-term financial needs. The value of the higher risk securities in which the Corporation invests will be affected by general economic conditions; the securities market; the markets for public offerings and corporate acquisitions; specific industry conditions; and the management of the individual portfolio companies. Additionally, the Corporation may not achieve its investment objectives.

-3-

---

**An investment strategy focused primarily on privately-held companies presents certain challenges, including the lack of available information about these companies, a dependence upon the talents and efforts of only a few key portfolio company personnel and a greater vulnerability to economic downturns.**

As a BDC, the Corporation invests a large portion of its assets in restricted securities issued by small, private companies, some of which have operated at losses or have experienced substantial fluctuations in operating results. There is generally little or no publicly available information about such companies and the Corporation must rely on the diligence of its investment advisor to obtain the information necessary for the Corporation's decision to invest in these companies. In order to maintain its status as a BDC, the Corporation must have at least 70 percent of its total assets invested in these types of portfolio companies, as described in Sections 55(a)(1) through 55(a)(3) of the 1940 Act. Typically, such companies depend for their success on the management talents and efforts of one person or a small group of persons, so that the death, disability or resignation of such person or persons could have a materially adverse impact on them. Moreover, smaller companies frequently have narrower product lines and smaller market shares than larger companies and, therefore, may be more vulnerable to competitors' actions and market conditions, as well as general economic downturns. Such companies may face intense competition, including competition from companies with greater financial resources, more extensive research and development, manufacturing, marketing and service capabilities, and a larger number of qualified managerial and technical

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

personnel. Because these companies will generally have highly leveraged capital structures, reduced cash flow resulting from an adverse business development, shifts in customer preferences, or an economic downturn or the inability to complete a public offering or other financing may adversely affect the return on, or the recovery of, the Corporation's investment in them. Investment in such companies therefore involves a high degree of business and financial risk, which can result in substantial losses and, accordingly, should be considered highly speculative. No assurance can be given that some of the Corporation's investments will not result in substantial or complete losses.

**The long-term character of our portfolio investments may negatively impact their current return and capital gains.**

The Corporation's investments yield a current return for most of their lives, but generally only produce a capital gain, if any, from an accompanying equity feature after five to eight years. Both the current yield and a capital gain must be achieved on most investments in order to meet the Corporation's investment goals. There can be no assurance that either a current return or capital gain will actually be achieved on the Corporation's investments.

**Because our portfolio investments are typically privately-issued, there is no market for the securities, and thus their value is decreased.**

Most of the investments of the Corporation consist of securities acquired directly from their issuers in private transactions. They are usually subject to restrictions on resale and are generally illiquid. Usually there is no established trading market for such securities into which they could be sold. In addition, most of the securities are not eligible for sale to the public without registration under the Securities Act of 1933, as amended (the "Securities Act"), which would involve delay and expense. Restricted securities generally sell at a price lower than similar securities that are not subject to restrictions on sale.

**There may be circumstances where our debt investments could be subordinated to claims of other creditors or we could be subject to lender liability claims.**

If one of our portfolio companies were to go bankrupt, even though we may have structured our interest as senior debt, depending on the facts and circumstances, including the extent to which we actually provided managerial assistance to that portfolio company, a bankruptcy court might recharacterize our debt holding and subordinate all or a portion of our claim to that of other creditors. In addition, lenders can be subject to lender liability claims for actions taken by them where they become too involved in the borrower's business or exercise control over the borrower. It is possible that we could become subject to a lender's liability claim, including as a result of actions taken if we actually render significant managerial assistance.

-4-

---

**Our portfolio companies may incur debt or issue equity securities that rank equally with, or senior to, our investments in such companies.**

The Corporation's portfolio companies usually will have, or may be permitted to incur, other debt, or issue other equity securities, that rank equally with, or senior to, the securities in which we invest. By their terms, such instruments may provide that the holders are entitled to receive payment of dividends, interest or principal on or before the dates on which we are entitled

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

to receive payments in respect of the securities in which we invest. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio company, holders of securities ranking senior to our investment in that portfolio company would typically be entitled to receive payment in full before we receive any distribution in respect of our investment. After repaying the senior security holders, the portfolio company may not have any remaining assets to use for repaying its obligation to us. In the case of securities ranking equally with securities in which we invest, we would have to share on an equal basis any distributions with other security holders in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company.

### **RISKS RELATED TO OUR BUSINESS**

#### **Closed-end investment companies' shares usually trade below net asset value.**

Shares of closed-end investment companies like the Corporation frequently trade at a discount from net asset value and the Corporation's shares have historically traded at a discount from net asset value. At September 30, 2005, the Corporation's shares traded at a 53.6% discount to their net asset value. This characteristic of shares of closed-end investment companies is separate and distinct from the risk that the Corporation's per share net asset value will decline. In addition, due to the following reasons, the Corporation is not only different from other closed-end funds, is a greater risk than similar venture capital closed-end funds.

First, many closed-end funds generally are structured to produce annual dividends to shareholders. The Corporation, however, does not presently pay dividends but, rather, retains all income after taxes and expenses to reduce debt or fund additional investments and thus create capital appreciation. The return to holders of the Corporation's Common Stock is thus anticipated to be long-term and capital in nature. The Corporation's Board of Directors (the "Board") will, however, consider payment of dividends in the future and reserves the right to do so without shareholder approval.

Second, due to several factors, including the small size of the Corporation relative to fixed expenses, and the fact that much of the income of the Corporation arises through capital gains rather than ordinary income, on a consolidated basis, the Corporation has lost money (that is, had net investment expense, rather than new investment income) in each of the last five years. Many similar funds are structured to earn sufficient current income to achieve operating income (investment income in excess of operating expenses) each year.

#### **Many of our portfolio investments will be recorded at fair value as determined in good faith by our Board and, as a result, there will be uncertainty as to the value of our portfolio investments.**

Pursuant to the requirements of the 1940 Act, substantially all of the Corporation's portfolio investments are recorded at fair value as determined in good faith by our Board on a quarterly basis, and, as a result, there is uncertainty regarding the value of the Corporation's portfolio investments. At September 30, 2005, approximately 82% of the Corporation's total assets represented investments recorded at fair value. Since there is typically no readily ascertainable market value for the investments in the Corporation's portfolio, our Board determines in good faith the fair value of these investments pursuant to a valuation policy and a consistently applied valuation process.

There is no single standard for determining fair value in good faith. As a result, determining fair value requires that judgment be applied to the

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

specific facts and circumstances of each portfolio investment while employing a consistently applied valuation process for the types of investments the Corporation makes. Unlike banks, the Corporation is not permitted to provide a general reserve for anticipated loan losses; the Corporation is instead required by the 1940 Act to specifically value each individual investment and record unrealized depreciation for an investment that the Corporation believes has lost value, including where collection of a debt security or

-5-

---

realization of an equity security is doubtful. Conversely, the Corporation records unrealized appreciation if the Corporation has an indication that the underlying portfolio company has appreciated in value and, therefore, our security has also appreciated in value, where appropriate. Without a readily ascertainable market value and because of the inherent uncertainty of valuation, fair value of our investments determined in good faith by the Board may differ significantly from the values that would have been used had a ready market existed for the investments, and the differences could be material.

We adjust quarterly the valuation of our portfolio to reflect the Board's determination of the fair value of each investment in our portfolio. Any changes in fair value are recorded in our statement of operations as "Net change in unrealized depreciation/appreciation on investments."

### **Risk under SBA Agreement.**

On January 4, 2005, the Corporation's subsidiary, MorAmerica, and three other SBICs reached a settlement agreement regarding arbitration proceedings. The settlement required the SBICs to pay a monetary award to the other party to the proceedings and also required approval by the United States Small Business Administration ("SBA"). In approving the settlement, the SBA required the SBICs to agree, jointly and severally, to be liable to SBA for up to one-half of the SBA's potential losses on SBA debentures issued by the SBICs, up to a maximum payment of \$7.5 million. The SBA will incur losses under this agreement only following full and final liquidation of any of these SBICs whose SBA debentures are not repaid in full. Should MorAmerica ever be required to make a payment under this agreement, it will have a claim against the other three SBICs.

### **We operate in a highly competitive market for investment opportunities.**

A large number of entities and individuals compete for the kinds of investments made by the Corporation. Many of these entities and individuals have greater financial resources than the resources of the Corporation. As a result of this competition, the Corporation may, from time to time, be precluded from entering into attractive transactions on terms considered by the Investment Adviser to be prudent in light of the risks to be assumed.

### **We may not be able to elect pass-through tax treatment in the future as planned.**

Currently, the Corporation is a taxable entity (a "C corporation") in order to utilize net operating loss carryforwards generated from a predecessor company as well as the Corporation's operating losses. In the future the Corporation may elect to qualify for pass-through tax treatment contained in Subchapter M of the Internal Revenue Code of 1986, as amended ("Code"). Subchapter M treatment essentially means that certain income is taxed at the shareholder level only with no tax at the corporate level, although the Corporation may be subject to a corporate level tax on certain built-in gains in

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

existence at the time the Corporation would first become subject to Subchapter M. It is possible that, for a number of reasons, the Corporation may be unable to meet Subchapter M requirements, or that it may also cease to qualify for pass-through treatment, or be subject to a four percent excise tax, if it fails to make certain distributions. Under the 1940 Act, the Corporation is not permitted to make distributions to shareholders unless it meets certain asset coverage requirements with respect to money borrowed and senior securities issued. Non-availability of pass-through tax treatment may potentially have a materially adverse effect on the total return, if any, obtainable from an investment in the Corporation's shares, once net operating loss carryforwards are no longer available and the Subchapter M election has become advantageous.

**We are dependent upon the Investment Advisor's key personnel for our future success.**

The Corporation is wholly dependent for the selection, structuring, closing and monitoring of its investments on the diligence and skill of its officers and of its investment advisor, InvestAmerica Investment Advisors, Inc. ("InvestAmerica"), subject to supervision by the Board. However, the advisory agreement with InvestAmerica is short-term in nature and are subject to cancellation on sixty days' notice. InvestAmerica's management believes that performance is attributable largely to the abilities and experiences of certain key individuals. The loss to InvestAmerica of these individuals could have a material adverse effect on the Corporation's performance.

-6-

---

**Potential significant conflicts of interest may impact our investment returns.**

All of our officers also serve in similar capacities with InvestAmerica, and with its affiliates, which include investment advisors to other investment funds. Accordingly, our officers may have obligations to investors in those entities, the fulfillment of which might not be in the best interests of the Corporation or its stockholders or that may require them to devote time to services for such other entities, which could interfere with the time available to provide services to the Corporation. Nonetheless, InvestAmerica is of the opinion that the efforts of its officers relative to the Corporation will be synergistic with and beneficial to the affairs of both the Corporation and InvestAmerica.

As a result of regulatory restrictions, we are not permitted to invest in any portfolio company in which the advisor or any affiliate currently has an investment. However, under the terms of an exemptive order granted by the SEC, under certain specified circumstances, the Corporation may invest (and make follow on investments) in portfolio companies at the same time and on the same terms as InvestAmerica's affiliates. All such investments are reviewed by the Corporation's independent directors to assure conformity to the exemptive order.

**If we issue senior securities, including debt, we will be exposed to additional risks, including the typical risks associated with leverage.**

The Corporation may borrow funds from and issue senior debt securities to banks, insurance companies or other lenders up to the limit permitted by the 1940 Act. Currently, through MorAmerica, the Corporation has borrowed funds through the SBIC programs established by the SBA. Such borrowings cause the Corporation to be leveraged. When such borrowings are incurred, the lenders of these funds will have fixed dollar claims on the Corporation's assets superior



## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

to the claims of the Corporation's shareholders. Decreases in the value of the investments below their value at the time of acquisition would cause the Corporation's net asset value to decline more sharply than it would if the funds had not been borrowed. Any decrease in the rate of income would cause net income to decline more sharply than it would had the funds not been borrowed and invested. Leverage is thus generally considered a speculative investment technique. Conversely, however, the ability of the Corporation to achieve its investment objectives may depend in part on its ability to acquire leverage on favorable terms by borrowing through the SBA, banks or insurance companies and there can be no assurance that such leverage can in fact be acquired. Changes in legislation applicable to or Congressional funding for the SBA, or changes in the SBA regulations, may have an adverse impact on the future ability of either the Corporation or MorAmerica to acquire such leverage.

The Corporation, on a consolidated basis through its wholly-owned subsidiary MorAmerica, had outstanding \$16,790,000 in subordinated debentures issued to various parties and guaranteed by the SBA on September 30, 2005. The following describes the maturities and interest rates of these debentures:

<b>Due Year Ending</b>	<b>Principal Amount</b>	<b>Fixed Interest Rate</b>
<b>September 30</b>		
2010	\$3,500,000	8.45%
2011	\$5,835,000	6.89%
2012	\$7,455,000	7.03%

The Corporation is currently using proceeds of portfolio liquidity events to reduce its SBA debt and does not currently anticipate drawing new SBA leverage.

**To protect or maintain our existing portfolio investments, we may need to increase our investments in existing portfolio companies.**

Following its initial investment, the Corporation may make additional debt and equity investments in portfolio companies ("follow-on investments") in order to increase its investment in a successful portfolio company, to exercise securities that were acquired in the original financing, to preserve the Corporation's proportionate ownership when a subsequent financing is planned or to protect the Corporation's initial investment when such portfolio company's performance does not meet expectations. The failure or inability to make such follow-on investments may, in certain circumstances, jeopardize the continued viability of a portfolio company and the Corporation's initial investment in that company.

-7-

---

**Changes in the law or regulations that govern us could have a material impact on us or our operations.**

We are regulated by the SEC and our subsidiary, MorAmerica, is regulated by the SBA. In addition, changes in the laws or regulations that govern BDCs, regulated investment companies and SBICs may significantly affect our business. Any change in the law or regulations that govern our business could have a material impact on us or our operations. Laws and regulations may be changed from time to time, and the interpretations of the relevant laws and regulations also are subject to change, which may have a material effect on our operations.

**Results may fluctuate and may not be indicative of future performance.**

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

Our operating results may fluctuate and, therefore, you should not rely on current or historical period results to be indicative of our performance in future reporting periods. Factors that could cause operating results to fluctuate include, but are not limited to, variations in the investment origination volume and fee income earned, variation in timing of prepayments, variations in and the timing of the recognition of net realized gains or losses and changes in unrealized appreciation or depreciation, the level of our expenses, the degree to which we encounter competition in our markets, and general economic conditions.

### **Our Common Stock price may be volatile.**

The trading price of our Common Stock may fluctuate substantially. The price of the Common Stock may be higher or lower than the price you pay for your shares, depending on many factors, some of which are beyond our control and may not be directly related to our operating performance. These factors include, but are not limited to, the following:

price and volume fluctuations in the overall stock market from time to time;

significant volatility in the market price and trading volume of securities of BDCs or other financial services companies;

changes in laws or regulatory policies or tax guidelines with respect to BDCs or regulated investment companies;

actual or anticipated changes in our earnings or fluctuations in our operating results or changes in the expectations of securities analysts;

risks associated with possible disruption in our operations due to terrorism;

general economic conditions and trends;

loss of a major funding source;

departures of key personnel; or

other risks and uncertainties as may be detailed from time to time in our public announcements and SEC filings.

### **Item 2. Properties.**

The Corporation does not own or lease any properties or other tangible assets. Its business premises and equipment are furnished by InvestAmerica (the "Investment Advisor"), the investment advisor to the Companies. The Investment Advisor is compensated for its provision of the business premises and equipment to the Company through the management fees paid by the Companies to the Investment Advisor.

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

### Item 3. Legal Proceedings.

As previously disclosed, MorAmerica, along with other parties, was a defendant in a suit filed by BFS Diversified Products, LLC ("BFS") in the Iowa District Court of Polk County, Iowa on March 26, 2004. A settlement agreement among BFS, MorAmerica and all of the other defendants was executed on October 31, 2005, and MorAmerica funded its portion of the settlement amount, \$78,487.50, on that date.

### Item 4. Submission of Matters to a Vote of Security Holders.

The Corporation held its annual shareholders meeting on July 19, 2005 (the "Shareholders Meeting"). The following table lists the matters voted upon at the Shareholders Meeting, the number of votes cast for, against or withheld, and the number of abstentions for each matter.

Matter	Votes for	Votes against	Vo with
Election of Benjamin Jiaravanon as Director:	1,719,443	--	22,
Election of Gordon Roth as Director:	1,719,642	--	22,
Election of Paul Bass as Director:	1,719,616	--	22,
Election of Jasja Kotterman as Director:	1,702,088	--	39,
Election of Geoffrey Woolley as Director:	1,719,607	--	22,
Election of Michael Dunn as Director:	1,719,642	--	22,
Election of Martin Walton as Director:	1,719,549	--	22,
Proposed amendment to the Corporation's Amended and Restated By-Laws to provide for the classification of the Corporation's Board of Directors:	658,249	838,090	816
Approval of the Investment Advisory Agreement between MorAmerica and InvestAmerica:	1,465,344	16,794	816
Approval of the Investment Advisory Agreement between the Corporation and InvestAmerica:	1,467,331	16,480	816
Authorization for the Corporation to issue rights to acquire authorized shares of Common Stock of the Corporation:	1,354,722	129,109	816
Ratification of the Board of Director's appointment of KPMG LLP as the Corporation's independent registered public accounting firm:	1,718,206	4,920	587

## PART II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Information in response to this Item is incorporated by reference to the "Shareholder Information" section of the Corporation's Annual Report to Shareholders for the fiscal year ended September 30, 2005 (the "2005 Annual Report").

### Item 6. Selected Financial Data.

Information in response to this Item is incorporated by reference to the "Selected Financial Data" section of the 2005 Annual Report.

-9-

---

### Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operation.

## Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

Information in response to this Item is incorporated by reference to the "Management's Discussion and Analysis" section of the 2005 Annual Report.

### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

Information in response to this Item is incorporated by reference to the "Quantitative and Qualitative Disclosures About Market Risk" section of the 2005 Annual Report.

### **Item 8. Financial Statements and Supplementary Data.**

Information in response to this Item is incorporated by reference to the Consolidated Financial Statements, notes thereto and report thereon contained in the 2005 Annual Report.

### **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

There are no items to report.

### **Item 9A. Controls and Procedures.**

In accordance with Item 307 of Regulation S-K promulgated under the Securities Act, the Chief Executive Officer and Chief Financial Officer of the Corporation (the "Certifying Officers") have conducted evaluations of the Corporation's disclosure controls and procedures. As defined under Sections 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the term "disclosure controls and procedures" means controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive officer or officers and principal financial officer or officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. The Certifying Officers have reviewed the Corporation's disclosure controls and procedures and have concluded that those disclosure controls and procedures are effective as of the date of this Annual Report on Form 10-K. In compliance with Section 302 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350), each of the Certifying Officers executed an Officer's Certification included in this Annual Report on Form 10-K.

As of the date of this Annual Report on Form 10-K, there have not been any significant changes in the Corporation's internal controls or other factors that could significantly affect these controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

### **Item 9B. Other Information.**

There are no items to report.

**PART III**

**Item 10. Directors and Executive Officers of the Registrant.**

Information in response to this Item is incorporated by reference to the identification of directors and nominees contained in the "Election of Directors" section and the subsection captioned "Section 16(a) Beneficial Ownership Reporting Compliance" of the Corporation's definitive proxy statement in connection with its 2006 Annual Meeting of Stockholders, scheduled to be held on February 28, 2006 (the "2006 Proxy Statement").

**Audit Committee Financial Expert**

The Corporation's Board of Directors has determined that Gordon J. Roth is an audit committee financial expert and that Mr. Roth is independent, as that term is used in Item 7(d)(3)(iv) of Schedule 14A under the Exchange Act.

**Audit Committee**

The Audit Committee of the Board of Directors of the Corporation (the "Audit Committee") is a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act, and is composed of three directors and operates under a written charter originally adopted by the Board of Directors and annually updated by the Audit Committee. The current charter of the Audit Committee was attached to the Proxy Statement for the 2004 Annual Shareholders Meeting. The current members of the Audit Committee are Michael W. Dunn (Chair), Paul M. Bass and Gordon J. Roth. Under the terms of the charter and the listing standards of The Nasdaq Stock Market, Inc., all of the Audit Committee members are considered to be independent.

**Section 16(a) Beneficial Ownership Reporting Compliance**

Pursuant to Section 16(a) of the Exchange Act, officers and directors of the Corporation and persons beneficially owning 10% or more of the Corporation's Common Stock (collectively, "reporting persons") must file reports on Forms 3, 4 and 5 regarding changes in their holdings of the Corporation's equity securities with the SEC. Based solely upon a review of copies of these reports sent to the Secretary of the Corporation, the Corporation believes that all Forms 3, 4, and 5 required to be filed by all reporting persons have been properly and timely filed with the SEC.

**Code of Ethics**

The Corporation has adopted a Code of Business Conduct and Ethics that applies to all of the Corporation's officers, directors and employees. The Corporation's Code of Business Conduct and Ethics is filed with the SEC as an exhibit to its 2003 Annual Report on Form 10-K.

If the Corporation makes any substantive amendments to the Code of Business Conduct and Ethics or grant any waiver, including any implicit waiver, from a provision of the Code of Business Conduct and Ethics to its principal executive or principal financial officer, the Corporation will disclose the nature of such amendment or waiver in a report on Form 8-K. A copy of the Code of Business Conduct and Ethics will be mailed to persons without charge upon written request to Secretary, MACC Private Equities Inc., 101 Second Street, S.E., Suite 800, Cedar Rapids, Iowa 52401 or by calling (319) 363-8249.

**Item 11. Executive Compensation.**

Information in response to this Item is incorporated by reference to the subsection captioned "Compensation of Directors and Executive Officers" of

the 2006 Proxy Statement.

-11-

---

**Item 12. Security Ownership of Certain Beneficial Owners and Management.**

Information in response to this Item is incorporated by reference to the subsection captioned "Section 16(a) Beneficial Ownership Reporting Compliance" of the 2006 Proxy Statement.

**Item 13. Certain Relationships and Related Transactions.**

Information in response to this Item is incorporated by reference to the subsection captioned "Director Nominee Interests in Affiliates of the Corporation" of the 2006 Proxy Statement.

**Item 14. Principal Accounting Fees and Services.**

Information in response to this Item is incorporated by reference to the subsection captioned "Independent Auditor Fees and Services" of the 2006 Proxy Statement.

**PART IV**

**Item 15. Exhibits, Financial Statement Schedules and Reports on Form 8-K.**

(a) Documents filed as part of this Report:

- (1) A. The following financial statements are incorporated by reference to the 2005 Annual Report.
  - Consolidated Balance Sheet at September 30, 2005
  - Consolidated Statement of Operations for the year ended September 30, 2005
  - Consolidated Statements of Changes in Net Assets for the years ended September 30, 2005 and September 30, 2004
  - Consolidated Statement of Cash Flows for the year ended September 30, 2005
  - Notes to Consolidated Financial Statements
  - Consolidated Schedule of Investments as of September 30, 2005
  - Notes to the Consolidated Schedule of Investments
- B. The Report of the Registered Independent Public Accounting Firm with respect to the financial statements listed in A. above is incorporated by reference to the 2005 Annual Report.
- (2) No financial statement schedules of the Corporation are filed herewith because (i) such schedules are not required or (ii) the information required has been presented in the aforementioned financial statements and schedule of investments.
- (3) The following exhibits are filed herewith or incorporated by reference as set forth below:
  - 3(i).1(1) Certificate of Incorporation of the Corporation.
  - 3(i).2(2) Articles of Amendment to the Certificate of

Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

- Incorporation of the Corporation.  
3(ii)(3) Amended and Restated By-Laws of the Corporation.  
4. See Exhibits 3(i).1 and 3(i).2.  
10.1(4) Investment Advisory Agreement between MACC Private Equities Inc. and InvestAmerica Investment Advisors, Inc. dated July 21, 2005.  
10.2(4) Investment Advisory Agreement between MorAmerica Capital Corporation and InvestAmerica Investment Advisors, Inc. dated July 21, 2005.  
13 2005 Annual Report to Stockholders.

-12-

- 
- 14(5) Code of Business Conduct and Ethics  
21(5) Subsidiary of the Corporation and jurisdiction of incorporation.  
31.1 Section 302 Certification of David R. Schroder (President).  
31.2 Section 302 Certification of Robert A. Comey (CFO).  
32.1 Section 906 Certification of David R. Schroder (President).  
32.2 Section 906 Certification of Robert A. Comey (CFO).  
  
(1) Incorporated by reference to the Corporation's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 1997, as filed with the SEC on May 14, 1997.  
(2) Incorporated by reference to the Corporation's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2005, as filed with the SEC on August 15, 2005.  
(3) Incorporated by reference to the Corporation's Annual Report on Form 10-K for the period ended September 30, 2002, as filed with the SEC on December 27, 2002  
(4) Incorporated by reference to the Corporation's report on Form 8-K as filed with the SEC on July 21, 2005.  
(5) Incorporated by reference to the Corporation's Annual Report on Form 10-K for the period ended September 30, 2003, as filed with the SEC on December 29, 2003.

(b) Exhibits

See (a) (3) above.

(c) Financial Statement Schedules

See (a) (1) and (a) (2) above.

-13-

---

**SIGNATURES**

Edgar Filing: MACC PRIVATE EQUITIES INC - Form 10-K

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized on December 29, 2005.

/s/ David R. Schroder

-----  
David R. Schroder  
President and Secretary

/s/ Robert A. Comey

-----  
Robert A. Comey  
Chief Financial Officer and Treasurer

---

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

**Signature**

**Date**

/s/ Geoffrey T. Woolley

December 29, 2005

-----  
Geoffrey T. Woolley, Chairman of the Board

/s/ Paul M. Bass

December 29, 2005

-----  
Paul M. Bass, Jr., Director

/s/ Michael W. Dunn

December 29, 2005

-----  
Michael W. Dunn, Director

/s/ Benjamin Jiaravanon

December 29, 2005

-----  
Benjamin Jiaravanon, Director

/s/ Jasja Kotterman

December 29, 2005

-----  
Jasja Kotterman, Director

/s/ Gordon J. Roth

December 29, 2005

-----  
Gordon J. Roth, Director

-----  
Martin Walton, Director