on account of purchases of securities by Cityfed, and (c) the payment of the escrow fee and expenses to CoreStates. The Escrow Agreement also provides that CoreStates will restrict the escrow account in such a manner as to implement the terms of the Escrow Agreement and to prevent a change in status or function of the escrow account unless authorized by Cityfed and the OTS in writing.

6. On December 7, 1992, the RTC filed suit against Cityfed and two former officers of City Federal seeking damages of \$12 million dollars for failure to maintain the net worth of City Federal (the "First RTC Action"). In connection with this action, the RTC sought a court order to place Cityfed's assets under the control of the court. On January 5, 1993, the RTC and Cityfed entered into an agreement (the "Agreement") whereby the RTC would refrain from seeking the above order and Cityfed could continue to make payments for ordinary and reasonable business expenses and certain legal fees. In light of the filing by the OTS of the Notice of Charges on June 2, 1994, the RTC and Cityfed agreed to dismiss without prejudice the RTC's claim against Cityfed in the First RTC Action.

7. In addition, the RTC filed suit against several former directors and officers of City Federal alleging gross negligence and breach of fiduciary duty with respect to certain loans (the "Second RTC Action"). The RTC seeks in excess of \$200 million in damages. Under Cityfed's bylaws, Cityfed may be obligated to indemnify these former officers and directors and advance their legal expenses. Cityfed generally has agreed to advance expenses in connection with these requests. Because of the Temporary Order and the Escrow Agreement, however, Cityfed is not continuing to advance expenses in connection with these requests. Cityfed is unable to determine with any accuracy the extent of its liability with respect to these indemnification claims, although the amount may be material.

8. Currently, Cityfed's stock is traded sporadically in the over-the-counter market. Cityfed has one employee who is president, chief executive officer, and treasurer. Cityfed's secretary does not receive any compensation for her service. If Cityfed is unable to resolve the above claims successfully, Cityfed may seek protection from the bankruptcy courts or liquidate. Cityfed asserts that it probably will not be in a position to determine what course of action to pursue until most, if not all, of its contingent liabilities are resolved.

9. During the term of the proposed exemption, Cityfed will comply with

sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder, subject to the following modifications. With respect to section 17(d), Cityfed represents that it established a stock option plan when it was an operating company. Although the plan has been terminated, certain former employees of Cityfed have existing rights under the plan. Cityfed believes that the plan may be deemed a joint enterprise or other joint arrangement or profit-sharing plan within the meaning of section 17(d) and rule 17d-1 thereunder. Because the plan was adopted when Cityfed was an operating company and to the extent there are existing right under the plan, Cityfed seeks an exemption to the extent necessary from section 17(d). In addition, Cityfed may become subject to the jurisdiction of a bankruptcy court. With respect to transactions approved by the bankruptcy court, applicant requests an exemption from sections 17(a) and 17(d) as further described in condition 3 below.

Applicant's Legal Analysis

1. Section 3(a)(1) defines an investment company as any issuer of a security who "is or holds itself out as being engaged primarily * * * in the business of investing, reinvesting or trading in securities." Section 3(a)(3) further defines as investment company as an issuer who is engaged in the business of investing in securities that have a value in excess of 40% of the issuer's total assets (excluding government securities and cash). Cityfed acknowledges that it may be deemed to fall within one of the Act's definitions of an investment company. Accordingly, applicant requests an exemption under sections 6(c) and 6(e) from all provisions of the Act, subject to certain exceptions.

2. In determining whether to grant an exemption for a transient investment company, the SEC considers such factors as whether the failure of the company to become primarily engaged in a non-investment business or excepted business or liquidate within one year was due to factors beyond its control; whether the company's officers and employees during that period tried, in good faith, to effect the company's investment of its assets in a noninvestment business or excepted business or to cause the liquidation of the company; and whether the company invested in securities solely to preserve the value of its assets. Cityfed believes that it meets these criteria.

3. Cityfed believes that its failure to become primarily engaged in a noninvestment business by March 15, 1995 is due to factors beyond its control. Because of outstanding and potential claims against Cityfed and certain of its officers and directors, Cityfed cannot acquire an operating company. Cityfed has diligently pursued its claims against others and has taken steps to determine the extent of its contingent liabilities. Since the filing of its initial application for exemptive relief under sections 6(c) and 6(e) on October 19, 1990, Cityfed has invested in money market instruments and money market mutual funds solely to preserve the value of its assets.

4. Cityfed requests an order that would exempt it from all provisions of the Act, subject to certain exemptions, until the earlier of one year from the date of any order issued on this application or such time as Cityfed would no longer be required to register as an investment company under the Act.

Applicant's Conditions

Cityfed agrees that the requested exemption will be subject to the following conditions, each of which will apply to Cityfed from the date of the order until it no longer meets the definition of an investment company or during the period of time it is exempt from registration under the Act:

1. Cityfed will not purchase or otherwise acquire any additional securities other than securities that are rated investment grade or higher by a nationally recognized statistical rating organization or, if unrated, deemed to be of comparable quality under guidelines approved by Cityfed's board of directors, subject to two exceptions:

a. Cityfed may make an equity investments in issuers that are not investment companies as defined in section 3(a) of the Act (including issuers that are not investment companies because they are covered by a specific exclusion from the definition of investment company under section 3(c) of the Act other than section 3(c)(1)) in connection with the possible acquisition of an operating business as evidenced by a resolution approved by Cityfed's board of directors; and

b. Cityfed may invest in one or more money market mutual funds that limit their investments to "Eligible Securities" within the meaning of rule 2a–7(a)(5) promulgated under the Act.

2. Cityfed's Form 10–KSB, Form 10– QSB and annual reports to shareholders will state that an exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that Cityfed and other persons, in their transactions and relations with Cityfed, are subject to sections 9, 17(a), 17(d), 17(e), 17(f), 36