conclusion reached in SSER 16. In SSER 20, the NRC staff explicitly acknowledged that TVA was not committed to RG 4.15, ANSI N13.1, or ANSI N13.10. The NRC staff clarified that Watts Bar meets the intent of RG 4.15 with respect to quality assurance provisions for the radiation monitoring system. The NRC staff revised the statement in SSER 16 cited above to read:

The staff also concludes that the system design conforms to the guidelines of NUREG–0737 (TMI Action Plan II.F.1, Attachment 1 and 2), RG 1.21, and applicable guidelines of RG 1.97 (Revision 2). The staff further concludes that the system design meets the intent and purpose of RG 4.15.

As stated in SSER 20, the NRC staff has concluded that the radiation monitoring system at Watts Bar meets the ''intent and purpose'' of RG 4.15. The intent and purpose of RG 4.15 is to provide an acceptable method to comply with applicable NRC requirements. However, as discussed above, alternatives to RG 4.15 may also be found to be acceptable in meeting this intent and purpose of RG 4.15 (i.e., compliance with applicable NRC requirements). In its review of Watts Bar, the NRC staff has concluded that applicable NRC requirements have been satisfied while not necessarily conforming to all the details of RG 4.15. Thus, although the staff's conclusion in SSERs 16 and 20 could have been clearer, as explained above, TVA did not commit to RG 4.15. For these same reasons, Petitioner's assertions provide no basis to conclude that TVA provided ''misinformation'' in this area. Rather, the NRC staff properly evaluated the radiation monitoring system at Watts Bar and correctly determined that the applicable regulatory requirements were satisfied prior to licensing.

C. Deviations From Regulatory Guides

By letter dated January 30, 1996, Petitioner submitted a list of deviations from Regulatory Guides that Petitioner extracted from the Watts Bar SER and supplements. Petitioner questioned whether an overall review of the aggregate effect of the deviations had been performed for Watts Bar.

Each deviation is reviewed by the NRC staff and, if found to be acceptable, is approved in an SER. It should be noted that a deviation is an alternative. Approval of a deviation does not suggest that a lesser safety standard has been applied. The NRC staff reviews each program area described in the FSAR, and related regulatory documents to ensure that the program complies with regulatory requirements. That review includes an assessment of the impact of any deviations requested by a Licensee. Thus, the integrated impact of any requested deviations on a program is considered as part of the review of that program.

Accordingly, the concern raised by Petitioner regarding the overall effect of the deviations approved at Watts Bar has not raised a safety issue that would warrant suspension or revocation of the operating license for Watts Bar.

Accordingly, Petitioner has not provided a basis to warrant a review of the Watts Bar licensing process, nor has Petitioner identified a safety concern that would warrant suspension or revocation of the operating license for Watts Bar.

IV. CONCLUSION

The institution of proceedings in accordance with 10 CFR 2.206, as requested by Petitioner, is appropriate only where substantial safety issues have been raised. See Consolidated Edison Company of New York (Indian Point Units 1, 2 and 3), CLI–75–8, 2 NRC 173, 175 (1975), and *Washington Public Power System* (WPPS Nuclear Project No. 2), DD–84–7, 19 NRC 899, 923 (1984). This is the standard I have applied to the Petition. Petitioner has not raised any substantial safety concerns with regard to Watts Bar. Therefore, Petitioner's request to revoke or suspend the operating license for Watts Bar is denied.

A copy of this Decision will also be filed with the Secretary for the Commission's review as provided in 10 CFR 2.206(c) of the Commission's regulations.

As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 15th day of August 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–21285 Filed 8–20–96; 8:45 am]

BILLING CODE 7590–01–P

Units 1 and 2 (Docket Nos. 50–390 and 50–391), February 1996. NUREG–0847.

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Sequestration Update Report

AGENCY: Budget Analysis Branch, Office of Management and Budget.

ACTION: Notice of Transmittal of Sequestration Update Report to the President and Congress.

SUMMARY: Pursuant to Section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Sequestration Update Report to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Anita Chellaraj, Budget Analysis Branch—202/395–3674.

Dated: August 13, 1996.

John B. Arthur,

Associate Director for Administration.

[FR Doc. 96–21135 Filed 8–20–96; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22146; 34–37578; 812–10072]

Allied Capital Lending Corporation, et al.; Notice of Application

August 15, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'') and the Securities Exchange Act of 1934 (the ''Exchange Act'').

APPLICANTS: Allied Capital Lending Corporation (''Lending''), Allied Capital Advisers, Inc. (''Advisers''), Allied Capital SBLC Corporation (''Subsidiary I''), and Allied Capital Credit Corporation (''Subsidiary II,'' and with Subsidiary I, the ''Subsidiaries'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 12(d)(1), 18(a), 55(a), 60 and 61(a) of the Act, under section 57(c) of the Act for an exemption from sections 57(a) (1), (2), and (3) of the Act, and under sections 57(a)(4) and 57(i) of the Act and rule 17d–1 thereunder permitting certain joint transactions. 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 Lending to form two new subsidiaries and engage in certain joint transactions with such new subsidiaries or certain companies in which Lending or its subsidiaries have invested. The order also would permit modified asset coverage

requirements for Subsidiary I individually and Lending and its subsidiaries on a consolidated basis. In addition, the order would deem the capital stock of the Subsidiaries to be securities issued by eligible portfolio companies for purposes of characterizing assets under section 55(a) of the Act. Furthermore, the order would permit Lending and its subsidiaries to file Exchange Act reports on a consolidated basis.

FILING DATES: The application was filed on April 2, 1996 and amended on May 21, 1996, July 16, 1996, and August 14, 1996.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 9, 1996, and should be accompanied by proof of service on applicant 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Allied Capital Advisers, Inc., 1666 K Street, N.W., 9th Floor, Washington, D.C. 20006–2803.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Special Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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. Lending is a registered closed-end management investment company that has elected to be regulated as a business development company (a ''BDC'') and has been approved by the Small Business Administration (the ''SBA'') to participate as a small business lending company (a ''SBLC'') in the SBA's guaranteed loan program (the ''7(a) Loan Program'') pursuant to section 7(a) of the Small Business Administration Act of 1958 (the ''Small Business Act''). As an SBLC, Lending makes loans (the ''7(a) Loans'') that are partially guaranteed by the SBA.

2. Until November 23, 1993, Lending was a wholly-owned subsidiary of Allied Capital Corporation (''Allied I''). On that date, the initial public offering of Lending's shares commenced. In 1993, the SEC issued an order (the ''1993 Order'') permitting Allied I and Lending to engage in certain joint transactions in connection with the initial public offering.[1] Currently, Allied I owns 28.3% of the issued and outstanding shares of Lending. Pursuant to a condition of the 1993 Order, Allied I has agreed to divest itself of all its remaining shares of Lending by December 31, 1998.

3. Advisers is a registered investment adviser. Until December 31, 1990, Advisers was a wholly-owned subsidiary of Allied I. On that date, Allied I distributed all the shares of Advisers to Allied I's shareholders. Advisers currently acts as investment adviser to Lending and Allied I as well as to one other BDC, two real estate investment trusts, and two venture capital limited partnerships. Advisers may have investment advisory agreements with the Subsidiaries in the future. The investments of these entities consist largely of loans to and investments in small, privately owned businesses.

4. The ACLC Limited Partnership (the ''Limited Partnership'') participates in the SBA's Certified Development Company Program (the ''504 Loan Program;'' loans generated thereunder are the ''504 Loans'') and generates supplemental loans, not guaranteed by the SBA, to accompany Lending's 7(a) Loans (the ''7(a) Companion Loans''). Because SBA regulations prevent Lending, as an SBLC, from making these loans, Lending formed the Limited Partnership, retaining 99% ownership and acting as general partner, to generate 504 Loans and 7(a) Companion Loans without violating such regulations.

5. Each Subsidiary is a closed-end management investment company, and each intends to file an election to be regulated as a BDC. Each Subsidiary will be a wholly-owned subsidiary of Lending following the proposed reorganization of Lending and the Limited Partnership into a parent with two corporate subsidiaries structure (the ''Reorganization''). Subsidiary I will become an SBLC and, as such, will participate in the 7(a) Loan Program. Subsidiary II will participate in the 504 Loan Program and will generate 7(a) Companion Loans, as well as other non-SBA guaranteed loans.[2]

6. The 7(a) Loan Program provides funds to small businesses for almost any legitimate business purpose. The 504 Loan Program provides long-term financing, partially guaranteed by the SBA, of fixed assets. The 504 Loan Program is more restrictive than the 7(a) Loan Program because 504 Loans must be secured by a purchase money mortgage on the fixed assets of the borrower. The 504 Loan Program is administered through certified development companies (the ''CDCs''), which are licensed by the SBA. CDCs are non-profit organizations that can be sponsored either by private interests or by state and local governments. A loan in the 504 Loan Program requires the participation of a private lender, such as the Limited Partnership, a CDC, and a qualified small business. The CDC, through the SBA, provides a second mortgage, and the private lender provides the first mortgage.

7. The SBLC regulations, as revised as of March 1, 1996, prohibit an SBLC from participating in loans other than under the 7(a) Loan Program. Therefore, Lending proposes to transfer all or substantially all its assets (except its ownership interests in the Limited Partnership), including its SBLC license, and liabilities to Subsidiary I as a capital contribution in exchange for 100% of Subsidiary I's common stock. Lending also proposes to transfer all its ownership interests in the Limited Partnership to Subsidiary II as a capital contribution in exchange for 100% of Subsidiary II's common stock and to cause Subsidiary II to purchase the remaining 1% limited partnership interest from the owner thereof and to cause the dissolution and winding up of the Limited Partnership, which will entail the transfer of all the Limited Partnership's assets and liabilities to Subsidiary II.

8. Subsidiary I and Subsidiary II will in effect succeed to the current operations of Lending and the Limited Partnership, respectively, following the Reorganization. Subsidiary I will become an SBLC and will participate as such in the 7(a) Loan Program, and Subsidiary II will generate 7(a) Companion Loans and will participate in the 504 Loan Program. Lending will not directly participate in any SBA-guaranteed loan programs under the proposed structure, although it will maintain ownership of the Subsidiaries

[1] *Allied Capital Corporation*, Investment Company Act Release Nos. 19810 (Oct. 22, 1993) (notice) and 19880 (Nov. 17, 1993) (order).

[2] The SBLC program was closed to new applicants in 1982, but Lending may transfer its SBLC license to Subsidiary I with the consent of the SBA.

and will raise capital to finance the Subsidiaries as needed as well as its own non-SBA guaranteed lending activities.

9. One or both of the Subsidiaries may enter into an investment advisory agreement with Advisers. Upon the effectiveness of such an investment advisory agreement, Advisers will not collect any fee to which it may otherwise be entitled under its investment advisory agreement with Lending with respect to the portion of Lending's assets represented by the value of Lending's continuing investment in that Subsidiary.

Applicants' Legal Analysis

Section 6(c)

1. Applicants request relief under section 6(c) of the Act from sections 12(d)(1), 18(a), 55(a), 60, and 61(a). Section 6(c) authorizes the SEC to exempt any person, security, or transaction from any provision of the Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Since each Subsidiary will be wholly-owned by Lending, any activity carried on by it will have the same economic effect on Lending shareholders as it would if carried on directly by Lending. Applicants believe that the public interest will not be harmed by the granting of the requested exemptions, while the interest of Lending and its shareholders will be enhanced.

Sections 12(d)(1) and 60

1. Section 12(d)(1) makes it unlawful for any registered investment company to purchase or otherwise acquire any security issued by any other investment company and for any investment company to purchase or otherwise acquire any security issued by any registered investment company, if the acquiring company immediately after such purchase or acquisition owns more than the amounts of securities specified in that section. Section 60 makes section 12 applicable to a BDC to the same extent as if it were a closed-end management investment company registered under the Act.

2. The purchase of voting stock in a Subsidiary by Lending, both pursuant to the Reorganization and thereafter, would violate section 12. Similarly, a subsequent contribution to capital of a Subsidiary by Lending might be deemed to violate section 12 to the extent such contribution otherwise constitutes the acquisition of a security issued by the Subsidiary. In addition, the making of loans or advances by Lending or a Subsidiary (a ''Fund'') as lender, to another Fund, as borrower, might be deemed to violate section 12 if such loans or advances were viewed as purchases by the lender of the securities of the borrower.

3. Accordingly, applicants request an order exempting the acquisition by Lending of any securities of either Subsidiary and the acquisition by either Subsidiary of any securities representing indebtedness of Lending, to the extent that such transactions would not be prohibited if each Subsidiary were deemed to be part of Lending and not a separate company, from section 12(d)(1).

Sections 18(a) and 61(a)

1. Section 18(a) makes it unlawful for any closed-end company to issue any class of senior security unless such company complies with the asset coverage set forth in that section. ''Asset coverage'' is defined in section 18(h) to mean the ratio which the value of the total assets of the issuer, less all liabilities and indebtedness not represented by senior securities, bears to the aggregate amount of senior securities representing indebtedness of such issuer. Section 18(k) makes certain of the asset coverage requirements of section 18(a) inapplicable to investment companies operating under the Small Business Investment Act of 1958 (the ''1958 Act''). Section 61(a) makes section 18 applicable, with certain modifications, to a BDC to the same extent as if it were a closed-end company registered under the Act.

2. Applicants believe that a question exists as to whether Subsidiary I may rely on section 18(k) to be excepted from the asset coverage and other requirements of section 18(a), as modified by section 61(a). As the successor to Lending's SBLC license upon consummation of the Reorganization, Subsidiary I will be an investment company operating under the 1958 Act to the extent that Title V of the 1958 Act authorizes and sets forth the United States government guarantee of the 7(a) Loans, an essential part of an SBLC's business. The statutory authority for the 7(a) Loan Program itself is contained, however, within the Small Business Act, which is technically distinct from, although codified in large part together with, the 1958 Act cited in section 18(k) of the Act.

3. Applicants believe that the rationale for the exemption contained in section 18(k) is that the SBA's substantive regulation of permissible leverage of an SBA-licensed investment company is an effective substitute for the SEC's substantive regulation of required asset coverage for each class of senior security issued by a registered closed-end company or a BDC. As both SBICs and SBLCs are SBA-licensed investment companies, both types of entities are subject to the SBA's substantive regulation of permissible leverage in their capital structure. An SBIC with outstanding ''Leverage'' may not incur any secured third-party debt or refinance any debt with secured third-party debt without prior written approval of the SBA if the SBIC's ''Leverage'' exceeds, and if the SBIC's total outstanding borrowings (not including ''Leverage'') would exceed, specified percentages of its ''Leverageable Capital''.[3] An SBLC may not issue any securities (including debt securities) without prior written approval of the SBA.[4] Applicants believe that an SBLC is subject to more restrictive capital structure regulation by the SBA than an SBIC is because the issuance of all debt securities is regulated by the SBA in the case of an SBLC, while only secured third-party debt is regulated in the case of an SBIC.

4. Applicants wish to avoid any questions about their compliance with section 18(a), as modified by section 61(a). Accordingly, applicants request an exemption from sections 18(a) and 61(a) to treat borrowings by Subsidiary I as liabilities and indebtedness not represented by senior securities in applying the asset coverage requirements of section 18(a), as modified by section 61(a), to Subsidiary I individually and to Lending and the Subsidiaries on a consolidated basis.

Section 55(a)

1. Section 55(a) makes it unlawful for a BDC to acquire any assets (with certain exceptions) unless, at the time the acquisition is made, assets described in paragraphs (1) through (6) thereof (''Qualifying Assets'') represent at least 70 percent of the value of its total assets other than assets described in paragraph (7) thereof. Paragraphs (1) through (4) of section 55(a) describe Qualifying Assets which are either securities of an eligible portfolio company within the meaning of section 2(a)(46) or securities of an issuer described in subparagraphs (A) and (B) of section 2(a)(46), but which may not be an eligible portfolio company (*i.e.*, may not satisfy one of the three alternative criteria of subparagraph (C) of section 2(a)(46)). Subparagraph (B) of section 2(a)(46)

[3] *See* 15 C.F.R. § 107.550(b) (1996).

[4] *See* 15 C.F.R. § 120.470(b)(5) (1996).

disqualifies from the definition of eligible portfolio company both an investment company as defined in section 3 (with the exception of one category of such companies) and a company which would be an investment company except for the exclusion from the definition of investment company in section 3(c). The exception from this disqualification applies to ''a small business investment company'' licensed by the SBA to operate under the 1958 Act that is a wholly owned subsidiary of a BDC.

2. Applicants believe that a literal reading of section 2(a)(46)(B) would seem to disqualify from the definition of eligible portfolio company both Subsidiary I and Subsidiary II. Thus, applicants believe that Lending's holdings of the common stock of the Subsidiaries may be ineligible to be counted as Qualifying Assets toward the 70 percent requirement under the descriptions of paragraphs (1) through (6) of section 55(a).

3. Applicants believe that if the Subsidiaries themselves are deemed to be ''eligible portfolio companies'' within the meaning of section 2(a)(46) for purposes of section 55(a), the public interest would be served. The 7(a) Loans to be made by Subsidiary I, as well as the related loans (*e.g.*, 7(a) Companion Loans and 504 Related Loans) or other investments to be made by Subsidiary II, will be made to the same category of small business borrowers which represent the type of persons that the BDC amendments to the Act, adopted in 1980, which added sections 54 through 65 (the ''1980 Amendments'') were designed to benefit. Because both Subsidiaries not only will be BDCs but also will lend to, or otherwise invest in, solely those small business borrowers that meet one or more of the maximum size standards established by the SBA for the 7(a) Loan Program, the 504 Loan Program, or SBIC investments, applicants believe that no harm to the public interest will occur if Lending's investment in each of the Subsidiaries is deemed to be a Qualifying Asset.

4. Accordingly, applicants request an exemption from section 55(a) to treat the securities issued by the Subsidiaries held by Lending as securities purchased from ''eligible portfolio companies'' within the meaning of section 2(a)(46) for purposes of classifying such securities as assets of the type described in section 55(a)(1)(A).

Section 57(c)

1. Section 57(c) directs the SEC to exempt a transaction from sections 57(a) (1), (2), or (3) if the following standards are met: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching of the BDC or its shareholders on the part of any person concerned, (b) the proposed transaction is consistent with the policy of the BDC as recited in its filings with the SEC and in its reports to shareholders, and (c) the proposed transaction is consistent with the general purposes of the Act.

2. Applicants believe that the contemplated transactions will be reasonable and fair and will not involve overreaching on the part of any person, the proposed operation of the Funds as one company and the requested relief are consistent with the policy outlined in the information to be provided in Lending's regular reporting to shareholders, and the proposed operation of the Funds as one company and the requested relief is entirely consistent with the general purposes of the Act. Accordingly, applicants believe the standard set forth in section 57(c) are met.

Sections 57(a) (1), (2), and (3)

1. Sections 57(a) (1), (2), and (3) generally prohibit, with certain exceptions, sales or purchases of securities between BDCs and certain of their affiliates, including any director, officer, employee, or member of an advisory board of the BDC or any person who controls, is controlled by, or is under common control with such director, officer, employee, or advisory board member.

2. Lending will be a related person (within the meaning of section 57(b)) of each Subsidiary as long as it continues to own more than 25 percent of the voting securities of, or otherwise controls, such Subsidiary. Each Subsidiary will be a related person of Lending as long as it remains controlled by Lending. The Subsidiaries will be related persons of each other as long as they remain under the common control of Lending.

3. The acquisition by Lending of the capital stock of the Subsidiaries in exchange for part of Lending's investment portfolio could be deemed: (a) a sale of a security of a BDC (the Subsidiary's stock) to a BDC (Lending), (b) a sale of a security (from Lending's investment portfolio) to a BDC (the Subsidiary), (c) a purchase from a BDC (the Subsidiary) of any security (the Subsidiary's stock), and (d) a purchase from a BDC (Lending) of any security (from Lending's investment portfolio) by a BDC affiliate (the Subsidiary). In addition, loan transactions between Funds may be effected which may be deemed to be purchases and sales of securities representing indebtedness. While loans from Lending to a Subsidiary appear to be exempt from section 57(a) by virtue of rule 57b–1 because each Subsidiary (the borrower) would be controlled by Lending (the lender), it does not appear that loans from either Subsidiary to Lending would be entitled to the exemptions contained in rule 57b–1, since, in that case, the lender would be controlled by the borrower.

4. Therefore, applicants believe, absent an exemptive order, any loan from either Subsidiary to Lending could be deemed in violation of section 57(a). In addition, a Subsidiary may invest in securities of an issuer that may be deemed to be an affiliate of Lending or Lending may invest in securities of an issuer that may be deemed to be an affiliate of a Subsidiary, as in the case of a portfolio company deemed to be affiliated with Lending or a Subsidiary as a result of its ownership of 5% or more of the portfolio company's stock. Accordingly, applicants request an order exempting from sections 57(a) (1), (2), and (3) any transaction between the Funds with respect to the purchase or sale of securities or other property or the borrowing of any money or other property. Applicants also request an order exempting from sections 57(a) (1), (2), and (3) any transaction involving the Funds and portfolio affiliates of the Funds, but only to the extent that any such transactions would not be prohibited if a Subsidiary involved in the transaction were deemed to be part of Lending and not a separate company.

Section 57(a)(4) and Rule 17d–1

1. Section 57(a)(4) makes it unlawful for certain persons related to a BDC in the manner set forth in section 57(b), acting as principal, knowingly to effect any transaction in which the BDC or a company controlled by the BDC is a joint or joint and several participant with that person in contravention of such rules and regulations as the SEC may prescribe. Section 57(i) states that the rules and regulations under sections 17(a) and 17(d) applicable to registered closed-end investment companies (*e.g.*, rule 17d–1) shall be deemed to apply to transactions subject to section 57(a) until the adoption by the SEC of rules and regulations under section 57(a).

2. Lending and the Subsidiaries are related persons (within the meaning of sections 57(b)) of one another, based on their control relationships. The joint transaction prohibitions of section 57(a)(4) and rule 17d–1 therefore apply to all the Funds as long as Lending continues to own more than 25 percent of the voting securities of, or otherwise controls, each Subsidiary. The

participation of two or more of the Funds in a co-investment transaction with a portfolio company may be deemed to be a participation by each of them in a joint or joint-and-several transaction with the other.

3. Accordingly, applicants request an order permitting, under section 57(a)(4) and rule 17d–1, any transaction involving investments by a Fund in portfolio companies in which any other Fund is or is proposed to become an investor, but only to the extent that such transaction would not be prohibited if a Subsidiary involved in the transaction (and all of its assets and liabilities) was deemed to be part of Lending, and not a separate company.

Sections 12(h) and 13 of the Exchange Act

1. Section 12(h) of the Exchange Act provides that the SEC may exempt an issuer from section 13 of the Exchange Act if the SEC finds that by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise that such action is not inconsistent with the public interest or the protection of investors. Section 13 of the Exchange Act is the primary section requiring filing of periodic reports.

2. Lending has elected to be regulated as a BDC and has securities registered under section 12 of the Exchange Act. In order to be a BDC, the Subsidiaries must register a class of equity securities under section 12(g) of the Exchange Act or have filed a registration statement to do so. Absent an exemptive order, such registration would subject each Subsidiary to periodic filings with the SEC even though each Subsidiary will have only one equity holder. Accordingly, applicants request an order under section 12(h) of the Exchange Act exempting each Subsidiary from the reporting requirements of section 13(a) of the Exchange Act.

Applicants' Conditions

Applicants agree that any order of the SEC granting the relief required shall be subject to the following conditions:

1. Lending will at all times own and hold, beneficially and of record, all of the outstanding capital stock of the Subsidiaries.

2. Each Subsidiary will have the same fundamental investment policies as Lending, as set forth in Lending's registration statement; the Subsidiaries will not engage in any of the activities described in section 13(a) of the Act, except in each case as authorized by the vote of a majority of the outstanding voting securities of Lending.

3. No person shall serve or act as investment adviser to a Subsidiary under circumstances subject to section 15 of the Act, unless the directors and shareholders of Lending shall have taken the action with respect thereto also required to be taken by the directors and shareholders of the Subsidiary.

4. No person shall serve as a director of a Subsidiary unless elected as a director of Lending at Lending's most recent annual meeting, as contemplated by section 16(a) of the Act and subject to the provisions thereof relating to the filling of vacancies. Notwithstanding the foregoing, the board of directors of each Subsidiary will be elected by Lending as the sole shareholder of that Subsidiary, and such board will be composed of the same persons who serve as directors of Lending.

5. Lending will not itself issue or sell, and Lending will not cause or permit its Subsidiaries to issue or sell, any senior security of which Lending or a Subsidiary is the issuer except as hereinafter set forth. The Funds may issue and sell to banks, insurance companies, and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire any equity security (except that if a Subsidiary is permitted to elect BDC status, these restrictions shall not be applicable to such Subsidiary except to the extent they are applicable generally to BDCs), and (iii) immediately after the issuance or sale of any such notes or evidences of indebtedness by either Lending or the Subsidiaries, Lending and the Subsidiaries, on a consolidated basis, and each Subsidiary and Lending individually, shall have the asset coverage required by section 61(a)(1), except that, in determining whether the Funds, on a consolidated basis, have the asset coverage required by section 61(a)(1), any borrowings by Subsidiary I shall not be considered senior securities and, for purposes of the definition of ''asset coverage'' in section 18(h), shall be treated as indebtedness not represented by senior securities.

6. Subsidiary II will only make loans to, or other investments in, companies that meet one or more of the maximum size standards established by the SBA for the 7(a) Loan Program, the 504 Loan Program, or SBIC investments, although Subsidiary II may make various types of loans (*e.g.*, 7(a) Companion Loans and 504 Related Loans) to, and investments in, these companies.

7. If Advisers enters into an investment advisory agreement with either Subsidiary, Advisers will reduce its fees charged to Lending by an amount equal to the value of such Subsidiary's shares held by Lending times the rate at which advisory or other asset-based fees are charged by Advisers to such Subsidiary.

8. Lending will: (a) file with the SEC on behalf of itself and the Subsidiaries, all information and reports required to be filed with the SEC under the Exchange Act and other federal securities laws, including financial statements prepared solely on a consolidated basis as to Lending and the Subsidiaries, such information and reports to be in satisfaction of the separate filing obligations of each of the Subsidiaries; and (b) provide to its shareholders such information and reports required to be disseminated to Lending's shareholders, including financial statements prepared solely on a consolidated basis as to Lending and the Subsidiaries, such reports to be in satisfaction of the separate filing obligations of Lending and each of the Subsidiaries. Notwithstanding anything in this condition, Lending will not be relieved of any of its reporting obligations including, but not limited to, any consolidating statement setting forth the individual statement of each Subsidiary required by rule 6–03(c) of Regulation S–X.

9. Lending and the Subsidiaries may file on a consolidated basis pursuant to the above condition only so long as the amount of Lending's assets invested in assets other than (a) securities issued by the Subsidiaries or (b) securities similar to those in which the Subsidiaries invest, does not exceed ten percent.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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Chicago Milwaukee Corporation; Notice of Application

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