

Any interested person may, on or before January 13, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts hearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 96-32715 Filed 12-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22407; 812-10258]

Van Kampen American Capital Equity Opportunity Trust, et al.

December 18, 1996.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Van Kampen American Capital Equity Opportunity Trust (the "Trust"), on behalf of itself and its series, Stepstone Growth Equity and Treasury Securities Trust, Series 1, Stepstone Funds on behalf of itself and its portfolio, Stepstone Growth Equity Fund (the "Equity Fund"), Van Kampen American Capital Distributions, Inc. (the "Sponsor"), Pacific Alliance Capital Management (the "Adviser"), and SEI Financial Services Company (the "Distributor").

RELEVANT ACT SECTIONS: Order requested under section 11(a) for an exemption from section 11(c).

SUMMARY OF APPLICATION: Applicants request an order to permit certain offers of exchange involving the Trust.

FILING DATE: The application was filed on July 22, 1996 and amended on November 22, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

January 13, 1997 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: The Sponsor and the Trust, One Parkview Plaza, Oak Brook Terrace, Illinois 60181; the Adviser, 475 Sansome Street, San Francisco, CA 94111; the Funds, 2 Oliver Street, Boston, MA 02109; and the Distributor, 680 East Swedesford Road, Wayne, PA 19087-1658.

FOR FURTHER INFORMATION CONTACT:

Sarah A. Buescher, Staff Attorney, at (202) 942-0573, or Mercer E. Bullard, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a unit investment trust registered under the Act that will consist of a series of unit investment trusts, each of which will be similar but separate and designated by a different series number ("Trust Series"). Each Trust Series will be created under the laws of one of the United States pursuant to a trust agreement which will contain information specific to that Trust Series and which will incorporate by reference the master trust indenture between the Sponsor and a financial institution that is a bank within the meaning of section 2(a)(5) of the Act and that satisfies the criteria in section 26(a) of the Act (the "Trustee"), and an evaluator. The trust agreement and the master trust indenture are referred to collectively as the "Trust Agreement."

2. The Sponsor is a Delaware corporation and a wholly-owned subsidiary of Van Kampen American Capital, Inc. The Sponsor is a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. The Sponsor currently acts as principal underwriter for the Van Kampen American Capital of Mutual Funds.

3. Stepstone Funds is an open-end management investment company registered under the Act. Stepstone Funds is not affiliated with the Sponsor

or the Trust. The Equity Fund is one of fourteen portfolios offered by Stepstone Funds (collectively, the "Funds"). Stepstone Funds has entered into an investment advisory agreement with the Adviser pursuant to which the Adviser acts as an investment adviser for the Equity Fund and the other portfolios of Stepstone Funds.

4. Several of the Funds, including the Equity Fund, offer two classes of shares, the Institutional Class and the Investment Class. The Institutional Class is offered without a sales charge. The Investment Class is offered at net asset value plus a front-end sales load. Purchases of the Investment Class shares in the amount of \$1 million or more are not subject to a front-end sales load, but redemptions of such amounts, purchased in reliance upon the waiver accorded to purchases of \$1 million or more, within one year of purchase are subject to a contingent deferred sales load ("CDSL").

5. Certain Funds, including the Equity Fund, have adopted a distribution plan with respect to their Investment Class shares pursuant to rule 12b-1 under the Act ("12b-1 Plan"). With respect to each portfolio's 12b-1 Plan, Stepstone Funds is authorized to pay the Distributor a fee at the annual rate of up to 0.40% of the respective portfolio's Investment Class shares average daily net assets, of which a maximum of .25% may be used to compensate broker-dealers and service providers that provide administrative and/or distribution services to Investment Class shareholders of their customers who beneficially own Investment Class shares. For the current year, the Distributor has agreed to waive any fees payable pursuant to the 12b-1 Plan for several of the Funds. The Distributor reserves the right, however, to terminate its waiver at any time at its sole discretion. The Distributor is a registered broker-dealer and acts as underwriter for the shares of the Funds.

6. Each Trust Series will have a portfolio consisting initially of shares of one of the Funds and zero coupon obligations. The Sponsor's obligation to purchase any such obligations from third parties in order to fulfill contracts to purchase such obligations held by a Trust Series will be backed by an irrevocable letter of credit. All zero coupon obligations in any one Trust Series will have essentially identical maturities.

7. The Trust Series are intended to be offered to the public initially at prices based on the net asset value of the shares of the Fund selected for deposit in that Trust Series, plus the offering side value of the zero coupon

obligations contained therein, plus a sales charge. Each Trust Series will redeem units representing undivided interests in that Trust Series (the "Units") at prices based on the aggregate bid side evaluation of the zero coupon obligations plus the net asset value of the Fund shares.

8. The Sponsor will deposit the zero coupon obligations in a Trust Series at a price determined by an evaluator.¹ The Trust Agreement will govern and the prospectus will fully disclose this procedure. The shares of the Funds will be deposited at their net asset value. Simultaneously with such deposit, the Trustee will deliver to the Sponsor registered certificates for Units which will represent the entire ownership of the Trust Series. These Units, in turn, will be offered for sale to the public by the Sponsor through the final prospectus following the declaration of effectiveness of the registration statement.

9. With the deposit of the securities in the Trust Series on the initial date of deposit, the Sponsor will have established a proportionate relationship between the principal amounts of zero coupon obligations and Fund shares in the Trust Series. The Sponsor will be permitted under the Trust Agreement to deposit additional securities, which may result in a potential corresponding increase in the number of Units outstanding. Such Units may be continuously offered for sale to the public by means of the prospectus. The Sponsor anticipates that any additional securities deposited in the Trust Series subsequent to the initial date of deposit in connection with the sale of these additional Units will maintain the proportionate relationship between the principal amounts of zero coupon obligations and Fund shares in the Trust Series.

10. Each Trust Series will be structured so that it will contain a sufficient amount of zero coupon obligations to assure that, at the specified maturity date for such Trust Series, the initial investors purchasing Units of the Trust Series on the first date they are offered for sale will receive back at least the total amount of their original investment in the Trust Series, including the sales charge. To the extent that the Fund pays dividends or makes capital gains distributions during the life of the Trust Series and to the extent that Fund shares have any value at the maturity of the Trust Series, the value

of the purchaser's investment will have increased.

11. Each Trust Series will be able to acquire no more than 10% of the outstanding shares of any Fund.² Shares of only one of the Funds will be sold for deposit in any one Trust Series and the sales charge or CDSL, if any, on such shares will be waived so that such sales will be at net asset value.

12. Since the shares of the Funds have their net asset values calculated daily and this value will be readily available to the Sponsor, no evaluation fee will be charged with respect to determining the value of the Fund shares which comprise part of the value of the Units. The evaluator will charge an evaluation fee only with respect to that portion of the portfolio of a Trust Series which consists of zero coupon obligations.

13. The Sponsor and the Distributor will rebate to the Trustee any rule 12b-1 fees they receive on shares of the Funds held by the Trust Services. Any rule 12b-1 fees so rebated will be distributed along with other Fund income earned by the Trust. Any Fund related distributions, including amounts attributable to rebated rule 12b-1 fees, will reflect the deduction by the Trust of bona fide Trust expenses. If such Trust expenses exceed the amount of distributions from the Fund, excluding rebated 12b-1 fees, the deduction of Trust expenses will effectively reduce the amount of such rebate that is returned to unitholders.

14. The Sponsor does not intend to maintain a secondary market for the Units of the Initial Trust Series. Although not obligated to do so, the Sponsor may maintain a secondary market for Units of subsequent Trust Series. In the event the Sponsor does not maintain a secondary market, the Trust Agreement will provide that the Sponsor will not instruct the Trustee to sell zero coupon obligations from any Trust Series until shares of the Fund have been liquidated in order not to impair the protection provided by the zero coupon obligations, unless the Trustee is able to sell such zero coupon obligations and still maintain at least the original proportional relationship to Unit value and will further provide that zero coupon obligations may not be sold

to meet Trust expenses. In addition, the Trustee may not redeem Fund shares except to the extent necessary to meet redemption of Units by unitholders, or to pay Trust expenses should distributions received on Fund shares and rebated 12b-1 fees prove insufficient to cover such expenses.

15. Unitholders may redeem their Units at prices based upon the net asset value of the Fund shares in the Trust Series plus the aggregate bid price of the zero coupon obligations. Unitholders tendering a minimum number of shares as disclosed in the prospectus will be able to request an in-kind distribution of portfolio securities in lieu of a cash distribution. The tendering unitholder will receive the *pro rata* number of Fund shares and the Fund proposes to offer these unitholders the option of reinvesting the *pro rata* portion of zero coupon obligations into Fund shares without a sales charge. Unitholders not electing to have their portion of the zero coupon obligations reinvested in Fund shares will receive cash equal to the *pro rata* portion of the zero coupon obligations to which the tendering unitholder is entitled.

16. Similarly, each Trust Series will provide unitholders still holding at termination the minimum number of Units set forth in the prospectus the option to receive an in-kind distribution of their *pro rata* number of Fund shares. The Fund also will offer all such unitholders the option of reinvesting their *pro rata* portion of zero coupon obligations in Fund shares at net asset value. Proceeds from the zero coupon obligations will be paid in cash unless the unitholder elects reinvestment. The reinvestment options upon redemption of Units and at termination of the Trust Series are collectively referred to herein as the "Reinvestment Options." Shares acquired under the Reinvestment Options will be subject to any applicable rule 12b-1 fees as are all other shares held directly by investors.

Applicants' Legal Analysis

1. Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter for such company to make or cause to be made certain offers of exchange on any basis other than the relative net asset values of the securities to be exchanged, unless the terms of the exchange offer have first been approved by the SEC. Section 11(c) provides that section 11(a) will be applicable to any type of exchange offer involving securities of a registered unit investment trust, irrespective of the basis for the exchange. Applicants state that the intent of section 11 is to protect

² Applicants state that they are not requesting relief from section 12(d)(1) of the Act because section 12(d)(1)(E) of the Act provides that section 12(d)(1) shall not apply to securities purchased by a registered unit investment trust if the securities are the only "investment securities" held by the trust. Applicants believe that U.S. Treasury zero coupon obligations are not "investment securities" for purposes of section 12(d)(1)(E) and that the Fund shares are the only "investment securities" which a Trust Series will hold. See Equity Securities Trust (pub. avail. Jan. 19, 1994).

¹ The Sponsor expects to be deposit substantially more than \$100,000 aggregate value of zero coupon obligations and Fund shares in each Trust Series.

investors from switching their investment in securities of one investment company to another investment company and the consequent erosion of their equity.³

2. Applicants request relief on behalf of (a) certain existing and subsequent Trust Series, (b) existing and future portfolios of the Stepstone Funds other than money market or no-load funds (*i.e.* funds that do not impose a sales load, a deferred sales load, or bear distribution expenses pursuant to a rule 12b-1 plan), and (c) open-end management investment companies, including portfolios and series thereof, that may in the future be advised by the Adviser, other than money market or no-load funds.⁴

3. Applicants note that the Reinvestment Options provide unitholders the option of either (a) in-kind distribution of their proportionate number of Fund shares or (b) receiving a cash distribution. Such unitholders also will have the option of (a) reinvesting the proceeds of the zero coupon obligations in Fund shares at net asset value (without the imposition of a CDSL or a sales load) or (b) receiving a cash distribution.

4. Applicants believe that the Reinvestment Options give the unitholders flexibility of choice. Applicants further believe that the Reinvestment Options do not raise the concerns that section 11 was designed to address because, although Fund shares have a front-end sales load or a CDSL, none will be charged to the unitholders in the proposed Reinvestment Options. Applicants note that there will be no additional cost, other than the rule 12b-1 fee, to unitholders who choose to invest in Fund shares upon redemption of Units or upon termination of the Trust.⁵

Applicants' Conditions

Applicants agree to the following as conditions to granting the requested order:

³ Applicants state that they are not requesting relief from sections 14(a) and 19(b) of the Act and rule 19b-1 thereunder because the Trust has received an exemption from such provisions in a prior application. See Van Kampen Merritt Equity Opportunity Trust, Investment Company Act Release Nos. 20597 (Oct. 4, 1994) (notice) and 20672 (Nov. 1, 1994) (order).

⁴ Applicants state in a letter that all existing Trust Series or portfolios of the Stepstone Funds that currently intend to rely on the requested order are named in the application.

⁵ Applicants note that, if Unitholders choose instead to take a cash distribution upon termination of the Trust or upon redemption of Units and later decide to invest in Fund shares, they would have to pay a front-end sales load or would be subject to the imposition of any applicable CDSL.

1. No sales charge, CDSL, if any, or redemption fee will be imposed on any shares of the Fund deposited in any Series of the Trust or on any Fund shares acquired by unitholders through the Reinvestment Options.

2. The prospectus of each Trust Series and any sales literature or advertising that mentions the existence of the Reinvestment Options will disclose that shareholders who elect to invest in Fund shares will incur a rule 12b-1 fee.

3. The Sponsor and the Distributor will immediately rebate to the Trustee any rule 12b-1 fees it receives on shares of the Funds acquired by the Trust Series.

For the SEC, by the Division of Investment Management, under delegated authority.
Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-32720 Filed 12-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-38053; File No. SR-MSRB-96-06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval to Proposed Rule Change and Notice of Filing of, and Order Granting Accelerated Approval to, Amendment No. 1 to the Proposed Rule Change Relating to MSRB Telemarketing Rules

December 16, 1996.

I. Introduction

On July 30, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend MSRB telemarketing rules³ the proposed rule change was published for comment in the Federal Register on September 7, 1996.⁴ No comments were received on the proposal.⁵

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ On Nov. 4, 1996, the MSRB filed Amendment No. 1 to its proposal. Letter from Ronald W. Smith, Legal Associate, Municipal Securities Rulemaking Board ("MSRB"), to George A. Villasana, Attorney, Division of Market Regulation, SEC, dated Nov. 1, 1996.

⁴ See Securities Exchange Act Release No. 37626 (Aug. 30, 1996), 61 FR 47224 (Sept. 6, 1996) (notice of File No. SR-MSRB-96-06).

⁵ The Commission, however, received two comment letters on an NASD proposal, which is substantially similar. See Letter from Brad N. Bernstein, Assistant Vice President & Senior Attorney, Merrill Lynch, to Jonathan G. Katz, Secretary, SEC, dated Aug. 19, 1996 ("Merrill Lynch Letter"), and Letter from Frances M. Stadler,

II. Background

Under the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), which became law in August 1994,⁶ the Federal Trade Commission adopted detailed regulations ("FTC Rules")⁷ to prohibit deceptive and abusive telemarketing acts and practices that became effective on December 31, 1995.⁸ The FTC Rules, among other things, (i) require the maintenance of "do-not-call" lists and procedures, (ii) prohibit certain abusive, annoying, or harassing telemarketing calls, (iii) prohibit telemarketing calls before 8 a.m. or after 9 p.m., (iv) require a telemarketer to identify himself or herself, the company he or she works for, and the purpose of the call, and (v) require express written authorization or other verifiable authorization from the customer before the firm may use instruments called "demand drafts."⁹

Under the Telemarketing Act, the SEC is required either to promulgate or to require the SROs to promulgate rules substantially similar to the FTC Rules, unless the SEC determines either that the rules are not necessary or appropriate for the protection of investors or the maintenance of fair and orderly markets, or that existing federal securities laws or SEC rules already provide for such protection.

The MSRB believes it has implemented the prohibition against certain abusive, annoying, or harassing telemarketing calls contained in the FTC Rules by issuing an interpretation that such conduct is violative of existing rules.¹⁰ The MSRB believes that the proposed rule change addresses all

Associate Counsel, Investment Company Institute ("ICI"), to Jonathan G. Katz, Secretary, SEC, dated Aug. 21, 1996 ("ICI better").

For a discussion of the letters and responses thereto, see Securities Exchange Act Release No. 38009 (Dec. 2, 1996) (approving File No. SR-NASD-96-28). In response to these letters, the MSRB filed Amendment No. 1 to its proposal. See Amendment No. 1, *supra* note 3.

⁶ 15 U.S.C. §§ 6101-08.

⁷ 16 CFR 310.

⁸ §§ 310.3-4 of FTC Rules.

⁹ *Id.* Pursuant to the Telemarketing Act, the FTC Rules do not apply to brokers, dealers, and other securities industry professionals. Section 3(d)(2)(A) of the Telemarketing Act.

A "demand draft" is used to obtain funds from a customer's bank account without that person's signature on a negotiable instrument. The customer provides a potential payee with bank account identification information that permits the payee to create a piece of paper that will be processed like a check, including the words "signature on file" or "signature pre-approved" in the location where the customer's signature normally appears.

¹⁰ The Board implemented the requirement in (ii) referenced above by issuing an interpretation that abusive telemarketing calls are inconsistent with past and equitable principles of trade. See MSRB Reports, Vol. 16, No. 3 (Sept. 1996).