

May 8, 2011.

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-11627 Filed 5-11-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No.  
29665; 812-13772]

### PennantPark Investment Corporation, et al.; Notice of Application

May 6, 2011.

**AGENCY:** Securities and Exchange  
Commission (“Commission”).

**ACTION:** Notice of an application for an  
order under section 6(c) of the  
Investment Company Act of 1940 (the  
“Act”) for an exemption from sections  
18(a) and 61(a) of the Act.

**APPLICANTS:** PennantPark Investment  
Corporation (the “Company”),  
PennantPark SBIC GP, LLC (the  
“General Partner”), PennantPark SBIC  
LP (“PennantPark SBIC”) and  
PennantPark Investment Advisers, LLC  
(the “Investment Adviser”)

**SUMMARY OF THE APPLICATION:** The  
Company requests an order to permit it  
to adhere to a modified asset coverage  
requirement.

**DATES: Filing Dates:** The application was  
filed on May 12, 2010 and amended on  
September 7, 2010, February 18, 2011,  
and May 2, 2011.

**HEARING OR NOTIFICATION OF HEARING:** An  
order granting the application will be  
issued unless the Commission orders a  
hearing. Interested persons may request  
a hearing by writing to the  
Commission’s Secretary and serving  
applicants with a copy of the request,  
personally or by mail. Hearing requests  
should be received by the Commission  
by 5:30 p.m. on May 31, 2011 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 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  
Commission’s Secretary.

**ADDRESSES:** Secretary, U.S. Securities  
and Exchange Commission, 100 F  
Street, NE., Washington, DC 20549–  
1090. Applicants, 590 Madison Avenue,  
15th Floor, New York, New York 10022.

**FOR FURTHER INFORMATION CONTACT:**  
Laura J. Riegel, Senior Counsel, at (202)  
551-6873, or Dalia Osman Blass, Branch

Chief, at (202) 551-6874 (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 via the Commission’s  
Web site by searching for the file  
number, or an applicant using the  
Company name box, at [http://  
www.sec.gov/search/search.htm](http://www.sec.gov/search/search.htm) or by  
calling (202) 551-8090.

### Applicants’ Representations

1. The Company, a Maryland  
corporation, is an externally managed,  
non-diversified, closed-end  
management investment company that  
has elected to be regulated as a business  
development company (“BDC”) under  
the Act.<sup>1</sup> The Company’s investment  
objectives are to generate both current  
income and capital appreciation in the  
form of mezzanine debt, senior secured  
loans and equity investments through  
debt and equity investments primarily  
in U.S. middle market private  
companies. The Investment Adviser, a  
Delaware limited liability company, is  
the external investment adviser to the  
Company. The Investment Adviser is  
registered under the Investment  
Advisers Act of 1940.

2. PennantPark SBIC, a Delaware  
limited liability company, is a small  
business investment company (“SBIC”)  
licensed by the Small Business  
Administration (“SBA”) to operate  
under the Small Investment Act of 1958  
(“SBIA”). PennantPark SBIC is excluded  
from the definition of investment  
company by section 3(c)(7) of the Act.  
The Company directly owns 99% of  
PennantPark SBIC in the form of limited  
partnership interests. The General  
Partner, which is a wholly-owned  
subsidiary of the Company, owns 1% of  
PennantPark SBIC in the form of a  
general partnership interest. The  
Company is the sole member of the  
General Partner.

### Applicants’ Legal Analysis

1. The Company requests an  
exemption pursuant to section 6(c) of  
the Act from the provisions of sections  
18(a) and 61(a) of the Act to permit it  
to adhere to a modified asset coverage  
requirement with respect to any direct  
or indirect wholly owned subsidiary of  
the Company that is licensed by the  
SBA to operate under the SBIA as a

<sup>1</sup> Section 2(a)(48) defines a BDC to be any closed-  
end investment company that operates for the  
purpose of making investments in securities  
described in section 55(a)(1) through 55(a)(3) of the  
Act and makes available significant managerial  
assistance with respect to the issuers of such  
securities.

SBIC and relies on Section 3(c)(7) for an  
exemption from the definition of  
“investment company” under the 1940  
Act (each, a “SBIC Subsidiary”).<sup>2</sup>  
Applicants state that companies  
operating under the SBIA, such as the  
SBIC Subsidiary, will be subject to the  
SBA’s substantial regulation of  
permissible leverage in its capital  
structure.

2. Section 18(a) of the Act prohibits a  
registered closed-end investment  
company from issuing any class of  
senior security or selling any such  
security of which it is the issuer unless  
the company complies with the asset  
coverage requirements set forth in that  
section. Section 61(a) of the Act makes  
section 18 applicable to BDCs, with  
certain modifications. Section 18(k)  
exempts an investment company  
operating as an SBIC from the asset  
coverage requirements for senior  
securities representing indebtedness  
that are contained in section 18(a)(1)(A)  
and (B).

3. Applicants state that the Company  
may be required to comply with the  
asset coverage requirements of section  
18(a) (as modified by section 61(a)) on  
a consolidated basis because the  
Company may be deemed to be an  
indirect issuer of any class of senior  
security issued by PennantPark SBIC or  
another SBIC Subsidiary. Applicants  
state that applying section 18(a) (as  
modified by section 61(a)) on a  
consolidated basis generally would  
require that the Company treat as its  
own all assets and any liabilities held  
directly either by itself, by PennantPark  
SBIC, or by another SBIC Subsidiary.  
Accordingly, the Company requests an  
order under section 6(c) of the Act  
exempting the Company from the  
provisions of section 18(a) (as modified  
by section 61(a)), such that senior  
securities issued by each SBIC  
Subsidiary that would be excluded from  
the SBIC Subsidiary’s asset coverage  
ratio by section 18(k) if it were itself a  
BDC would also be excluded from the  
Company’s consolidated asset coverage  
ratio.

4. Section 6(c) of the Act, in relevant  
part, permits the Commission to exempt  
any transaction or class of transactions  
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. Applicants state

<sup>2</sup> All existing entities that currently intend to rely  
on the order are named as applicants. Any other  
existing or future entity that may rely on the order  
in the future will comply with the terms and  
condition of the order.

that the requested relief satisfies the section 6(c) standard. Applicants contend that, because the SBIC Subsidiary would be entitled to rely on section 18(k) if it were a BDC itself, there is no policy reason to deny the benefit of that exemption to the Company.

#### Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

The Company shall not issue or sell any senior security, and the Company shall not cause or permit PennantPark SBIC or any other SBIC Subsidiary to issue or sell any senior security of which the Company, PennantPark SBIC or any other SBIC Subsidiary is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61) of the Act; provided that, immediately after the issuance or sale by any of the Company, PennantPark SBIC or any other SBIC Subsidiary of any such senior security, the Company, individually and on a consolidated basis, shall have the asset coverage required by section 18(a) of the Act (as modified by section 61(a)). In determining whether the Company has the asset coverage on a consolidated basis required by section 18(a) of the Act (as modified by section 61(a)), any senior securities representing indebtedness of PennantPark SBIC or another SBIC Subsidiary 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-11622 Filed 5-11-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64420; File No. SR-NYSE-2011-21]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 80C To Include Additional Securities in the Pilot by Which Such Rule Operates and Amending Rule 104 To Simplify Certain Aspects of the Text While Also Conforming Certain of the Percentages Thereunder to the Proposed Changes to Rule 80C

May 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 4, 2011, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 80C to include additional securities in the pilot by which such rule operates and amend Rule 104 to simplify certain aspects of the text while also conforming certain of the percentages thereunder to the proposed changes to Rule 80C. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Rule 80C to include additional securities in the pilot by which such rule operates and amend Rule 104 to simplify certain aspects of the text while also conforming certain of the percentages thereunder to the proposed changes to Rule 80C.

The Commission approved Rule 80C on a pilot basis on June 10, 2010 to provide for trading pauses in individual securities due to extraordinary market volatility ("Trading Pause") in all securities included within the S&P 500® Index ("S&P 500") ("Trading Pause Pilot" or "Pilot").<sup>3</sup> The Exchange noted in its filing to adopt Rule 80C that during the Pilot period it would continue to assess whether additional securities need to be added and whether the parameters of Rule 80C would need to be modified to accommodate trading characteristics of different securities. The Exchange subsequently received approval to add to the Pilot the securities included in the Russell 1000® Index ("Russell 1000").<sup>4</sup>

<sup>3</sup> The Commission approved the Trading Pause Pilot for all equities exchanges and FINRA. See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR-BATS-2010-014; SR-EDGA-2010-01; SR-EDGX-2010-01; SR-BX-2010-037; SR-ISE-2010-48; SR-NYSE-2010-39; SR-NYSEAmex-2010-46; SR-NYSEArca-2010-41; SR-NASDAQ-2010-061; SR-CHX-2010-10; SR-NSX-2010-05; and SR-CBOE-2010-047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR-FINRA-2010-025). The Exchange submitted a proposed rule change shortly after the initial Commission approval order to clarify the procedures applicable to reopening. See Securities Exchange Act Release No. 62284 (June 11, 2010), 75 FR 34498 (June 17, 2010) (SR-NYSE-2010-45).

<sup>4</sup> The Commission approved the addition to the Trading Pause Pilot of the securities included in the Russell 1000 and a specified list of Exchange Traded Products ("ETPs"), where applicable, for all equities exchanges and FINRA. See Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR-BATS-2010-018; SR-BX-2010-044; SR-CBOE-2010-065; SR-CHX-2010-14; SR-EDGA-2010-05; SR-EDGX-2010-05; SR-ISE-2010-66; SR-NASDAQ-2010-079; SR-NYSE-2010-49; SR-NYSEAmex-2010-63; SR-NYSEArca-2010-61; and SR-NSX-2010-08) and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR-FINRA-2010-033). The Exchange submitted a proposed rule change shortly after the addition of the Russell 1000 securities to extend the operation of the Pilot, which was set to expire on December 10, 2010, until April 11, 2011. See Securities Exchange Act Release No. 63500 (December 9, 2010), 75 FR 78309 (December 15, 2010) (SR-NYSE-2010-81). The Pilot is currently set to expire on the earlier of August 11, 2011 or the date on which a limit up/

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.