

Series 7A is the appropriate examination, members will be able to readily discern whether the Series 7A requirement is applicable to them.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁵ that the proposed rule change (SR-Phlx-95-58) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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[Investment Company Act Rel. No. 21543; 812-8972]

Allied Capital Corporation; Notice of Application

November 27, 1995.

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

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Allied Capital Corporation (the "Company").

RELEVANT ACT SECTIONS: Order requested under section 61(a)(3)(B)(i)(II) of the Act.

SUMMARY OF APPLICATION: The Company requests an order approving a proposal to issue stock options to directors who are not officers or employees of the Company.

FILING DATE: The application was filed on May 5, 1994 and amended on June 24, 1994, July 31, 1995, and November 22, 1995.

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 December 22, 1995, 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 reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549.

Applicant, 1666 K Street, N.W., Ninth Floor, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 942-0582, or Robert A. Robertson, 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.

Applicant's Representations

1. The Company is a closed-end management investment company that has elected to be regulated as a business development company under the Act. It has two active wholly-owned subsidiaries: Allied Investment Corporation ("Allied Investment") and Allied Capital Financial Corporation ("Allied Financial"), which are registered under the Act as closed-end investment companies. Allied Investment is licensed by the U.S. Small Business Administration (the "SBA") as a small business investment company, and Allied Financial is licensed by the SBA as a specialized small business investment company.

2. The Company invests in and lends to privately-owned small businesses directly and through its wholly-owned subsidiaries. It provides debt, mezzanine and equity financing for small growth companies, for leveraged buyouts of such companies, for note purchases and loan restructurings and for special situations, such as acquisitions, buyouts, recapitalizations and bridge financings of such companies. The Company also provides financing to private and small public companies through its purchase of convertible debentures. The Company's investments generally take the form of loans with equity features, such as warrants or conversion privileges. The typical maturity of such a loan made by the Company is seven years, although loan maturities vary. The Company also makes senior loans without equity features. The Company's emphasis is on low- to medium-technology businesses, such as broadcasting, packaging manufacturers, franchise operations, speciality manufacturing, environmental concerns, wholesale distribution and commodities storage and retail operations. The Company makes available significant managerial assistance to its portfolio companies, as do the Company's subsidiaries.

3. The Company and its investment adviser have entered into an investment

advisory agreement that provides that the fees paid and payable to the investment adviser are based on the value of the Company's assets, and do not depend in any respect upon any capital gains of the Company or the capital appreciation of any of its funds. The Company does not have a profit-sharing plan described in section 57(n) of the Act.

4. The Company's stock option plan (the "Option Plan") was adopted and approved in 1983, and has been amended on several occasions. In February 1994, the Company's board of directors adopted further amendments to the Option Plan, which were approved by the Company's stockholders in May 1994. Those amendments increased the number of shares reserved for issuance under the Option Plan and provided for the automatic, one-time grant to each person who serves as a director of the Company and is not an officer or employee of the Company or an employee of its investment adviser (each, a "non-officer director") of an option to purchase 10,000 shares of the Company's common stock.

5. The Option Plan provides for an automatic, one-time option grant to each person serving as a non-officer director on the date on which the issuance of options to non-officer directors is (i) authorized by the stockholders of the Company or (ii) approved by SEC order, whichever is later. The Option Plan also provides for an automatic, one-time option grant to each person who thereafter is elected initially as a non-officer director. Any automatic, one-time grant to a non-officer director will entitle the recipient to acquire 10,000 shares of the Company's common stock at an exercise price that is not less than the fair market value¹ of a share of the Company's common stock at the date of issuance of the option. Each option vests in three annual installments, with the first installment vesting on the date of issuance of the option and the other two installments vesting on the first and second anniversaries of the date of issuance of the option. Each option expires on the earliest of (a) the tenth anniversary of its date of issuance, (b) 60 days after the optionee ceases to serve as a director of the Company for any reason other than death or permanent and total disability, (c) one year after the date on which the optionee dies or becomes permanently and totally disabled, or (d) the date on

¹ For purposes of the Option Plan, the fair market value of the shares is defined as the closing sale price as quoted on the National Association of Securities Dealers Automated Quotation System for the date of issuance of the option.

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).