

(202) 942-0611, or Mary Kay Frech, 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 is available for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. 202-942-8090).

Applicant's Representations

1. Applicant, a Maryland corporation, is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.¹ Applicant's primary business is making loans to small and medium-sized companies. Applicant states that its investment objective is to achieve a high level of current income. Applicant's investment decisions are made by its board of directors (the "Board") based on the recommendations of a credit committee comprised of senior management. Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving the grant of nonstatutory stock options pursuant to the Plan to its Non-employee Directors.² Applicant has a six member Board. Three of the five current members are not "interested persons" (as defined in section 2(a)(19) of the Act) of the applicant ("Disinterested Directors").³ The Plan was approved by both the Board and applicant's stockholders on July 23, 2001. On August 8, 2001, the Board and applicant's stockholders amended the Plan to increase the number of options that may be granted under the Plan. On September 23, 2002, the Board amended the Plan to adjust the method for determining the exercise price of options granted pursuant to the Plan. The grant of options to current Non-employee Directors under the Plan will be made on the date the Commission

issues an order on the application (the "Order Date").

3. Each Non-employee Director serving on the Order Date will be entitled to receive an option to purchase 10,000 shares of applicant's common stock (the "Initial Grants"), which will vest in two equal installments of 5,000 shares on each of the first two anniversaries of August 23, 2001, the date of applicant's initial public offering of its common stock.⁴ Each new Non-employee Director joining the Board after the Order Date will be entitled to receive an option to purchase 10,000 shares of applicant's common stock (the "New Director Grants"), which will be awarded when such individual joins the Board. Additionally, at the time of each annual meeting of applicant's stockholders, beginning with the 2002 annual meeting of stockholders, applicant will grant each incumbent Non-employee Director an additional option to purchase 10,000 shares of its common stock (the "Annual Grants"). The options granted under the New Director Grants and the Annual Grants will vest in two equal installments of 5,000 shares on each of the first two anniversaries of the date of grant.⁵

4. The exercise price of the options will not be less than the current market value of, or if no market value exists, the current net asset value per share of, applicant's common stock on the date of the grant.⁶ Under the Plan, "current market value" is defined as the closing sales price of the shares as quoted on the NASDAQ National Market, or alternatively, on the exchange where applicant's shares are traded, on the day the option is granted.

5. Options granted under the Plan will expire within 10 years from the date of grant. In the event of death or disability of a Non-employee Director during the director's service, unexercised options immediately become exercisable and may be exercised only during the period of eighteen months following the date of death or twelve months following the date of disability, but in no event after the respective expiration date of such options. In the event of the termination of a Non-employee Director's directorship for a reason other than by

death or disability, an option, to the extent then exercisable, may be exercised only during a period of three months following the date of termination, but in no event after the respective expiration date of such options. The options may not be transferred except for disposition by will or the laws of descent and distribution.

6. Applicant's officers and employees, including any employee directors, also are eligible to receive stock options under the Plan. The total number of shares of common stock currently issuable under the Plan is 1,500,000 shares, representing approximately 13.7% of the 10,071,844 shares of applicant's common stock outstanding as of December 31, 2002. As of December 31, 2002, applicant had issued options to purchase 1,410,000 shares to its officers and employees (including officer-directors) under the Plan. After the Initial Grants and the Annual Grants for 2002 are granted to the three current Non-employee Directors, 40,000 shares of applicant's common stock would remain eligible for awards under the Plan.

7. On December 5, 2002, the Board approved a proposal to amend the Plan to increase the number of shares authorized for issuance under the Plan to 2,000,000 shares (the "Pool Increase Proposal"). Applicant will present the Pool Increase Proposal to its stockholders at its 2003 annual stockholders meeting, which is expected to be held on February 24, 2003. The Pool Increase Proposal, if approved, would represent approximately 17.4% of the shares of applicant's common stock outstanding as of December 31, 2002. Applicant will not issue any options to its officers, employees (including officer-directors) and Non-employee Directors beyond those currently remaining available for grant under the Plan unless and until its stockholders approve the Pool Increase Proposal.

8. Applicant has no warrants, options or rights to purchase its outstanding voting securities other than those granted to its officers and employees pursuant to the Plan. The Plan as it relates to the Non-Employee Directors will not be modified materially from the description in the application without obtaining an order of the Commission or approval of the Commission staff.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the

¹ 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 sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

² Each Non-employee Director receives an annual director's fee of \$10,000, a fee of \$1,000 for each Board meeting attended (with no additional compensation payable in connection with committee meetings), and reimbursement for related expenses.

³ The applicant's Board presently has one vacancy. All of applicant's Non-employee Directors are Disinterested Directors.

⁴ In the case of one Non-employee Director, the options will vest on each of the first two anniversaries of June 5, 2002, the date that such Non-employee Director joined the Board.

⁵ The options granted under the Annual Grants for 2002 will vest on each of the first two anniversaries of March 26, 2002, the date of applicant's 2002 annual meeting of stockholders.

⁶ The exercise price of the Initial Grants and the Annual Grants for 2002 will be the current market value of, or if no market value exists, the current net asset value per share of, applicant's common stock on the Order Date.