PROSPECT CAPITAL CORP
Form 40-APP/A
October 02, 2015

No. 812-14464
U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FIRST AMENDED AND RESTATED APPLICATION FOR AN ORDER PURSUANT TO SECTIONS 17(d) AND 57(i) OF THE INVESTMENT COMPANY ACT OF 1940 (THE "ACT") AND RULE 17d-1 UNDER THE ACT TO PERMIT CERTAIN JOINT TRANSACTIONS OTHERWISE PROHIBITED BY SECTIONS 17(d) AND 57(a)(4) OF THE ACT AND RULE 17d-l UNDER THE ACT.

PROSPECT CAPITAL CORPORATION
PROSPECT CAPITAL MANAGEMENT L.P.
PROSPECT YIELD CORPORATION, LLC
PROSPECT REALTY INCOME TRUST CORP.
PROSPECT FINANCE COMPANY, LLC
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October 2, 2015

INTRODUCTION

The following entities hereby apply for an order (the "Order") of the U.S. Securities and Exchange Commission (the "Commission") pursuant to Sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act")[1] and Rule 17d-1 thereunder[2] authorizing a joint transaction that may otherwise be prohibited by either or both of Sections 17(d) and 57(a)(4) thereof:

- Prospect Capital Corporation (the "Company");
- Prospect Capital Management L.P. ("PCM");
- Prospect Yield Corporation, LLC ("PYLD");
- Prospect Realty Income Trust Corp. ("PRIT"); and
- Prospect Finance Company, LLC ("PFAN," and together with PYLD and PRIT, the "NewCos").

The Company, PCM and the NewCos are referred to herein collectively as the "Applicants."

As discussed more fully below under the section titled "The Proposed Transactions," the Applicants request the Order to the extent necessary and applicable to permit the Applicants to complete the Proposed Transactions (as defined below).

I. APPLICANTS

A. The Company

The Company is a Maryland corporation organized as a non-diversified, closed-end management investment company that has elected to be regulated as a business development company[3] ("BDC") under the Act. The Company was organized on April 13, 2004 and commenced operations on July 27, 2004. As of June 30, 2015, the Company had net assets of approximately $3.7 billion. As a BDC, the Company has elected to be treated as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986 (the "Code"). The Company makes available significant managerial assistance to those portfolio companies in which it invests to which the Company is required to provide such assistance.

The Company's investment objective is to generate both current income and long-term capital appreciation through debt and equity investments. The Company focuses on making investments primarily in private companies. The Company invests primarily in first and second lien senior loans and mezzanine debt. First and second lien senior loans generally are senior debt instruments that rank ahead of subordinated debt of a given portfolio company. These loans also have the benefit of security interests in the assets of the portfolio company, which may rank ahead of or be junior to other security interests. Mezzanine debt and the Company's investments in collateralized loan obligations ("CLOs") are subordinated to senior loans and are generally unsecured. The Company's investments have generally ranged between $5 million and $150 million each, although the investment sizes may be more or less than this range.

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[1] Unless otherwise indicated, all section references herein are to the Act.

[2] Unless otherwise indicated, all rule references herein are to rules under the Act.

[3] Section 2(a)(48) defines a business development company 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.

The Company also acquires controlling interests in companies in conjunction with making secured debt investments in such companies. These may be in several industries, including industrial, service, real estate and financial services businesses.

The Company currently has nine origination strategies in which it makes investments: (1) lending in private equity sponsored transactions, (2) lending directly to companies not owned by private equity firms, (3) control investments in corporate operating companies, (4) control investments in financial companies, (5) investments in CLOs, (6) real estate investments, (7) investments in syndicated debt, (8) aircraft leasing and (9) online lending. The Company continues to evaluate other origination strategies in the ordinary course of business with no specific top-down allocation to any single origination strategy.

The Company currently has a five member board of directors (the "Board"), of whom two are considered to be "interested persons" of the Company within the meaning of Section 2(a)(19) of the Act and three are not "interested persons" (the "Non-Interested Directors"). Mr. John F. Barry III is the Company's Chairman and Chief Executive Officer, Mr. M. Grier Eliasek is the Company's President and Chief Operating Officer, and Mr. Brian H. Oswald is the Company's Chief Financial Officer, Chief Compliance Officer, Treasurer and Secretary. The Company trades on the NASDAQ Global Select Market under the symbol "PSEC." As of October 1, 2015, there were 355,172,482 shares of the Company's common stock issued and outstanding.

B. PCM

The Company is managed by PCM, an asset management firm, pursuant to an investment advisory agreement. PCM is registered as an investment adviser with the Commission under the Investment Advisers Act of 1940. The investment professionals of PCM, subject to the overall supervision of the Board, manage the day-to-day operations of, and provide investment advisory services to, the Company, including developing, recommending and implementing the Company's investment objective. For providing these services, PCM receives a fee from the Company, consisting of two components: a base management fee and an incentive fee. The base management fee is calculated at an annual rate of 2% on the Company's gross assets (including amounts borrowed) and is payable quarterly in arrears. The base management fee is calculated based on the average value of the Company's gross assets at the end of the two most recently completed calendar quarters and appropriately adjusted for any share issuances or repurchases during the current calendar quarter. Base management fees for any partial month or quarter are appropriately prorated.

The incentive fee has two parts. The first part, the income incentive fee, which is payable quarterly in arrears, equals 20% of the excess, if any, of the Company's pre-incentive fee net investment income that exceeds a 1.75% quarterly (7% annualized) hurdle rate, subject to a "catch up" provision measured as of the end of each calendar quarter. The second part of the incentive fee, the capital gains incentive fee, is determined and payable in arrears as of the end of each calendar year (or upon termination of the investment advisory agreement, as of the termination date), and equals 20% of the Company's realized capital gains for the calendar year, if any, computed net of all realized capital losses and unrealized capital depreciation at the end of such year. In determining the capital gains incentive fee, the Company calculates the aggregate realized capital gains, aggregate realized capital losses and aggregate unrealized capital depreciation, as applicable, with respect to each investment that has been in its portfolio. At the end of the applicable calendar year, the amount of capital gains that serves as the basis for the Company's calculation of the capital gains incentive fee requires netting aggregate realized capital gains against aggregate realized capital losses on a since-inception basis and then reducing this amount by the aggregate unrealized capital depreciation. If this number is positive, then the capital gains incentive fee payable is equal to 20% of such amount, less the aggregate amount of any capital gains incentive fees paid since inception. PCM has not received any payments on the second part of the incentive fee since inception.

C. PYLD

PYLD is a recently formed, externally managed, non-diversified, closed-end management investment company that has registered as an investment company under the Act and that is a wholly-owned subsidiary of the Company. It is intended that PYLD will be managed by PCM, which will oversee the management of PYLD's activities and will be responsible for making investment decisions for PYLD's portfolio. PYLD intends to elect to be treated for federal income tax purposes as a RIC under the Code.

PYLD's investment objective is to generate current income and, as a secondary objective, long-term capital appreciation. PYLD intends to seek to achieve its investment objective by investing primarily in equity securities and junior debt obligations of entities known as CLOs that are collateralized by diverse portfolios consisting primarily of senior secured loans made to companies whose debt is rated below investment grade or, in limited circumstances, unrated ("Senior Secured Loans"). PYLD may in the future also invest in loan accumulation facilities, which acquire Senior Secured Loans on an interim basis that are expected to form part of a CLO (collectively, such investments, together with direct investments in securities that pay interest, "Target Securities"). Under normal circumstances, PYLD will invest at least 80% of its assets in securities that pay interest or periodic distributions.

PYLD's initial portfolio upon completion of the Proposed Transactions will consist of a pro rata share of the Company's CLO portfolio. As of June 30, 2015, the Company's CLO portfolio had an aggregate fair value of $1.15 billion.

PCM will earn a fee for its services under the investment advisory agreement between PYLD and PCM consisting of two components: a base management fee and an incentive fee. The base management fee is calculated and payable quarterly in arrears and equals an annual rate of 1.75% of PYLD's "Total Equity Base." "Total Equity Base" is defined as the net asset value ("NAV") of PYLD's common stock and the liquidation preference of PYLD's preferred stock, if any. No management fees will be paid on any other liabilities or assets. Base management fees for any partial calendar quarter will be appropriately prorated.

The incentive fee will be calculated and payable quarterly in arrears and equals 20% of PYLD's pre-incentive fee net investment income for the immediately preceding quarter, subject to a preferred return, or "hurdle," of 2% of PYLD's NAV (8% annualized) and a "catch up" feature. The "catch-up" provision requires PYLD to pay 100% of its pre-incentive fee net income with respect to that portion of such income, if any, that exceeds the hurdle rate but is less than 2.5% of the NAV of PYLD's common stock in any calendar quarter (10% annualized). The "catch-up" is meant to provide PCM with 20% of PYLD's pre-incentive fee net investment income as if a hurdle did not apply if this pre-incentive fee net investment income meets or exceeds 2.5% of the NAV of PYLD's common stock in any calendar quarter.

Pre-incentive fee net investment income includes accrued income that PYLD has not yet received in cash. However, the portion of the incentive fee that is attributable to deferred interest (such as payment-in-kind, or PIK, interest or original issue discount) will be paid to PCM, without interest, only if and to the extent PYLD actually receives such interest in cash, and any accrual will be reversed if and to the extent such interest is reversed in connection with any write-off or similar treatment of the investment giving rise to any deferred interest accrual. No incentive fee is payable to PCM on capital gains, whether realized or unrealized. The amount of the incentive fee is not affected by any realized or unrealized capital losses that PYLD may suffer.

D. PRIT

PRIT is a newly organized, externally managed Maryland corporation focused primarily on the ownership, acquisition and management of Class B multifamily apartment rental properties. PRIT intends to elect to be taxed and to operate in a manner that will allow it to qualify as a real estate investment trust ("REIT") for U.S. federal income tax purposes. PRIT will be organized in a traditional umbrella partnership REIT format, pursuant to which PRIT will serve as the managing member of, and conduct substantially all of its business through, its operating company, Prospect Realty Income LLC. PRIT also expects to operate its business so that it is not required to register as an investment company under the Act. To assist it in qualifying as a REIT, among other purposes, PRIT's charter will contain certain restrictions on the ownership and transfer of its common stock, including that no person may own, with certain exceptions, more than 9.8% in value or in number, whichever is more restrictive, of the outstanding shares of PRIT's common stock or capital stock.

PRIT will be managed by PCM, which will oversee the management of PRIT's activities and will be responsible for making business decisions for PRIT's portfolio.

PRIT's business purpose is to maximize the cash flow and value of properties owned, acquire properties with cash flow growth potential, provide quarterly cash distributions and achieve long-term capital appreciation for its stockholders through increases in the value of PRIT's properties.

PRIT's initial portfolio upon completion of the Proposed Transactions will consist of all of the Company's indirect controlling equity in eight joint ventures, which together owned 27 multifamily properties comprised of 8,503 apartments at June 30, 2015. As of June 30, 2015, there was $179.9 million of total equity invested by all applicable PSEC REITs (defined below) and joint venture property managers in the eight joint ventures.

PCM will earn a fee for its services under the investment advisory agreement between PRIT and PCM consisting of two components: a base management fee and an incentive fee. PRIT will pay PCM a quarterly base management fee equal to 0.1875% of the average consolidated gross real estate assets of PRIT for the subject quarter ending on the last day of the subject quarter. "Average consolidated gross real estate assets" means the average of the aggregate book value of real estate assets before reserves for depreciation or other similar non-cash reserves. "Real estate assets" are defined in the investment advisory agreement between PRIT and PCM to include investments in real estate-related properties, securities and mortgages. PRIT will compute average consolidated gross real estate assets by taking the average of the book values of its properties at the end of each month (or partial month) during (1) the quarter for which it is calculating the fee or (2) the year for which it is calculating reimbursements.

PRIT will pay PCM an incentive fee based on PRIT's pre-incentive fee Core AFFO, as defined below. The incentive fee is computed at the end of each fiscal quarter (or part thereof that the investment advisory agreement is in effect) in arrears. The incentive fee will be an amount, not less than zero, equal to the difference between:

(1) the product of (x) 20% and (y) the difference between (i) PRIT's Core AFFO (as defined below) for the previous 12-month period, and (ii) the product of (A) the sum of (x) the gross value of PRIT's common stock, as determined using the subscription price of the rights offering, issued and reserved for issuance in connection with the rights offering, (y) the gross proceeds of any preferred stock or common stock equity offerings issued subsequent to the closing of the rights offering but before the current trailing twelve month period for which the incentive fee is being calculated, and (z) the gross proceeds of any preferred stock or common stock equity offerings issued in the immediate trailing 12-month period weighted for the number of days during such 12-month period that such issuances were outstanding, and (B) 7%; provided that, during the first 12 months after completion of the rights offering, Core AFFO for the trailing twelve months will be determined by annualizing the Core AFFO for period for which Core AFFO is available subsequent to the completion of the rights offering; and

(2) the sum of any incentive fee paid to PCM with respect to the first three calendar quarters of such previous 12-month period; provided, however, that no incentive fee will be payable with respect to any calendar quarter unless Core AFFO is greater than zero for the four most recently completed calendar quarters, or the number of completed calendar quarters since the closing date of the rights offering, whichever is less; and, provided further that, the amount calculated pursuant to this paragraph shall, in the first three quarters post-rights offering, be the fee calculated under (1) multiplied by 75%.

"Core AFFO" is calculated by adjusting PRIT's Core FFO for recurring capital expenditures. PRIT will further adjust Core AFFO to include any realized gains or losses on its real estate investments when calculating the incentive fee only. "Core FFO" is a measure of PRIT's funds from operations ("FFO") that removes the effect of items that do not reflect ongoing property operations, including acquisition expenses, expensed costs related to the issuance of shares of PRIT's common stock and equity-based compensation expenses, from the determination of FFO.

E. PFAN

PFAN is a newly formed, externally managed, publicly traded limited liability company that focuses on purchasing online-originated unsecured consumer loans, which are referred to herein as marketplace loans, in the U.S. PFAN intends to operate and expects to qualify to be treated as a partnership for U.S. federal income tax purposes. PFAN also expects to operate its business so that it is not eligible to register as an investment company under the Act.

PFAN will be managed by PCM, which will oversee the management of PFAN's activities and will be responsible for making investment decisions for PFAN's portfolio.

PFAN's business purpose is to provide attractive risk-adjusted returns to its unitholders primarily through distributions of current income, while also retaining capital for growth, and secondarily through capital appreciation by participating in the rapidly growing market for marketplace loans. PFAN expects to purchase consumer loans and other receivables generated through sophisticated technology platforms, and automated application, underwriting and pricing processes.

PFAN's initial portfolio upon completion of the Proposed Transactions will consist of all or a portion of the Company's marketplace loan portfolio. As of June 30, 2015, the Company's portfolio of marketplace loans had a gross outstanding principal amount of $368.8 million.

PCM will earn a fee for its services under the investment advisory agreement between PFAN and PCM consisting of two components: a base management fee and an incentive fee. PFAN will pay PCM a quarterly base management fee, calculated at an annual rate of the lesser of (i) 1.5% of PFAN's gross assets (including amounts borrowed) or (ii) 1.5% of the product of its members' equity multiplied by two. The base management fee is calculated based on the average value of PFAN's gross assets or members' equity, as applicable, over the two most recently completed calendar quarters. Base management fees for any partial month or quarter will be appropriately prorated.

PFAN will pay PCM an income incentive fee, which is calculated and payable quarterly in arrears. The income incentive fee equals 20% of PFAN's "pre-incentive fee net income" for the immediately preceding quarter, subject to a "hurdle" of 2% of its members' equity (8% annualized) and a "catch up" provision. The "catch-up" provision requires PFAN to pay 100% of its pre-incentive fee net income with respect to that portion of such income, if any, that exceeds the hurdle rate but is less than 125% of the quarterly hurdle rate in any calendar quarter (10% annualized based on the annualized hurdle rate of 8%). The catch-up provision is meant to provide PCM with 20% of PFAN's pre-incentive fee net income as if a hurdle rate did not apply when PFAN's pre-incentive fee net income exceeds 125% of the quarterly hurdle rate in any calendar quarter (10% annualized based on the annualized hurdle rate of 8%). Pre-incentive fee net income means U.S. GAAP net income, before the incentive fee, excluding the effect of fair value adjustments and including the effect of gains or losses that are due to charge off, recovery or sales of loans during the immediately preceding quarter. Notwithstanding the foregoing, if PFAN's total debt is greater than 3.0x its members' equity, the income incentive fee will be reduced to 10% of PFAN's pre-incentive fee net income for the immediately preceding quarter, subject to a hurdle of 2.50% of its net assets (10% annualized).

II. THE PROPOSED TRANSACTIONS

In September 2014 the Company formed PYLD as a wholly-owned subsidiary and Delaware limited liability company, which will convert to a Maryland corporation prior to completion of the Proposed Transactions. In October 2014, the Company transferred to PYLD the Company's ownership interest in its CLO investments, representing 100% of the Company's CLO portfolio as of June 30, 2015 (the "PYLD Transfer Assets").[4] On March 10, 2015, the Company caused PYLD to register as an investment company under the Act and file a registration statement on Form N-2 to enable the Company to sell its interest in PYLD pursuant to a rights offering (the "PYLD rights offering").

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4 Since October 2014, all of the Company's CLO investments are held in PYLD. As of June 30, 2015, these investments had an aggregate fair value of $1.15 billion. Prior to the completion of the PYLD rights offering, a pro rata share of each investment in the CLO portfolio will be transferred back to the Company.

In April 2015, the Company formed PRIT as a wholly-owned subsidiary and Maryland corporation. PRIT's portfolio is currently indirectly owned by the Company through two wholly owned REITs, American Property Realty Corporation ("APR") and United Property Realty Corporation ("UPR" and together with APR, the "PSEC REITs"). The PSEC REITs collectively own interests in eight joint ventures (the "Joint Ventures") in which their ownership interest ranges from 70.3% to 99.3% (the "Joint Venture Interests"). The Joint Ventures represent 40% of the Company's real estate portfolio at cost as of June 30, 2015. The Company intends to enter into a contribution agreement with PRIT and its operating company pursuant to which the PSEC REITs would contribute their Joint Venture Interests, together with $50 million in cash (collectively, the "PRIT Transfer Assets") to PRIT and its operating company in exchange for (i) 100% of the PRIT common stock to be sold by the PSEC REITs upon the exercise of the rights in the rights offering and (ii) the PSEC retained interest in the form of operating partnership units. On May 6, 2015, the Company caused PRIT to confidentially submit a registration statement on Form S-11 to enable the Company to sell its interest in PRIT pursuant to a rights offering (the "PRIT rights offering"). Any operating partnership units received by the PSEC REITs will be retained by the PSEC REITs until such time in the future when the PSEC REITs may seek liquidity on such retained units. At such time, the PSEC REITs will have the right to exchange these operating partnership units for cash or PRIT registered shares of common stock in an amount equal to the PRIT shares of common stock not sold in the PRIT rights offering, at PRIT's election.

In November 2014 the Company formed PFAN as a wholly-owned subsidiary and Delaware limited liability company, and in January 2015 transferred 100% of the Company's marketplace loan portfolio (the "PFAN Transfer Assets," and together with the PYLD Transfer Assets and PRIT Transfer Assets, the "Transfer Assets").[6] The transfer of PFAN Transfer Assets included the contribution of ownership interests in subsidiaries that directly owned the PFAN Transfer Assets. On May 6, 2015, the Company caused PFAN to confidentially submit a registration statement on Form S-1 to enable the Company to sell its entire interest in PFAN pursuant to a rights offering (the "PFAN rights offering," and together with the PYLD rights offering and PRIT rights offering, the "rights offerings"). The Company may retain less than 25% of the common units in PFAN following the completion of the PFAN rights offering. These units will be retained by the Company until such time in the future when the Company may seek liquidity on such retained units.

The Company proposes, as part of the rights offerings, to distribute to the stockholders of the Company, at no charge, transferable subscription rights to purchase shares of common stock or common units, as applicable, of each NewCo. Prior to completion of the rights offerings, the Company will cause PYLD to transfer back to it a portion of the assets held by PYLD so that the value of PYLD is in line with the size of the applicable rights offering. Prior to the completion of the rights offerings, the directors of each NewCo will approve an investment advisory agreement between such NewCo and PCM and the Company will approve such agreement as the sole stockholder or member, as applicable, of each NewCo. Upon completion of the rights offerings, subject to certain conditions set forth in each respective registration statement filed by each NewCo, the Company will divest all or substantially all of its ownership in each NewCo[7] and (i) PYLD will operate as an externally managed, non-diversified, closed-end management investment company registered as an investment company under the Act with PCM as its investment adviser, (ii) PRIT will operate as an externally managed REIT with PCM as its adviser, and (iii) PFAN will operate as an externally managed limited liability company with PCM as its adviser. The transactions contemplated in this paragraph are referred to herein as the Proposed Transactions.

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[5] As of June 30, 2015, the Company had $161.9 million of equity invested in the PRIT Transfer Assets. As of the date hereof, all of the Company's online originated consumer marketplace loan portfolio is held in PFAN.

[6] As of June 30, 2015, the Company's portfolio of marketplace loans had a gross outstanding principal amount of $368.8 million.

[7] The Company will own less than 25% of the voting securities of PYLD and PFAN, and will own less than 40% of the voting securities of PRIT, in the event that the rights offering is not fully subscribed. PCM will waive its advisory fees on the Company's retained interest in each NewCo (to the extent required to avoid double counting).

A. Details of Proposed Transactions

After the three rights offerings are completed, four separate, publically traded companies will exist – the Company, PYLD, PRIT and PFAN. PYLD has been formed under the laws of Delaware as a limited liability company and will convert to a Maryland corporation prior to completion of its Proposed Transactions; PRIT has been incorporated as a Maryland corporation; and PFAN has been formed under the laws of Delaware as a limited liability company. PRIT and PFAN will not convert to a different form of entity. The Company has previously transferred to PYLD and PFAN each of its applicable Transfer Assets, in exchange for all of the common equity interests of such NewCo; which in the case of PYLD, after the transfer will be shares of common stock. The Company intends to enter into a contribution agreement with PRIT and its operating company pursuant to which the PSEC REITs would contribute their Joint Venture Interests, together with $50 million in cash, to PRIT and its operating company in exchange for (i) 100% of the PRIT common stock to be sold by the PSEC REITs upon the exercise of rights in the rights offering and (ii) the PSEC retained interest in the form of operating partnership units. Each NewCo currently is a wholly-owned subsidiary of the Company.

The Company will distribute to the record date holders of its common stock as of each applicable record date transferable subscription rights to purchase shares or units (hereinafter referred to as “shares” or “equity”) of each NewCo’s common equity at an exercise price to be established by the Company, which will be based on the NAV per share of each NewCo’s common equity and comparable company valuations, among other factors. In each rights offering, each holder of record of the Company’s common stock will receive a certain number of subscription rights approved by the Board for each share of common equity owned by each record date holder as of each applicable record date. The number of subscription rights issued in each share of common equity of the Company may be different for each rights offering, depending on the size of such rights offering, the subscription price determined for such rights offering, and other factors. Each subscription right will entitle the holder to a basic subscription right and an over-subscription privilege. Fractional shares resulting from the exercise of the basic subscription right will be eliminated by rounding up or down to the nearest whole share. Each NewCo will apply to list its subscription rights for trading on the NASDAQ Global Select Market, under the following symbols: “PYLDR,” “PRITR” and “PFANR.”

The Company may withdraw and cancel any rights offering if, at any time prior to its expiration, the Board determines, in its sole discretion, that such rights offering is not in the best interests of the Company or its stockholders, or that market conditions are such that it is not advisable to consummate such rights offering. If the Company cancels a rights offering, it will issue a press release notifying stockholders of the cancellation, and the subscription agent will return all subscription payments to the subscribers, without interest or penalty, as soon as practicable.

If a holder of a basic subscription right purchases all of each NewCo’s shares available to such holder pursuant to such holder’s basic subscription rights, such holder may also choose to purchase any or all shares of common equity that other holders of subscription rights do not purchase through the exercise of their basic subscription rights; however, for PRIT and PYLD, record date holders of the Company’s stock will have a preference over non-record date holders with respect to the oversubscription privilege.

Shares of each NewCo’s common equity will be allocated in the rights offering to record date holders as follows:

- First, shares will be allocated to holders of rights who exercise their basic subscription rights at a prescribed ratio of a share of such NewCo’s common equity per exercised subscription right.
- Second, any remaining shares that were eligible to be purchased in the rights offering will be allocated among the holders of rights who exercise the over-subscription privilege, in accordance with the following sequence:

(i) Each holder who exercises the over-subscription privilege will be entitled to a minimum allocation of the percentage of the remaining shares equal to the result of dividing (a) the number of basic subscription rights which that holder exercised by (b) the number of basic subscription rights which all holders who wish to participate in the over-subscription privilege exercised. Such percentage could result in the allocation of more or fewer over-subscription shares than the holder requested to purchase through the exercise of the over-subscription privilege.

(ii) If the allocation of remaining shares pursuant to the formula described above in the second step would result in any holder receiving a greater number of shares than that holder subscribed for pursuant to the over-subscription privilege, then such holder will be allocated only that number of shares for which the holder over-subscribed.
(iii) Any shares that remain available as a result of the allocation described above being greater than a holder's over-subscription request will be made available for allocation among all remaining holders who exercised the over-subscription privilege and whose initial allocations were less than the number of shares they requested. This second allocation will be made pursuant to the same formula described above (except that the amount in clause (b) of item (i) above will be the number of basic subscription rights exercised by all holders whose over-subscription privilege elections have not yet been satisfied) and repeated, if necessary, until all available shares of NewCo common stock have been allocated or all over-subscription requests have been satisfied in full.

Non-record date holders of the Company's common stock that acquired subscription rights in the secondary market may participate in the over-subscription privilege in respect of any shares remaining after completion of the above summarized process for allocating shares in the rights offerings to record date holders. Each methodology for the over-subscription process is slightly different. For the PYLD rights offering, record date holders of subscription rights will have priority in regard to the over-subscription privilege and non-record date holders may only participate after the over-subscriptions of all record date holders of the Company's common stock have been fulfilled, with such participation being on a pro rata basis among those non-record date holders of subscription rights who over-subscribe based on the number of basic subscription rights exercised by each such holder. For the PRIT rights offering, record date holders of subscription rights will have priority in regard to the over-subscription privilege and non-record date holders may only participate after the over-subscriptions of all record date holders of the Company's common stock have been fulfilled, with the allocation of shares being determined in the discretion of PRIT together with its dealer managers. For the PFAN rights offering, record date and non-record date holders of subscription rights will have equal participation rights in the over-subscription privilege and will be allocated shares on a pro rata basis. The Company notes that the Company's stockholders, as of the record date, will at all times be able to subscribe for their pro rata share of each NewCo's stock based on their record date holdings. Each of these methodologies regarding the over-subscription process was chosen based on the advice of the dealer manager for the particular rights offering as to the methodology that will in its judgment be most effective for that NewCo and the investor universe for that kind of company. The Company intends to review the initial rights offering, whichever that may be given market conditions, and may revise the methodology for the subsequent two rights offerings in light of its experience if it believes such adjustment will benefit a subsequent offering.

The NAV per share of each NewCo's common equity will be based on the fair value of the Transfer Assets, as applicable. The subscription price of each NewCo's common share may be at a premium or discount to such NAV per share. Immediately prior to the completion of the PYLD rights offering, in a virtually simultaneous transaction, PYLD will make a pro rata distribution to the Company of its CLO portfolio less the PYLD Transfer Assets.

In conjunction with the rights offerings, the Company may enter into an agreement with an anchor or standby investor or investors that will purchase non-registered restricted shares of the applicable NewCo in a private placement. Any anchor or standby investor will be an institutional investor that is either a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933 (the "Securities Act") or an institutional "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, and in each case will not be affiliated with the Company or the dealer managers. Anchor investors, if any, will pay the same subscription price as the public; however, anchor investors will receive separate consideration for the applicable rights offering in exchange for their separate commitment to purchase shares in a private placement. Standby investors will separately commit to purchase in a private placement up to a specific number or dollar amount of shares of a NewCo subject to reduction to the extent subscriptions by others reduce the amount available to it. Standby investors, if any, will pay the same price for such shares as the subscription price to the public; however, standby investors will receive separate consideration to commit to purchase such shares if necessary to meet the required PSEC holding conditions for the applicable rights offering. Standby investors will commit to purchase up to a certain number of shares of the applicable NewCo, but (unlike anchor investors) are not guaranteed any allocation of shares. In the event that there are anchor investors, the applicable rights offering may be

decreased by the amount of shares of such NewCo the anchor investors commit to purchase; whereas, in the event there are standby investors, the applicable rights offering will not be decreased by the amount of shares such NewCo standby investors commit to purchase. Further, anchor and standby investors will sign a lock-up agreement restricting them from selling such NewCo's shares for six months following the completion of the relevant rights offering.

If an anchor investor or standby investor is used, the separate consideration may be in the form of a flat fee or a percentage of the aggregate dollar value of the commitment. The specific terms of any such consideration will be negotiated between the Company and any such anchor or standby investor, as the case may be. Until such negotiations occur, the Company cannot determine the specific terms. However, the Company currently expects that, inasmuch as the rights offerings are initial public offerings rather than follow-on offerings of shares with an established market, the consideration may be up to 4.5% of the aggregate dollar value of such investor's commitment. The aggregate total value of separate consideration to any specific standby or anchor investor may vary.

The Company will utilize an anchor investor or standby investor for a particular rights offering only if the Non-Interested Directors make a determination that the use of an anchor investor or standby investor is reasonably likely to be necessary to make the offering attractive to the Company's shareholders as a result of having a known level of institutional investor support for the transaction, thereby increasing the likelihood of a successful rights offering, and is in the best interest of the Company's stockholders. Further, the Company will also use an anchor investor or standby investor only if the Non-Interested Directors determine that the amount of shares and terms will not have a dilutive impact for the interests of the Company's existing stockholders greater than the expected financial and operational benefits to the relevant NewCo and the Company.

Immediately following the above Proposed Transactions, existing stockholders of the Company that exercised their subscription rights and their oversubscription privilege in full, if any, will, in effect, own the exact same portfolio securities as they did before, except that such ownership would be represented by shares in four separate entities, rather than solely by shares in the Company.[8] Thus, the underlying investments of such stockholders will not change by virtue of the Proposed Transactions. Stockholders that choose not to exercise their subscription rights may sell their subscription rights on the NASDAQ Global Select Market. As a condition of each rights offering, upon completion of such rights offering, the Company will own less than 25% of the voting securities of PYLD and PFAN, and will own no voting securities of PRIT, in the event that the rights offering is not fully subscribed. Further, the Company intends to waive all its voting rights until such time as it owns less than 3% of the voting securities of PYLD.

The Company intends to enter into a separate dealer manager agreement for each rights offering. The dealer managers will assist the Company in achieving successful offerings, identifying potential anchor or standby investors, and assisting stockholders who do not want to exercise their subscription rights to maximize the proceeds from the sale of their rights. For their services, the dealer managers will receive market rate compensation comparable to initial public offerings in each of PYLD's, PFAN's and PRIT's respective industries. The Company believes that the Proposed Transactions are more akin to an initial public offering than a typical rights offering because, unlike a typical rights offering where shareholders purchase shares with an established market of the company issuing the rights, in the Proposed Transactions the Company's stockholders will purchase shares of new companies in different industries. The dealer manager fees for each rights offering will be separately negotiated. The Company currently expects to pay a dealer manager fee of up to 6% (less any consideration paid to any anchor or standby investor) in the PYLD rights offering and up to 7% in the PFAN rights offering. As of the date hereof, the Company has not negotiated the dealer manager fee in the PRIT rights offering.

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[8] In the event that there are anchor investors, stockholders of the Company will own less than the same portfolio securities in four separate entities. There may also be an insignificant difference due to fractional shares and distribution ratios

Below is a list of other fees and expenses of each rights offering, other than any consideration paid to anchor or standby investors and dealer manager fees:

Fees and Expenses[1]

	PYLD	PFAN	PRIT
Accounting and Legal Fees	$1,400,000	$1,800,000	$1,800,000
Registration Fees	$25,175	$40,280	$26,685.5
Printing Costs	$250,000	$250,000	$250,000
Initial Fees for Exchange Listing	$151,000	$225,000	$225,000
Miscellaneous Expense	$150,000	$150,000	$150,000
Total	$1,976,175	$2,465,280	$2,451,685.5

(1) The amounts set forth above, except for the Registration fees, are in each case estimated. All of the amounts set forth above are based on upon estimated offering sizes of $250,000,000, in the case of PYLD, $400,000,000, in the case of PFAN, and $265,000,000, in the case of PRIT.

Prior to commencement of each rights offering, the Non-Interested Directors of each NewCo will have approved an investment advisory agreement between each NewCo and PCM. Pursuant to such investment advisory agreements, PCM will earn a fee for its services consisting of two components: a base management fee and an incentive fee as discussed above. PCM's compensation formulas in each agreement are more favorable to each NewCo than are the compensation formulas in PCM's investment advisory agreement with the Company with respect to the same assets inasmuch as (i) the base management fee formula is lower for each NewCo; (ii) the incentive fee formula does not provide for any payment for capital gains for each NewCo; and (iii) the hurdle rate is effectively higher for each NewCo, making it more difficult for PCM to receive incentive fees.

The Board has determined that pursuing a disposition of each NewCo through a rights offering is in the best interests of the Company and its stockholders, and that separating each NewCo from the Company would provide, among other things, financial and operational benefits to each NewCo and the Company, including but not limited to the following expected benefits:

- Each Newco offers investors the chance to hold a focused investment in a specific asset class that provides attractive current income. Analysts often cite that "pure play" investments are simpler and easier for investors to understand and evaluate.
- Since the subscription rights are being distributed, at no charge, to the Company's existing stockholders, stockholders will have the choice (i) to hold shares in each NewCo or in any NewCo separately and the opportunity to retain their existing Company ownership percentage in the four companies, less any amount of NewCo shares purchased by anchor investors or (ii) sell their subscription rights. The Board believes that this opportunity inherently makes the rights offering structure preferable from a stockholder point of view compared to sales or initial public offerings of these assets.
- It is the hope of the Board that by allowing each NewCo to focus its investments in an asset class that provides attractive current income, such as CLO interests for PYLD (which is an asset class in which the Company cannot invest greater than 30% of its assets), marketplace loans for PFAN and real estate fee simple ownership interests for PRIT, stockholders of the Company who participate in the Proposed Transactions (or sell their rights) will realize an immediate benefit for their portion of that incremental value. In addition, inasmuch as the Company is retaining interest in the same assets, this result could lead to increase awareness of the strength of the Company's portfolio and increased market valuation of the Company's shares, which would benefit all of the Company's stockholders.

Specifically, during the Company's fourth fiscal quarter for the year ended June 30, 2015, its market price discount to NAV per share ranged from of 16.1% to 30.0%. The Board believes that each

NewCo should trade at a percentage of NAV or book value per share, as applicable, that is more comparable to each NewCo's competitors and considerably better than the Company's recent market performance. The table below illustrates the trading performance of comparable companies, which is significantly better than the Company's recent trading performance in relation to its NAV per share.

	Premiums and (Discounts) of Market Share Price to NAV or Book Value per Share [(1)] (Quarter Ending 6/30/2015)		
	Low	High	
PYLD			
Eagle Point Credit Company Inc.	6%	12%	
PRIT			
Independence Realty Trust Inc.	6%	29	%
NexPoint Residential Trust, Inc.	7%	22	%
PFAN			
LendingClub Corporation	513%	719%	
Springleaf Holdings, Inc.	201%	237%	

(1) PYLD will compare market share price to NAV per share. PRIT and PFAN will compare market share price per share to book value per share.

- The separation of the Company into four separate public companies will increase transparency for stockholders, future creditors and rating agencies regarding the Company's growth profile, operating performance, assets and profitability.
- The investment advisory agreement of each NewCo is proposed to have adviser compensation formulas that are more favorable to such NewCo with respect to the applicable Transferred Assets than the compensation formulas of PCM's investment advisory agreement with the Company relating to the same assets.
- The rights offerings are expected to provide the Company with significant gross proceeds, strengthening its balance sheet and liquidity. Although the Company has yet to decide how to use the proceeds of the Proposed Transactions, the Company may decide to repurchase or redeem certain of its outstanding debt to strengthen its balance sheet or increase repurchases of its shares, should the shares continue to sell at a substantial discount to NAV, which would be accretive to NAV and earnings per share of the remaining shares.
- The disposition by the Company of PYLD, and thus of the CLO assets held by PYLD, through the Proposed Transactions will increase the Company's ability to invest in new assets at a time when it does not wish to sell additional common equity at a substantial discount to NAV per share. The increased investment flexibility will enhance the Company's ability to focus on new investments that may be beneficial to its stockholders, as lending spreads have begun to widen given expectations that interest rates will rise in the near term.
- Each of PRIT and PFAN, as a stand-alone company, and to a lesser extent, PYLD, is expected to have greater opportunities for growth through what is expected to be a lower cost of equity capital than is currently available to the Company.
- The Board believes that PCM has performed admirably in assembling and managing the Transfer Assets to date and it believes that PCM will be able to provide comprehensive high-quality services to each NewCo at more attractive compensation formulas than those in force at the Company.

The Board also determined that the Proposed Transactions are likely to be more beneficial than the Company's other options with respect to the NewCo's assets. These other options included (i) transferring each NewCo to its stockholders through a traditional spin-off, (ii) offering the shares to the public in a traditional initial public offering, (iii) selling the assets to a third party or (iv) retaining the assets. The Board determined that a traditional spin-off would be impracticable because the Company would not be able to transfer any of its outstanding debt and would become more leveraged than prudent in light of current leverage limitations under the Act and the Company's debt facility. A spin-off would also have the effect of decreasing the Company's asset coverage ratio, which in turn could result in a downgrade of the Company's rating by rating agencies currently rating the Company, resulting in a higher cost of, or lack of access to, incremental debt. Further, a spin-off would not produce any of the liquidity or reinvestment benefits described above. The Board concluded that initial public offerings would have greater execution risk, may be more expensive and would not achieve the same stockholder participation opportunity. The Board also determined that if the Company sells the assets, the Company's stockholders will have no option with respect to whether to retain their current exposure to each NewCo's business by participating in the Proposed Transactions or to reduce their exposure to the affected asset classes by selling their rights. The Board believes that simply retaining the assets will not provide any of the potential benefits discussed above.

In order to protect its stockholders, the Company and each NewCo will take the following corporate governance measures to ensure that the Proposed Transactions are undertaken upon favorable terms to the Company's and NewCo's stockholders:

- The Non-Interested Directors of the Board will be required to approve the Proposed Transactions, the value of the respective Transfer Assets and the subscription price for each NewCo's shares; and
- The Non-Interested Directors of the board of each NewCo must approve the terms of PCM's investment advisory agreement with such NewCo.

The Applicants will not rely on the Order requested in this Application to complete the Proposed Transactions until the measures described above are completed. Each NewCo will bear the costs of obtaining regulatory approval and other transaction related costs, the costs of its organization and any compliance with applicable laws.

Following the Proposed Transactions, the Company will continue to operate as a BDC and as a RIC, PYLD will operate as a registered management investment company and as a RIC, PRIT will operate as a REIT ineligible for investment company status under Section 3(a) of the Act (as its assets consist primarily of fee interests in real estate) and PFAN will operate as a partnership for U.S. tax purposes and will conduct its business in a manner to be ineligible for investment company status under the Act. PFAN will conduct its businesses primarily through wholly-owned or majority owned subsidiaries that will rely on Sections 3(c)(5)(A) and/or 3(c)(5)(B) of the Act.

B. Transfer Assets

The PYLD Transfer Assets will consist of interests initially acquired by the Company since August 2011 as new issues and, to a lesser extent, in transactions in the secondary market. The PYLD Transfer Assets will consist of a pro rata share of the Company's CLO portfolio and will consist of 37 CLO equity and debt investments at June 30, 2015. These investments have 14 different CLO collateral managers. As of June 30, 2015, these investments had an aggregate fair value of $1.15 billion.

The PRIT Transfer Assets will consist of all of the Company's equity in the Joint Ventures, which together owned 27 multifamily properties comprised of 8,503 apartments at June 30, 2015. As of June 30, 2015, $179.9 million of total equity was invested by all the applicable PSEC REITs and joint venture managers in the Joint Ventures.

The PFAN Transfer Assets will consist of the Company's portfolio of marketplace loans with, at June 30, 2015, a gross outstanding principal amount of $368.8 million and a weighted average outstanding term of 38 months.

C. Tax Status

For U.S. federal income tax purposes, holders of the Company's common stock on each applicable record date will be treated as receiving distributions equal to the value of the applicable subscription right they receive pursuant to the rights offerings. Each such distribution will be treated as a taxable dividend to the extent of the Company's current and accumulated earnings and profits (calculated at the end of the tax year in which the distributions are made), with any excess over such earnings and profits treated first as a return of capital (reducing the relevant holder's tax basis in its shares of common stock of the Company accordingly) and then generally as capital gain. Holders of the Company's common stock thus may recognize taxable income and incur an associated tax liability without a corresponding receipt of cash.

The Company believes that the price at which each of the subscription rights trades following the relevant distribution likely would be the best indication of the fair market value of the subscription rights at the time of distribution, and thus the amount of the distribution. Such a valuation, however, would not be binding on the Internal Revenue Service (the "IRS") or any other taxing authority. The taxing authorities could ascribe a higher or lower valuation to the distributed subscription rights, which may affect the tax consequences of the distributions.

The distributions of subscription rights to holders of the Company's common stock will generally be subject to the same tax rules as cash distributions made by the Company. For example, because the Company is a RIC, all or a portion of each distribution may, depending on the circumstances, be treated as (i) a qualified dividend or capital gain dividend (generally taxable to non-corporate U.S. holders at preferential rates), (ii) as a non-qualified dividend (generally taxable at ordinary rates), or (iii) as a tax-free return of capital distribution. In addition, non-U.S. holders will generally be subject to U.S. withholding tax at the rate of 30% (or possibly a lower rate provided by an applicable income tax treaty) on the amount of the distributions treated as a taxable dividend (other than certain capital gains dividends) and may be subject to other special rules applicable to non-U.S. holders.

Holders of the Company's common stock will have a basis in the subscription rights received generally equal to the fair market value of those rights on the dates they are distributed, and the holding period for such rights will begin the day after the date of the applicable distributions. Holders of subscription rights will generally recognize a capital gain or loss upon the sale, exchange, or lapse of the subscription rights. No additional gain or loss will be recognized upon the exercise of a subscription right.

Although the actual tax impact of the Proposed Transactions for any particular Company stockholder will depend on a number of factors that cannot be known to the Company until after the end of the taxable year in which the distribution occurs or at all (including the stockholder's own particular tax situation), the following example illustrates the result that would occur under simplified assumptions-namely, that (i) the fair market value of a subscription right at the time of distribution is $0.05, (ii) the Company has sufficient earnings and profits to cover all of its distributions in the year of the subscription rights distribution, (iii) the Company cannot or does not report the subscription rights distribution as a capital gain dividend or qualified dividend income, and (iv) the relevant stockholder is subject to a combined federal, state, and local tax rate of 45% on ordinary income. In this case, if the holder receives a distribution of 100 rights, it would recognize $5.00 ($0.05 x 100 shares) of taxable non-qualified dividend income and, absent losses or other tax attributes, would have to pay income tax of $2.25 ($5.00 x 45% tax rate). Although the Company's expectations in this regard cannot be definitive, the Company does expect the benefits of the Proposed Transactions, on the whole, to outweigh the tax costs and other costs of the Proposed Transactions.

III. RELIEF REQUESTED

Applicants hereby request an Order pursuant to Rule 17d-1, as made applicable to BDCs by Section 57(i), granting an exemption from Sections 17(d) and 57(a)(4), to the extent necessary to permit the Applicants to complete the Proposed Transactions.

A. Section 57(b) and Rule 57b-1

Section 57(b), as modified by Rule 57b-1, specifies the persons to whom the prohibition of Section 57(a)(4) apply. These persons include the following: (1) any director, officer, employee, or member of an advisory board of a BDC or any person (other than the BDC itself) who is, within the meaning of Section 2(a)(3)(C), an affiliated person of any such person; and (2) any investment adviser or promoter of, general partner in, principal underwriter for, or person directly or indirectly either controlling, controlled by, or under common control with a BDC (except the BDC itself and any person who, if it were not directly or indirectly controlled by the BDC, would not be directly or indirectly under the control of a person who controls the BDC), or any person who is, within the meaning of Section 2(a)(3)(C) or (D), an affiliated person of such person.

Rule 57b-1 exempts certain persons otherwise related to a BDC in a manner described in Section 57(b)(2) from being subject to the prohibitions of Section 57(a). Specifically, the rule states that the provisions of Section 57(a) will not apply to any person: (a) solely because that person is directly or indirectly controlled by a BDC; or (b) solely because that person is directly or indirectly controlling, controlled by, or under common control with, a person described in (a) of the rule or is an officer, director, partner, copartner, or employee of a person described in (a) of the rule.

Section 2(a)(9) defines "control" as the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. The statute also sets forth the interpretation that any person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent of the voting securities of a company shall be presumed to control such company; any person who does not so own more than 25 percent of the voting securities of a company shall be presumed not to control such company; and a natural person shall be presumed not to be a controlled person.

Sections 2(a)(3)(C) and (D) define an "affiliated person" of another person as: (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (D) any officer, director, partner, copartner, or employee of such other person.

B. Section 17(d), Section 57(a)(4) and Rule 17d-1

Section 17(d) of the 1940 Act generally prohibits an affiliated person (as defined in Section 2(a)(3) of the 1940 Act), or an affiliated person of such affiliated person, of a registered closed-end investment company acting as principal, from effecting any transaction in which the registered closed-end investment company is a joint or a joint and several participant, in contravention of such rules as the Commission may prescribe for the purpose of limiting or preventing participation by the registered closed-end investment company on a basis different from or less advantageous than that of such other participant. Rule 17d-1 under the 1940 Act generally prohibits participation by a registered investment company and an affiliated person (as defined in Section 2(a)(3) of the 1940 Act) or principal underwriter for that investment company, or an affiliated person of such affiliated person or principal underwriter, in any "joint enterprise or other joint arrangement or profit-sharing plan," as defined in the rule, without prior approval by the Commission by order upon application.

Section 57(a)(4) makes it unlawful for any person who is related to a BDC in a manner described in Section 57(b), acting as principal, knowingly to effect any transaction in which the BDC or a company controlled by such BDC is a