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2. Require addressees to provide a written response to the NRC in accordance with Title 10 of the Code of Federal Regulations, Section 50.54(f).

This **Federal Register** notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML060240020.

**DATES:** The GL was issued on January 20, 2006.

**ADDRESSES:** Not applicable.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Karwoski at 301-415-2752 or by e-mail [kjk1@nrc.gov](mailto:kjk1@nrc.gov) or David Beaulieu at 301-415-3243 or e-mail [dpb@nrc.gov](mailto:dpb@nrc.gov).

**SUPPLEMENTARY INFORMATION:** NRC GL 2006-01 may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/NRC/ADAMS/index.html>. The ADAMS number for the generic letter is ML060200385.

If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209 or 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 27th day of January, 2006.

For The Nuclear Regulatory Commission.

**Christopher I. Grimes,**

*Director, Division of Policy and Rulemaking,  
Office of Nuclear Reactor Regulation.*

[FR Doc. E6-1569 Filed 2-3-06; 8:45 am]

**BILLING CODE 7590-01-P**

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27220; 812-12818]

### American Capital Strategies, Ltd.; Notice of Application

January 31, 2006.

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

**ACTION:** Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the "Act").

*Summary of Application:* Applicant, American Capital Strategies, Ltd., requests an order approving its 2000 Disinterested Director Stock Option Plan (the "Plan") and the grant of certain stock options under the Plan.

*Filing Dates:* The application was filed on April 24, 2002 and amended on January 24, 2006.

*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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 27, 2006, and should be accompanied by proof of service on applicant, 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 Commission, 100 F Street, NE., Washington, DC 20549-1090; Applicant, 2 Bethesda Metro Center, 14th Floor, Bethesda, Maryland 20814.

**FOR FURTHER INFORMATION CONTACT:** Laura J. Riegel, Senior Counsel, at (202) 551-6873, or Nadya B. Roytblat, Assistant Director, at (202) 551-6821 (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 Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-0102 (tel. 202-551-5850).

### Applicant's Representations

1. Applicant, a Delaware corporation, is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.<sup>1</sup> Applicant's primary business objectives are to increase its net operating income and net asset value by investing its assets in senior debt, subordinated debt with detachable warrants and equity of small to medium sized businesses with attractive current

yields and potential for equity appreciation. Applicant's investment decisions are either made by its board of directors (the "Board"), based on recommendations of an investment committee comprised of senior officers of applicant, or, for investments that meet certain objective criteria established by the Board, by the investment committee, under authority delegated by the Board. 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 Plan, which provides for the grant of options to purchase shares of applicant's common stock to directors who are neither officers nor employees of applicant ("Non-employee Directors").<sup>2</sup> Applicant has a nine member Board. Six of the seven current members of the Board are not "interested persons" (as defined in section 2(a)(19) of the Act) of the applicant ("Disinterested Directors").<sup>3</sup> The Board initially approved the Plan at a meeting held on March 30, 2000 and amended the Plan on October 30, 2003 and July 28, 2005. Applicant's stockholders approved the Plan at the annual meeting of stockholders held on May 3, 2000. The Plan would become effective on the date that the Commission issues an order on the application (the "Order Date").

3. The Plan provides that on the Order Date, options for 25,000 shares of applicant's common stock will be granted to each of the six Non-employee Directors serving on the Board as of October 20, 2003 (the "Initial Grants"). Two-thirds of the options granted under the Initial Grants will vest on the Order Date and the remaining one-third of such options will vest on the third anniversary of October 20, 2003. In the event that any of the six Non-employee Directors are not directors on the Order Date or leave the Board before their options vest fully, persons who join the Board as Non-employee Directors will be eligible to receive options for 15,000 shares of applicant's common stock (the "Other Grants"). The options granted under the Other Grants will vest in three equal installments of 5,000 shares on each of the three anniversaries of the date of the grant. The Plan provides that

<sup>2</sup> The Non-employee Directors receive a \$50,000 per year retainer payment and \$1,500 for each Board or committee meeting attended, and reimbursement of related expenses. Prior to July 1, 2005, the retainer payment was set at a rate of \$25,000 per year.

<sup>3</sup> The Board presently has two vacancies. All of the Non-employee Directors are Disinterested Directors.

<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 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.

a maximum of 150,000 shares of applicant's common stock may be issued to Non-employee Directors as a group. Under the Plan, no single Non-employee Director may receive options to purchase more than 25,000 shares of applicant's common stock.

4. Under the terms of the Plan, the exercise price of an option will not be less than 100% of the current market value of, or if no such market value exists, the current net asset value per share of, applicant's common stock on the date of the issuance of the option.<sup>4</sup> Options granted under the Plan will expire ten years from the date of grant and may not be assigned or transferred other than by will or the laws of descent and distribution. In the event of the death or disability of a Non-employee Director during such director's service, all such director's unexercised options will immediately become exercisable and may be exercised for a period of three years following the date of death (by such director's personal representative) or one year following the date of disability, but in no event after the respective expiration dates of such options. In the event of the termination of a Non-employee Director for cause, any unexercised options will terminate immediately. If a Non-employee Director's service is terminated for any reason other than by death, disability, or for cause, the options may be exercised within one year immediately following the date of termination, but in no event later than the expiration date of such options.

5. Applicant's officers and employees, including employee directors are eligible or have been eligible to receive options under applicant's six other stock option plans under which Non-employee Directors are not entitled to participate (the "Employee Plans"). Non-employee Directors have participated in applicant's prior Disinterested Director stock option plan under which options for all available shares have been granted (such plan together with the Employee Plans, the "Other Plans"). The maximum number of applicant's voting securities that would result from the exercise of all outstanding options issued or options issuable to the directors, officers, and employees under the Other Plans and the Plan would be 12,240,580 shares, or approximately 10.3% of the 118,913,029 shares of applicant's common stock outstanding as of December 30, 2005.

<sup>4</sup> Under the Plan, "current market value" (defined as "fair market value") is generally the closing sales price of applicant's 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.

Applicant has no outstanding warrants, options, or rights to purchase its voting securities, other than the options granted or to be granted to its directors, officers, and employees under the Other Plans and the Plan.

#### 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 Act. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that the terms of the Plan meet all the requirements of section 61(a)(3)(B) of the Act. Applicant states that the Board is actively involved in the oversight of applicant's affairs and that it relies extensively on the judgment and experience of its Board. In

addition to their duties as Board members generally, applicant states that the Non-employee Directors provide guidance and advice on operational issues, underwriting policies, credit policies, asset valuation and strategic direction, as well as serving on committees. Applicant believes that the Plan will provide significant at-risk incentives to Non-employee Directors to remain on the Board and devote their best efforts to ensure applicant's success. Applicant states that the options will provide a means for the Non-employee Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with those of applicant and its stockholders. Applicant asserts that by providing incentives such as options, applicant will be better able to maintain continuity in the Board's membership and to attract and retain the highly experienced, successful and dedicated business and professional people who are critical to applicant's success as a BDC.

4. Applicant states that the maximum number of voting securities that would result from the exercise of all outstanding options issued or options issuable to the directors, officers, and employees under the Other Plans and the Plan would be 12,240,580 shares, or approximately 10.3% of applicant's common stock outstanding as of December 30, 2005, which is below the percentage limitations in the Act. Applicant asserts that, given the relatively small amount of common stock issuable upon the exercise of the options under the Plan, the exercise of options would not, absent extraordinary circumstances, have a substantial dilutive effect on the net asset value of applicant's common stock.

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

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6-1542 Filed 2-3-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-27221]

### Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 31, 2006.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January,