

directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its portfolio investments. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the stockholders of the Company by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company submits that providing for the automatic, one-time grant of stock options to purchase 10,000 shares at fair market value to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-29384 Filed 12-1-95; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 21542; 812-9010]

**Allied Capital Lending 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 its directors who are not officers or employees of the Company.

**FILING DATE:** The application was filed on May 20, 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. The Company is a small business lending company ("SBLC") approved by the U.S. Small Business Administration (the "SBA"). The Company participates in the SBA's section 7(a) guaranteed loan program, under which the SBA will guarantee up to 90% of certain qualifying loans to small business concerns. The Company, through a subsidiary, also provides first mortgage commercial loans in conjunction with the SBA 504 loan program and as

companion loans to section 7(a) guaranteed loans.

2. The Company lends to privately-owned small businesses directly. It provides loans to qualifying small businesses to acquire or refinance real estate, machinery or equipment, or to provide working capital. Loans made by the Company are secured by a mortgage or other lien on the assets of the borrower and, frequently, of its principals. The Company's loans are diversified in different industries and geographic regions of the United States. At December 31, 1994, the Company had in its portfolio or was servicing loans to, among others, hotels and motels, restaurants, manufacturers, retail shops, food stores, professional service providers, laundries and cleaners, home furnishings concerns, gasoline stations, business services firms, recreational services providers, automobile exhaust repair shops, personal services providers and automotive repair concerns. The Company makes available significant managerial assistance to companies in its portfolio.

3. As permitted by SBA regulations, the Company systematically sells to investors, without recourse, the guaranteed portions of its loans. Such loan sales generally take place approximately three months after the closing of the loan. The Company continues to service those loans for a servicing fee. At December 31, 1994, the Company was servicing over \$116 million aggregate principal amount of loans, of which approximately 72% had been sold to investors.

4. 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, as determined from time to time, 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.

5. The Company's stock option plan (the "Option Plan") was adopted and approved in 1993. In February 1994, the Company's board of directors adopted 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 and is not an officer or employee of the Company or an employee of its

investment adviser (each, a "non-officer director"). The grant will consist of giving each non-officer director an option to purchase 10,000 shares of the Company's common stock.

6. The Option Plan provides for an automatic, one-time option grant to each non-officer director on the date on which the issuance of options 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 value of a share of the Company's common stock at the date of issuance of the option or \$15.00 per share (the Company's initial public offering price), whichever is greater. 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) 69 days after the optionee ceases to serve as a director of the company for any other 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 which the option is fully exercised. The Option Plan provides that all such options are non-transferable, except for disposition by will or intestacy, and are exercisable during the life of the optionee only by him or her.

7. The Company currently has six non-officer directors. Upon the SEC's issuance of an order approving the option grants, those persons will receive options covering an aggregate of 60,000 shares. The 10,000 shares covered by each grant to a non-officer director would represent 0.23%, and the 60,000 shares covered by the grants to the six current non-officer directors would represent 1.37%, of the Company's 4,377,334 shares outstanding as of June 30, 1995. As of June 30, 1995, there was an aggregate of 433,290 shares subject to then-outstanding options granted to officers of the Company under the Option Plan, and 11,570 shares available for future grants under the Option Plan (not including such 60,000 shares underlying the options proposed to be issued to the current non-officer directors). The shares subject to such

then-outstanding options represent 9.90% of the Company's common stock outstanding on June 30, 1995; if those shares are increased by the 60,000 shares underlying the options proposed to be granted to current non-officer directors, they represent 11.27% of the company's shares outstanding on that date; if those shares are increased by the shares remaining available for future grants under the Option Plan, they represent 11.53% of the Company's shares outstanding on that date. The Company has no other outstanding options, warrants or rights.

8. Non-officer directors are actively involved in managing the Company and in reviewing the operation of its portfolio companies. Non-officer directors also generally serve on at least one committee of the Company's Board. Due to their experience and expertise, the non-officer directors make material, substantive contributions in managing the business of the company and the operation of its portfolio companies.

9. The Company recruits persons to serve as non-officer directors who possess specialized knowledge and expertise in business development, small business financing techniques or the industries in which the company focuses its investments. Their experience and expertise permits the Company's non-officer directors to provide unique analysis and advice to the Company regarding prospective loans and management of portfolio companies.

10. The Company's directors establish, review and revise, when necessary, a strict set of criteria for many of the loans that are made by the Company. The Company's directors also review those proposed lending transactions that do not fit within that set of criteria. Each director is provided, well in advance of each Board meeting, a detailed underwriting or credit report regarding each lending transaction under consideration. The Company's directors analyze the reports and materials provided, discuss questions and issues with the Company's management, its responsible officer, and with each other and make and approve recommendations with respect to each such lending decision.

11. The Company also relies upon its directors to review and consider the best use of the Company's resources. The directors review and evaluate reports of outstanding commitments and funds available for future lending for the purpose of evaluating and making these resource allocations. At least once each calendar quarter, directors of the Company review portfolio loans that are non-performing or performing

inadequately and evaluate the best course of action for the Company to take under the circumstances. On a calendar quarter basis, the directors of the Company also undertake a good faith valuation of the Company's loans in privately-held portfolio companies, which constitute substantially all of the Company's investments, as independent market valuations rarely are available.

12. For these services, the Company pays its non-officer directors (as well as its officer-directors) \$1,000 for each meeting of its Board or any committee thereof<sup>1</sup> attended.

#### Applicant's Legal Analysis

1. Section 61(a)(3)(B)(i)(II) of the Act permits a business development company to issue options to purchase its voting securities to its non-officer, non-employee directors pursuant to an executive compensation plan subject to certain conditions, which include the proposal to issue such options being authorized by the company's stockholders and approved by the SEC on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its stockholders.

2. The Company believes that its proposal to issue options to its non-officer directors satisfies all of such statutory conditions other than SEC approval (including the requirement that if the amount of voting securities that would result from the exercise of outstanding options issued to the Company's directors, officers, and employees would exceed 15% of the Company's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding options at the time of issuance may not exceed 20% of the outstanding voting securities of the Company) and that granting each non-officer director an option under the Option Plan is fair and reasonable. Non-officer directors provide to the Company skills and experience necessary for management and oversight of the Company's loan portfolio and operations, and often have specific experience with commercial lending or with respect to industries in which the Company makes a significant number of loans. The Company believes that its ability to make an automatic option grant under the Option Plan to non-officer directors provides a means of retaining the services of its current non-officer directors and of attracting qualified persons to serve as non-officer

<sup>1</sup> Non-officer directors are paid \$500 for participation in any committee meeting held on the same day as a meeting of the Company's board.

directors in the future. The Company also believes that such options are a necessary adjunct to its directors' fees to provide fair and reasonable compensation for the services and attention devoted by the non-officer directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its loan portfolio. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the Company's stockholders by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company believes that providing for the automatic, one-time grant of stock options to purchase 10,000 shares to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-29386 Filed 12-1-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21545; No. 812-9668]

**National Life Insurance Company, et al.**

November 27, 1995.

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

**ACTION:** Notice of Application for an Exemption pursuant to the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** National Life Insurance Company (the "Company"), National Variable Life Insurance Account (the "Account"), any other separate account established in the future by the Company (the "Future Accounts", collectively, with the Account, the "Accounts") to support flexible premium variable life insurance policies (the "Future Contracts," collectively, with the Existing Contracts, the "Contracts") and Equity Securities, Inc. (the "Underwriter").

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 6(c) of the 1940 Act seeking exemptions from the provisions of Section 27(c)(2) thereof and from Rule 6e-3(T)(c)(4)(v) thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order permitting them to deduct from premiums received under the Contracts issued by the Company and the Accounts a charge in an amount that is reasonable in relation to the Company's increased federal income tax burden related to the receipt of such premium payments and that results from the application of Section 848 of the Internal Revenue Code of 1986, as amended (the "Code").

**FILING DATE:** The application was filed on July 14, 1995.

**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 Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 22, 1995, and must be accompanied by proof of service on 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 may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o D. Russell Morgan, Counsel, National Life Insurance Company, One National Life Drive, Montpelier, Vermont 05604.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division

of Investment Management), at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

#### Applicant's Representations

1. The Company, a mutual life insurance company chartered pursuant to the law of the State of Vermont in 1848, is authorized to transact life insurance and annuity business in Vermont and in 50 other jurisdictions. The Company is depositor and sponsor of the Account.

2. The Company established the Account pursuant to Vermont law to support variable life insurance contracts. The Account is registered with the Commission as a unit investment trust and is a "separate account" as defined by Rule 0-1(e) under the 1940 Act. The Company anticipates that any Future Account would be registered under the 1940 Act as a unit investment trust and would meet the definition of a separate account in Rule 0-1(e) thereunder.

3. The Account currently has nine sub-accounts, each of which invests in a corresponding portfolio of one of two series-type mutual funds registered with the Commission as open-end, diversified management investment companies: the Market Street Fund and Variable Insurance Products Fund.

4. The Underwriter, an indirect, wholly-owned subsidiary of the Company, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

5. The Existing Contracts are flexible premium variable life insurance contracts.

6. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Code by, among other things, enacting Section 848 thereof. Section 848 changed the federal income taxation of life insurance companies by requiring them to capitalize and amortize over a period of ten years part of their general expenses for the current year. Under prior law, these expenses were deductible in full from the current year's gross income.

7. The amount of expenses that must be capitalized and amortized under Section 848 is generally determined with reference to premium payments for certain categories of life insurance and other contracts ("Specified Contracts"). Thus, for each Specified Contract, an amount of expenses must be capitalized and amortized equal to a percentage of