

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28082; 812-13411]

Main Street Capital Corporation, et al.; Notice of Application

December 21, 2007

Agency: Securities and Exchange Commission (“Commission”).

Action: Notice of an application for an order under sections 6(c), 57(c) and 57(i) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a), 23(a), 23(b), 57(a)(1), 57(a)(2), 61(a) and 63 of the Act, and under sections 57(a)(4) and 57(i) of the Act and rule 17d-1 under the Act permitting certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

Summary of the Application: Applicants, Main Street Capital Corporation (the “Company”), Main Street Mezzanine Fund, LP (“MSMF”), Main Street Capital Partners, LLC (the “Investment Adviser”), and Main Street Mezzanine Management, LLC (the “General Partner”), request an order to permit: (1) a business development company and its wholly-owned subsidiaries to engage in certain transactions that otherwise would be permitted if the business development company and its subsidiaries were one company, (2) the business development company to adhere to a modified asset coverage requirement, and (3) the business development company to issue restricted shares of its common stock under the terms of its employee and director compensation plans.

Filing Dates: The application was filed on July 27, 2007, and amended on December 4, 2007. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2008, 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 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 Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090. Applicants, c/o Vincent D. Foster, Chief Executive Officer, Main Street Capital Corporation, 1300 Post Oak Boulevard, Suite 800, Houston, TX 77056.

For Further Information Contact: Jean E. Minarick, Senior Counsel, at (202) 551-6811, 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 may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE, Washington, DC 20549-0102 (tel. 202-551-5850).

Applicants' Representations:

1. The Company, a Maryland corporation organized in March 2007, is an internally managed, non-diversified, closed-end investment company that has elected to

be regulated as a business development company (“BDC”) under the Act.¹ The Company will operate as a specialty investment company focused on providing customized financing solutions to companies with annual revenues between \$10 million and \$100 million. The Company’s investment objective is to maximize total return by generating current income from debt investments and realizing capital appreciation from equity-related investments. The Company’s investments generally will range in size from \$2 million to \$15 million. Shares of the Company’s common stock are traded on The NASDAQ Global Select Market under the symbol “MAIN.” After the IPO which was completed in October 2007, there were 8,826,726 shares of the Company’s common stock outstanding. As of October 2, 2007, the Company had 13 employees.

2. The Company has a six member board of directors (the “Board”) of whom two are “interested persons” of the Company within the meaning of section 2(a)(19) of the Act and four are non-interested persons (“Non-interested Directors”). The Company has four directors who are neither employees nor officers of the Company (the “Non-Employee Directors”).

3. MSMF, a Delaware limited partnership and an indirect wholly-owned subsidiary of the Company, is a small business investment company (“SBIC”) licensed under the Small Business Administration (“SBA”) to operate under the Small Business Investment Act of 1958 (“SBIA”). MSMF relies on section 3(c)(7) of the Act. The General Partner, which is a wholly-owned subsidiary of the Company, owns a 0.7% general partnership interest in MSMF. The Investment Adviser, a Delaware limited

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

liability company and a wholly-owned subsidiary of the Company, is the investment adviser to MSMF.

4. The Company may in the future establish additional wholly-owned subsidiaries (together with MSMF, the “Subsidiaries”), including Subsidiaries licensed by the SBA to operate under the SBIA as SBICs (“SBIC Subsidiaries”).

5. The Company believes that its successful performance depends on its ability to offer compensation packages to its professionals that are competitive with those offered by other investment management businesses. The Company believes its ability to offer compensation plans providing for the periodic issuance of shares of restricted stock (i.e., stock that, at the time of issuance, is subject to certain forfeiture restrictions, and thus is restricted as to its transferability until such forfeiture restrictions have lapsed) (the “Restricted Stock”) is vital to its future growth and success. The Company wishes to adopt equity-based compensation plans for its Non-Employee Directors (the “Director Plan”) and its employees and employees of its Subsidiaries (the “Employee Plan, and together the “Plans) (the “Participants”).

6. The Plans will authorize the issuance of shares of Restricted Stock subject to certain forfeiture restrictions. These restrictions may relate to continued employment or service on the Company’s Board, as the case may be (lapsing either on an annual or other periodic basis or on a “cliff” basis, i.e., at the end of a stated period of time), the performance of the Company, or other restrictions deemed by the Board to be appropriate. The Restricted Stock will be subject to restrictions on transferability and other restrictions as required by the Board. Except to the extent restricted under the terms of a Plan, a Participant granted Restricted Stock will have all the rights of any other

shareholder, including the right to vote the Restricted Stock and the right to receive dividends. During the restriction period, the Restricted Stock generally may not be sold, transferred, pledged, hypothecated, margined, or otherwise encumbered by the Participant. Except as the Board otherwise determines, upon termination of a Participant's employment or service on the Board during the applicable restriction period, Restricted Stock for which forfeiture restrictions have not lapsed at the time of such termination shall be forfeited.

7. The maximum number of shares that may be issued under the Plans will be 10% of the outstanding shares of the Company's common stock on the effective date of the Plans plus 10% of the number of shares of the Company's common stock issued or delivered by the Company (other than pursuant to compensation plans) during the term of the Plans.² The Employee Plan limits the total number of shares that may be awarded to any single Participant in a single year to 500,000 shares. In addition, no Participant may be granted more than 25% of the shares reserved for issuance under the Plans. The Employee Plan will be administered by the Board, which will award shares of Restricted Stock to the Participants from time to time as part of the Participants' compensation based on a Participant's actual or expected performance and value to the Company.

8. Under the Director Plan, the Company's Non-Employee Directors will each receive a grant of \$30,000 worth of shares of Restricted Stock at the beginning of each one-year term of service on the Board, for which forfeiture restrictions will lapse at the end of that year. The Director Plan will be administered by the Board, and the grants

² For purposes of calculating compliance with this limit, the Company will count as Restricted Stock all shares of the Company's common stock that are issued pursuant to the Plans less any shares that are forfeited back to the Company and cancelled as a result of forfeiture restrictions not lapsing.

of Restricted Stock under the Director Plan will be automatic and will not be changed without Commission approval.

9. The Plans have been approved by the Board. The Plans will be submitted for approval to the Company's shareholders, and will become effective upon such approval, subject to the issuance of the requested order.

Applicants' Legal Analysis:

A. Relief for the Company and its Subsidiaries to Engage in Certain Transactions and for the Company to Adhere to a Modified Asset Coverage Requirement.

1. Applicants request an order pursuant to sections 6(c), 57(c) and 57(i) of the Act and rule 17d-1 under the Act granting exemptions from sections 18(a), 57(a)(1), 57(a)(2) and 61(a) of the Act and permitting certain transactions otherwise prohibited by section 57(a)(4) of the Act to permit the Company and the Subsidiaries to engage in certain transactions that otherwise would be permitted if the Company and the Subsidiaries were one company and to permit the Company to adhere to a modified asset coverage requirement.

2. Section 18(a) of the Act prohibits a registered closed-end investment company from issuing any class of senior security or selling any such security of which it is the issuer unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to BDCs, with certain modifications. Section 18(k) exempts an investment company operating as an SBIC from the asset coverage requirements for senior securities representing indebtedness that are contained in section 18(a)(1)(A) and (B).

3. Applicants state that a question exists as to whether the Company must comply with the asset coverage requirements of section 18(a) (as modified by section

61(a)) solely on an individual basis or whether the Company must also comply with the asset coverage requirements on a consolidated basis because the Company may be deemed to be an indirect issuer of any class of senior securities issued by MSMF or another SBIC Subsidiary. Applicants state that they wish to treat MSMF and other SBIC Subsidiaries as if each were a BDC subject to sections 18 and 61 of the Act. Applicants state that companies operating under the SBIA, such as MSMF, will be subject to the SBA's substantial regulation of permissible leverage in its capital structure.

4. Section 6(c) of the Act, in relevant part, permits the Commission to exempt any transaction or class of transactions from any provision of the Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief satisfies the section 6(c) standard. Applicants contend that, to the extent that the Company is entitled to rely on section 18(k) for an exemption from the asset coverage requirements of section 18(a) and 61(a), there is no policy reason to deny the benefit of that exemption when the Company consolidates its assets with those of MSMF and other SBIC Subsidiaries for the purpose of compliance with those requirements.

5. Sections 57(a)(1) and (2) of the Act generally prohibit, with certain exceptions, sales or purchases or other property between BDCs and certain of their affiliates as described in section 57(b) of the Act. Section 57(b) includes a person, directly or indirectly, either controlling, controlled by or under common control of the BDC. Applicants state that the Company owns or will directly or indirectly own more than 99.9% of the voting securities of each Subsidiary and each Subsidiary is or will be

under the common control of the Company. Applicants further state that any purchase or sale between (a) the Company and one or more subsidiaries, (b) Subsidiaries and downstream controlled affiliates of the Company and another subsidiary and (c) the Company and a controlled portfolio affiliate of a Subsidiary may be prohibited.

Applicants submit that the requested relief is to permit the Company and its Subsidiaries, all of whom are owned, directly or indirectly, by the shareholders of the Company, to do that which they would otherwise be permitted to do if they were one company.

6. Section 57(c) provides that the Commission will exempt a proposed transaction from the terms of the proposed transactions, including the consideration to be paid or received, if they are reasonable and fair and do not involve overreaching of any person concerned, and the proposed transaction is consistent with the policy of the BDC concerned and the general purposes of the Act. Applicants submit that the requested relief meets this standard.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit affiliated persons of a registered investment company, or an affiliated person of such person, acting as principal, from participating in any joint transaction or arrangement in which the registered company or a company it controls is a participant, unless the Commission has issued an order authorizing the arrangement. Section 57(a)(4) of the Act imposes substantially the same prohibitions on joint transactions involving BDCs and certain affiliates of their affiliates as described in section 57(b). Section 57(i) of the Act provides that rules and regulations under sections 17(a) and 17(d) and rule 17d-1 will apply to transactions subject to section 57(a)(4) in the absence of rules under the section. The Commission has not adopted rules under section 57(a)(4) with respect to joint

transactions and, accordingly, the standard set forth in rule 17d-1 governs applicants' request for relief.

8. Applicants state that a joint transaction in which a Subsidiary and the Company or another Subsidiary are participants may be prohibited under section 57(a)(4) because the Company would not be a controlled affiliate of the Subsidiaries. Applicants request relief under sections 57(i) and rule 17d-1 to permit joint transactions in which a Subsidiary and the Company or another Subsidiary participate to the extent that such transactions would not be prohibited if the Subsidiaries participating in the transactions were deemed to be part of the Company and not separate companies.

9. In determining whether to grant an order under section 57(i) and rule 17d-1, the Commission considers whether the participation of the BDC in the joint transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants in the transaction. Applicants state that the standard is satisfied because the requested relief would be simply to permit the Company and its Subsidiaries to conduct their business as if they were one company.

B. Relief for the Company to Issue Restricted Stock

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Stock as a part of the Plans.

2. Section 23(b) generally prohibits a closed-end investment company from selling its common stock at a price below its current net asset value (“NAV”). Section 63(2) makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Stock that would be granted under the Plans would not meet the terms of section 63(2), sections 23(b) and 63 prohibit the issuance of the Restricted Stock.

3. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. The Company requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a) and (b) and section 63 of the Act. The Company states that the concerns underlying those sections include:

(i) preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (ii) complication of the investment company’s structure that makes it difficult to determine the value of the company’s shares; and (iii) dilution of shareholders’ equity in the investment company.

The Company states that the Plans do not raise the concern about preferential treatment of the Company’s insiders because the Plans are bona fide compensation plans of the type that is common among corporations generally. In addition, section 61(a)(3)(B) of the Act permits a BDC to issue to its officers, directors and employees, pursuant to an executive compensation plan, warrants, options and rights to purchase the BDC’s voting securities,

subject to certain requirements. The Company states that, for reasons that are unclear, section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. The Company states, however, that the issuance of Restricted Stock is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. The Company also asserts that the Plans would not become a means for insiders to obtain control of the Company because the number of shares of the Company issuable under the Plans would be limited as set forth in the application. The Company's current intention is to issue only shares of Restricted Stock as incentive compensation; however, if the Company issues stock options in the future, it will do so pursuant to section 61. Moreover, no individual Participant could be issued more than 25% of the shares reserved for issuance under the Plans.

5. The Company further states that the Plans will not unduly complicate the Company's structure because equity-based employee compensation arrangements are widely used among corporations and commonly known to investors. The Company notes that the Plans will be submitted to the Company's shareholders for their approval. The Company represents that a concise, "plain English" description of the Plans, including their potential dilutive effect, will be provided in the proxy materials that will be submitted to the Company's shareholders. The Company also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Securities Exchange Act of 1934 (the "Exchange Act"). The Company further notes that the Plans will be disclosed to investors in accordance with the requirements of the Form N-2 registration statement for closed-end investment companies, and pursuant to the standards

and guidelines adopted by the Financial Accounting Standards Board for operating companies. In addition, the Company will comply with the disclosure requirements for executive compensation plans applicable to operating companies under the Exchange Act.³ The Company thus concludes that the Plans will be adequately disclosed to investors and appropriately reflected in the market value of the Company's shares.

6. The Company acknowledges that, while awards granted under the Plans would have a dilutive effect on the shareholders' equity in the Company, that effect would be outweighed by the anticipated benefits of the Plans to the Company and its shareholders. The Company asserts that it needs the flexibility to provide the requested equity-based employee compensation in order to be able to compete effectively with other financial services firms for talented professionals. These professionals, the Company suggests, in turn are likely to increase the Company's performance and shareholder value. The Company also asserts that equity-based compensation would more closely align the interests of the Company's employees with those of the Company's shareholders. The Company believes that the granting of shares of Restricted Stock to Non-Employee Directors under the Director Plan is fair and reasonable because of the skills and experience that such directors provide to the Company. Such skills and experience are necessary for the management and oversight of the Company's investments and operations. The Company believes that granting the shares of Restricted Stock will provide significant incentives for Non-Employee Directors to remain on the

³ In addition, Applicant will comply with the amendments to the disclosure requirements for executive and director compensation, related party transactions, director independence and other corporate governance matters, and security ownership of officers and directors to the extent adopted and applicable to BDCs. See Executive Compensation and Related Party Disclosure, Release No. 34-53185 (Jan. 27, 2006).

Board and to devote their best efforts to the success of the Company's business in the future. The issuance of shares of Restricted Stock will also provide a means for the Company's Non-Employee Directors to increase their ownership interest in the Company, thereby helping to ensure a close identification of their interests with those of the Company and its shareholders.

7. In addition, the Company states that the Company's shareholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Plans by the Company's Board. The full Board and the Committee will review periodically the potential impact that the issuance of Restricted Stock could have on the Company's earnings and NAV per share, such review to take place prior to any decisions to issue Restricted Stock under the Plans, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Plans would not have an effect contrary to the interests of the Company's shareholders. This authority will include the authority to prevent or limit the grant of additional Restricted Stock under the Plans.

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

8. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) ("57(b) persons"), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule 17d-1, made applicable to BDCs by section 57(i), proscribes participation in a "joint enterprise or other joint arrangement or profit-sharing plan," which includes a stock option or

purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of shares of Restricted Stock could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d-1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (i) whether the participation of the BDC in a joint enterprise is consistent with the Act's policies and purposes and (ii) the extent to which that participation is on a basis different from or less advantageous than that of other participants.

9. The Company requests an order pursuant to section 57(a)(4) and rule 17d-1 to permit the Plans. The Company states that the Plans, although benefiting the Participants and the Company in different ways, are in the interests of the Company's shareholders because the Plans will help the Company attract and retain talented professionals, help align the interests of the Company's employees with those of its shareholders, and in turn help produce a better return to the Company's shareholders. Thus, the Company asserts that the Plans are consistent with the policies and purposes of the Act and that the Company's participation in the Plans will be on a basis no less advantageous than that of other participants.

Applicants' Conditions:

Applicants agree that the order granting the requested relief will be subject to the following conditions:

A. Relief for the Company and its Subsidiaries to Engage in Certain Transactions and for the Company to Adhere to a Modified Asset Coverage Requirement.

1. The Company will at all times be the sole limited partner of any Subsidiary and the sole owner of the Subsidiary's general partner, or otherwise own and

hold beneficially, all of the outstanding voting securities or other equity interests in the Subsidiary.

2. No person shall serve or act as investment adviser to MSMF or another Subsidiary unless the Company's Board and shareholders of the Company shall have taken the action with respect thereto also required to be taken by the functional equivalent of the board of directors of MSMF or another Subsidiary and shareholders of MSMF or another Subsidiary as if MSMF or another Subsidiary were a BDC.

3. The managers of a Subsidiary will be the Company, a Subsidiary of the Company, or a person elected or appointed by the Company.

4. The Company will not issue or sell any senior security and the Company will not cause or permit MSMF or any other SBIC Subsidiary to issue or sell any senior security of which the Company, MSMF or any other SBIC Subsidiary is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61) of the Act; provided that immediately after issuance or sale by any of the Company, MSMF or any other SBIC Subsidiary of any such senior security, the Company individually and on a consolidated basis, shall have the asset coverage required by section 18(a) of the Act (as modified by section 61(a)), except that, in determining whether the Company on a consolidated basis has the asset coverage required by section 18(a) of the Act (as modified by section 61(a)), any senior securities representing indebtedness of MSMF or another SBIC Subsidiary shall not be considered senior securities and, for purposes of the definition of "asset coverage" in section 18(h), will be treated as indebtedness not represented by senior securities.

B. Relief for the Company to Issue Restricted Stock

1. The Employee Plan will be authorized in accordance with section 61(a)(3)(A)(iv) of the Act, and each Plan will be approved by the Company's shareholders.
2. Each issuance of Restricted Stock to employees, officers and Non-Employee Directors will be approved by the Required Majority, as defined in section 57(o) of the Act, of the Company's directors on the basis that such issuance is in the best interests of the Company and its shareholders.
3. The amount of voting securities that would result from the exercise of all of the Company's outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plans, at the time of issuance shall not exceed 25% of the outstanding voting securities of the Company, except that if the amount of voting securities that would result from the exercise of all of the Company's outstanding warrants, options, and rights issued to the Company's directors, officers, and employees, together with any Restricted Stock issued pursuant to the Plans, would exceed 15% of the outstanding voting securities of the Company, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plans, at the time of issuance shall not exceed 20% of the outstanding voting securities of the Company.
4. The maximum amount of Restricted Stock that may be issued under the Plans will be 10% of the outstanding shares of common stock of the Company on the effective date of the Plans plus 10% of the number of shares of the Company's common

stock issued or delivered by the Company (other than pursuant to compensation plans) during the term of the Plans.

5. Both the full Board and the Committee will review periodically the potential impact that the issuance of Restricted Stock under the Plans could have on the Company's earnings and NAV per share, such review to take place prior to any decisions to grant Restricted Stock under the Plans, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Plans would not have an effect contrary to the interests of the Company's shareholders. This authority will include the authority to prevent or limit the granting of additional Restricted Stock under the Plans. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

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

Florence E. Harmon
Deputy Secretary