

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27668; 812-13201]

Hercules Technology Growth Capital, Inc.; Notice of Application

January 19, 2007

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, Hercules Technology Growth Capital, Inc. ("HTGC"), requests an order approving a proposal to issue options to purchase HTGC's common stock ("Common Stock") to directors who are not officers or employees of HTGC ("Eligible Directors") pursuant to HTGC's 2006 Non-employee Director Plan (the "Plan").

Filing Dates: The application was filed on June 21, 2005 and amended on December 12, 2007.

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 13, 2007, 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 Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-9303. Applicant, c/o Manuel A. Henriquez, Chairman of the Board, President and Chief Executive Officer, Hercules Technology Growth Capital, Inc., 400 Hamilton Avenue, Suite 310, Palo Alto, CA 94301.

For Further Information Contact: Emerson S. Davis, Sr., Senior Counsel, at (202) 551-6868, or Nadya 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 Commission's Public Reference Branch, 100 F Street, NE, Washington, D.C. 20549-0102 (tel. 202-551-5850).

Applicant's Representations:

1. HTGC, a Maryland corporation, is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.<sup>1</sup> HTGC is a specialty finance company that provides debt and equity growth capital to technology-related and life-science companies at all stages of development. Applicant's business and affairs are managed under the direction of its board of directors ("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

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<sup>1</sup> Section 2(a)(48) generally 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.

approving the Plan for Eligible Directors.<sup>2</sup> Applicant has a four member Board, three of whom are Eligible Directors. The Plan was approved on May 30, 2006 by the Board and HTGC's shareholders. The Plan will not become effective until the date the Commission issues an order on the application ("Order Date").

3. As of October 20, 2006, HTGC had outstanding 16,188,402 shares of Common Stock. Applicant has in place an equity compensation plan for executive officers, directors and other key employees ("2004 Plan"). Under the 2004 Plan, options to purchase 1,889,346 shares of the Common Stock are outstanding. Eligible Directors are not eligible to participate in the 2004 Plan. Applicant also has outstanding warrants to purchase 673,223 shares of Common Stock, of which 56,551 were issued under the 2004 Plan to HTGC's officers, directors and employees. Applicant has no other warrants, options or rights to purchase its voting securities outstanding.

4. Under the Plan, options may be granted up to a maximum of 1,000,000 shares of Common Stock. Each Eligible Director will receive an initial grant on the Order Date of options to purchase 20,000 shares of Common Shares and an annual grant on each anniversary of the Eligible Director's election to the Board of an option to purchase 20,000 of Common Stock, which will vest over two years, in equal installments, on each anniversary date of the grant. The Plan provides that the exercise price of the options will not be less than the current market value of, or if no market value exists, the

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<sup>2</sup> For their services on the Board and its committees, Eligible Directors currently receive cash compensation in the form of annual fees, fees for service on the committees, and reimbursement of reasonable out-of-pocket expenses incurred in attending Board meetings.

current net asset value of, the Common Stock as determined in good faith by the Board on the date of grant.

5. The Plan also provides that it will terminate on the tenth anniversary of its adoption and no additional grants of options may be made under the Plan after that date. The Plan further provides that the options may not be transferred except for disposition by gift, will or laws of descent and distribution.

6. As of October 20, 2006, 16,188,402 shares of Common Stock were outstanding. The total number of shares that would result from the exercise of all outstanding options and warrants issued to HTGC's officers, directors and employees is 1,980,733, or approximately 12.24% of HTGC's outstanding voting securities. The total number of shares that would result from the exercise of all of HTGC's outstanding options, warrants or rights is approximately 15.83 % of HTGC's outstanding voting securities.

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(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of section 205(b)(2); 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 of the requirements of section 61(a)(3) of the Act. HTGC states that the Board, including the Eligible Directors, actively oversees applicant's affairs and applicant relies on the judgment and experience of the Board. Applicant states that the Eligible Directors provide advice on financial and operational issues, credit and underwriting policies, asset valuation, strategic direction, as well as serve on various committees. Applicant states that the professional experiences and expertise of the Eligible Directors make them valuable resources for management. HTGC states that the options that will be granted to the Eligible Directors under the Plan will provide significant incentives to the Eligible

Directors to remain on the Board and to devote their best efforts to the success of HTGC's business and the enhancement of stockholder value. Applicant states that the options granted under the Plan will provide a means for the Eligible Directors to increase their ownership interests in HTGC, thereby ensuring close identification of their interests with those of HTGC and its stockholders. Applicant asserts that by providing incentives in the form of options under the Plan, HTGC would be better able to retain and attract qualified persons to serve as Eligible Directors.

4. Applicant submits that the terms of the Plan are fair and reasonable and do not involve overreaching of applicant or its shareholders. Applicant asserts that the exercise of the options pursuant to the Plan will not 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.

Florence E. Harmon  
Deputy Secretary