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**U.S. SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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

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**PENNANTPARK INVESTMENT CORPORATION  
PENNANTPARK FLOATING RATE CAPITAL LTD.  
PENNANTPARK INVESTMENT ADVISERS, LLC  
PENNANTPARK CREDIT OPPORTUNITIES FUND, LP  
PENNANTPARK FLOATING RATE CAPITAL FUNDING I, LLC  
PENNANTPARK SBIC LP  
PENNANTPARK SBIC II LP**

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August 7, 2013

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In particular, the relief requested in this application (the “**Application**”) would allow a PennantPark BDC or another Regulated Fund<sup>1</sup> and one or more Co-Investment Affiliates<sup>2</sup> to participate in the same investment opportunities where such participation would otherwise be prohibited under Section 17(d) or Section 57(a)(4) and the rules under the 1940 Act.

All existing entities that currently intend to rely on the Order have been named as the Applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the Application.

## **I. GENERAL DESCRIPTION OF THE APPLICANTS**

### **A. PennantPark Investment Corporation**

PNNT was organized as a Maryland corporation on January 11, 2007. PNNT is a closed-end, externally managed, non-diversified investment company that has elected to be treated as a business development company (“**BDC**”) under the 1940 Act.<sup>3</sup> PNNT has elected to be treated as a regulated investment company (“**RIC**”) under Subchapter M of the Internal Revenue Code of 1986, as amended (the “**Code**”), and intends to continue to qualify as a RIC in the future. PNNT’s Objectives and Strategies are to generate both current income and capital appreciation through debt and equity investments. PNNT invests primarily in U.S. middle-market companies in the form of senior secured loans, mezzanine debt and equity investments. As a BDC, PNNT is subject to the periodic reporting requirements under Section 13(a) of the Securities Exchange Act of 1934, as amended (the “**1934 Act**”). On April 24, 2007, PNNT closed its initial public offering, and its common stock trades on the NASDAQ Global Select Market under the symbol “PNNT”. PNNT’s principal place of business is 590 Madison Avenue, 15<sup>th</sup> Floor, New York, New York 10022. “**Objectives and Strategies**” means one of the Regulated Fund’s then-current investment objectives and strategies as described in its registration statement on Form N-2 and other filings made with the Commission by such PennantPark BDC under the Securities Act of 1933, as amended (the “**1933 Act**”), any reports filed by such PennantPark BDC with the Commission under the 1934 Act and such PennantPark BDC’s reports to stockholders.

PNNT maintains a five-member board of directors (the “**PNNT Board**”), of which four members are not “interested persons” of PNNT within the meaning of Section 2(a)(19) of the 1940 Act (the “**Independent Directors**”). Applicants state that no Independent Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than through ownership of securities in a Co-Investment Affiliate and none will participate individually in any Co-Investment Transaction.

### **B. PennantPark Floating Rate Capital Ltd.**

PFLT was organized as a Maryland corporation on October 28, 2010. PFLT is a closed-end, externally managed, non-diversified investment company that has elected to be treated as a BDC under the 1940 Act. As a BDC, PFLT is subject to the periodic reporting requirements under Section 13(a) of the 1934 Act. PFLT has elected to be treated as a RIC under Subchapter M of the Code and intends to continue to qualify as a RIC in the future. PFLT’s Objectives and Strategies are to generate current income and capital appreciation by investing primarily in floating rate loans and other investments made to U.S. private middle-market companies.<sup>4</sup> On April 13, 2011, PFLT closed its initial public offering and its common stock trades on the NASDAQ Global Select Market under the symbol “PFLT”. PFLT’s principal place of business is 590 Madison Avenue, 15<sup>th</sup> Floor, New York, New York 10022.

PFLT maintains a five-member board of directors (the “**PFLT Board**”), of which four members are Independent Directors.<sup>5</sup>

<sup>1</sup> “**Regulated Fund**” means the PennantPark BDCs and any management investment company (a) that is registered under the Act as a closed-end fund or has elected to be regulated as a BDC (as defined below) and (b) whose investment adviser is PennantPark Investment Advisers, LLC or any other adviser that is controlling, controlled by or under common control with PennantPark Investment Advisers, LLC (included in the term “**Adviser**”).

<sup>2</sup> “**Co-Investment Affiliate**” means the PennantPark BDCs, PCOF and any other entity advised by the Adviser that in the future will rely, or will intend to rely, on the requested order. The Adviser expects that any Co-Investment Affiliates formed in the future will be a closed-end fund registered under the 1940 Act, a business development company as defined in Section 2(a)(48) of the 1940 Act or exempt from registration as provided by Section 3(c)(1) or 3(c)(7) of the 1940 Act. Future Co-Investment Affiliates will not include open-end funds registered under the 1940 Act.

<sup>3</sup> Section 2(a)(48) of the 1940 Act 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 1940 Act and makes available significant managerial assistance with respect to the issuers of such securities.

<sup>4</sup> “**Floating Rate Loans**” are defined as loans that typically pay interest at variable rates, which are determined periodically, on the basis of a floating base lending rate such as LIBOR, plus a fixed spread over it.

<sup>5</sup> The PNNT Board and PFLT Board have identical directors.

### C. PennantPark Credit Opportunities Fund, LP

PCOF was formed as a limited partnership under the Delaware Revised Uniform Limited Partnership Act on December 2, 2010. PCOF relies on the exemption from registration provided by Section 3(c)(7) of the 1940 Act. PCOF is operated in accordance with a partnership agreement (the “**PCOF Agreement**”).

The primary investment objectives of PCOF are capital preservation, income generation and capital appreciation primarily through debt and/or equity investments generally in midsize companies in North America and Western Europe. PCOF seeks to achieve superior risk-adjusted returns by investing primarily in certain senior secured loans, stressed and distressed credits, high yield bonds, international debt, mezzanine debt and selected short opportunities. PCOF is seeking to address long-term investment opportunities in certain debt strategies in the middle market. PCOF expects the opportunity in the less trafficked, less liquid credit markets to remain and believes that the off-the-run middle market will continue to offer the best risk-adjusted return profile in the credit markets.

There is overlap between the investment objectives of PNNT, PFLT and PCOF and, as a result, investments in certain issuers of securities (each issuer, a “**portfolio company**” and, collectively, the “**portfolio companies**”) would be appropriate co-investments for PNNT, PFLT and PCOF. PCOF, PNNT and PFLT all seek to invest in debt securities of U.S.-based middle-market companies.

### D. PennantPark Floating Rate Capital Funding I, LLC

Funding I is a wholly-owned subsidiary of PFLT formed to enter into a credit facility with SunTrust Bank. PFLT consolidates its financial results with those of Funding I for financial reporting purposes and measures its compliance with the leverage test applicable to BDCs under the 1940 Act on a consolidated basis.

### E. PennantPark SBIC LP and PennantPark SBIC II LP

PNNT’s wholly-owned subsidiaries, SBIC I and SBIC II, were organized as Delaware limited partnerships in May 2010 and July 2012, respectively. SBIC I and SBIC II received licenses from the Small Business Administration to operate as small business investment companies, under Section 301(c) of the Small Business Investment Act of 1958, as amended, in July 2010 and January 2013, respectively. The objectives of SBIC I and SBIC II are to generate both current income and capital appreciation through debt and equity investments generally by investing with us in Small Business Administration-eligible businesses that meet the investment criteria used by PNNT.

### F. The Adviser

Any Co-Investment Affiliates will be advised by an Adviser. Any such Co-Investment Affiliate may seek to co-invest with the Co-Investment Affiliates and any other then-existing Co-Investment Affiliate.

PennantPark Investment Advisers, LLC was organized as a limited liability company under the Delaware Limited Liability Company Act on January 10, 2007 and is privately held. Arthur H. Penn founded and is the managing member of the Adviser. PennantPark Investment Advisers, LLC is and each Adviser will be registered with the Commission pursuant to Section 203 of the Investment Advisers Act of 1940, as amended (the “**Advisers Act**”).

The Adviser manages the investment activities of PNNT, PFLT and PCOF pursuant to an investment advisory agreement with each entity (the “**Advisory Agreements**”). The Adviser is responsible for sourcing potential investments, conducting research and diligence on prospective investments and equity sponsors, analyzing investment opportunities and structuring and monitoring investments on an ongoing basis for the Co-Investment Affiliates. The investment committee of the Adviser consists of the following individuals: Arthur H. Penn, Jose A. Briones, Salvatore Giannetti III and P. Whitridge Williams, Jr.

## II. RELIEF FOR PROPOSED CO-INVESTMENTS

### A. Co-Investment in Portfolio Companies by Co-Investment Affiliates

#### 1. Mechanics of the Co-Investment Program

As previously described, the Adviser manages the Co-Investment Affiliates pursuant to their respective Advisory Agreements. The Adviser anticipates that, from time to time, it will determine that certain investments it recommends to one Co-Investment Affiliate would also be appropriate investments for another Co-Investment Affiliate. Such a determination may result in two or more Co-Investment Affiliates co-investing in certain investments. “**Co-Investment Transaction**” means any transaction in which a Regulated Fund (or a Wholly-Owned Investment Subsidiary) participated together with a Co-Investment Affiliate in reliance on the Order. “**Potential Co-Investment Transaction**” means any investment opportunity in which a Regulated Fund (or a Wholly-Owned Investment Subsidiary) could not participate together with one or more Co-Investment Affiliates without obtaining and relying on the Order.

As there is overlap between the Co-Investment Affiliates' investment objectives and investment policies, the Adviser anticipates that opportunities for Potential Co-Investment Transactions may arise when the Adviser becomes aware of investment opportunities that may be appropriate for two or more Co-Investment Affiliates. A portfolio company that is an appropriate investment for one entity may be an appropriate investment for two or more of the entities, with certain exceptions based on available capital or diversification.

In such cases, following issuance of the requested Order, all Potential Co-Investment Transactions within a Regulated Fund's Objectives and Strategies will be referred to that Regulated Fund, and such investment opportunities may result in a Co-Investment Transaction. For each such referral, when selecting investments for a Co-Investment Affiliate, the Adviser will consider only the investment objective, investment policies, investment position, capital available for investment and other pertinent factors applicable to the respective Co-Investment Affiliate.

If the Adviser determines that an opportunity is appropriate for a Regulated Fund (and the Adviser approves the investment for the Regulated Fund), and a Co-Investment Affiliate has confirmed its desire to also participate, the Adviser will present the investment opportunity and the proposed allocation to the directors eligible to vote under Section 57(o) of the 1940 Act (the "**Eligible Directors**") prior to the actual investment by the Regulated Fund. A Potential Co-Investment Transaction will be consummated only after approval by a required majority of the Eligible Directors within the meaning of Section 57(o) ("**Required Majority**").<sup>6</sup>

Co-investment opportunities are to be allocated to a Regulated Fund either (a) based on the size recommended by the Adviser based on such Regulated Fund's available capital and the investment's attributes consistent with the Adviser's allocation policy (the "**Recommended Amount**"), or (b) if the size of the investment available is smaller than the sum of the Recommended Amounts for such Regulated Fund and the other Co-Investment Affiliates, pro rata based on the capital available for the type of investment by such Regulated Fund and the other Co-Investment Affiliates. The amount of a Regulated Fund's capital available for investment will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set from time to time by the Regulated Fund's board of directors or imposed by applicable laws, rules, regulations or interpretations. The Adviser's allocation procedures are designed to allocate investment opportunities among the accounts sponsored or managed by the Adviser in a manner that is fair and equitable over time and consistent with its obligations under the Advisers Act and its allocation procedures, which procedures have been reviewed by the board of directors of each PennantPark BDC and will be reviewed by any other Regulated Fund.

All subsequent activity, such as sales, exchanges or other dispositions of or an additional investment in securities of a portfolio company, including through the exercise of warrants, conversion privileges and other rights to purchase or sell securities of the portfolio company (each such additional investment, a "**Follow-On Investment**") in a portfolio company that resulted from a Co-Investment Transaction will be made pursuant to the conditions contained in this Application. Co-Investment Transactions will require that the terms, conditions, price, class of securities, settlement date and registration rights applicable to the one Co-Investment Affiliate's purchase or sale be the same as those applicable to another Co-Investment Affiliate's purchase or sale.

## 2. Reasons for Co-Investing

It is expected that co-investment in portfolio companies by the Co-Investment Affiliates will increase favorable investment opportunities for the PennantPark BDCs. A Co-Investment Transaction will be effected only if it is approved by the Required Majority on the basis that it would be advantageous for a PennantPark BDC to have the additional capital from another Co-Investment Affiliate available to meet the funding requirements of attractive investments in portfolio companies. A BDC that makes investments of the type contemplated by the PennantPark BDCs typically limits its participation in any one transaction to a specific dollar amount, which may be determined by legal or internally imposed prudential limits on exposure in a single investment. In cases where the Adviser identifies investment opportunities requiring larger capital commitments, it must seek the participation of other entities with similar investment styles. The availability of one or more Co-Investment Affiliates as investing partners of one of the PennantPark BDCs may alleviate that necessity in certain circumstances.

<sup>6</sup> With respect to Regulated Funds that are not BDCs, the defined terms Eligible Directors and Required Majority apply as if each Regulated Fund were a BDC subject to Section 57(o) of the 1940 Act. The term "**Required Majority**," when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a Regulated Fund's directors or general partners who have no financial interest in such transaction, plan or arrangement and a majority of such directors or general partners who are not interested persons of such company.

Either PennantPark BDC could lose some investment opportunities if it is unable to provide “one-stop” financing to a potential portfolio company. Portfolio companies may reject an offer of funding arranged by the Adviser due to the inability to commit the full amount of financing required by the portfolio company in a timely manner (i.e., without the delay that typically would be associated with obtaining single-transaction exemptive relief from the Commission). By reducing the number of occasions on which a PennantPark BDC’s individual or aggregate investment limits require the Adviser to arrange a syndication with unaffiliated entities, a PennantPark BDC will likely be required to forego fewer suitable investment opportunities. With the assets of the other Co-Investment Affiliates available for co-investment, there should be an increase in the number of opportunities accessible to the PennantPark BDCs.

The Adviser, the PNNT Board and the PFLT Board believe that it would be advantageous for the Co-Investment Affiliates to co-invest and that such investments would be consistent with the investment objective, investment policies, investment positions, investment strategies, investment restrictions, regulatory requirements, and other pertinent factors applicable to each Co-Investment Affiliate.

The Adviser also believes that co-investment by the Co-Investment Affiliates will afford the PennantPark BDCs an ability to achieve greater diversification and, together with the Co-Investment Affiliates, an opportunity to exercise greater influence on the portfolio companies in which the Co-Investment Affiliates co-invest.

## **B. Applicable Law**

### **1. Sections 17(d), 57(a)(4) and 57(i) of the 1940 Act and Rule 17d-1 thereunder**

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 investment company acting as principal, from effecting any transaction in which the registered 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 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.

Similarly, Section 57(a)(4) of the 1940 Act makes it unlawful for any person who is related to a BDC in a manner described in Section 57(b) of the 1940 Act, acting as principal, knowingly to effect any transaction in which the BDC (or a company controlled by such BDC) is a joint or a joint and several participant with that person in contravention of rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by the BDC (or a controlled company) on a basis less advantageous than that of the other participant. Although the Commission has not adopted any rules specifically under Section 57(a)(4) of the 1940 Act, Section 57(i) of the 1940 Act provides that the rules under Section 17(d) of the 1940 Act applicable to registered closed-end investment companies (e.g., Rule 17d-1 under the 1940 Act) are, in the interim, deemed to apply to transactions subject to Section 57(a) of the 1940 Act. Rule 17d-1 under the 1940 Act is made applicable to BDCs by Section 57(i) of the 1940 Act.

In passing upon applications under Rule 17d-1 under the 1940 Act, the Commission considers whether the participation by one or more registered investment companies or BDCs (or controlled companies) in such a joint transaction is consistent with the provisions, policies and purposes of the 1940 Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Section 57(b) of the 1940 Act

Section 57(b) of the 1940 Act, as modified by Rule 57b-1, specifies the persons to whom the prohibitions of Section 57(a)(4) of the 1940 Act apply, including: (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) of the 1940 Act, an affiliated person<sup>7</sup> of any such person; or (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<sup>8</sup> 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) of the 1940 Act an affiliated person of such person. Rule 57b-1 under the 1940 Act exempts certain persons otherwise related to a BDC in a manner described in Section 57(b)(2) of the 1940 Act from being subject to the prohibitions of Section 57(a). Specifically, this rule states that the provisions of Section 57(a) shall 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, co-partner or employee of a person described in (a) of the rule.

**C. Need For Relief**

Co-Investment Transactions could be prohibited by Section 17(d) or 57(a)(4) of the 1940 Act and Rule 17d-1 thereunder without a prior exemptive order of the Commission to the extent that another Co-Investment Affiliate falls within the category of persons described by Section 57(b) of the 1940 Act, as modified by Rule 57b-1 thereunder. Section 57(b) applies to the Adviser. Accordingly, the Adviser and any deemed affiliate could be deemed to be persons related to a PennantPark BDC in a manner described by Section 57(b) and therefore subject to the restrictions of Section 17(d) or 57(a)(4) and Rule 17d-1 in connection with its participation in Co-Investment Transactions even where a PennantPark BDC does not participate in the Co-Investment Transaction.

**D. Requested Relief**

Accordingly, the Applicants respectfully request an Order of the Commission, pursuant to Sections 17(d) and 57(i) of the 1940 Act and Rule 17d-1 thereunder, permitting the Co-Investment Affiliates to participate in Co-Investment Transactions.

<sup>7</sup> Section 2(a)(3)(C) of the 1940 Act defines an “affiliated person” of another person as any person directly or indirectly controlling, controlled by, or under common control with, such other person.

<sup>8</sup> Section 2(a)(9) of the 1940 Act 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 definition of “control” clarifies 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.

## E. Precedents

The Commission has granted co-investment relief on numerous occasions in the past several years.<sup>9</sup> Although various precedents involve somewhat different allocation formulae, approval procedures and presumptions for co-investment transactions to protect the interests of public investors in the Regulated Funds than those described in this Application, the Applicants submit that the formulae and procedures set forth as conditions for the relief requested herein are consistent with the range of investor protection found in the cited orders. We note, in particular, that the co-investment protocol to be followed by the Applicants here is substantially similar to the protocol followed by Gladstone Capital Corporation and its affiliates, for which an order was granted on July 26, 2012, Medley Capital Corporation and its affiliates, for which an order was granted on March 26, 2012, NGP Capital Resources Company and its affiliates, for which an order was granted on November 10, 2011, and Ridgewood Capital Management LLC and its affiliates, for which an order was granted on October 21, 2009.<sup>10</sup>

## F. The Applicants' Legal Arguments

Rule 17d-1 was promulgated by the Commission pursuant to Section 17(d) of the 1940 Act and made applicable to BDCs by Section 57(i) of the 1940 Act. Rule 17d-1(a) under the 1940 Act permits an otherwise prohibited person, acting as principal, to participate in, or effect a transaction in connection with, a joint enterprise or other joint arrangement or profit-sharing plan in which a registered investment company or a BDC, or an entity controlled by such registered investment company or BDC is a participant if an application regarding the joint enterprise, arrangement or profit-sharing plan has been filed with the Commission and has been granted by an order issued prior to the submission of such plan or any modification thereof to security holders for approval, or prior to its adoption or modification if not so submitted. Rule 17d-1(b) under the 1940 Act states that in passing upon applications under such rule, the Commission shall consider whether the participation by the investment company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the 1940 Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

<sup>9</sup> FS Investment Corporation, et al. (File No. 812-13665), Release No. IC 30548 (June 4, 2013) (order), Release No. IC 30511 (May 9, 2013) (notice); Corporate Capital Trust Inc., Inc., et al. (File No. 812-13844), Release No. IC 30526 (May 21, 2013) (order), Release No. IC 30494 (April 25, 2013) (notice); Gladstone Capital Corporation, et al. (File No. 812-13878), Release No. IC-30154 (July 26, 2012) (order), Release No. IC-30125 (June 29, 2012) (notice); Medley Capital Corporation, et al. (File No. 812-13787), Release No. IC-30009 (Mar. 26, 2012) (order), Release No. IC-29968 (Feb. 27, 2012) (notice); NGP Capital Resources Company, et al. (File No. 812-13695), Release No. IC-29860 (Nov. 10, 2011) (order), Release No. IC-29831 (Oct. 7, 2011) (notice); Ridgewood Capital Energy Growth Fund, LLC, et al. (File No. 812-13569), Release No. IC-28982 (Oct. 21, 2009) (order), Release No. IC-28931 (Sept. 25, 2009) (notice); Main Street Capital Corporation, et al. (File No. 812-13438), Release No. IC-28295 (June 3, 2008) (order), Release No. IC-28265 (May 8, 2008) (notice); Gladstone Capital Corporation, et al. (File No. 812-12934), Release No. IC-27150 (Nov. 22, 2005) (order), Release No. IC-27120 (Oct. 25, 2005) (notice); meVC Draper Fisher Jurvetson Fund I, Inc., et al. (File No. 812-11998), Release No. IC-24556 (July 11, 2000) (order), Release No. IC- 24496 (June 13, 2000) (notice); Berthel Growth & Income Trust I, et al. (File No. 812-10830), Release No. IC-23864 (June 8, 1999) (order), Release No. IC- 23825 (May 12, 1999) (notice); Technology Funding Venture Capital Fund VI, LLC, et al. (File No. 812-11006), Release No. IC-23610 (Dec. 18, 1998) (order), Release No. IC- 23573 (Nov. 25, 1998) (notice); MACC Private Equities Inc., et al. (File No. 812-11148), Release No. IC-23518 (Nov. 3, 1998) (order), Release No. IC- 23478 (Oct. 6, 1998) (notice); Brantley Capital Corporation, et al. (File No. 812-10544), Release No. IC-22893 (Nov. 18, 1997) (order), Release No. IC- 22864 (Oct. 21, 1997) (notice); Renaissance Capital Growth & Income Fund III, Inc. (File No. 812-10354), Release No. IC-22428 (Dec. 31, 1996) (order), Release No. IC-22378 (Dec. 6, 1996) (notice); Sherry Lane Growth Fund, Inc. (File No. 812-10082), Release No. IC-22130 (Aug. 9, 1996) (order), Release No. IC-22060 (July 10, 1996) (notice); Access Capital Strategies Community Investment Fund, Inc. (File No. 812-9786), Release No. IC-21898 (Apr. 16, 1996) (order), Release No. IC-21836 (Mar. 20, 1996) (notice); Ridgewood Electric Power Trust III (File No. 812-9558), Release No. IC-21589 (Dec. 11, 1995) (order), Release No. IC-21472 (Nov. 3, 1995) (notice); MAC Private Equities Inc. (File No. 812-9028), Release No. IC20887 (Feb. 7, 1995) (order), Release No. IC-20831 (Jan. 12, 1995) (notice); Corporate Renaissance Group, Inc. (File No. 812-8978), Release No. IC-20690 (Nov. 8, 1994) (order), Release No. IC- 20617 (Oct. 13, 1994) (notice); ML Venture, Partners II, L.P. (File No. 812-7841), Release No. IC-18700 (May 11, 1992) (order), Release No. IC-18652 (Apr. 13, 1992) (notice); Equus Capital Partners, L.P. (File No. 812-7272), Release No. IC-18105 (Apr. 18, 1991) (order), Release No. IC-18058 (Mar. 21, 1991) (notice); Equitable Capital Partners, L.P. (File No. 812-7328), Release No. IC-17925 (Dec. 31, 1990) (order), Release No. IC-17894 (Dec. 5, 1990) (notice); Technology Funding Partners III, L.P. (File No. 812-7355), Release No. IC-17571 (July 5, 1990) (order), Release No. IC-17523 (June 6, 1990) (notice); Berkshire, Partners III, L.P. (File No. 812-7335), Release No. IC-17533 (June 14, 1990) (order), Release No. IC-17496 (May 17, 1990) (notice); ML-Lee Acquisition Fund II, L.P. (File No. 8127133), Release No. IC-17123 (Sept. 1, 1989) (order), Release No. IC-17101 (Aug. 7, 1989) (notice); and The Prospect Group Opportunity Fund, Inc. (File No. 812-7024), Release No. IC16841 (Feb. 27, 1989) (order), Release No. IC-16774 (Jan. 24, 1989) (notice).

<sup>10</sup> See note 9, *supra*.



The Applicants submit that the fact that the Required Majority will approve each Co-Investment Transaction before investment, in addition to the other protective conditions set forth in this Application, will ensure that the Regulated Funds will be treated fairly. The conditions to which the requested relief will be subject are designed to ensure that the principals of the Adviser would not be able to favor one Co-Investment Affiliate over another Co-Investment Affiliate through the allocation of investment opportunities amongst them. Because many attractive investment opportunities for one Co-Investment Affiliate will also be attractive investment opportunities for another Co-Investment Affiliate, the Applicants submit that the co-investment program presents an attractive alternative to instituting an equitable protocol for the allocation of 100% of individual investment opportunities to a particular Co-Investment Affiliate as opportunities arise. The Applicants submit that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies and purposes of the 1940 Act and on a basis that is not different from, or less advantageous than, that of other Co-Investment Affiliates.

Other than pro rata dispositions and follow-on investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the Eligible Directors, and the Required Majority will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund. With respect to the pro rata dispositions and follow-on investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or follow-on investment without obtaining prior approval of the Required Majority if, among other things: (i) the proposed participation of each Regulated Fund in such disposition or follow-on investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or follow-on investment, as the case may be; and (ii) the board of directors of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and follow-on investments as being in the best interests of the Regulated Fund. If the board does not so approve, any such disposition or follow-on investment will not be submitted to the Regulated Fund's Eligible Directors. The board of any regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and follow-on investments with the results that all dispositions and/or follow-on investments must be submitted to the Eligible Directors.

Applicants believe that participation by the Regulated Funds in pro rata dispositions and follow-on investments, as provided in conditions 7 and 8, is consistent with the provisions, policies and purposes of the 1940 Act and will not be made on a basis different from or less advantageous than that of other participants. A formulaic approach, such as pro rata dispositions and follow-on investments, eliminates the discretionary ability to make allocation determinations, and in turn eliminates the possibility for overreaching and promotes fairness. Applicants note that the Commission has adopted a similar pro rata approach in the context of Rule 23c-2, which relates to the redemption by a closed-end investment company of less than all of a class of its securities, indicating the general fairness and lack of overreaching that such approach provides.

## **G. Conditions**

The Applicants agree that any Order granting the requested relief will be subject to the following conditions:

1. Each time a Co-Investment Affiliate or an investment adviser of a Co-Investment Affiliate considers a Potential Co-Investment Transaction for any Co-Investment Affiliate that falls within a Regulated Fund's Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of such investment for the Regulated Fund in light of such Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser will then determine an appropriate level of investment for the Regulated Fund;

(b) If the aggregate amount recommended by the Adviser to be invested in the Potential Co-Investment Transaction by the Investors, together with the amount proposed to be invested by the Co-Investment Affiliates in the same transaction, exceeds the amount of the investment opportunity, then the amount proposed to be invested by each such Co-Investment Affiliate will be allocated among them pro rata based on the ratio of each Co-Investment Affiliate's capital available for investment in the asset class being allocated to the aggregated capital available for investment for the asset class being allocated of such Co-Investment Affiliates involved in such investment opportunity, up to the amount proposed to be invested by each Co-Investment Affiliate. The Adviser will provide the Eligible Directors with information concerning the Co-Investment Affiliates' available capital to assist the Independent Directors with their review of the investments of such Regulated Fund for compliance with these allocation procedures; and

(c) After making the determinations required in conditions 1 and 2(a), the Adviser will then distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by the Investor and any Co-Investment Affiliate, to the Eligible Directors for their consideration. The Regulated Fund will co-invest with the Co-Investment Affiliates only if, prior to participating in such Potential Co-Investment Transaction, the Required Majority concludes that:

(i) the terms of the transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its stockholders and do not involve overreaching of the Regulated Fund or its stockholders on the part of any person concerned;

(ii) the transaction is consistent with:

- (A) the interests of the stockholders of the Regulated Fund; and
- (B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by the Co-Investment Affiliates would not disadvantage the Regulated Fund, and its participation is not on a basis different from, or less advantageous than, that of the Co-Investment Affiliates; provided that if any other Co-Investment Affiliate, but not the Regulated Fund, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition 2)(c)(iii), if

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the Adviser agrees to, and does, provide periodic reports to the Regulated Fund's board of directors with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that the Co-Investment Affiliates or any affiliated person of the Co-Investment Affiliates receives in connection with the right of the Co-Investment Affiliates to nominate or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Co-Investment Affiliates (the Co-Investment Affiliates, other than the Regulated Funds, may, in turn, share its portion with these affiliated persons) and the Regulated Fund in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Adviser, any other Regulated Fund, any Co-Investment Affiliate or any affiliated person of any of them (other than the parties to the Co-Investment Transaction) except (a) to the extent permitted by condition 13 of this Application; (b) to the extent permitted by Sections 17(e) or 57(k) of the 1940 Act; (c) indirectly, as a result of an interest in securities issued by one of the parties to the Co-Investment Transaction; or (d) in the case of fees or other compensation described in condition 2)(c)(iii)(C).

3. Each Regulated Fund shall have the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Adviser shall present to the board of directors of each Investor, on a quarterly basis, a record of all investments made by the other Co-Investment Affiliates during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Investor and an explanation of why such investment opportunities were not offered to the Investor. All information presented to the board of directors pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter and will be subject to examination by the Commission and its Staff.

5. Except with respect to Follow-On Investments made in accordance with condition 8 below, a Regulated Fund shall not invest in reliance on the Order in any portfolio company in which any Co-Investment Affiliate or any affiliated person thereof is an existing investor.

6. A Regulated Fund shall not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date and registration rights are the same for the Regulated Fund as for the Co-Investment Affiliates. The grant to a Co-Investment Affiliate, but not such Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company shall not be interpreted as violative of this condition 6, if conditions 2)(c)(iii)(A), (B) and (C) are met.

7. (a) If any Co-Investment Affiliate elects to sell, exchange or otherwise dispose of an interest in a security that was acquired by a Regulated Fund in a Co-Investment Transaction, the Adviser shall:

- (i) notify the Regulated Fund of the proposed disposition at the earliest practical time; and
- (ii) formulate a recommendation as to participation by the Regulated Fund in any such disposition.

(b) The Regulated Fund shall have a right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Co-Investment Affiliates.

(c) The Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) the proposed participation of the Regulated Fund in such disposition is proportionate to its outstanding investments in the portfolio company immediately preceding the disposition; (ii) the board of directors of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in this Application); and (iii) the board of directors of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser shall provide its written recommendation as to such Regulated Fund's participation to the Eligible Directors, and the Regulated Fund shall participate in such disposition solely to the extent that the Required Majority determines that it is in the Regulated Fund's best interests.

(d) The Regulated Fund and each Co-Investment Affiliate shall each bear its own expenses in connection with any such disposition.

8. (a) If a Co-Investment Affiliate desires to make a Follow-On Investment in a portfolio company whose securities were acquired by a Regulated Fund and such Co-Investment Affiliate in a Co-Investment Transaction, the Adviser shall:

(i) notify the Regulated Fund of the proposed Follow-On Investment at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by the Regulated Fund.

(b) The Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) the proposed participation of the Investor in such investment is proportionate to its outstanding investments in the portfolio company immediately preceding the Follow-On Investment; and (ii) the board of directors of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in this Application). In all other cases, the Adviser shall provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund shall participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If with respect to any Follow-On Investment:

(i) the amount of the opportunity is not based on the Regulated Fund's and the Co-Investment Affiliates' outstanding investments immediately preceding such Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by the Regulated Fund in such Follow-On Investment, together with the amount proposed to be invested by the Co-Investment Affiliates in the same transaction, exceeds the amount of the Follow-On Investment opportunity,

then the amount invested by each such party shall be allocated among them pro rata based on the ratio of capital available for investment in the asset class being allocated of such parties involved in the investment opportunity, up to the amount proposed to be invested by each party.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in this Application.

9. On a quarterly basis the Independent Directors shall be provided for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by the Co-Investment Affiliates that a Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments which a Regulated Fund considered but declined to participate, comply with the conditions of the Order. In addition, the Independent Directors shall consider at least annually the continued appropriateness for the Investor of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by Section 57(f)(3) of the 1940 Act as if each of the Regulated Funds were a business development company and each of the investments permitted under these Conditions were approved by the Required Majority under Section 57(f).

11. No director or trustee of a Regulated Fund will be considered an Independent Director if such director or trustee is also a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the 1940 Act) of any of the Co-Investment Affiliates (other than the Regulated Funds).

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) shall, to the extent not payable by the Adviser under any agreement with the Regulated Fund or the Co-Investment Affiliates, be shared by the Regulated Fund and the Co-Investment Affiliates in proportion to the relative amounts of their securities to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by Section 17(e) or 57(k) of the 1940 Act) received in connection with a Co-Investment Transaction shall be distributed to the Investor and the Co-Investment Affiliates on a pro rata basis, based on the amount it invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the Co-Investment Transaction, the fee shall be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in Section 26(a)(1) of the 1940 Act, and such account shall earn a competitive rate of interest that will also be divided pro rata between the Investor and the Co-Investment Affiliates based on the amount they invest in such Co-Investment Transaction. None of the Co-Investment Affiliates, the Adviser, or any affiliated person of the Regulated Funds shall receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (i) the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (ii) in the case of the Adviser investment advisory fees paid in accordance with the Advisory Agreements).

**III. PROCEDURAL MATTERS**

**A. Communications**

Please address all communications concerning this Application and the Notice and Order to:

Arthur H. Penn  
PennantPark Investment Advisers, LLC  
590 Madison Avenue, 15<sup>th</sup> Floor  
New York, NY 10022  
(212) 905-1000

Please address any questions, and a copy of any communications, concerning this Application, the Notice and Order to:

David J. Harris  
William J. Tuttle  
Dechert LLP  
1900 K Street, N.W.  
Washington, DC 20006

**B. Authorizations**

Pursuant to Rule 0-2(c) under the 1940 Act, the Applicants hereby state that the PNNT Board and the PFLT Board, by resolution duly adopted by each Board on November 13, 2012 (attached hereto as Exhibit A), the managing members of the Adviser and the general partner of PCOF, have authorized to cause to be prepared and to execute and file with the Commission this Application for the Order sought hereby.

**PENNANTPARK INVESTMENT CORPORATION**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Chief Executive Officer

**PENNANTPARK FLOATING RATE CAPITAL LTD.**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Chief Executive Officer

**PENNANTPARK CREDIT OPPORTUNITIES FUND, LP**

**By: PennantPark Capital, LLC, its general partner**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Managing Member

**PENNANTPARK INVESTMENT ADVISERS, LLC**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Managing Member

**PENNANTPARK FLOATING RATE CAPITAL FUNDING I, LLC**

**By: PennantPark Floating Rate Capital Ltd., its designated manager**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Chief Executive Officer

**PENNANTPARK SBIC LP**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Authorized Officer

**PENNANTPARK SBIC II LP**

By: /s/ Arthur H. Penn  
Name: Arthur H. Penn  
Title: Authorized Officer



**EXHIBIT A**

**RESOLVED**, that each Board of Directors hereby authorizes the Officers in the name and on behalf of the applicable Corporation to submit and cause to be filed with the SEC an application for exemptive relief, in substantially the form presented at the meeting, with such changes, modifications or amendments thereto as the officer or officers executing the same (personally or by attorney) may approve as necessary or desirable, such approval to be conclusively evidenced by his or their execution thereof.