

CQ Plan”), and reflects changes unanimously adopted by the Participants. The Sixteenth Amendment to the CTA Plan and the Twelfth Amendment to the CQ Plan (“Amendments”) propose to add EDGA Exchange, Inc. and EDGX Exchange, Inc. to the Plans. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

The amendment proposes to add EDGA Exchange, Inc. and EDGX Exchange, Inc. as new Participants to each Plan.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Because the Amendments constitute “Ministerial Amendments” under both clause (1) of Section IV(b) of the CTA Plan and clause (1) of Section IV(c) of the CQ Plan, the Chairman of the CTA Plan and the CQ Plan’s Operating Committee may submit these amendments to the Commission on behalf of the Participants in the CTA Plan and the CQ Plan. Because the Participants designate the amendments as concerned solely with the administration of the Plans, the amendments become effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance with Plan

See Item I(C) above.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

See Item I(A) above.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a) (Solely in its Application to the Amendments to the CTA Plan)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

Not applicable.

G. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CTA/CQ-2010-03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CTA/CQ-2010-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendments that are filed with the Commission, and all written communications relating to the Amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the Amendments also will be available for inspection and copying at the principal office of the CTA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CTA/CQ-2010-03 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29416; File No. 812-13714]

American Capital, Ltd.; Notice of Application

September 14, 2010.

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: *Summary of Application:* Applicant, American Capital, Ltd. requests an order approving a proposal to grant certain stock options to

⁵ 17 CFR 200.30-3(a)(27).

directors who are not also employees or officers of the applicant (the "Non-employee Directors") under its 2009 Stock Option Plan (the "Plan").

DATES: Filing Dates: The application was filed on November 5, 2009, and amended on January 25, 2010, and September 7, 2010. 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 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 October 7, 2010, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Commission, 100 F Street, NE., Washington, DC 20549-1090; Applicant, 2 Bethesda Metro Center, 14th Floor, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551-6876, or Michael W. Mundt, 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 via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

Applicant's Representations

1. Applicant, a Delaware corporation, is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.¹ Applicant's primary business objectives are to increase its net operating income and net asset value by investing its assets in senior

debt, subordinated debt, with and without detachable warrants, and equity of small to medium sized businesses with attractive current yields and potential for equity appreciation.

Applicant's investment decisions are made either by its board of directors (the "Board"), based on recommendations of the executive officers of applicant, or, for investments that meet certain objective criteria established by the Board, by the executive officers of applicant, under authority delegated by the Board. Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving its proposal to grant certain stock options under the Plan to its Non-employee Directors.² Applicant has a nine member Board with one current vacancy. Seven of the eight current members of the Board are not "interested persons" (as defined in section 2(a)(19) of the Act) of the applicant ("Disinterested Directors"). All of the current Non-employee Directors are Disinterested Directors. The Board approved the Plan at a meeting of the Board held on April 6, 2009 and applicant's stockholders approved the Plan at the annual meeting of stockholders held on June 11, 2009.³

3. Applicant's officers, employees, and Non-employee Directors are eligible to receive options under the Plan. Under the Plan, a maximum of 750,000 shares of applicant's common stock, in the aggregate, may be issued to Non-employee Directors and options to purchase 93,750 shares of applicant's common stock may be issued to any one Non-employee Director. On the date that the Commission issues an order on the application ("Order Date"), each of the seven Non-employee Directors serving on the Board as of June 11, 2009 will be granted options to purchase 93,750 shares of applicant's common stock (the "Initial Grants"), provided that the Non-

employee Director is a member of the Board on the Order Date. The options issued under the Initial Grants will vest in three equal parts on each of the first three anniversaries of June 11, 2009.

Any person who becomes a Non-employee Director after June 11, 2009 will be entitled to receive options to purchase 93,750 shares of applicant's common stock (the "Other Grants"), if and to the extent that there are options available for grant to Non-employee Directors under the Plan. Each Other Grant will be effective on the later of the date such person becomes a Non-employee Director and the Order Date. The options issued under the Other Grants will vest in three equal parts on each of the first three anniversaries of the date such person becomes a Non-employee Director.

4. Under the terms of the Plan, the exercise price of an option will not be less than 100% of the current market value, or if no such market value exists, the current net asset value ("NAV") per share of applicant's common stock on the date of the issuance of the option ("Fair Market Value").⁴ The Initial Grants will expire on June 11, 2019, and the Other Grants will expire on the tenth anniversary of the date the person becomes a Non-employee Director. Options granted under the Plan may not be assigned or transferred other than by will or the laws of descent and distribution. In the event of the death or disability (as defined in the Plan) of a Non-employee Director during such director's service, all such director's unexercised options will immediately become exercisable and may be exercised for a period of three years following the date of death (by such director's personal representative) or one year following the date of disability, but in no event after the respective expiration dates of such options. In the event of the termination of a Non-employee Director for cause, any unexercised options will terminate immediately. If a Non-employee Director's service is terminated for any reason other than by death, disability, or

² The Non-employee Directors receive a \$100,000 per year retainer payment and \$3,000 for each Board or committee meeting or other designated Board-related meeting attended, and reimbursement for related expenses. Non-employee Directors who chair a committee of the Board receive an additional \$10,000 retainer per year. Non-employee Directors who serve as directors on the boards of portfolio companies also receive an annual retainer from applicant set at \$30,000 per board, in lieu of any payment from the portfolio company.

³ At a Board meeting held on January 14, 2010, the Board approved an amendment to the Plan. At such meeting, the Board determined that the amendment did not require stockholder approval under Section 10 of the Plan or applicable law or NASDAQ listing requirements. The Company acknowledges that the Commission is not taking a position as to whether the Company is required to seek stockholder approval for the amendment.

⁴ Under the Plan, "Fair Market Value" is defined as follows: (a) if applicant's common stock is listed on any established exchange or traded on the NASDAQ Global Select Market, the closing sales price of the common stock as quoted on such exchange or market (or if the common stock is traded on multiple exchanges or markets, the exchange or market with the greatest volume of trading in the common stock) on the date on which an option is granted under the Plan, as reported in *The Wall Street Journal* or such other source as the Board deems reliable; or (b) in the absence of closing sales prices on such exchanges or markets for the common stock, the Fair Market Value will be determined in good faith by the Board, but in no event shall be less than the current NAV per share of common stock.

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.

for cause, the options may be exercised within one year immediately following the date of termination, but in no event later than the expiration date of such options.

5. Applicant's officers and employees are eligible or have been eligible to receive options under stock option plans that exclude Non-employee Directors as participants (the "Employee Plans"), applicant's 2006 stock option plan (the "2006 Option Plan"), applicant's 2007 stock option plan (the "2007 Option Plan"), and applicant's 2008 stock option plan (the "2008 Option Plan"). Non-employee Directors have been eligible to receive options under applicant's two Disinterested Director stock option plans (the "Disinterested Director Plans"), the 2006 Option Plan, the 2007 Option Plan and the 2008 Option Plan (collectively, the 2008 Option Plan, the 2007 Option Plan, the 2006 Option Plan, the Disinterested Director Plans and the Employee Plans are the "Other Plans"). As of August 18, 2010, applicant had 350,309,123 shares of common stock outstanding.⁵ The 750,000 shares of applicant's common stock that may be issued to Non-employee Directors under the Plan represent 0.2% of applicant's outstanding voting securities as of August 18, 2010. As of August 18, 2010, the amount of voting securities that would result from the exercise of all outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan would be 33,553,256 shares of applicant's common stock, or 9.5% of applicant's outstanding voting securities. As of August 18, 2010, applicant had no outstanding warrants, options, or rights to purchase its voting securities other than the outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current NAV upon the exercise of any option issued in accordance with section 61(a)(3). Section 61(a)(3)(B) 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 voting securities at the date of the issuance of the options, or if

no market value exists, the current NAV of the underlying voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) 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 any 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 its proposal to grant certain stock options to Non-employee Directors under the Plan meets all the requirements of section 61(a)(3)(B). Applicant states that the Board is actively involved in the oversight of applicant's affairs and that it relies extensively on the judgment and experience of its Board. In addition to their duties as Board members generally, applicant states that the Non-employee Directors provide guidance and advice on operational issues, underwriting policies, credit policies, asset valuation and strategic direction, as well as serving on committees. Applicant believes that the availability of options under the Plan will provide significant at-risk incentives to Non-employee Directors to remain on the Board and devote their best efforts to ensure applicant's success. Applicant states that the options will provide a means for the Non-employee Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with those of applicant and its stockholders. Applicant asserts that by providing incentives such as options, applicant will be better able to maintain continuity in the Board's membership

and to attract and retain the highly experienced, successful and dedicated business and professional people who are critical to applicant's success as a BDC.

4. As noted above, applicant states that the amount of voting securities that would result from the exercise of all outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan would be 33,553,256 shares of applicant's common stock, or 9.5% of applicant's outstanding voting securities, as of August 18, 2010. However, applicant represents that the maximum number of voting securities that would result from the exercise of all outstanding options issued and all options issuable to applicant's directors, officers, and employees under the Plan and the Other Plans would be 70,981,813 shares of applicant's common stock, or 20.2% of applicant's outstanding voting securities, as of August 18, 2010. Applicant states that to the extent the number of shares of common stock that would be issued upon the exercise of options issued under the Other Plans and the Plan exceeds 15% of applicant's outstanding voting securities, applicant will comply with the 20% limit in section 61(a)(3) of the Act.

5. Applicant asserts that, given the relatively small amount of common stock issuable to Non-employee Directors upon their exercise of options under the Plan, the exercise of such options would not, absent extraordinary circumstances, have a substantial dilutive effect on the NAV of applicant's common stock.

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, September 23, 2010 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

⁵ Applicant's common stock constitutes the only voting security of applicant currently outstanding.