permits registered management investment companies (''funds'') and their custodians to maintain fund assets in system for the central handling of securities, subject to Commission rules. Rule 17f–4 [3] under the Act defines this type of system as a ''securities depository.'' The rule sets conditions for the use of certain depositories, including a U.S. registered clearing agency that acts as a depository, and the federal book-entry system for government securities.[4]

Certain information collection requirements apply to the fund's custodian when, as in the usual case, a fund uses a depository through its custodian. Rule 17f–4 requires the custodian to send the fund a written confirmation of each transfer or securities to or from the fund's account with the custodian. When securities are transferred to the fund's account, the custodian also must identify as belonging to the fund (or ''earmark'') an appropriate quantity of securities that the custodian holds in a fungible bulk with the depository (or with any agent through which the custodian uses the depository). In addition, the custodian or its agent must send the fund reports it receives concerning the depository's internal accounting controls, and reports on the custodian's or agent's own controls as the fund may reasonably request.

Other information collection requirements apply to the fund. The fund's board of directors must approve by resolution the custodian's arrangement with each depository, and material changes in any arrangement. In the unusual cast when a fund deals directly with a depository, the fund board must approve the arrangement with the depository, and the fund must establish a system that is reasonably designed to prevent unauthorized officer's instructions.[5]

Rule 17f–4 facilitates the safe use of depositories, which can simplify the clearance and settlement of securities transactions and reduce risks of loss, theft, and destruction of securities. The rule's requirements that the custodian confirm transactions and earmark a portion of its holdings for the fund help to document the fund's transactions, and provide evidence of the funds's interest in ''omnibus'' depository accounts that may contain the pooled assets of multiple owners. The requirement that the custodian and its agent send the fund reports on internal controls helps the fund and its auditors to evaluate the reliability of the custodian, its agent, and the depository. The requirement that the fund board approve depository arrangements and material changes encourages directors to review periodically the safety of these arrangements. The requirement that the fund have a system to prevent unauthorized officer's instructions helps to protect fund assets from misappropriation.

The Commission staff estimates that 3,400 respondents (including 3,300 funds, 50 bank custodians, and 50 agents of the custodians) make approximately 25,750 responses under the rule each year. The staff estimates that on average, 50 custodians spend 500 hours each year in transmitting daily confirmations to funds and 250 hours in earmarking holdings for funds, and 100 custodians and agents spend 16 hours annually in transmitting reports to funds. The staff estimates that on average, 500 funds spend 6 hours each year in approving new depository arrangements or changes in existing arrangements, and 50 funds spend 10 hours each year in implementing systems to prevent unauthorized officer's instructions. The total annual burden of the rule's requirements for all respondents therefore is estimated to be 42,600 hours ((50 custodians $\times$ 750 hours) + (100 custodians and agents $\times$ 16 hours) + (500 funds $\times$ 6 hours) + (50 funds $\times$ 10 hours)).[6]

The estimated annual burden of 42,600 burden hours represents an increase of 17,344 hours over the prior estimate of 25,256 hours. The increase in annual burden hours is attributable to the staff's recognition that the rule imposes information collection requirements on funds as well as custodians, and to increases in the estimated time spent by custodians and agents in collection information relating to an increasing number of funds transactions.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, D.C. 20549–0004.

Dated: March 23, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8438 Filed 4–5–99; 8:45 am]

BILLING CODE 8010–01–M

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[3] 17 CFR 270.17f–4.

[4] Rule 17f–4 does not regulate the use of foreign securities depositories. Funds that maintain securities in foreign depositories must comply with rule 17f–5 under the Act [17 CFR 270.17f–5].

[5] Officer's instructions are directions to the depository by authorized personnel of the fund.

[6] The estimated average burden hours do not reflect the costs of operating computer systems used by custodians to provide confirmations and earmark assets, and used by funds to help prevent unauthorized officer's instructions.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23767; 812–9204]

The Aquinas Funds, Inc., et al.; Notice of Application

March 30, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: The requested order would permit applicants, The Aquinas Funds, Inc. (''Company'') and Aquinas Investment Advisers, Inc. (''Adviser''), to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

FILING DATES: The application was filed on September 2, 1994, and was amended on September 20, 1995, and January 13, 1999. 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 SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's

Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 26, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicants, 5310 Harvest Hill Road, Suite 248, Dallas, TX 75230.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Nadya Royblat, Assistant Director, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Company is registered under the Act as an open-end management investment company offering shares in four separate portfolios: Aquinas Fixed Income Fund, Aquinas Equity Income Fund, Aquinas Equity Growth Fund, and Aquinas Balanced Fund (''Funds''), each with its own distinct investment objectives, policies, and restrictions.[1] The Company is organized as a Maryland corporation.

2. The Adviser, registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as investment adviser to the Company pursuant to an investment advisory agreement (''Management Agreement''). Specific portfolio management for each Fund is provided by at least two portfolio managers (''Portfolio Managers''), each of which is registered under the Advisers Act.

3. Under the Management Agreement, the Adviser, subject to approval by the Company's board of directors (''Board''), provides each Fund with general management and administration services, develops the investment programs, selects, hires, and monitors Portfolio Managers, and allocates assets among the Portfolio Managers. Portfolio Managers are selected for the Funds based primarily upon the research and recommendations of the Adviser, which evaluates quantitatively and qualitatively the Portfolio Manager's skills and results in managing assets for specific asset classes, investment styles and strategies. For these services, the Adviser receives an annual management fee from each Fund based on the Fund's average net assets.

4. Under sub-advisory agreements between the Company and the Adviser and the Portfolio Managers (''Portfolio Management Agreements''), each Portfolio Manager purchases and sells portfolio securities for its segment of a Fund in accordance with the Fund's investment objectives, restrictions, and policies. The Adviser pays the Portfolio Managers' fees out of the fees the Adviser receives from the Fund.

5. Applicants request an order to permit the Adviser to enter into and materially amend Portfolio Management Agreements without obtaining shareholder approval.[2] The requested relief will not extend to a Portfolio Manager that is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Company, the Adviser, or the Funds, other than by reason of serving as a Portfolio Manager to one or more of the Funds (an ''Affiliated Portfolio Manager''). None of the current Portfolio Managers is an Affiliated Portfolio Manager.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract approved by a majority of the investment company's outstanding voting shares. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act 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 policies and provisions of the Act. Applicants believe that their requested relief meets this standard for the reasons discussed below.

3. Applicants assert that a Fund's shareholders rely on the Adviser's ability to select, monitor and replace the Portfolio Managers. Applicants represent that the Adviser has substantial experience in performing these functions for the Company and has managed the Funds, since September 1994, with multiple Portfolio Managers. Applicants submit that, from the perspective of an investor, the role of the Portfolio Managers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants content that granting the requested relief would enable the Fund's Adviser/Portfolio Manager strategy to operate more efficiently and without unnecessary delays. Applicants note that the Management Agreement will continue to be fully subject to sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

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

1. The Company will disclose in its prospectus the existence, substance and effect of any order granted pursuant to this application. In addition, each Fund and any Future Fund will hold itself out to the public as employing the management structure described in this application. The prospectus with respect to the Funds and any Future Fund will prominently disclose that the Adviser has the ultimate responsibility for the investment performance of the Funds due to the Adviser's responsibility to oversee the Portfolio Managers and recommend their hiring, termination and replacement.

2. Within 90 days of the hiring of any new Portfolio Manager, shareholders will be furnished relevant information about the new Portfolio Manager that would be contained in a proxy statement, including any change in such disclosure caused by the addition of the new Portfolio Manager. Each Fund will meet this condition by providing shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934 within 90 days of the hiring of a Portfolio Manager.

3. No director or officer of the Company or director or officer of the

[1] Applicants request that the relief apply to any registered open-end investment company that in the future is advised by the Adviser or any person controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the 1940 Act) with the Adviser (a ''Future Fund''), provided that such Future Fund operates in substantially the same manner as the Company with respect to the Adviser's responsibility to select, evaluate, and supervise portfolio managers and complies with the terms and conditions of the application. All existing investment companies (and series thereof) that currently intend to rely on the order have been named as applicants.

[2] Applicants state that the manner of operation of the Funds' multi-manager system and the substance and effect of the requested order has been disclosed in the Funds' prospectus since the effective date of the Funds' Registration Statement on Form N–1A.

Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such officer or director) any interest in a Portfolio Manager, except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Portfolio Manager or an entity that controls, is controlled by or is under common control with a Portfolio Manager.

4. The Adviser will provide general investment management and administrative services to the Funds and, subject to review and approval by the Board will (i) set the Funds' overall investment strategies; (ii) recommend Portfolio Managers; (iii) allocate and, when appropriate, reallocate the Funds' assets among Portfolio Managers; (iv) monitor and evaluate the investment performance of the Portfolio Managers; and (v) ensure that the Portfolio Managers comply with the investment objectives, policies and restrictions of the respective Funds.

5. At all times, a majority of the Board will be persons each of whom is not an ''interested person'' of the Company (as defined in Section 2(a)(19) of the Act) (the ''Independent Directors''), and the nomination of new or additional Independent Directors will be placed within the discretion of the then existing Independent Directors.

6. Neither the Company nor the Adviser will enter into a Portfolio Management Agreement for a Fund with any Affiliated Portfolio Manager without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

7. When a change of Portfolio Manager is proposed for a Fund with an Affiliated Portfolio Manager, the Board including a majority of the Independent Directors, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Portfolio Manager derives an inappropriate advantage.

8. Before a Future Fund may rely on the requested order, the operation of the Fund as described in the application will be approved by the vote of a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Future Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 1, by the initial shareholders before offering shares of that Fund to the public.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8364 Filed 4–5–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC–23766, 812–11278]

Brantley Capital Corporation; Notice of Application

March 30, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant, Brantley Capital Corporation, seeks an order approving its Disinterested Director Option Plan (the ''Plan'').

FILING DATES: The application was filed on August 26, 1998 and amended on February 19, 1999. Applicant has agreed to file an amendment, the substance of which is reflected in the notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 26, 1999, 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 SEC's Secretary.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569 (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 SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant is a business development company (''BDC'') within the meaning of section 2(a)(48) of the Act.[1] Brantley Capital Management L.L.C., (''Brantley'') an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as Applicant's investment adviser. Brantley is compensated based upon a percentage of Applicant's assets, and receives no performance-based compensation. Applicant's officers receive compensation directly or indirectly from the fees paid to Brantley under the investment advisory agreement but do not receive any other cash compensation from Applicant. Applicant does not have a profit-sharing plan described in section 57(n) of the Act.

2. Applicant is managed by a board of directors (''Board'') currently consisting of nine members, six of whom are persons who are not officers or employees or otherwise considered ''interested persons'' of Applicant within the meaning of section 2(a)(19) of the Act. Every investment transaction by Applicant requires prior express approval by the Board. Applicant also relies on its directors to review and consider the best use of its resources. The directors review and evaluate reports of outstanding commitments, required reserves for follow-on financing, and funds available for future investment for the purpose of evaluating and making these resource allocations. At least once each calendar quarter, Applicant's directors review portfolio investments, including those that are non-performing or performing inadequately and evaluate Brantley's recommended course of action for Applicant under the circumstances. In addition, on a calendar quarter basis, Applicant's directors undertake a good faith valuation of Applicant's investments for which no independent market valuations are available.

3. Applicant requests an order under section 61(a)(3)(B) of the Act approving the Plan for current or future directors who at the time of issuance of the options are neither officers nor employees of Applicant (''Non-officer Directors''. Each of Applicant's No-officer Directors currently receives a monthly fee of $500 for serving on the Board and an additional $1,000 for each meeting of the Board or a committee

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[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.