

PROSPECT CAPITAL CORP
Form POS EX
March 01, 2012

As filed with the Securities and Exchange Commission on March 1, 2012

Registration No. 333-176637

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM N-2

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

PRE-EFFECTIVE AMENDMENT NO.
 POST-EFFECTIVE AMENDMENT NO. 1

PROSPECT CAPITAL CORPORATION

(Exact Name of Registrant as Specified in Charter)

10 East 40th Street, 44th Floor
New York, NY 10016

(Address of Principal Executive Offices)

Registrant's Telephone Number, including Area Code: (212) 448-0702

John F. Barry III
Brian H. Oswald
c/o Prospect Capital Management LLC
10 East 40th Street, 44th Floor

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New York, NY 10016

(212) 448-0702

(Name and Address of Agent for Service)

Copies of information to:

Richard T. Prins

Skadden, Arps, Slate, Meagher & Flom LLP

4 Times Square

New York, NY 10036

(212) 735-3000

Approximate Date of Proposed Public Offering:

From time to time after the effective date of this Registration Statement

If any of the securities being registered on this form are offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, other than securities offered in connection with a dividend reinvestment plan, check the following box. x

EXPLANATORY NOTE

This Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-176637) of Prospect Capital Corporation (the Registration Statement) is being filed pursuant to Rule 462(d) under the Securities Act of 1933, as amended (the Securities Act), solely for the purpose of filing exhibits to the Registration Statement. Accordingly, this Post-Effective Amendment No. 1 consists only of a facing page, this explanatory note and Part C of the Registration Statement on Form N-2 setting forth the exhibits to the Registration Statement. This Post-Effective Amendment No. 1 does not modify any other part of the Registration Statement. Pursuant to Rule 462(d) under the Securities Act, this Post-Effective Amendment No. 1 shall become effective immediately upon filing with the Securities and Exchange Commission. The contents of the Registration Statement are hereby incorporated by reference.

PART C OTHER INFORMATION

ITEM 25. FINANCIAL STATEMENTS AND EXHIBITS

(1) *Financial Statements*

The following statements of Prospect Capital Corporation (the Company or the Registrant) are included in Part A of this Registration Statement:

INDEX TO FINANCIAL STATEMENTS

	Page
AUDITED FINANCIAL STATEMENTS	
REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM	F-2
CONSOLIDATED STATEMENTS OF ASSETS AND LIABILITIES June 30, 2011 and June 30, 2010	F-3
CONSOLIDATED STATEMENTS OF OPERATIONS For the Years Ended June 30, 2011, June 30, 2010 and June 30, 2009	F-4
CONSOLIDATED STATEMENTS OF CHANGES IN NET ASSETS For the Years Ended June 30, 2011, June 30, 2010 and June 30, 2009	F-5
CONSOLIDATED STATEMENTS OF CASH FLOWS For the Years Ended June 30, 2011, June 30, 2010 and June 30, 2009	F-6
CONSOLIDATED STATEMENTS OF INVESTMENTS June 30, 2011 and June 30, 2010	F-7
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS	F-29

(2) *Exhibits*

The agreements included or incorporated by reference as exhibits to this registration statement contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties were made solely for the benefit of the other parties to the applicable agreement and (i) were not intended to be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate; (ii) may have been qualified in such agreement by disclosures that were made to the other party in connection with the negotiation of the applicable agreement; (iii) may apply contract standards of materiality that are different from materiality under the applicable securities laws; and (iv) were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement.

The Company acknowledges that, notwithstanding the inclusion of the foregoing cautionary statements, it is responsible for considering whether additional specific disclosures of material information regarding material contractual provisions are required to make the statements in this registration statement not misleading.

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Exhibit No.	Description
(a)(1)	Articles of Incorporation(1)
(a)(2)	Articles of Amendment and Restatement(2)
(a)(3)	Articles of Amendment(7)
(a)(4)	Articles of Amendment and Restatement(8)
(b)(1)	Amended and Restated Bylaws(3)
(c)	Not Applicable
(d)(1)	Form of Share Certificate(2)
(d)(2)	Form of Indenture(12)
(d)(3)	Indenture dated as of December 21, 2010 relating to the 6.25% Senior Convertible Notes, by and between the Registrant and American Stock Transfer & Trust Company, as Trustee(10)
(d)(4)	Indenture dated as of February 14, 2011 relating to the 5.50% Senior Convertible Notes, by and between the Registrant and American Stock Transfer & Trust Company, as Trustee(11)
(d)(5)	Statement of Eligibility of American Stock Transfer & Trust, LLC on Form T-1(13)
(d)(6)	Form of Selling Agent Agreement(13)
(d)(7)	Indenture dated as of February 16, 2012, by and between the Registrant and American Stock Transfer & Trust, LLC, as Trustee
(d)(8)	First Supplemental Indenture dated as of March 1, 2012, to the Indenture dated as of February 16, 2012, by and between the Registrant and American Stock Transfer & Trust, LLC, as Trustee
(d)(9)	Form of 7.00% Prospect Capital InterNote® due 2022 (included as part of Exhibit (d)(8))
(e)	Form of Dividend Reinvestment Plan(2)
(f)	Not Applicable
(g)	Form of Investment Advisory Agreement between Registrant and Prospect Capital Management LLC(2)
(h)(1)	Form of Underwriting Agreement(9)
(h)(2)	Form of Equity Distribution Agreement(12)
(i)	Not Applicable
(j)	Form of Custodian Agreement(4)
(k)(1)	Form of Administration Agreement between Registrant and Prospect Administration LLC(2)
(k)(2)	Form of Transfer Agency and Registrar Services Agreement(4)
(k)(3)	Form of Trademark License Agreement between the Registrant and Prospect Capital Management(2)
(k)(4)	Third Amended and Restated Loan and Servicing Agreement dated as of January 13, 2011 among Prospect Capital Funding LLC, Prospect Capital Corporation, the lenders from time to time party thereto, the managing agents from time to time party thereto, Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., Rabobank Nederland, New York Branch and Key Equipment Finance Inc. as Syndication Agents, U.S. Bank National Association as Calculation Agent, Paying Agent and Documentation Agent, and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., Rabobank Nederland, New York Branch as Facility Agent(5)

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(k)(5) Agreement and Plan of Merger dated August 3, 2009 between Prospect Capital Corporation and Patriot Capital Funding, Inc.(6)

C-2

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Exhibit No.	Description
(l)(1)	Opinion and Consent of Venable LLP, as special Maryland counsel for Registrant(13)
(l)(2)	Opinion and Consent of Venable LLP, as special Maryland counsel for the Registrant
(l)(3)	Opinion and Consent of Skadden, Arps, Slate, Meagher & Flom LLP, as special New York counsel for the Registrant
(m)	Not Applicable
(n)(1)	Consent of independent registered public accounting firm(14)
(n)(2)	Report of independent registered public accounting firm on Senior Securities table(14)
(n)(3)	Power of Attorney(12)
(o)	Not Applicable
(p)	Not Applicable
(q)	Not Applicable
(r)	Code of Ethics(12)

(1) Incorporated by reference to the corresponding exhibit number to the Registrant's Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on April 16, 2004.

(2) Incorporated by reference to the corresponding exhibit number to the Registrant's Pre-effective Amendment No. 2 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on July 6, 2004.

(3) Incorporated by reference to Exhibit 3.1 of the Registrant's Form 8-K filed on August 26, 2011.

(4) Incorporated by reference to the corresponding exhibit number to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on July 23, 2004.

(5) Incorporated by reference to Exhibit 99.1 of the Registrant's Form 8-K filed on January 20, 2011.

(6) Incorporated by reference to Exhibit 2.1 of the Registrant's Form 8-K filed on August 5, 2009.

(7) Incorporated by reference to the corresponding exhibit number to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement under the Securities Act of 1933 as amended, on Form N-2 (File No. 333-143819), filed on September 5, 2007.

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- (8) Incorporated by reference to Exhibit 3.1 of the Registrant's Form 8-K filed on September 7, 2010.
- (9) Incorporated by reference to the corresponding exhibit number to the Registrant's Post-effective Amendment No. 1 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-170724), filed on April 6, 2011.
- (10) Incorporated by reference to Exhibit 4.1 of the Registrant's Form 8-K filed on December 21, 2010.
- (11) Incorporated by reference to Exhibit 4.1 of the Registrant's Form 8-K filed on February 18, 2011.
- (12) Incorporated by reference to the corresponding exhibit number to the initial filing of this Registration Statement, filed on September 1, 2011.
- (13) Incorporated by reference to the corresponding exhibit number to Pre-Effective Amendment No. 1 of this Registration Statement, filed on October 11, 2011.
- (14) Incorporated by reference to the corresponding exhibit number to Pre-Effective Amendment No. 2 of this Registration Statement, filed on October 18, 2011.

Filed herewith.

* To be filed by amendment.

C-3

ITEM 26. MARKETING ARRANGEMENTS

The information contained under the heading "Plan of Distribution" on this Registration Statement is incorporated herein by reference and any information concerning any underwriters will be contained in the accompanying prospectus supplement, if any.

ITEM 27. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION**

Commission registration fee	\$	37,837
NASDAQ Global Select Additional Listing Fees		65,000
FINRA filing fee		22,433
Accounting fees and expenses		250,000
Legal fees and expenses		500,000
Printing and engraving		200,000
Miscellaneous fees and expenses		25,000
Total	\$	1,100,270

** These amounts are estimates.

All of the expenses set forth above shall be borne by the Company.

ITEM 28. PERSONS CONTROLLED BY OR UNDER COMMON CONTROL

As of June 30, 2011 the Registrant owns a controlling interest in the following companies: a 100% interest in AIRMALL USA, Inc, 100% of the membership units of AWCNC, 100% of Coalbed, Inc., 100% interest of Freedom Marine Holdings Inc., 95.0% of NMMB Holdings, Inc., a 90.7% interest in Nupla, a 100% interest in Borga, a 77.7% interest in Ajax Acquisitions Corp., a Delaware corporation; a 40% interest in C&J Cladding, LLC, a Delaware limited liability company; a 100% interest in Change Clean Energy Holdings, Inc., a Delaware corporation (as well as an indirect controlling interest in DownEast Power Company, LLC, a Delaware limited liability company); a 51% interest in Worcester Energy Corporation, a Maine limited liability company; a 100% interest in Worcester Energy Holdings, Inc., a Maine corporation (as well as an indirect controlling interest in Biochips LLC, a Maine corporation 51% owned by Worcester Energy Holdings, Inc.); a 51% interest in Worcester Energy Partners, Inc., a Delaware corporation (as well as an indirect controlling interest in Precision Logging & Landclearing, Inc., a Delaware corporation 100% owned by Worcester Energy Partners, Inc.); a 49% interest in Integrated Contract Services, Inc., a Delaware corporation; a 100% interest in The Healing Staff, f/k/a Lisamarie Fallon, Inc., a Texas corporation; a 100% interest in Vets Securing America, Inc., a Delaware corporation; a 57.8% interest in Iron Horse Coiled Tubing, Inc., an Alberta corporation; a 100% interest in Gas Solutions Holdings, Inc., a Delaware corporation; a 80% interest in NRG Manufacturing, Inc., a Texas corporation; a 74.1% interest in R-V Industries, Inc., a Pennsylvania corporation; and a 100% interest in Yatesville Coal Holdings, Inc., a Delaware corporation (as well as indirect controlling interests in Eastern Kentucky Coal Holdings, Inc., a Delaware corporation, North Fork Collieries LLC, a Delaware limited liability company, E&L Construction Inc., a Kentucky corporation and C&A Construction Inc., a Kentucky corporation, each of which is 100% owned by Yatesville, and Genesis Coal Corp., a Kentucky corporation 78% owned by Yatesville).

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Prospect Capital Management LLC, a Delaware limited liability company, does not own any shares of the Registrant. Without conceding that Prospect Capital Management controls the Registrant, an

C-4

affiliate of Prospect Capital Management is the general partner of, and may be deemed to control, the following entities:

Name	Jurisdiction of Organization
Prospect Street Ventures I, LLC	Delaware
Prospect Management Group LLC	Delaware
Prospect Street Broadband LLC	Delaware
Prospect Street Energy LLC	Delaware
Prospect Administration LLC	Delaware

ITEM 29. NUMBER OF HOLDERS OF SECURITIES

The following table sets forth the approximate number of record holders of our common stock at March 1, 2012.

Title of Class	Number of Record Holders
Common Stock, par value \$.001 per share	80

ITEM 30. INDEMNIFICATION

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment as being material to the cause of action. Our charter contains such a provision which eliminates directors' and officers' liability to the maximum extent permitted by Maryland law, subject to the requirements of the 1940 Act.

Our charter authorizes us, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to obligate ourselves to indemnify any present or former director or officer or any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. Our bylaws obligate us, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made, or threatened to be made, a party to the proceeding by reason of his or her service in any such capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of us in any of the capacities described above and any of our employees or agents or any employees or agents of our predecessor. In accordance with the 1940 Act, we will not indemnify any person for any liability to which such person would be subject by reason of such person's willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

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Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of

C-5
