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GLADSTONE CAPITAL CORP

Form N-54A

August 23, 2001

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM N-54A

NOTIFICATION OF ELECTION TO BE SUBJECT TO SECTIONS 55 THROUGH
65 OF THE INVESTMENT COMPANY ACT OF 1940 FILED PURSUANT
TO SECTION 54(a) OF THE INVESTMENT COMPANY ACT

The undersigned business development company hereby notifies the Securities and Exchange Commission that it elects, pursuant to the provisions of Section 54(a) of the Investment Company Act of 1940, as amended (the "Investment Company Act"), to be subject to the provisions of Sections 55 through 65 of the Investment Company Act and, in connection with such notification of election, submits the following information:

Name: Gladstone Capital Corporation

Address of Principal Business Office (No. & Street, City, State, Zip Code): 1750 Tysons Blvd., 4TH Floor, McLean, Virginia 22102

Telephone Number (Including Area Code): (703) 744-1165

Name and Address of Agent for Service of Process: The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, MD 21202

Copy to: Cooley Godward LLP, One Freedom Square, Reston Town Center, 11951 Freedom Drive, Reston, VA 20190 Attention: Thomas R. Salley, Esq. and Darren K. DeStefano, Esq.

/X/ The Company has filed a registration statement for a class of equity securities pursuant to Section 12 of the Securities Exchange Act of 1934, as amended. Give the file number of the registration statement or, if the file number is unknown or has not yet been assigned, give the date on which the registration statement was filed: August 23, 2001

/ / The Company is relying on Rule 12g-2 under the Securities Exchange Act of 1934, as amended, in lieu of filing a registration statement for a class of equity securities under that Act.

The file number of the registration as an investment company pursuant to Section 8(a) of the Investment Company Act, if any, of the Company: NOT APPLICABLE

The file number of the registration as an investment company pursuant to

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Section 8(a) of the Investment Company Act, if any, of any subsidiary of the Company: NOT APPLICABLE

The undersigned company certifies that it is a closed-end company organized under the laws of Maryland and with its principal place of business in Virginia; that it will be operated for the purpose of making investments in securities described in Sections 55(a)(1) through (3) of the Investment Company Act; and that it will make available significant managerial assistance with respect to issuers of such securities to the extent required by the Investment Company Act.

Signatures

Pursuant to the requirements of the Investment Company Act of 1940, as amended, the undersigned has caused this Notification of Election to be Subject to Sections 55 through 65 of the Investment Company Act of 1940 to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Fairfax, Commonwealth of Virginia, this 23RD day of August, 2001.

GLADSTONE CAPITAL CORPORATION

By: /s/ DAVID GLADSTONE

David Gladstone
Chairman and Chief Executive Officer

ATTEST:

/s/ TERRY L. BRUBAKER

Terry Lee Brubaker
President & Chief Operating Officer

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Michael J. Rockwell(15)

41,354

*

Charles L. Smith(16)

74,343

*

All directors and executive officers as a group (16 persons)(17)

937,971

2.2

* Less than 1%

(1) The number of shares beneficially owned by each stockholder, director and executive officer is calculated pursuant to rules promulgated by the Securities and Exchange Commission. Under those rules, a person or entity is considered to beneficially own all shares for which the person or entity has sole or shared voting power or investment power, and all shares that the person or entity has the right to acquire on, or within 60 days after, January 31, 2006. The inclusion herein of any shares of common stock deemed beneficially owned does not constitute an admission of beneficial ownership of such shares. Unless otherwise indicated, each person or entity listed above has sole voting and/or investment power with respect to the shares listed as of January 31, 2006.

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- (2) In calculating the percentage of common stock beneficially owned by each person or entity listed, the number of shares deemed outstanding consists of 42,124,349 shares outstanding as of January 31, 2006, plus, for persons only, any shares subject to stock options that were exercisable by that person only on, or within 60 days after, January 31, 2006.
- (3) Beneficial ownership as of December 31, 2005, as reported in an amendment to a Schedule 13G filed with the Securities and Exchange Commission on February 14, 2006.
- (4) Beneficial ownership as of December 31, 2005, as reported in a Schedule 13G filed with the Securities and Exchange Commission on February 14, 2006.
- (5) Beneficial ownership as of December 31, 2005 as reported in a Schedule 13G filed with the Securities and Exchange Commission on February 13, 2006.
- (6) The address for each director and executive officer is *c/o Avid Technology, Inc., One Park West, Tewksbury, Massachusetts 01876.*
- (7) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (8) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (9) Consists of 20,000 shares of common stock issuable upon the exercise of outstanding stock options and 3,000 shares of common stock held in trust for the benefit of Dr. Guttag's children.
- (10) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (11) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (12) Includes 429,582 shares of common stock issuable upon the exercise of outstanding stock options.
- (13) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (14) Includes 41,874 shares of common stock issuable upon the exercise of outstanding stock options.
- (15) Consists of shares of common stock issuable upon the exercise of outstanding stock options.
- (16) Includes 66,978 shares of common stock issuable upon the exercise of outstanding stock options.
- (17) Includes 871,539 shares of common stock issuable upon the exercise of outstanding stock options.

PROPOSAL 1 ELECTION OF DIRECTORS

General

Our board of directors is divided into three classes (designated as Class I, Class II and Class III Directors), with one class being elected each year and members of each class holding office for a three-year term. Our board of directors currently consists of seven members, two of whom are Class I Directors (both of whom have been nominated for re-election at our annual meeting this year for terms expiring at our 2009 annual meeting), two of whom are Class II Directors (with terms expiring at our 2007 annual meeting) and three of whom are Class III Directors (with terms expiring at our 2008 annual meeting).

The persons named in the enclosed proxy will vote to elect George H. Billings and Nancy Hawthorne as Class I Directors, unless authority to vote for the election of either or both of the nominees is withheld by marking the proxy to that effect. Both nominees have indicated their willingness to serve if elected, but if either or both of the nominees should be unable or unwilling to serve, proxies may be voted for substitute nominee(s) designated by our board of directors.

Directors

Set forth below regarding each continuing director and each of the nominees for director is his or her name, age as of March 31, 2006, principal occupation, business experience during at least the past five years, all positions he or she holds with us, if any, the names of other publicly held corporations for which he or she serves as a director and the year during which he or she first became a member of our board of directors.

There are no family relationships among any of the directors and executive officers of Avid.

Nominees

Class I Directors (Terms to expire at the 2009 annual meeting)

George H. Billings, 55, became a director in March 2004. Since 1987, Mr. Billings has been the President of Billings & Co., a management consulting firm focused on the wireless communications and related industries. Mr. Billings also served as Chief Operating Officer from March 1998 to June 1998, and as Chief Executive Officer from June 1998 to May 1999 of Silicon Wireless, Ltd., a developer of wireless communication technology. In addition, from May 1992 to May 1997, Mr. Billings served first as the Chief Operating Officer and later as Vice Chairman of Radio Movil Digital Americas, Inc., a wireless dispatch communications company with investments in South America. Previously, Mr. Billings served as General Manager of the Washington-Baltimore Cellular Telephone Company Partnership (d/b/a Cellular One), and as Vice President of Corporate Development of the Communications Satellite Corporation.

Nancy Hawthorne, 54, became a director in October 1997. Since August 2001, Ms. Hawthorne has served as Chair and Chief Executive Officer of Clerestory, LLC, a financial advisory and investment firm. In addition, from 1996 until July 1997, Ms. Hawthorne was Chief Executive Officer and Managing Partner of Hawthorne, Krauss & Associates, LLC, a provider of consulting services to corporate management. From July 1997 until July 2001, Ms. Hawthorne was self-employed, providing a variety of financial strategy consulting services. Previously, Ms. Hawthorne served as Treasurer and the Chief Financial Officer of Continental Cablevision. Ms. Hawthorne also serves as a director of the Metropolitan Series Fund, Inc., a mutual fund established by the Metropolitan Life Insurance Company.

Board Recommendation

The board of directors recommends that the stockholders vote **FOR** the election of Mr. Billings and Ms. Hawthorne as Class I Directors.

Continuing Members of Our Board of Directors

Class II Directors (Terms to expire at the 2007 annual meeting)

David A. Krall, 45, became a director in October 2000 and has been an employee since 1995. Mr. Krall has served as our President and Chief Executive Officer since April 2000, and served as our President and Chief Operating Officer from October 1999 until April 2000. Previously, Mr. Krall served as Chief Operating Officer of Digidesign, our audio division, from July 1998 to October 1999, and as Vice President of Engineering of Digidesign from June 1996 to July 1998.

Pamela F. Lenehan, 53, became a director in April 2001. Since June 2002, Ms. Lenehan has served as President of Ridge Hill Consulting, LLC, a strategy and financial consulting firm. From September 2001 until June 2002, Ms. Lenehan was self-employed as a private investor. From March 2000 until September 2001, Ms. Lenehan was Vice President and Chief Financial Officer of Convergent Networks, Inc., a manufacturer of switching equipment. From February 1995 until January 2000, she was Senior Vice President, Corporate Development and Treasurer of Oak Industries, Inc., a manufacturer of telecommunications components. Previously, Ms. Lenehan was a Managing Director of Investment Banking at Credit Suisse First Boston and a Vice President of Corporate Banking at Chase Manhattan Bank. Ms. Lenehan is a member of the board of directors of Spartech Corporation, a processor of engineered thermoplastics.

Class III Directors (Terms to expire at the 2008 annual meeting)

Elizabeth M. Daley, 63, became a director in February 2005. Dr. Daley has been Dean of the School of Cinema-Television at the University of Southern California since 1991 and Executive Director of the Annenberg Center for Communication at the University of Southern California since 1993.

John V. Guttag, 57, became a director in October 2002. Dr. Guttag has been a professor at the Massachusetts Institute of Technology since January 1979, and served as Chair of the Department of Electrical Engineering and Computer Science from January 1999 to September 2004. In addition, Dr. Guttag is co-head of the Network and Mobile Systems Group within MIT's Laboratory for Computer Science.

Youngme E. Moon, 41, became a director in September 2005. Dr. Moon has been a professor at Harvard Business School since 1998. Prior to that, Dr. Moon was a professor at the Massachusetts Institute of Technology from 1997 to 1998. From 1991 to 1993, Dr. Moon was a producer for the NBC News affiliate, KRON, in San Francisco, California.

Board of Directors and Committee Meetings

During 2005, our board of directors met eleven times and acted by written consent six times. Each director was present for at least 75% of the aggregate number of our board of directors meetings and meetings held by all committees on which that director then served.

Our corporate governance guidelines provide that directors are expected to attend our annual meeting of stockholders. All of our directors then in office attended our 2005 annual meeting of stockholders.

Our board of directors has established three standing committees—audit, compensation, and nominating and governance—each of which operates under a charter that has been approved by our board of directors. Current copies of each committee's charter are available on the corporate governance section of our website at www.avid.com and can be accessed by clicking on About Us, Investor Relations and Corporate Governance.

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Our board of directors has determined that Mr. Billings, Dr. Daley, Dr. Gutttag, Ms. Hawthorne, Ms. Lenehan and Dr. Moon are independent directors as defined under the rules of the NASDAQ National Market. Accordingly, each member of each of the three standing committees of our board of directors is an independent director as defined under the rules of the NASDAQ National Market.

Audit Committee

Our audit committee's responsibilities include:

- appointing, approving the compensation of, and assessing the independence of our independent registered public accounting firm;
- overseeing the work of our independent registered public accounting firm, including reviewing certain reports required to be made by the independent registered public accounting firm;
- overseeing the work of our internal auditor, including approving the internal audit annual plan submitted by the internal auditor;
- reviewing and discussing with management and the independent registered public accounting firm our annual and quarterly financial statements and related disclosures;
- monitoring our internal control over financial reporting, disclosure controls and procedures, and code of business conduct and ethics; and
- meeting independently with our internal auditing staff, the independent registered public accounting firm and management.

Our audit committee is authorized to retain independent legal, accounting and other advisors, and compensate them for their services.

Our audit committee met 16 times during 2005. The current members of our audit committee are Mr. Billings, Ms. Hawthorne and Ms. Lenehan.

Our board of directors has determined that each of Mr. Billings, Ms. Hawthorne and Ms. Lenehan is an audit committee financial expert as defined in Item 401(h) of Regulation S-K.

Compensation Committee

Our compensation committee's responsibilities include:

- annually reviewing and approving corporate goals and objectives relevant to the Chief Executive Officer's compensation;
- determining the Chief Executive Officer's compensation;
- reviewing and approving, or making recommendations to our board of directors with respect to, the compensation of our other executive officers;
- overseeing an evaluation of our senior executives;
- overseeing and administering our cash and equity incentive plans; and
- reviewing and making recommendations to our board of directors with respect to director compensation.

Our compensation committee is authorized to retain independent legal, accounting and other advisors, and compensate them for their services.

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Our compensation committee met ten times and acted by written consent twelve times during 2005. The current members of our compensation committee are Dr. Daley, Dr. Gutttag, Ms. Hawthorne and Ms. Lenehan (Dr. Daley was appointed to our compensation committee in November 2005).

Nominating and Governance Committee

Our nominating and governance committee's responsibilities include:

- identifying individuals qualified to become members of our board of directors;
- recommending to our board of directors the persons to be nominated for election as directors and to each of the committees of our board of directors;
- reviewing and making recommendations to our board of directors with respect to management succession planning;
- developing and recommending to our board of directors corporate governance principles; and
- overseeing an annual evaluation of our board of directors.

Our nominating and governance committee is authorized to retain advisors and consultants, and to compensate them for their services.

Our nominating and governance committee met 13 times and acted by written consent three times during 2005. The current members of our nominating and governance committee are Mr. Billings, Ms. Hawthorne and Dr. Moon (Dr. Moon was appointed to our nominating and governance committee in September 2005).

Compensation Committee Interlocks and Insider Participation

None of our executive officers is a member of the compensation committee of another corporation or other entity (or serves an equivalent function for such corporation or other entity) whose executive officers served on our board of directors.

Director Candidates

The process followed by our nominating and governance committee to identify and evaluate director candidates includes requests to members of our board of directors and others for recommendations, meetings from time to time to evaluate biographical information and background material relating to potential candidates and interviews of selected candidates by members of our nominating and governance committee and our board of directors.

In considering whether to recommend any particular candidate for inclusion in our board of directors' slate of recommended director nominees, our nominating and governance committee considers the criteria set forth in our corporate governance guidelines. These criteria include the candidate's integrity, business acumen, knowledge of our business and industry, age, experience, commitment to participate as a director and conflicts of interest that would impair such candidate's ability to act in the interests of all stockholders. Our nominating and governance committee does not assign specific weights to particular criteria, and no particular criterion is a prerequisite for any prospective nominee. Our nominating and governance committee believes that the backgrounds and qualifications of our directors, considered as a group, should provide a composite mix of experience, knowledge and abilities that will allow our board of directors to fulfill its responsibilities.

Stockholders may recommend individuals to our nominating and governance committee for consideration as potential director candidates by submitting the name, together with appropriate biographical information and background materials, and a statement as to whether the stockholder or

group of stockholders making the recommendation has beneficially owned more than 5% of our common stock for at least a year as of the date the recommendation is made, to the Nominating and Governance Committee, c/o the Assistant Secretary, Avid Technology, Inc., Avid Technology Park, One Park West, Tewksbury, Massachusetts 01876.

Assuming that appropriate biographical and background material has been provided on a timely basis, our nominating and governance committee will evaluate stockholder-recommended candidates by following substantially the same process, and considering substantially the same criteria, as it follows for candidates submitted by others. If our board of directors decides to nominate a stockholder-recommended candidate and recommends his or her election, then his or her name will be included in our proxy card for the next annual meeting.

Communicating with Our Board of Directors

Our board of directors will give appropriate attention to written communications that are submitted by our stockholders, and will respond if and as appropriate. The chairman of our board of directors (if an independent director, or otherwise the chairman of our nominating and governance committee), with the assistance of our general counsel, is primarily responsible for monitoring communications from stockholders and for providing copies or summaries to the other directors as he or she considers appropriate.

Stockholders who wish to send communications on any topic to our board of directors should address such communications to the board of directors, c/o the Assistant Secretary, Avid Technology, Inc., Avid Technology Park, One Park West, Tewksbury, Massachusetts 01876.

Director Compensation

The following table sets forth the cash and equity compensation received during 2005 by the members of our board of directors who were not our employees: