

# GLADSTONE CAPITAL CORP

## FORM POS EX

(Post-effective amendment filed solely to add exhibits to a registration statement)

Filed 05/22/17

Address	1521 WESTBRANCH DRIVE SUITE 100 MCLEAN, VA 22102
Telephone	703-287-5800
CIK	0001143513
Symbol	GLAD
Industry	Closed End Funds
Sector	Financials
Fiscal Year	09/30

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, DC 20549

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**Form N-2**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*  
 PRE-EFFECTIVE AMENDMENT NO.  
 POST-EFFECTIVE AMENDMENT NO. 3

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**GLADSTONE CAPITAL CORPORATION**  
(Exact name of registrant as specified in charter)

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1521 WESTBRANCH DRIVE, SUITE 100  
MCLEAN, VA 22102  
(Address of principal executive offices)

Registrant's telephone number, including area code: (703) 287-5800

DAVID GLADSTONE  
CHAIRMAN AND CHIEF EXECUTIVE OFFICER  
GLADSTONE CAPITAL CORPORATION  
1521 WESTBRANCH DRIVE, SUITE 100  
MCLEAN, VIRGINIA 22102  
(Name and address of agent for service)

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**COPIES TO:**

Lori B. Morgan  
Bass, Berry & Sims PLC  
150 Third Avenue South  
Suite 2800  
Nashville, TN 37201  
(615) 742-6280  
(615) 742-6293 (Facsimile)

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**Approximate date of proposed public offering:** From time to time after the effective date of this registration statement.

If any securities being registered on this form will be 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.

It is proposed that this filing will become effective (check appropriate box):

When declared effective pursuant to Section 8(c).

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PART C

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## EXPLANATORY NOTE

This Post-Effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-208637) (the "Registration Statement") of Gladstone Capital Corporation (the "Company" or the "Registrant") 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 additional exhibits to such Registration Statement. Accordingly, this Post-Effective Amendment No. 3 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. 3 does not modify any other part of the Registration Statement. Pursuant to Rule 462(d) under the Securities Act, this Post-Effective Amendment No. 3 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 financial statements and schedule of Gladstone Capital Corporation (the “Company” or the “Registrant”) are included in the Registration Statement in “Part A: Information Required in a Prospectus:”

**GLADSTONE CAPITAL CORPORATION  
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

**Audited Consolidated Financial Statements**

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2. **Exhibits**

<u>Exhibit Number</u>	<u>Description</u>
2.a.1	Articles of Amendment and Restatement to the Articles of Incorporation, incorporated by reference to Exhibit 99.a.2 to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.a.2	Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, including Appendix A thereto relating to the Term Preferred Shares, 7.125% Series 2016, incorporated by reference to Exhibit 2.a.2 to Post-Effective Amendment No. 5 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 31, 2011.
2.a.3	Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, 6.75% Series 2021, including Exhibit A thereto, incorporated by reference to Exhibit 3.3 to the Registration Statement on Form 8-A (File No. 001-35332), filed May 15, 2014.
2.a.4	Certificate of Correction to Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, 6.75% Series 2021, incorporated by reference to Exhibit 3.4 to the Quarterly Report on Form 10-Q (File No. 811-000000), filed July 30, 2014.
2.a.5	Certificate of Correction to Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 29, 2015.
2.b.1	Bylaws, incorporated by reference to Exhibit 99.b to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.b.2	Amendment to Bylaws, incorporated by reference to Exhibit 3.3 to the Quarterly Report on Form 10-Q (File No. 814-00237), filed February 17, 2004.
2.b.3	Second Amendment to Bylaws, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed July 10, 2007.
2.b.4	Third Amendment to Bylaws, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed June 10, 2011.
2.b.5	Fourth Amendment to Bylaws, incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K (File No. 814-00237), filed November 29, 2016.
2.c	Not applicable.

<b>Exhibit Number</b>	<b>Description</b>
2.d.1	Form of Certificate for Common Stock, incorporated by reference to Exhibit 99.d.2 to Pre-Effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-63700), filed August 23, 2001.
2.d.2	Form of Senior Indenture incorporated by reference to Exhibit 2.d.3 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 20, 2009.
2.d.3	Form of Subordinated Indenture incorporated by reference to Exhibit 2.d.4 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 20, 2009.
2.d.4	Form of Certificate for 6.75% Series 2021 Term Preferred Stock, incorporated by reference to Exhibit 4.3 to the Registration Statement on Form 8-A (File No. 001-35332), filed May 15, 2014.
2.d.5	Form of Common Stock Subscription Form and Subscription Certificate, incorporated by reference to Exhibit 2.d.6 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.6	Form of Preferred Stock Subscription Form and Subscription Certificate, incorporated by reference to Exhibit 2.d.7 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.7	Form of Common Stock Warrant Agreement and Warrant Certificate incorporated by reference to Exhibit 2.d.8 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.8	Form of Preferred Stock Warrant Agreement and Warrant Certificate, incorporated by reference to Exhibit 2.d.9 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.9	Form T-1 Statement of Eligibility of U.S. Bank National Association, as Trustee, with respect to the Form of Senior and Subordinated Indentures, incorporated by reference to Exhibit 2.d.9 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.f	Not applicable.
2.g.1	Amended and Restated Investment Advisory and Management Agreement between the Registrant and Gladstone Management Corporation, dated as of October 1, 2006, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 5, 2006.
2.g.2	Amendment No. 1 to Amended and Restated Investment Advisory and Management Agreement between the Registrant and Gladstone Management Corporation, dated as of October 13, 2015, incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 14, 2015.
2.h.1**	Underwriting Agreement.
2.h.2	Equity Distribution Agreement between the Registrant, Gladstone Management Corporation, Gladstone Administration, LLC and Cantor Fitzgerald & Co., dated February 27, 2015, incorporated by reference to Exhibit 2.h.2 to Post-Effective Amendment No. 6 to the Registration Statement on Form N-2 (File No. 333-333-185191), filed February 27, 2015.
2.h.3*	Amendment No. 1 to Equity Distribution Agreement between the Registrant, Gladstone Management Corporation, Gladstone Administration, LLC and Cantor Fitzgerald & Co., dated May 22, 2017.
2.i	Not applicable.
2.j.1	Custody Agreement between the Registrant and The Bank of New York, dated as of May 5, 2006, incorporated by reference to Exhibit 10.3 to the Quarterly Report on Form 10-Q (File No. 814-00237), filed August 1, 2006.
2.j.2	Custodial Agreement, incorporated by reference to Exhibit 2.j.2 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.j.3	Amendment No. 1 to Custodial Agreement, incorporated by reference to Exhibit 2.j.3 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.j.4	Amendment No. 2 to Custodial Agreement, incorporated by reference to Exhibit 2.j.4 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.k.1	Stock Transfer Agency Agreement between the Registrant and The Bank of New York, incorporated by reference to Exhibit 99.k.1 to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.k.2	Administration Agreement between the Registrant and Gladstone Administration, LLC, dated as of October 1, 2006, incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K (File No. 814-00237), filed October 5, 2006.
2.k.3	Fifth Amended and Restated Credit Agreement, dated as of May 1, 2015, by and among Gladstone Business Loan, LLC, as Borrower, Gladstone Management Corporation, as Servicer, the Lenders and Managing Agents named therein, and Keybank National Association, as Administrative Agent, incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed May 5, 2015.

<u>Exhibit Number</u>	<u>Description</u>
2.k.4	Joinder Agreement, dated as of June 19, 2015, by and among Gladstone Business Loan, LLC, Gladstone Management Corporation, Keybank National Association and Santander Bank, N.A., incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.5	Assignment, Acceptance and Joinder, dated as of June 19, 2015, by and between Keybank National Association and Alostark Bank of Commerce, incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.6	Assignment and Acceptance, dated as of June 19, 2015, by and between Keybank National Association and Newbridge Bank, incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.7	Amendment No. 1 to Fifth Amended and Restated Credit Agreement, dated as of October 9, 2015, incorporated by reference to Exhibit 10.2 to the Quarterly Report on form 10-Q (file No. 814-00237), filed February 8, 2016.
2.k.8	Amendment No. 2 to Fifth Amended and Restated Credit agreement, dated August 18, 2016, incorporated by reference to Exhibit 2.k.8 to Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-208637), filed October 28, 2016.
2.1.1	Opinion of Counsel (Bass, Berry & Sims PLC), dated December 18, 2015, incorporated by reference to Exhibit 2.1.2 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.1.2	Opinion of Counsel (Venable LLP), dated December 18, 2015, incorporated by reference to Exhibit 2.1.2 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.1.3*	Opinion of Counsel (Venable LLP).
2.m	Not applicable.
2.n.1	Consent of PricewaterhouseCoopers LLP, incorporated by reference to Exhibit 2.n.1 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.n.2	Consent of Counsel (Bass, Berry & Sims PLC) (included in Exhibit 2.1.1).
2.n.3	Consent of Counsel (Venable LLP) (included in Exhibit 2.1.2).
2.n.4	Consent of Counsel (Venable LLP) (included in Exhibit 2.1.3).
2.n.5	Report of Independent Registered Public Accounting Firm, incorporated by reference to Exhibit 2.n.4 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.n.6	Consent of Crowe Horwath LLP, incorporated by reference to Exhibit 2.n.5 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.7	Consent of Henderson Hutcherson & McCullough, PLLC, incorporated by reference to Exhibit 2.n.6 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.8	Consent of Crowe Horwath LLP, incorporated by reference to Exhibit 2.n.7 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.9	Consent of RubinBrown LLP, incorporated by reference to Exhibit 2.n.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.o	Not applicable.
2.p	Subscription Agreement dated May 30, 2001, incorporated by reference to Exhibit 99.p to the Registration Statement on Form N-2 (File No. 333-63700), filed June 22, 2001.
2.q	Not applicable.
2.r	Code of Ethics and Business Conduct, updated January 28, 2013, incorporated by reference to Exhibit 14 to the Annual Report on Form 10-K (File No. 814-00237), filed November 20, 2013.
2.s.1	Power of Attorney, incorporated by reference to the signature page of the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.2	Reserved.

<b>Exhibit Number</b>	<b>Description</b>
2.s.3	Statements Re: Computation of Ratios, incorporated by reference to Exhibit 2.s.3 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.4	Financial Statements of Defiance Integrated Technologies, Inc. as of and for the years ended December 31, 2015, 2014 and 2013 (audited), incorporated by reference to Exhibit 2.s.4 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.5	Financial Statements of Sunshine Media Group, Inc. as of and for the year ended December 31, 2015(audited), incorporated by reference to Exhibit 2.s.5 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.6	Financial Statements of Sunshine Media Group, Inc. as of and for the years ended December 31, 2014 and 2013 (audited), incorporated by reference to Exhibit 2.s.6 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.7	Financial Statements of RBC Acquisition Corp. and Subsidiary as of and for the years ended September 30, 2015 and 2014 (unaudited), incorporated by reference to Exhibit 2.s.7 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.8	Financial Statements of RBC Acquisition Corp. and Subsidiary as of and for the year ended September 30, 2014 (audited), incorporated by reference to Exhibit 2.s.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.9	Form of Prospectus Supplement for Common Stock Offering, incorporated by reference to Exhibit 2.s.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.10	Form of Prospectus Supplement for Preferred Stock Offering, incorporated by reference to Exhibit 2.s.9 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.11	Form of Prospectus Supplement for Rights Offering of Common Stock, incorporated by reference to Exhibit 2.s.10 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.12	Form of Prospectus Supplement for Rights Offering of Preferred Stock, incorporated by reference to Exhibit 2.s.11 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.13	Form of Prospectus Supplement for Notes, incorporated by reference to Exhibit 2.s.12 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.14	Form of Prospectus Supplement for Senior Notes, incorporated by reference to Exhibit 2.s.13 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.15	Form of Prospectus Supplement for Warrants for Common Stock, incorporated by reference to Exhibit 2.s.14 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.16	Form of Prospectus Supplement for Warrants for Preferred Stock, incorporated by reference to Exhibit 2.s.15 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
*	Filed herewith.
**	To be filed by post-effective amendment.

#### **Item 26. Marketing Arrangements**

The information contained under the heading “*Plan of Distribution*” in the Registration Statement is incorporated herein by reference.

#### **Item 27. Other Expenses of Issuance and Distribution**

Commission registration fee	\$ 30,210
FINRA fee	45,500
Accounting fees and expenses	55,000*
Printing and engraving	75,000*
Legal fees and expenses	150,000*
Miscellaneous fees and expenses	15,000*
<b>Total</b>	<b><u>\$370,710*</u></b>

\* These amounts are estimates.

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



**Item 28. Persons Controlled by or Under Common Control**

The following list sets forth each of the companies considered to be “controlled” by the Registrant as defined by the Investment Company Act of 1940, as of March 31, 2017:

- Gladstone Capital Advisers, Inc., a Delaware corporation, controlled by the Registrant, through 100% of the voting securities. (1)
- Gladstone Business Loan, LLC, a Delaware limited liability company, controlled by the Registrant, through 100% of the voting securities. (1)
  - Defiance Integrated Technologies, Inc., a Delaware corporation controlled by the Registrant through 90% of the voting securities. (2)
- Gladstone Financial Corporation, a Delaware corporation, controlled by the Registrant, through 100% of the voting securities. (1)
- Lindmark Holdings Corp., a Delaware corporation, controlled by the Registrant through 100% of the voting securities. (3)
  - Lindmark Acquisition, LLC, a Delaware limited liability company, controlled by Lindmark Holdings Corp., through 100% of the voting securities. (3)
- PIC Foundry Holdings, Corp., a Delaware corporation, controlled by the Registrant through 100% of the voting securities. (3)
  - PIC 360, LLC a Delaware limited liability company, controlled by the Registrant through 50% of the voting securities. (3)
- Publication Holdings, Inc., a Delaware corporation, controlled by the Registrant through 100% of the voting securities.
  - Sunshine Media Group, Inc., a Delaware corporation, controlled by Publication Holdings, Inc. through 100% of the voting securities. (2)

- (1) Subsidiary is included in the Registrant’s consolidated financial statements.  
 (2) The Registrant filed separate audited or unaudited financial statements for these entities for the applicable periods as exhibits to its Annual Report on Form 10-K for the fiscal year ended September 30, 2016, filed on November 21, 2016.  
 (3) Subsidiary is not significant subsidiary as such term is defined in Rule 1-02(w) of Regulation S-X.

We may also be deemed to be under “common control” with the following entities: Gladstone Commercial Corporation, Gladstone Land Corporation and Gladstone Investment Corporation by virtue of the fact that they are advised by Gladstone Management Corporation (the “Adviser”). We may also be deemed to be under “common control” with Gladstone Lending Corporation, a Maryland Corporation, and Gladstone Participation Fund, LLC, a Delaware limited liability company, because 100% of the voting securities of each are owned by the Adviser.

**Item 29. Number of Holders of Securities**

The following table sets forth the approximate number of record holders of each class of our securities at May 19, 2017. This number does not include stockholders for whom shares are held in “street name.”

<u>Title of Class</u>	<u>Number of Record Holders</u>
Common Stock, par value \$0.001 per share	39
6.75% Series 2021 Term Preferred Stock	1

**Item 30. Indemnification****Indemnification and Limitation of Liability of Directors and Officers**

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 that is established by a final judgment and is material to the cause of action. Our charter contains a provision that eliminates the liability of our directors and officers to the maximum extent permitted by Maryland law.

The Maryland General Corporation Law (the “MGCL”) requires us (unless our 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 a party by reason of his or her service in that capacity. The MGCL permits us to indemnify our present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or threatened to be made a party by reason of their service in those or other capacities unless it is established that:

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty;
- the director or officer actually received an improper personal benefit in money, property or services; or
- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

Under the MGCL, we may not indemnify a director or officer in a suit by us or on our behalf in which the director or officer was adjudged liable to us or in a suit in which the director or officer was adjudged liable on the basis that personal benefit was improperly received. A court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by us or on our behalf, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits us to advance reasonable expenses to a director or officer upon our receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by us; and
- a written undertaking by or on behalf of the director or officer to repay the amount paid or reimbursed by us if it is ultimately determined that the director or officer did not meet the standard of conduct.

Subject to the Investment Company Act of 1940, as amended (the “1940 Act”), or any valid rule, regulation or order of the Securities and Exchange Commission (“SEC”) thereunder, our charter obligates us, to the maximum extent permitted by Maryland law in effect from time to time, to indemnify and pay or reimburse reasonable expenses in advance of final disposition of a proceeding to any director or officer, whether serving our company or at our request any other entity. Our charter also permits us to indemnify and advance expenses to any employee or agent of our company to the extent authorized by our board of directors or the bylaws and permitted by law.

Our bylaws obligate us, to the maximum extent required by Maryland law or the charter, to indemnify any person who was or is a party or is threatened to be made a party to any threatened action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was our director, officer, employee or agent, or is or was serving at our request as a director, officer, manager, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise if our board of directors determines that such person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of our company, and, in the case of any criminal action or proceeding, that such person had no reasonable cause to believe that such person’s conduct was unlawful. However, our bylaws permit us to advance expenses only so long as, in addition to the requirements above, we obtain security for the advance from the director or officer, we obtain insurance against losses arising by reason of lawful advances or we determine that there is reason to believe that the director or officer will be found entitled to indemnification.

These provisions on indemnification and limitation of liability are subject to the limitations of the 1940 Act that prohibit us from protecting any director or officer against any liability to us or our stockholders arising from willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of such person’s office.

In addition, the investment advisory and management agreement between us and our investment adviser, Gladstone Management Corporation, as well as the administration agreement between us and our administrator Gladstone Administration, LLC (the “Administrator”), each provide that, absent willful misfeasance, bad faith, or gross negligence in the performance of their respective duties or by reason of the reckless disregard of their respective duties and obligations, the Adviser or the Administrator, as applicable, and their respective officers, managers, partners, agents, employees, controlling persons, members, and any other person or entity affiliated with it are entitled to indemnification from us for any damages, liabilities, costs, and expenses (including reasonable attorneys’ fees and amounts reasonably paid in settlement) arising from the rendering of the Adviser’s services under the investment advisory and management agreement or otherwise as our investment adviser, or the rendering of the Administrator’s services under the administration agreement, as applicable.

In addition, the equity distribution agreement provides that the Registrant will indemnify and hold harmless the sales agent named therein and its directors, officers, employees and agents and each person who controls the sales agent within the meaning of either the Securities Act, the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or the 1940 Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, the Exchange Act, the 1940 Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses,

claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the prospectus, any sales material or in any amendment thereof or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; *provided, however*, that Registrant will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Registrant by or on behalf of the sales agent specifically for inclusion therein.

Insofar as indemnification for liability arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

### **Item 31. Business and Other Connections of Investment Adviser**

A description of any other business, profession, vocation or employment of a substantial nature in which the Adviser, and each director or executive officer of the Adviser, is or has been during the past two fiscal years, engaged in for his or her own account or in the capacity of director, officer, employee, partner or trustee, is set forth in Part A of this Registration Statement in the section entitled "Management." Additional information regarding the Adviser and its officers and directors is set forth in its Form ADV, as filed with the SEC, and is incorporated herein by reference.

### **Item 32. Location of Accounts and Records**

All accounts, books or other documents required to be maintained by Section 31(a) of the 1940 Act and the rules thereunder are maintained at the offices of:

- (1) the Registrant, Gladstone Capital Corporation, 1521 Westbranch Drive, Suite 100, McLean, VA 22102;
- (2) the Transfer Agent, Computershare Inc., 250 Royall Street, Canton, MA 02021;
- (3) the Adviser, Gladstone Management Corporation, 1521 Westbranch Drive, Suite 100, McLean, VA 22102;
- (4) the Custodian, The Bank of New York Mellon Corp., 500 Ross Street, Suite 625, Pittsburgh, PA 15262; and
- (5) the Collateral Custodian, The Bank of New York Mellon Corp., 500 Ross Street, Suite 625, Pittsburgh, PA 15262.

### **Item 33. Management Services**

Not applicable.

### **Item 34. Undertakings**

1. We hereby undertake to suspend the offering of shares until the prospectus is amended if: (1) subsequent to the effective date of this registration statement, our net asset value declines more than ten percent from our net asset value as of the effective date of this registration statement; or (2) the net asset value increases to an amount greater than our net proceeds as stated in the prospectus.
2. We hereby undertake:
  - (a) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
    - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended, or the Securities Act;
    - (ii) to reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and
    - (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;
  - (b) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of those securities at that time shall be deemed to be the initial *bona fide* offering thereof;
  - (c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;
  - (d) that, for the purpose of determining liability under the Securities Act to any purchaser, if the Registrant is subject to Rule 430C: Each prospectus filed pursuant to Rule 497(b), (c), (d) or (e) under the Securities Act as part of a registration statement relating to an offering, other than prospectuses filed in reliance on Rule 430A under the Securities Act, shall be deemed to be part of and included in the registration statement as of the date it is first used

after effectiveness. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use;

- (e) that for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of securities: The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to the purchaser:
  - (i) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 497 under the Securities Act;
  - (ii) the portion of any advertisement pursuant to Rule 482 under the Securities Act relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and
  - (iii) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser;
- (f) to file a post-effective amendment to the registration statement, and to suspend any offers or sales pursuant the registration statement until such post-effective amendment has been declared effective under the Securities Act, in the event the shares of the Registrant are trading below its net asset value and either (i) the Registrant receives, or has been advised by its independent registered accounting firm that it will receive, an audit report reflecting substantial doubt regarding the Registrant's ability to continue as a going concern or (ii) the Registrant has concluded that a material adverse change has occurred in its financial position or results of operations that has caused the financial statements and other disclosures on the basis of which the offering would be made to be materially misleading;
- (g) to file a post-effective amendment to the registration statement in respect of any one or more offerings of the Registrant's shares (including warrants and/or rights to purchase the shares) below net asset value that will result in greater than 15% dilution, in the aggregate, to existing net asset value per share;
- (h) to file a post-effective amendment to the registration statement in connection with any rights offering; and
- (i) to file a post-effective amendment to the registration statement in connection with any combined offering of securities.

3. We hereby undertake that:

- (a) for the purpose of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by us under Rule 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective; and
- (b) for the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of the securities at that time shall be deemed to be the initial *bona fide* offering thereof.



## Exhibit Index

<u>Exhibit Number</u>	<u>Description</u>
2.a.1	Articles of Amendment and Restatement to the Articles of Incorporation, incorporated by reference to Exhibit 99.a.2 to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.a.2	Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, including Appendix A thereto relating to the Term Preferred Shares, 7.125% Series 2016, incorporated by reference to Exhibit 2.a.2 to Post-Effective Amendment No. 5 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 31, 2011.
2.a.3	Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, 6.75% Series 2021, including Exhibit A thereto, incorporated by reference to Exhibit 3.3 to the Registration Statement on Form 8-A (File No. 001-35332), filed May 15, 2014.
2.a.4	Certificate of Correction to Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, 6.75% Series 2021, incorporated by reference to Exhibit 3.4 to the Quarterly Report on Form 10-Q (File No. 811-000000), filed July 30, 2014.
2.a.5	Certificate of Correction to Articles Supplementary Establishing and Fixing the Rights and Preferences of Term Preferred Shares, incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 29, 2015.
2.b.1	Bylaws, incorporated by reference to Exhibit 99.b to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.b.2	Amendment to Bylaws, incorporated by reference to Exhibit 3.3 to the Quarterly Report on Form 10-Q (File No. 814-00237), filed February 17, 2004.
2.b.3	Second Amendment to Bylaws, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed July 10, 2007.
2.b.4	Third Amendment to Bylaws, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed June 10, 2011.
2.b.5	Fourth Amendment to Bylaws, incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K (File No. 814-00237), filed November 29, 2016.
2.c	Not applicable.
2.d.1	Form of Certificate for Common Stock, incorporated by reference to Exhibit 99.d.2 to Pre-Effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-63700), filed August 23, 2001.
2.d.2	Form of Senior Indenture incorporated by reference to Exhibit 2.d.3 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 20, 2009.
2.d.3	Form of Subordinated Indenture incorporated by reference to Exhibit 2.d.4 to the Registration Statement on Form N-2 (File No. 333-162592), filed October 20, 2009.
2.d.4	Form of Certificate for 6.75% Series 2021 Term Preferred Stock, incorporated by reference to Exhibit 4.3 to the Registration Statement on Form 8-A (File No. 001-35332), filed May 15, 2014.
2.d.5	Form of Common Stock Subscription Form and Subscription Certificate, incorporated by reference to Exhibit 2.d.6 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.6	Form of Preferred Stock Subscription Form and Subscription Certificate, incorporated by reference to Exhibit 2.d.7 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.7	Form of Common Stock Warrant Agreement and Warrant Certificate incorporated by reference to Exhibit 2.d.8 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.8	Form of Preferred Stock Warrant Agreement and Warrant Certificate, incorporated by reference to Exhibit 2.d.9 to Pre-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed January 17, 2013.
2.d.9	Form T-1 Statement of Eligibility of U.S. Bank National Association, as Trustee, with respect to the Form of Senior and Subordinated Indentures, incorporated by reference to Exhibit 2.d.9 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.f	Not applicable.

<b>Exhibit Number</b>	<b>Description</b>
2.g.1	Amended and Restated Investment Advisory and Management Agreement between the Registrant and Gladstone Management Corporation, dated as of October 1, 2006, incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 5, 2006.
2.g.2	Amendment No. 1 to Amended and Restated Investment Advisory and Management Agreement between the Registrant and Gladstone Management Corporation, dated as of October 13, 2015, incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed October 14, 2015.
2.h.1**	Underwriting Agreement.
2.h.2	Equity Distribution Agreement between the Registrant, Gladstone Management Corporation, Gladstone Administration, LLC and Cantor Fitzgerald & Co., dated February 27, 2015, incorporated by reference to Exhibit 2.h.2 to Post-Effective Amendment No. 6 to the Registration Statement on Form N-2 (File No. 333-333-185191), filed February 27, 2015.
2.h.3*	Amendment No. 1 to Equity Distribution Agreement between the Registrant, Gladstone Management Corporation, Gladstone Administration, LLC and Cantor Fitzgerald & Co., dated May 22, 2017.
2.i	Not applicable.
2.j.1	Custody Agreement between the Registrant and The Bank of New York, dated as of May 5, 2006, incorporated by reference to Exhibit 10.3 to the Quarterly Report on Form 10-Q (File No. 814-00237), filed August 1, 2006.
2.j.2	Custodial Agreement, incorporated by reference to Exhibit 2.j.2 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.j.3	Amendment No. 1 to Custodial Agreement, incorporated by reference to Exhibit 2.j.3 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.j.4	Amendment No. 2 to Custodial Agreement, incorporated by reference to Exhibit 2.j.4 to Post-Effective Amendment No. 1 to Form N-2 (File No. 333-185191), filed December 23, 2013.
2.k.1	Stock Transfer Agency Agreement between the Registrant and The Bank of New York, incorporated by reference to Exhibit 99.k.1 to Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-63700), filed July 27, 2001.
2.k.2	Administration Agreement between the Registrant and Gladstone Administration, LLC, dated as of October 1, 2006, incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K (File No. 814-00237), filed October 5, 2006.
2.k.3	Fifth Amended and Restated Credit Agreement, dated as of May 1, 2015, by and among Gladstone Business Loan, LLC, as Borrower, Gladstone Management Corporation, as Servicer, the Lenders and Managing Agents named therein, and Keybank National Association, as Administrative Agent, incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed May 5, 2015.
2.k.4	Joinder Agreement, dated as of June 19, 2015, by and among Gladstone Business Loan, LLC, Gladstone Management Corporation, Keybank National Association and Santander Bank, N.A., incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.5	Assignment, Acceptance and Joinder, dated as of June 19, 2015, by and between Keybank National Association and Alostar Bank of Commerce, incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.6	Assignment and Acceptance, dated as of June 19, 2015, by and between Keybank National Association and Newbridge Bank, incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K (File No. 814-00237), filed June 23, 2015.
2.k.7	Amendment No. 1 to Fifth Amended and Restated Credit Agreement, dated as of October 9, 2015, incorporated by reference to Exhibit 10.2 to the Quarterly Report on form 10-Q (file No. 814-00237), filed February 8, 2016.
2.k.8	Amendment No. 2 to Fifth Amended and Restated Credit agreement, dated August 18, 2016, incorporated by reference to Exhibit 2.k.8 to Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-208637), filed October 28, 2016.
2.l.1	Opinion of Counsel (Bass, Berry & Sims PLC), dated December 18, 2015, incorporated by reference to Exhibit 2.l.2 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.l.2	Opinion of Counsel (Venable LLP), dated December 18, 2015, incorporated by reference to Exhibit 2.l.2 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.l.3*	Opinion of Counsel (Venable LLP).

<u>Exhibit Number</u>	<u>Description</u>
2.m	Not applicable.
2.n.1	Consent of PricewaterhouseCoopers LLP, incorporated by reference to Exhibit 2.n.1 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.n.2	Consent of Counsel (Bass, Berry & Sims PLC) (included in Exhibit 2.1.1).
2.n.3	Consent of Counsel (Venable LLP) (included in Exhibit 2.1.2).
2.n.4	Consent of Counsel (Venable LLP) (included in Exhibit 2.1.3).
2.n.5	Report of Independent Registered Public Accounting Firm, incorporated by reference to Exhibit 2.n.4 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.n.6	Consent of Crowe Horwath LLP, incorporated by reference to Exhibit 2.n.5 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.7	Consent of Henderson Hutcherson & McCullough, PLLC, incorporated by reference to Exhibit 2.n.6 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.8	Consent of Crowe Horwath LLP, incorporated by reference to Exhibit 2.n.7 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.n.9	Consent of RubinBrown LLP, incorporated by reference to Exhibit 2.n.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016
2.o	Not applicable.
2.p	Subscription Agreement dated May 30, 2001, incorporated by reference to Exhibit 99.p to the Registration Statement on Form N-2 (File No. 333-63700), filed June 22, 2001.
2.q	Not applicable.
2.r	Code of Ethics and Business Conduct, updated January 28, 2013, incorporated by reference to Exhibit 14 to the Annual Report on Form 10-K (File No. 814-00237), filed November 20, 2013.
2.s.1	Power of Attorney, incorporated by reference to the signature page of the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.2	Reserved.
2.s.3	Statements Re: Computation of Ratios, incorporated by reference to Exhibit 2.s.3 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.4	Financial Statements of Defiance Integrated Technologies, Inc. as of and for the years ended December 31, 2015, 2014 and 2013 (audited), incorporated by reference to Exhibit 2.s.4 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.5	Financial Statements of Sunshine Media Group, Inc. as of and for the year ended December 31, 2015(audited), incorporated by reference to Exhibit 2.s.5 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.6	Financial Statements of Sunshine Media Group, Inc. as of and for the years ended December 31, 2014 and 2013 (audited), incorporated by reference to Exhibit 2.s.6 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.7	Financial Statements of RBC Acquisition Corp. and Subsidiary as of and for the years ended September 30, 2015 and 2014 (unaudited), incorporated by reference to Exhibit 2.s.7 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.8	Financial Statements of RBC Acquisition Corp. and Subsidiary as of and for the year ended September 30, 2014 (audited), incorporated by reference to Exhibit 2.s.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 22, 2016.
2.s.9	Form of Prospectus Supplement for Common Stock Offering, incorporated by reference to Exhibit 2.s.8 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.10	Form of Prospectus Supplement for Preferred Stock Offering, incorporated by reference to Exhibit 2.s.9 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.11	Form of Prospectus Supplement for Rights Offering of Common Stock, incorporated by reference to Exhibit 2.s.10 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.



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<b><u>Exhibit Number</u></b>	<b><u>Description</u></b>
2.s.12	Form of Prospectus Supplement for Rights Offering of Preferred Stock, incorporated by reference to Exhibit 2.s.11 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.13	Form of Prospectus Supplement for Notes, incorporated by reference to Exhibit 2.s.12 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.14	Form of Prospectus Supplement for Senior Notes, incorporated by reference to Exhibit 2.s.13 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.15	Form of Prospectus Supplement for Warrants for Common Stock, incorporated by reference to Exhibit 2.s.14 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.
2.s.16	Form of Prospectus Supplement for Warrants for Preferred Stock, incorporated by reference to Exhibit 2.s.15 to the Registration Statement on Form N-2 (File No. 333-208637), filed December 18, 2015.

## GLADSTONE CAPITAL CORPORATION

AMENDMENT NO. 1 TO  
EQUITY DISTRIBUTION AGREEMENT

May 22, 2017

Cantor Fitzgerald & Co.  
499 Park Avenue  
New York, NY 10022

Ladies and Gentlemen:

Reference is made to the Equity Distribution Agreement, dated February 27, 2015, including the Schedules thereto (the “Equity Distribution Agreement”), by and among Gladstone Capital Corporation, a Maryland corporation (the “Company”), Gladstone Management Corporation, a Delaware corporation registered as an investment adviser (the “Adviser”), Gladstone Administration, LLC, a Delaware limited liability company (the “Administrator”), and Cantor Fitzgerald & Co. (the “Agent”), pursuant to which the Company agreed to sell through the Agent, as sales agent, shares of common stock, par value \$0.001 per share, of the Company. All capitalized terms used in this Amendment No. 1 to Equity Distribution Agreement among the Company, the Adviser, the Administrator, and the Agent (this “Amendment”) and not otherwise defined herein shall have the respective meanings assigned to such terms in the Equity Distribution Agreement. The Company, the Adviser, the Administrator, and the Agent agree as follows:

A. Amendments to Equity Distribution Agreement. On or after the date hereof (the “Amendment Date”), the Equity Distribution Agreement is amended as follows:

1. All references to “KeyBanc” or “the KeyBanc Agreement” in the Equity Distribution Agreement shall be deleted and any sentences containing such references shall be amended to refer to “the Agent” or “this Agreement” in the singular.
2. The second paragraph of Section 1 is hereby deleted and replaced with the following text:  
“The aggregate offering price of Shares that may be sold collectively pursuant to this Agreement and a prior equity distribution agreement, dated February 27, 2015, by and among the Company, the Adviser, the Administrator and KeyBanc Capital Markets Inc., shall not exceed \$50,000,000.”
3. The first sentence of the third paragraph of Section 1 is amended by adding “, as amended on October 13, 2015” immediately after “October 1, 2006”.
4. The first sentence of the fourth paragraph of Section 1 is amended by deleting the number “333-185191” and replacing it with “333-208637”.

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5. Section 2(b) is amended by deleting the date “December 31, 2014” and replacing it with “March 31, 2017”.

6. The first sentence of Section 2(d) is deleted in its entirety.

7. Section 2(hh) is deleted in its entirety and replaced with the following:

“(hh) Except as disclosed in the Registration Statement and the Prospectus, as required to comply with the 1940 Act, as required to comply with the Fifth Amended and Restated Credit Agreement, dated as of May 1, 2015, by and among Gladstone Business Loan, LLC, as borrower, the Adviser, as servicer, the lenders and managing agents named therein, and Keybank National Association, as administrative agent, as the same may be as amended or restated from time to time, and for such prohibitions that would not reasonably be expected to result in a Company Material Adverse Effect, no Subsidiary, other than Gladstone Business Loan LLC, is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary’s capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such Subsidiary’s property or assets to the Company or any other Subsidiary.”

8. The last sentence of Section 2(mm) is deleted in its entirety and replaced with the following “Notwithstanding the foregoing, as of the date of this Agreement, the Company has not filed this Agreement as an exhibit to the Registration Statement, although all such exhibits will be timely filed by post-effective amendment pursuant to Rule 462(d) under the 1933 Act.”

9. Section 4(f) is amended by adding “, and in each case, in accordance with applicable rules and regulations” immediately before “(each such day, a “**Settlement Date**”)”.

10. Section 4(h) of the Equity Distribution Agreement is hereby deleted in its entirety and replaced with the following: “[Reserved]”.

11. Section 6(p) is amended by deleting “K&L Gates LLP” and replacing it with “Stradley Ronon Stevens and Young, LLP”.

12. Section 6(s) is amended by deleting “Troutman Sanders LLP” and replacing it with “Cooley LLP”.

13. Section 6(x) is deleted in entirety and replaced with the following:

“(x) Absent the prior written consent of the Agent, during the term of this Agreement, the Company will not enter into another agreement for an At the Market Offering program with any other party, other than the Agent.”

14. Section 8(a) is amended by deleting the number “(i)” and the following language: “or (ii) the Agent’s willful misfeasance, bad faith or gross negligence in the performance of the Agent’s duties or by reckless disregard of its obligations and duties under the Agreement”.

15. Section 11 is amended by: (i) adding “and (212) 829-4798” immediately after “(212) 308-3730”; (ii) deleting the words “Jeffrey Lumby” and replacing them with “Capital Markets/ Jeffrey Lumby and General Counsel, respectively”; and (iii) deleting the words “Troutman Sanders LLP, 1001 Haxall Point, Richmond, Virginia 23219, fax no. (804) 698-5185, Attention: Michael T. Damgard” and replacing them with “Cooley LLP, 1114 Avenue of the Americas, New York, NY 10036, fax. no (212) 479-6275, Attention: Daniel I. Goldberg”.

16. Section 15 is deleted and replaced with the following:

“ **Applicable Law; Consent to Jurisdiction** . This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection with any transaction contemplated hereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof (certified or registered mail, return receipt requested) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law.”

17. Section 21 of the Equity Distribution Agreement is hereby deleted in its entirety.

18. The first sentence of the form of Company Officer Certificate and the form of Adviser Certificate, respectively, attached as Exhibit 6(n) are amended to (i) add the words “February 27, 2015, as amended on May 22, 2017” immediately after “dated”, and (ii) add “Gladstone Administration, LLC” immediately after “Gladstone Management Corporation”.

B. Prospectus Supplement . The Company shall prepare and file in accordance with Rule 497 of the Securities Act, a Prospectus Supplement reflecting this Amendment.

C. Notwithstanding anything to the contrary contained herein, this Amendment shall not have any effect on the terms of the Equity Distribution Agreement prior to the Amendment Date, and the rights and obligations of the parties thereunder, including, without limitation, the representations, warranties and agreements (including the indemnification and contribution provisions), as well as the definitions of “Registration Statement,” “Base Prospectus,” “Prospectus Supplement” and “Prospectus,” contained in the Equity Distribution Agreement.

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D. No Other Amendments. Except as set forth in Part A above, all the terms and provisions of the Equity Distribution Agreement shall continue in full force and effect.

E. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Amendment by one party to the other may be made by facsimile or email transmission.

F. Governing Law. This Amendment shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws.

**[Remainder of page intentionally left blank.]**

If the foregoing correctly sets forth the understanding between us, please so indicate in the space provided below for that purpose.

Very truly yours,

**GLADSTONE CAPITAL CORPORATION**

By: /s/ David Gladstone

Name: David Gladstone

Title: Chairman and Chief Executive Officer

**GLADSTONE MANAGEMENT CORPORATION**

By: /s/ David Gladstone

Name: David Gladstone

Title: Chief Executive Officer

**GLADSTONE ADMINISTRATION, LLC**

By: /s/ Michael B. LiCalsi

Name: Michael B. LiCalsi

Title: President

ACCEPTED as of the date first above written:

**CANTOR FITZGERALD & CO.**

By: /s/ Jeffrey Lumby

Name: Jeffrey Lumby

Title: Senior Managing Director

## [LETTERHEAD OF VENABLE LLP]

May 22, 2017

Gladstone Capital Corporation  
1521 Westbranch Drive  
Suite 100  
McLean, Virginia 22102

Re: Registration Statement on Form N-2, File No. 333-208637

Ladies and Gentlemen:

We have served as Maryland counsel to Gladstone Capital Corporation, a Maryland corporation (the “Company”) and a business development company under the Investment Company Act of 1940, as amended, in connection with certain matters of Maryland law relating to the registration by the Company of shares (the “Shares”) of common stock, \$0.001 par value per share (the “Common Stock”), of the Company having an aggregate offering price of up to \$50,000,000. The Shares are covered by the above-referenced Registration Statement, and all amendments and supplements thereto (the “Registration Statement”), filed by the Company with the United States Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “1933 Act”).

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (collectively, the “Documents”):

1. The Registration Statement and the related base prospectus included therein;
2. The Prospectus Supplement, dated May 22, 2017 (the “Prospectus Supplement”);
3. The charter of the Company (the “Charter”), certified by the State Department of Assessments and Taxation of Maryland (the “SDAT”);
4. The Bylaws of the Company, as amended, certified as of the date hereof by an officer of the Company;
5. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;

6. Resolutions (the “Resolutions”) adopted by the Board of Directors of the Company (the “Board”) relating to, among other matters, (a) the authorization of the execution, delivery and performance by the Company of the Equity Distribution Agreement (as defined below), (b) the sale and issuance of the Shares and (c) the delegation to certain officers of the

Company (the “Authorized Officers”) of the power to determine, subject to certain parameters, the number of Shares and the offering price of each Share to be sold from time to time pursuant to the Equity Distribution Agreements, certified as of the date hereof by an officer of the Company;

7. An Equity Distribution Agreement, dated February 27, 2015, as amended on May 22, 2017 (the “Equity Distribution Agreement”), by and among the Company, the Advisor, the Administrator and Cantor Fitzgerald & Co.;

8. A certificate executed by an officer of the Company, dated as of the date hereof; and

9. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or another person, is legally competent to do so.

2. Each individual executing any of the Documents on behalf of a party (other than the Company) is duly authorized to do so.

3. Each of the parties (other than the Company) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such party’s obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.

4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all such Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.



5. Upon the issuance of any of the Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the Charter.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

1. The Company is a corporation duly incorporated and existing under and by virtue of the laws of the State of Maryland and is in good standing with the SDAT.

2. The issuance of the Shares has been duly authorized and, when and to the extent issued against payment therefor in accordance with the Registration Statement, the Prospectus Supplement, the Equity Distribution Agreement, the Resolutions and any instructions from the Authorized Officers, the Shares will be validly issued, fully paid and nonassessable.

The foregoing opinion is limited to the laws of the State of Maryland and we do not express any opinion herein concerning any other law. We express no opinion as to compliance with, or the applicability of, federal or state securities laws, including the securities laws of the State of Maryland. The opinion expressed herein is subject to the effect of judicial decisions which may permit the introduction of parol evidence to modify the terms or the interpretation of agreements.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof.

This opinion is being furnished to you for submission to the Commission as an exhibit to the Registration Statement. Bass Berry Sims PLC, counsel to the Company, may rely on this opinion in connection with any opinion to be issued by it, dated the date hereof, in connection with the issuance of the Shares. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of the name of our firm in the Prospectus Supplement. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the 1933 Act.

Very truly yours,

/s/ Venable LLP