

ARES CAPITAL CORP

FORM N-2MEF

(Registration pursuant to Securities Act Rule 462(b) of up to an additional 20% of securities for an offering that was registered on Form N-2)

Filed 3/17/2005

Address	1999 AVENUE OF THE STARS SUITE 1900 LOS ANGELES, California 900067
Telephone	310-201-4100
CIK	0001287750
Fiscal Year	12/31

As filed with the Securities and Exchange Commission on March 17, 2005

Registration No. 333-

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.**

ARES CAPITAL CORPORATION

(Exact Name of Registrant as Specified in Charter)

780 Third Avenue, 46th Floor
New York, New York 10017
(Address of Principal Executive Offices)

Registrant's Telephone Number, including Area Code: **(212) 750-7300**

Kevin Frankel
c/o Ares Management LLC
1999 Avenue of the Stars, Suite 1900
Los Angeles, CA 90067
(310) 201-4100
(Name and Address of Agent for Service)

Copies of information to:

Michael A. Woronoff
Proskauer Rose LLP
2049 Century Park East, 32nd Floor
Los Angeles, CA 90067-3206
(310) 557-2900

Valerie Ford Jacob
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1980
(212) 859-8000

Approximate Date of Proposed Public Offering: As soon as practicable 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 distribution 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).

If appropriate, check the following box:

- ☐ This [post-effective amendment] designates a new effective date for a previously filed [post-effective amendment] [registration statement].
- ☒ This form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act and the Securities Act registration statement number of the earlier effective registration statement for the same offering is 333-121972.

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price(1)(2)	Amount of Registration Fee(3)
Common Stock, \$0.001 par value per share	1,725,000	\$16.00	\$27,600,000	\$3,248.52

- (1) Includes the underwriters' overallotment option.
- (2) Estimated pursuant to Rule 457 solely for the purpose of determining the registration fee.
- (3) Prior to the filing of this registration statement, \$285,000,000 aggregate principal amount of securities remained registered and unsold, pursuant to Registration Statement No. 333-114656, which was initially filed by the Registrant on April 21, 2004. Pursuant to Rule 457 (p), the entire fee required under this registration statement is offset against \$3,248.52 of the \$36,109.50 filing fee (of which \$15,704.73 remains) associated with the unsold securities registered under Registration Statement No. 333-114656, all of which unsold securities were deregistered.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SECTION 8(a), MAY DETERMINE.

Incorporation Of Certain Information By Reference

This Registration Statement is being filed pursuant to Rule 462(b) under the Securities Act of 1933 by Ares Capital Corporation with the Securities and Exchange Commission, and hereby incorporates by reference into this Registration Statement the contents of the Registration Statement on Form N-2 (File No. 333-121972), including the exhibits thereto, which was declared effective on March 17, 2005 (the "Prior Registration Statement") and includes the registration statement facing page, the signature pages, an exhibit index, a legal opinion and an accountant's consent.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement on Form N-2 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Los Angeles, in the State of California, on the 17th day of March, 2005.

ARES CAPITAL CORPORATION

By:

/s/ MICHAEL J. AROUGHETI

Michael J. Arougheti
President

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on March 17, 2005. This document may be executed by the signatories hereto on any number of counterparts, all of which constitute one and the same instrument.

SIGNATURE

TITLE

/s/ MICHAEL J. AROUGHETI

Michael J. Arougheti

*

Daniel F. Nguyen

*

Douglas E. Coltharp

*

Antony P. Ressler

*

Robert L. Rosen

*

Bennett Rosenthal

*

Eric B. Siegel

President
(principal executive officer)

Chief Financial Officer
(principal financial officer)

Director

Co-Chairman and Director

Director

Co-Chairman and Director

Director

*By:

/s/ KEVIN A. FRANKEL

Kevin A. Frankel
Attorney-in-fact

EXHIBIT INDEX

- (l) Opinion and Consent of Venable LLP, special Maryland counsel for Registrant
 - (n) Consent of independent registered public accounting firm for Registrant
-

[LETTERHEAD OF VENABLE LLP]

March 17, 2005

Ares Capital Corporation
Suite 1900
1999 Avenue of the Stars
Los Angeles, California 90067

Re: Rule 462(b) Registration Statement Relating to Registration Statement on Form N-2
(File No.: 333-121972)

Ladies and Gentlemen:

We have served as special Maryland counsel to Ares Capital Corporation, a Maryland corporation (the "Company"), and a business development company under the Investment Company Act of 1940, as amended (the "1940 Act"), in connection with certain matters of Maryland law arising out of the registration of shares (the "Shares") of common stock, \$.001 par value per share (the "Common Stock"), of the Company to be issued in an underwritten public offering, covered by the above-referenced Registration Statement, and all amendments thereto (the "Registration Statement"), filed by the Company with the Securities and Exchange Commission (the "Commission") pursuant to Rule 462 (b) under the Securities Act of 1933, as amended (the "1933 Act"). Unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Registration Statement.

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 (hereinafter collectively referred to as the "Documents"):

1. The Registration Statement substantially in the form transmitted to the Commission under the 1933 Act;
2. The charter of the Company (the "Charter"), certified as of a recent date by the State Department of Assessments and Taxation of Maryland (the "SDAT");
3. The Bylaws of the Company, certified as of the date hereof by an officer of the Company;
4. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;
5. Resolutions adopted by the Board of Directors of the Company (the "Board of Directors") relating to the authorization of the sale and issuance of the Shares (the "Resolutions"), certified as of the date hereof by an officer of the Company;
6. A certificate executed by an officer of the Company, dated as of the date hereof; and
7. 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 any other 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. Prior to the issuance of the Shares, the Board of Directors, or a duly authorized committee thereof, will determine the number, and certain terms of issuance, of such Shares (the "Corporate Proceedings").

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. Upon completion of the Corporate Proceedings, the issuance of the Shares will have been duly authorized and, when and if delivered against payment therefor in accordance with the Charter, the Registration Statement, the Resolutions and the Corporate Proceedings, the Shares will be (assuming that, upon the issuance 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) 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 federal or state securities laws, including the securities laws of the State of Maryland, or the 1940 Act.

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. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. 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

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Ares Capital Corporation:

We consent to the use of our report dated February 2, 2005, except as to the fourth paragraph of note 7 to the consolidated financial statements, which is as of March 8, 2005, on the consolidated financial statements of Ares Capital Corporation and our report dated February 2, 2005 on the senior securities table of Ares Capital Corporation, and to the references to our firm under the heading "Selected Financial and Other Data" and "Experts" in the prospectus, incorporated herein by reference.

/s/ KPMG LLP

Los Angeles, California
March 16, 2005

End of Filing

Powered By **EDGAR**
Online

© 2005 | EDGAR Online, Inc.