



RULE
ADOPTION
NOTICE

RAN-06-21
April 26, 2006

TO: ETP Holders and Sponsored Participants

FROM: Department of Regulatory Policy

SUBJECT: Delisting Procedures
(File No. SR-PCX-2005-122)

On October 21, 2005, the Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.) (“Exchange”) filed a proposed rule change to amend NYSE Arca Equities Rule 5 to conform to recent amendments to Securities and Exchange Commission (“Commission”) rules regarding removal from listing and withdrawal from registration. On January 6, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On March 21, 2006, the Exchange filed Amendment No. 2. On April 20, 2006, the Commission approved the proposed rule change.

The following is the text of the rule change. Questions regarding this bulletin may be directed to David Strandberg at 312/442-7085.

EXHIBIT 5

Text of the Proposed Rule Change:¹

Rules of NYSE Arca Equities, Inc.

Rule 5
Equities Trading

Rule 5.4(b). An issuer proposing to withdraw a security from listing on the Corporation shall submit to the Corporation a certified copy of a resolution adopted by the board of directors of the issuer authorizing withdrawal from listing and registrations, [and] a [statement setting forth in detail the reasons] letter from an authorized officer of the issuer providing the specific reasons cited by the board of directors of the issuer for the proposed withdrawal [and the facts in support thereof], and a copy of the Form 25 that the issuer has filed with the Securities and Exchange Commission in accordance with Rule 12d2-2

¹

New text is underscored and deleted text is in brackets.

promulgated under Section 12(d) of the Securities Exchange Act of 1934, as amended, no later than the date of such filing. The issuer may be required, under special circumstances, to submit the proposed withdrawal to the shareholders for their vote at a meeting for which proxies are solicited provided the security is not also listed on another exchange having similar requirements. The Corporation, upon receiving written notification of the issuer's intent to withdraw its securities from listing and registration, shall post notice of such intent on the Exchange's website by the next business day and until the delisting becomes effective. An issuer seeking to voluntarily apply to withdraw a class of securities from listing on NYSE Arca pursuant to this paragraph that has received notice from NYSE Arca, pursuant to Rule 5.3, Rule 5.5 or otherwise, that it is below NYSE Arca's continued listing policies and standards, or that is aware that it is below such continued listing policies and standards notwithstanding that it has not received such notice from NYSE Arca, must disclose that it is no longer eligible for continued listing (identifying the specific continued listing policies and standards with which it does not comply) in: (i) its statement of all material facts relating to the reasons for withdrawal from listing provided to NYSE Arca along with written notice of its determination to withdraw from listing required by Rule 12d2-2(c)(2)(ii) under the Exchange Act and ; (ii) its public press release and Web site notice required by Rule 12d2-2(c)(2)(iii) under the Exchange Act.

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Rule 5.5(m).

Delisting Procedures

Whenever the Corporation determines that it [is] may be appropriate to either suspend dealings in and/or remove securities from listing pursuant to Rule 5.3 or Rule 5.5, except for ~~other than~~ [routine] reasons specified in subsection (a) of Rule 12d2-2 promulgated under Section 12(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act Rule 12d2-2") [(e.g., redemptions, maturities, etc.)], or violations of Rule 5.3(k)(5) in which case the Corporation shall initiate delisting a listed company's securities, it will follow, insofar as practicable, the following procedures:

(1) Consideration of Commencement of Delisting Action

(a) The Corporation shall notify the issuer in writing describing the basis on which the Corporation is considering the delisting of the company's security. Such notice shall be sent by certified mail and shall include the time and place of a meeting to be held by the Corporation to hear any reasons why the issuer believes its security should not be delisted. Generally, the issuer will be notified at least three (3) weeks prior to the meeting and will be requested to submit a written response.

[(2)] (b) If, after such meeting, the Corporation determines that the security should be delisted, the Corporation shall notify the issuer [by telephone] in writing (if possible,

the same day of the meeting) [and in writing] of the delisting decision and the basis thereof. The written notice will also inform the issuer that it may appeal the decision to the Board of Directors and request a hearing.

[(3)] (c) Concurrent with the Corporation's decision to delist the issuer's security, the Corporation will prepare a press announcement, which will be disseminated to the Market Makers and the investing public no later than the opening of trading the business day following the Corporation's decision (the Securities Qualification Department will also distribute the information to the ETP Holders). Accordingly, the suspension of trading in the issuer's security will become effective at the opening of business on the day following the Corporation's decision.

(2) Appeal Procedures

[(4)] (a) If the issuer requests an appeal hearing, it must file its request along with (i) a \$2,500 delisting appeal fee and (ii) an answer to the causes specified by the Corporation with the Secretary of the Corporation no later than five (5) business days following service of notice of the proposed delisting. If the issuer does not request a hearing within the specified period of time, or it does not submit the \$2,500 fee to the Corporation in the form and manner prescribed, the Corporation will ~~submit an application~~ file an application on Form 25 to the Securities and Exchange Commission to strike the security from the list of companies listed on the Corporation. The Corporation will furnish a copy of such application on Form 25 to the issuer in accordance with Section 12 of the Securities Exchange Act of 1934 and the Rules promulgated thereunder.

[(5)] (b) If a request for a hearing is made and the requirements of Rule 5.5(m)[(4)](2)(a) are met within the time specified, the issuer will be entitled to an appeal hearing and the Corporation will provide the issuer at least fifteen (15) business days notice of the time and place of the hearing.

[(6)] (c) The hearing shall be held before the Board Appeals Committee appointed by the Board of Directors for such purpose. Only those members of the Board Appeals Committee who attend the hearing may vote with respect to any decisions the Committee may make.

[(7)] (d) Any documents or other written material the issuer wishes to consider should be submitted to the appropriate office of the Corporation at least five (5) business days prior to the date of the hearing.

[(8)] (e) At the hearing, the issuer must prove its case by presenting testimony, evidence, and argument to the Board Appeals Committee. The form and manner in which the actual hearing will be conducted will be established by the Board Appeals Committee so as to assure the orderly conduct of the proceeding. At the hearing, the Board Appeals Committee may require the issuer to furnish additional written information that has come to its attention.

[(9)] (f) After the conclusion of the proceeding, the Board Appeals Committee shall make its decision. The decision of the Board Appeals Committee shall be in writing with one copy served upon the issuer and the second copy filed with the Secretary of the Corporation. Such decision shall be final and conclusive. If the decision is that the security should be removed from listing, the Corporation shall follow the procedures set forth below. If the decision is that the security should not be removed from listing, the issuer shall receive a notice to that effect from the Corporation.

(3) Public Notice of Delisting Action. If the final decision is that the security of the issuer is to be removed from listing, then, no fewer than ten (10) days before the delisting becomes effective: (a) an application on Form 25 shall be submitted by the Corporation to the Securities and Exchange Commission to strike the security from listing and registration in accordance with Exchange Act Rule 12d2-2, [and] (b) a copy of such application shall be provided to the issuer in accordance with [Section 12 of the Securities Exchange Act of 1934 and the Rules promulgated thereunder] Exchange Act Rule 12d2-2, and (c) public notice of the Corporation's final determination to delist the security shall be made via a press release and posting on the Corporation's website until the delisting is effective. [If the decision is that the security should not be removed from listing, the issuer shall receive a notice to that effect from the Corporation.]

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