

Rule 500. An issuer may apply to delist a security after complying with the following procedures:

(a) Stock of a domestic issuer:

(1) The issuer's audit committee and board of directors must approve the application;

(2) The issuer must publish a press release announcing its proposed delisting; and

(3) The issuer must send to at least each of its 35 record shareholders with the largest positions in the security written notice alerting them to the proposed delisting; such notice must specify the earliest possible date of such delisting (which date shall be not less than 20 business days nor more than 60 business days (or subject to Exchange approval, such longer period as the issuer may request) after the later of the date the notice is sent or the press release is issued) and must include a statement that the issuer complied with paragraphs (a) (1) and (a) (2) above. The issuer must contemporaneously send to the Exchange a copy of such notice.

(b) Stock of non-U.S. issuer:

(1) The issuer's board of directors must approve the application;

(2) The issuer must publish a press release announcing its proposed delisting; and

(3) The issuer must send to at least each of its 35 U.S. record shareholders with the largest positions in the security written notice alerting them to the proposed delisting. The issuer must contemporaneously send to the Exchange a copy of such notice.

(c) All listed bonds: The issuer's board of directors must approve the application.

* * * Supplementary Material:

.10 Definition of "stock" and "bond."—Exchange Rule 4 defines the term "stock," and Exchange Rule 5 defines the term "bond."

.20 Requirement to issue a press release.—Pursuant to paragraphs (a)(2) and (b)(2) of this Rule, the issuer must publish the press release in compliance with the Procedures of Public Release of Information in Para.202.06 of the Exchange's Listed Company Manual.

.30 Application to the Securities and Exchange Commission to withdraw a security from listing.—After an issuer complies with the procedures of this Rule, the issuer may file an application with the Securities and Exchange Commission to withdraw the security from listing on the Exchange and from registration under the Securities Exchange Act of 1934. With respect to an issuer required to provide security holders with notice of the proposed delisting pursuant to paragraph (a) (3) of this Rule, the proposed date for such

withdrawal from listing and registration must be the same date specified in its notice to security holders. The issuer must contemporaneously send to the Exchange a copy of the application.

.40 Delisting of multiple classes of securities.—If an issuer delists a class of stock from the Exchange pursuant to this Rule, but does not delist other classes of listed securities, the Exchange will give consideration to delisting one or more of such other classes.]

An issuer may apply to delist a security after its board approves the action and the issuer furnishes the Exchange with a copy of the board resolution certified by the secretary of the issuer. The issuer may thereafter file an application with the Securities and Exchange Commission to withdraw the security from listing on the Exchange and from registration under the Securities Exchange Act of 1934. If an issuer delists a class of stock from the Exchange pursuant to this Rule, but does not delist other classes of listed securities, the Exchange will give consideration to delisting one or more of such other classes.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to delete Exchange Rule 500 in its entirety and to amend Section 806 of the Exchange's Listed Company Manual regarding the application by an issuer to delist its securities from the Exchange. Amended Section 806 would require simply that a company furnish the Exchange with a certified board resolution evidencing board approval of the voluntary delisting.

Exchange Rule 500 describes the procedures a listed company must follow to voluntarily delist its securities from the Exchange. The original rule, adopted in 1939, required two-thirds of

a company's outstanding shares to vote in favor of a delisting, with no more than ten percent of the shares opposing. In 1999, the requirement of a shareholder vote was eliminated, and since then the rule has required only board and audit committee approval, prior written notice to the company's 35 largest record holders, and a press release informing shareholders generally of the proposed delisting.³

In approving the 1999 amendment, the Commission requested that the Exchange review periodically the shareholder notification requirement of Rule 500 to determine whether it remained warranted and consistent with the protection of investors. In fulfillment of the Commission's request and in the context of the work the Exchange has done in re-examining its corporate governance standards for listed companies, the Exchange determined to reassess Rule 500. The Exchange has concluded that it is now appropriate to require only that a company voluntarily delisting its securities from the Exchange obtain the approval of its board and furnish the Exchange with a copy of the board resolution. The company would, of course, then be required under Commission rules to file an application with the Commission to withdraw the security from listing on the Exchange.⁴

The rationale for the requirement in the current rule that a company obtain a separate audit committee approval of a delisting was to insure that independent directors approved the decision.⁵ In the work the Exchange has done during the last two years on corporate governance listing standards, the Exchange has learned that a majority independent board has already become prevalent among Exchange listed

³ See Securities Exchange Act Release No. 41634 (July 21, 1999), 64 FR 40633 (July 27, 1999) (SR-NYSE 97-31) (hereinafter referred to as the "1999 SEC Approval Order"). Since the 1999 amendment, only one company has voluntarily delisted its common stock to move to Nasdaq. Several companies have used the rule to voluntarily delist bonds from the Exchange, which the NYSE represents that it understood to be motivated by a desire to reduce reporting burdens attendant to listing the bonds (the shareholder notification requirement does not apply to a voluntarily delisting of bonds). A similar motivation prompted a Swedish company with very few U.S. shareholders to delist its ADRs earlier this year so that it could avoid having to comply with U.S. reporting obligations. Finally, three small closed end funds moved to the American Stock Exchange because their declining net asset value placed them in danger of falling below NYSE continued listing requirements.

⁴ See Rule 12d2-2(d) under the Act.

⁵ See 1999 SEC Approval Order, footnote 16, and text accompanying footnotes 44 and 45.