

requirements. Any security that no longer meets the Tier I maintenance requirements, but meets the Tier II maintenance requirements, will be reclassified as a Tier II security. The Corporation, however, may grant a waiver for the continued listing of any security in cases where the security remains listed on either the NYSE, Amex, or Nasdaq National Market; provided, however, that the Corporation determines that there is a reasonable basis for a waiver. In such cases, the security will be included under the Tier II designation.

.03 Any security approved by the Board of Directors for listing prior to July 22, 1994 must meet one of the following:

(a) To qualify for inclusion under the Tier I designation, a security must meet the applicable initial listing requirements as set forth in Rule 5.2 (including any index product listed pursuant to Rule 8); however, a security listed on either the NYSE, Amex, or Nasdaq National Market may be designated as a Tier I security so long as it meets the applicable Tier I maintenance requirements in this Rule 5.5; or

(b) Any security not meeting the applicable maintenance requirements must do so within six months of July 22, 1994. Until such time, the former standards will be applied and the security will be designated as a Tier II security.

Rule 5.5(b)—(l)—No change.

#### ¶7957T Delisting Procedures

Rule 5.5(m). Whenever the Corporation determines that it is appropriate to either suspend dealings in and/or remove securities from listing pursuant to *Rule 5.3* or [this] Rule 5.5, except for other than routine reasons (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) 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) If, after such meeting, the Corporation determines that the security should be delisted, the Corporation

shall notify the issuer by telephone (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) 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.

(4) 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 to the Securities and Exchange Commission to strike the security from list of companies listed on the Corporation. The Corporation will furnish a copy of such application to the issuer in accordance with Section 12 of the Securities Exchange Act of 1934 and the Rules promulgated there under.

(5) If a request for a hearing is made and the requirements of Rule 5.5(m)(4) 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) 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) 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) 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) 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 of the issuer is to be removed from listing, an application shall be submitted by the Corporation to the Securities and Exchange Commission to strike the security from listing and registration, and 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 there under. 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.

\* \* \* \* \*

## 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 Exchange 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 Exchange 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

In light of the recent failures of a number of significant companies due to the lack of diligence, ethics and controls, the PCXE chose to review its corporate governance and disclosure policies. In September 2002, the PCXE Board of Directors formed a subcommittee to review the PCXE's current corporate governance and disclosure standards. The goal of the subcommittee was to enhance the accountability, integrity, and