

## PENSION BENEFIT GUARANTY CORPORATION

### Pendency of Request for Approval of Special Withdrawal Liability Rules; Service Employees International Union Local 25 and Participating Employers Pension Trust

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of pendency of request.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") has received a request from the Service Employees International Union Local 25 and Participating Employers Pension Trust for approval of a plan amendment providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974 and the PBGC's regulation on Extension of Special Withdrawal Liability Rules, a multiemployer pension plan may, with PBGC approval, be amended to provide for special withdrawal liability rules similar to those that apply to the construction and entertainment industries. Such approval is granted only if the PBGC determines that the rules apply to an industry with characteristics that make use of the special rules appropriate and that the rules will not pose a significant risk to the PBGC. This notice advises interested persons of the pendency of this request and invites public comment.

**DATES:** Comments must be submitted by August 22, 2005.

**ADDRESSES:** All written comments (at least three copies) should be mailed or delivered to: Office of the Chief Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026. Copies of the request for approval and any comments may be obtained by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) Copies of the PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) and of the originating request for approval may be accessed through the PBGC's Web site (<http://www.PBGC.gov>).

**FOR FURTHER INFORMATION CONTACT:** Frank Anderson, Attorney, Office of the Chief Counsel (22500), Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026;

telephone 202-326-4020. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4020).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under section 4203(a) of ERISA, a complete withdrawal from a multiemployer plan generally occurs when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. Under section 4205 of ERISA, a partial withdrawal generally occurs when an employer (1) reduces its contribution base units by seventy percent in each of three consecutive years, or (2) permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or (3) permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased.

Although the general rules on complete and partial withdrawal identify events that normally result in a diminution of the plan's contribution base, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute does not normally weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

For construction industry plans and employers, section 4203(b)(2) of ERISA provides that a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan and the employer either continues to perform previously covered work in the jurisdiction of the collective bargaining agreement, or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) of ERISA applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In

contrast, the general definition of complete withdrawal in section 4203(a) of ERISA defines a withdrawal to include permanent cessation of the obligation to contribute regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. Under section 4208(d)(1) of ERISA, "[a]n employer to whom section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required." Under section 4208(d)(2) of ERISA, "[a]n employer to whom section 4203(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the [PBGC] by regulation."

Section 4203(f) of ERISA provides that the PBGC may prescribe regulations under which plans in other industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in section 4203(b) and (c) of ERISA. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which the PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that the PBGC shall prescribe by regulation a procedure by which plans may be amended to adopt special partial withdrawal liability rules upon a finding by the PBGC that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

The PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) prescribes procedures whereby a multiemployer plan may ask PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. The regulation may be accessed on the PBGC's Web site (<http://www.PBGC.gov>).

#### Request

The PBGC has received a request from the Service Employees International Union Local 25 and Participating

Employers Pension Trust ("Local 25 Plan") for approval of a plan amendment providing for special withdrawal liability rules. A copy of the originating request, and PBGC's summary of the actuarial reports that the plan provided, may be accessed on the PBGC's Web site (<http://www.PBGC.gov>). A copy of the complete filing may be requested from the PBGC Disclosure Officer. The fax number is 202-326-4042. It may also be obtained by writing the Disclosure Officer, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005.

In brief, the Local 25 Plan, a multiemployer plan covering the commercial building cleaning and security industry in Chicago, represents that the industry has characteristics similar to those of the construction industry. The plan has adopted an amendment prescribing special withdrawal liability rules, which, if approved by the PBGC, would be effective as of September 30, 2002. Under the proposed amendment, complete withdrawal of an employer would occur only under conditions similar to those described in ERISA section 4203(b)(2), or certain other conditions including a mass withdrawal. Partial withdrawal of an employer would occur only under conditions similar to those described in ERISA section 4208(d)(1). The request includes actuarial data to support the plan's contention that the amendment will not pose a significant risk to the insurance system under Title IV of ERISA.

#### Comments

All interested persons are invited to submit written comments concerning the pending request to the PBGC at the above address by August 22, 2005. All comments will be made a part of the record. Comments received will be available for public inspection at the address set forth above.

Issued in Washington, DC, on this 27 day of June, 2005.

**Vincent K. Snowbarger,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 05-13201 Filed 7-5-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application of Leucadia National Corporation to Withdraw its Common Stock, \$1.00 par value, from Listing and Registration on the Pacific Exchange, Inc.

[File No. 1-05721]

**DATES:** June 29, 2005.

On June 14, 2005, Leucadia National Corporation, a New York corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common stock, \$1.00 par value ("Security"), from listing and registration on the Pacific Exchange, Inc. ("PCX").

The Board of Directors ("the Board") of the Issuer approved a resolution on May 26, 2005 to withdraw the Security from listing and registration on PCX. The Issuer stated the reason the Board decided to withdraw the Security from PCX because: (1) The Security currently trades on the New York Stock Exchange, Inc. ("NYSE") and PCX; (2) the primary exchange for trading of the Security is NYSE; and (3) a de minimus amount of trading the Security is effected through PCX. Accordingly, the Board determined that it is in the best interest of the Issuer and its shareholders to withdraw the Security from listing and registration on PCX.

The Issuer stated in its application that it has complied with applicable rules of PCX by complying with all applicable laws in effect in the State of New York, the state in which the Issuer is incorporated, and by providing PCX with the required documents governing the withdrawal of securities from listing and registration on PCX.

The Issuer's application relates solely to the withdrawal of the Security from listing on PCX and shall not affect its continued listing on NYSE or its obligation to be registered under Section 12(b) of the Act.<sup>3</sup>

Any interested person may, on or before July 25, 2005 comment on the facts bearing upon whether the application has been made in accordance with the rules of PCX, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

<sup>1</sup> 15 U.S.C. 781(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 781(b).

#### Electronic Comments

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include the File Number 1-05721 or;

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303. All submissions should refer to File Number 1-05721. This rule number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/delist.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 05-13233 Filed 7-5-05; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[File No. 1-07598]

### Issuer Delisting; Notice of Application of Varian Medical Systems, Inc. To Withdraw its Common Stock, \$1.00 Par Value, and Associated Preferred Stock Purchase Rights, From Listing and Registration on the Pacific Exchange, Inc.

June 29, 2005.

On June 14, 2005, Varian Medical Systems, Inc., a Delaware corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common

<sup>4</sup> 17 CFR 200.30-3(a)(1).

<sup>1</sup> 15 U.S.C. 781(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).