

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 26

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2025 - \* 007

Amendment No. (req. for Amendments \*)

Filing by The Nasdaq Stock Market LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010  
Section 806(e)(1) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

A proposal to change Nasdaq's Listing Rules to reflect a Federal court's vacatur of the Commission's order of August 6, 2021, approving rules related to Board diversity disclosures.

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Arnold Last Name \* Golub

Title \* Deputy General Counsel

E-mail \* Arnold.Golub@Nasdaq.com

Telephone \* (301) 978-8075 Fax


**Signature**

Pursuant to the requirements of the Securities Exchange of 1934, The Nasdaq Stock Market LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 01/21/2025 (Title \*)

By John A. Zecca EVP and Chief Legal Officer  
(Name \*)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.



Date: 2025.01.21  
10:41:46 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information \***

Add Remove View

SR-NASDAQ-2025-007 19b-4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

SR-NASDAQ-2025-007 Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

SR-NASDAQ-2025-007 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to change Nasdaq’s Listing Rules to reflect a Federal court’s vacatur of the Commission’s order of August 6, 2021, approving rules related to Board diversity disclosures. Nasdaq has requested that the Commission waive the operative delay to allow the proposed rule change to become effective on February 4, 2025.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Arnold Golub  
Vice President and Deputy General Counsel  
Nasdaq, Inc.  
(301) 978-8075

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

a. Purpose

This proposed rule change makes changes to Nasdaq’s Listing Rules to reflect a Federal court’s vacatur<sup>3</sup> of the Commission’s order of August 6, 2021, approving rule amendments related to Board diversity disclosures.<sup>4</sup> The mandate implementing the court’s vacatur of these rules will take effect as of February 4, 2025,<sup>5</sup> and has the legal effect of vacating the Commission’s Approval Order. The technical amendments in this proposed rule change revise the Listing Rules to reflect the court’s vacatur. Nasdaq has requested that the Commission waive the operative delay otherwise required under Exchange Act Rule 19b-4(f)(6) to allow the proposed rule change to become effective on February 4, 2025.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(1) of the Act,<sup>7</sup> in particular, in that it is designed to promote compliance with Nasdaq’s rules by removing rules approved in the vacated Approval Order from Nasdaq’s rulebook, thereby preventing confusion about the applicability of those rules.

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<sup>3</sup> *All. for Fair Bd. Recruitment v. SEC*, No. 21-60626, 2024 U.S. App. LEXIS 31475 (5th Cir. Dec. 11, 2024).

<sup>4</sup> Securities Exchange Act Release No. 92590 (Aug. 6, 2021), 86 FR 44424 (Aug. 12, 2021) (SR-Nasdaq-2020-081) (the “Approval Order”).

<sup>5</sup> See Fifth Cir. R. 41.4 and Internal Operating Procedures.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change merely updates Nasdaq's rulebook to reflect the court's decision, which takes effect without regard to this rule filing. In that way, the proposed rule change will clarify Nasdaq's rules by aligning them with the court's decision, but will not impose any burden on any listed company or on inter-market competition with any other exchange.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>8</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>9</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The proposed rule filing merely revises Nasdaq's rulebook to reflect the court's

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

vacatur of the Commission's approval of certain rules, thereby clarifying Nasdaq's rulebook without changing the applicability of any rules. Such clarifying changes will also impose no burden on competition.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>10</sup> requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the rulebook can be updated concurrent with the applicability of the court's mandate vacating the Approval Order on February 4, 2025.

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<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2025-007)

January \_\_, 2025

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Nasdaq's Listing Rules to Reflect a Federal Court's Vacatur of the Commission's Order Approving Rules Related to Board Diversity Disclosures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 21, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change Nasdaq's Listing Rules to reflect a Federal court's vacatur of the Commission's order of August 6, 2021, approving rules related to Board diversity disclosures. Nasdaq has requested that the Commission waive the operative delay to allow the proposed rule change to become effective on February 4, 2025.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



The text of the proposed rule change is available on the Exchange's Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

This proposed rule change makes changes to Nasdaq's Listing Rules to reflect a Federal court's vacatur<sup>3</sup> of the Commission's order of August 6, 2021, approving rule amendments related to Board diversity disclosures.<sup>4</sup> The mandate implementing the court's vacatur of these rules will take effect as of February 4, 2025,<sup>5</sup> and has the legal effect of vacating the Commission's Approval Order. The technical amendments in this proposed rule change revise the Listing Rules to reflect the court's vacatur. Nasdaq has requested that the Commission waive the operative delay otherwise required under

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<sup>3</sup> *All. for Fair Bd. Recruitment v. SEC*, No. 21-60626, 2024 U.S. App. LEXIS 31475 (5th Cir. Dec. 11, 2024).

<sup>4</sup> Securities Exchange Act Release No. 92590 (Aug. 6, 2021), 86 FR 44424 (Aug. 12, 2021) (SR-Nasdaq-2020-081) (the "Approval Order").

<sup>5</sup> See Fifth Cir. R. 41.4 and Internal Operating Procedures.

Exchange Act Rule 19b-4(f)(6) to allow the proposed rule change to become effective on February 4, 2025.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(1) of the Act,<sup>7</sup> in particular, in that it is designed to promote compliance with Nasdaq's rules by removing rules approved in the vacated Approval Order from Nasdaq's rulebook, thereby preventing confusion about the applicability of those rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change merely updates Nasdaq's rulebook to reflect the court's decision, which takes effect without regard to this rule filing. In that way, the proposed rule change will clarify Nasdaq's rules by aligning them with the court's decision, but will not impose any burden on any listed company or on inter-market competition with any other exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form

(<https://www.sec.gov/rules/sro.shtml>); or

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NASDAQ-2025-007 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NASDAQ-2025-007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-007 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>10</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

Deleted text is [bracketed]. New text is underlined>.

**THE NASDAQ STOCK MARKET LLC RULES**

\* \* \* \* \*

**5605. Board of Directors and Committees**

(a) – (e) No change.

**[(f) Diverse Board Representation****(1) Definitions**

For purposes of this Rule 5605(f):

“Diverse” means an individual who self-identifies in one or more of the following categories: Female, Underrepresented Minority, or LGBTQ+.

“Female” means an individual who self-identifies her gender as a woman, without regard to the individual’s designated sex at birth.

“Foreign Issuer” means (a) a Foreign Private Issuer (as defined in Rule 5005(a)(19)); or (b) a company that (i) is considered a “foreign issuer” under Rule 3b-4(b) under the Act and (ii) has its principal executive offices located outside of the United States.

“LGBTQ+” means an individual who self-identifies as any of the following: lesbian, gay, bisexual, transgender, or as a member of the queer community.

“Approval Date” means the date that the Commission issues an order granting the approval of this proposed Rule 5605(f).

“Smaller Reporting Company” has the definition set forth in Rule 12b-2 under the Act.

“Underrepresented Minority” means an individual who self-identifies as one or more of the following: Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, or Two or More Races or Ethnicities.

“Two or More Races or Ethnicities” means a person who identifies with more than one of the following categories: White (not of Hispanic or Latinx origin), Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander.

**(2) Diversity Objective**

(A) General Objective

Each Company, except as described below in (B), (C) or (D), must have, or explain why it does not have, at least two members of its board of directors who are Diverse, including (i) at least one Diverse director who self-identifies as Female; and (ii) at least one Diverse director who self-identifies as an Underrepresented Minority or LGBTQ+.

(B) Foreign Issuers

(i) For purposes of this Rule 5605(f)(2)(B), (a) “Diverse” means an individual who self-identifies as one or more of the following: Female, LGBTQ+, or an underrepresented individual based on national, racial, ethnic, indigenous, cultural, religious or linguistic identity in the country of the Company’s principal executive offices (as reported on the Company’s Form F-1, 10-K, 20-F or 40-F); and (b) “board of directors” means, in the case of a Foreign Issuer with a two-tier board system, the Company’s supervisory or non-management board.

(ii) Subject to subparagraph (D) below, each Foreign Issuer must have, or explain why it does not have, at least two members of its board of directors who are Diverse, including at least one Diverse director who self-identifies as Female. For greater clarity, the second Diverse director may include an individual who self-identifies as one or more of the following: Female, LGBTQ+, or an underrepresented individual based on national, racial, ethnic, indigenous, cultural, religious or linguistic identity in the country of the Company’s principal executive offices.

(C) Smaller Reporting Companies

Subject to subparagraph (D) below, each Smaller Reporting Company must have, or explain why it does not have, at least two members of its board of directors who are Diverse, including at least one Diverse director who self-identifies as Female. For greater clarity, the second Diverse director may include an individual who self-identifies as one or more of the following: Female, LGBTQ+, or an Underrepresented Minority.

(D) Companies with Smaller Boards

Each Company with a board of directors of five or fewer members must have, or explain why it does not have, at least one member of its board of directors who is Diverse. If a Company has five members on its board of directors before becoming subject to this Rule 5605(f), it shall not become subject to the requirement of subparagraphs (A), (B) or (C) to have at least two members of its board of directors who are Diverse if it adds one director to satisfy this subparagraph (D), thereby becoming a six member

board. However, a company would become subject to Rule 5605(f)(2)(A), (B) or (C) if it subsequently expands its board.

### (3) Alternative Public Disclosure

If a Company satisfies the requirements of Rule 5605(f)(2) by explaining why it does not meet the applicable diversity objectives of Rule 5605(f)(2), the Company must: (i) specify the requirements of Rule 5605(f)(2) that are applicable; and (ii) explain the reasons why it does not have two Diverse directors (or one Diverse director for Companies subject to Rule 5605(f)(2)(D)). Such disclosure must be provided on or before December 31 either: (a) in any proxy statement or any information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F); or (b) on the Company's website. If the Company provides such disclosure on its website, then the Company must submit such disclosure concurrently with the filing made pursuant to (a) and submit a URL link to the disclosure either through the Nasdaq Listing Center or via an e-mail to [drivingdiversity@nasdaq.com](mailto:drivingdiversity@nasdaq.com), within one business day after such posting.

### (4) Exempt Companies

The following types of companies are exempt from the requirements of this Rule 5605(f) ("Exempt Companies"): acquisition companies listed under IM-5101-2; asset-backed issuers and other passive issuers (as set forth in Rule 5615(a)(1)); cooperatives (as set forth in Rule 5615(a)(2)); limited partnerships (as set forth in Rule 5615(a)(4)); management investment companies (as set forth in Rule 5615(a)(5)); issuers of non-voting preferred securities, debt securities and Derivative Securities (as set forth in Rule 5615(a)(6)) that do not have equity securities listed on Nasdaq; and issuers of securities listed under the Rule 5700 Series.

### (5) Phase-in Period

(A) Any Company newly listing on The Nasdaq Global Select Market or The Nasdaq Global Market that was not previously subject to a substantially similar requirement of another national securities exchange, including through an initial public offering, direct listing, transfer from the over-the-counter market or another exchange, in connection with a spin-off or carve-out from a company listed on Nasdaq or another exchange, or through a merger with an acquisition company listed under IM-5101-2, shall be permitted to satisfy the requirement of Rule 5605(f)(2) to have, or explain why it does not have: (i) at least one Diverse director by the later of: (a) one year from the date of listing; or (b) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) for the Company's first annual meeting of shareholders subsequent to the Company's listing; and (ii) at least two Diverse directors by the later of: (a) two years from the date of listing; or (b) the date the Company files its proxy statement or its



information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) for the Company's second annual meeting of shareholders subsequent to the Company's listing.

(B) Any Company newly listing on The Nasdaq Capital Market that was not previously subject to a substantially similar requirement of another national securities exchange, including through an initial public offering, direct listing, transfer from the over-the-counter market or another exchange, in connection with a spin-off or carve-out from a company listed on Nasdaq or another exchange, or through a merger with an acquisition company listed under IM-5101-2, shall be permitted to satisfy the requirement of Rule 5605(f)(2) to have, or explain why it does not have at least two Diverse directors by the later of: (a) two years from the date of listing; or (b) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) for the Company's second annual meeting of shareholders subsequent to the Company's listing.

(C) Any Company that ceases to be a Foreign Issuer, a Smaller Reporting Company, or an Exempt Company shall be permitted to satisfy the requirements of Rule 5605(f) by the later of: (i) one year from the date that the Company no longer qualifies as a Foreign Issuer, a Smaller Reporting Company or an Exempt Company, respectively; or (ii) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) for the Company's first annual meeting of shareholders subsequent to such event.

(D) Any Company newly listing on The Nasdaq Global Select Market, The Nasdaq Global Market and The Nasdaq Capital Market that has a board of five or fewer members and was not previously subject to a substantially similar requirement of another national securities exchange, including through an initial public offering, direct listing, transfer from the over-the-counter market or another exchange, in connection with a spin-off or carve-out from a company listed on Nasdaq or another exchange, or through a merger with an acquisition company listed under IM-5101-2, shall be permitted to satisfy the requirement of Rule 5605(f)(2) to have, or explain why it does not have at least one Diverse director by the later of: (a) two years from the date of listing; or (b) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) for the Company's second annual meeting of shareholders subsequent to the Company's listing.

(6) Cure Period and Grace Period

(A) If a Company (i) does not meet the applicable diversity objectives set forth under Rule 5605(f)(2) and fails to provide the disclosure required by Rule 5605(f)(3), or (ii) fails to hold an annual meeting of shareholders during the applicable periods in Rule 5605(f)(5) or (7) and therefore fails to meet, or explain why it does not meet, the diversity objectives of Rule 5605(f)(2), the Listing Qualifications Department will promptly notify the Company and inform it that it has until the later of its next annual shareholders meeting or 180 days from the event that caused the deficiency to cure the deficiency.

(B) A Company that satisfied the diversity objectives of Rule 5605(f)(2) within the timeframes set forth in Rule 5605(f)(7), but ceases to meet the diversity objectives of Rule 5605(f)(2) due to a vacancy on its board of directors, shall have until the later of: (i) one year from the date of vacancy; or (ii) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F) in the calendar year following the year of the date of vacancy, to satisfy Rule 5605(f)(2) or (3). In lieu of providing the disclosure required by Rule 5605(f)(3), a Company relying on this provision may publicly disclose that it is relying on the grace period provided by this Rule 5605(f)(6)(B). Such disclosure must be provided in advance of the Company's next annual meeting of shareholders: (a) in any proxy statement or any information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F); or (b) on the Company's website. If the Company provides such disclosure on its website, then the Company must submit such disclosure concurrently with the filing made pursuant to (a) and submit a URL link to the disclosure through the Nasdaq Listing Center, within one business day after such posting.

#### (7) Effective Dates/Transition

(A) Each Company listed on The Nasdaq Global Select Market, The Nasdaq Global Market, and The Nasdaq Capital Market (including a Company with a smaller board under Rule 5606(f)(2)(D)) must have, or explain why it does not have, at least one Diverse director by December 31, 2023.

(B) Each Company listed on The Nasdaq Global Select Market or The Nasdaq Global Market must have, or explain why it does not have, at least two Diverse directors by December 31, 2025.

(C) Each Company listed on The Nasdaq Capital Market must have, or explain why it does not have, at least two Diverse directors by December 31, 2026.

(D) Notwithstanding the foregoing, a Company is not required to comply with the requirements of this Rule 5605(f) prior to the end of the phase-in periods described in Rule 5605(f)(5), if applicable.

(E) A company listing after the Approval Date, but prior to the end of the periods set forth in this subparagraph (7), must fully satisfy the requirements of this Rule 5605(f) by the later of the periods set forth in this subparagraph (7) or the two year phase-in periods set forth in Rule 5605(f)(5).

(F) A company listed on The Nasdaq Capital Market that transfers to The Nasdaq Global Select Market or The Nasdaq Global Market after the Approval Date, but prior to the end of the periods set forth in this subparagraph (7), must satisfy the requirements of this Rule 5605(f) by the later of: (i) the periods set forth in this subparagraph (7)(C); or (ii) one year from the date of transfer.]

#### **[5606. Board Diversity Disclosure**

(a) Each Company must annually disclose, to the extent permitted by applicable law, information on each director's voluntary self-identified characteristics in a substantially similar format below. Following the first year of disclosure, all companies must disclose the current year and immediately prior year diversity statistics using the Board Diversity Matrix.

#### **Board Diversity Matrix (As of [DATE])**

<b>Total Number of Directors</b>	<b>#</b>	<b>Female</b>	<b>Male</b>	<b>Non-Binary</b>	<b>Did Not Disclose Gender</b>
<b>Part I: Gender Identity</b>					
Directors	#	#	#	#	#
<b>Part II: Demographic Background</b>					
African American or Black	#	#	#	#	#
Alaskan Native or Native American	#	#	#	#	#
Asian	#	#	#	#	#
Hispanic or Latinx	#	#	#	#	#

**Board Diversity Matrix (As of [DATE])**

<b>Total Number of Directors</b>	<b>#</b>				
		<b>Female</b>	<b>Male</b>	<b>Non-Binary</b>	<b>Did Not Disclose Gender</b>
Native Hawaiian or Pacific Islander	#	#	#	#	#
White	#	#	#	#	#
Two or More Races or Ethnicities	#	#	#	#	#
LGBTQ+	#				
Did Not Disclose Demographic Background	#				

However, a Company that qualifies as a Foreign Issuer under Rule 5605(f)(1) may elect to use the format below:

**Board Diversity Matrix (As of [DATE])**

**To be completed by Foreign Issuers (with principal executive offices outside of the U.S.) and Foreign Private Issuers**

<b>Country of Principal Executive Offices</b>	<b>[Insert Country Name]</b>				
<b>Foreign Private Issuer</b>	<b>Yes/No</b>				
<b>Disclosure Prohibited under Home Country Law</b>	<b>Yes/No</b>				
<b>Total Number of Directors</b>	<b>#</b>				
		<b>Female</b>	<b>Male</b>	<b>Non-Binary</b>	<b>Did Not Disclose Gender</b>
<b>Part I: Gender Identity</b>					
Directors	#	#	#	#	#

**Board Diversity Matrix (As of [DATE])**

**To be completed by Foreign Issuers (with principal executive offices outside of the U.S.) and Foreign Private Issuers**

<b>Country of Principal Executive Offices</b>	<b>[Insert Country Name]</b>			
<b>Foreign Private Issuer</b>	<b>Yes/No</b>			
<b>Disclosure Prohibited under Home Country Law</b>	<b>Yes/No</b>			
<b>Total Number of Directors</b>	<b>#</b>			
	<b>Female</b>	<b>Male</b>	<b>Non-Binary</b>	<b>Did Not Disclose Gender</b>

**Part II: Demographic Background**

<b>Underrepresented Individual in Home Country Jurisdiction</b>	<b>#</b>
<b>LGBTQ+</b>	<b>#</b>
<b>Did Not Disclose Demographic Background</b>	<b>#</b>

(b) The disclosure required by this Rule 5606 must be provided on or before December 31 either: (a) in any proxy statement or any information statement (or, if the Company does not file a proxy, in its Form 10-K or 20-F); or (b) on the Company’s website. If the Company provides such disclosure on its website, then the Company must submit such disclosure concurrently with the filing made pursuant to (a) and submit a URL link to the disclosure either through the Nasdaq Listing Center or via an e-mail to [drivingdiversity@nasdaq.com](mailto:drivingdiversity@nasdaq.com), within one business day after such posting.

(c) This Rule 5606 shall not apply to Exempt Companies as defined in Rule 5605(f)(4).

(d) A Company newly listing on Nasdaq that was not previously subject to a substantially similar requirement of another national securities exchange, including through an initial public offering, direct listing, transfer from the over-the-counter market or another exchange, in connection with a spin-off or carve-out from a company listed on Nasdaq or another exchange, or through a merger with an acquisition company listed under IM-5101-2, must satisfy the requirement of this Rule 5606 within one year of listing.]

\* \* \* \* \*

**5615. Exemptions from Certain Corporate Governance Requirements**

This rule provides the exemptions from the corporate governance rules afforded to certain types of Companies, including Controlled Companies, and sets forth the phase-in schedules for Companies listing in connection with initial public offerings, Companies emerging from bankruptcy, Companies transferring from other markets and national securities exchanges, Companies listing in connection with a spin-off transaction, and Companies ceasing to be Smaller Reporting Companies, Foreign Private Issuers, or Controlled Companies.

**(a) Exemptions to the Corporate Governance Requirements**

(1) – (2) No change.

**(3) Foreign Private Issuers**

(A) A Foreign Private Issuer may follow its home country practice in lieu of the requirements of the Rule 5600 Series, the requirement to disclose third party director and nominee compensation set forth in Rule 5250(b)(3), and the requirement to distribute annual and interim reports set forth in Rule 5250(d), provided, however, that such a Company shall: comply with the Notification of Noncompliance requirement (Rule 5625), the Voting Rights requirement (Rule 5640), [the Diverse Board Representation Rule (Rule 5605(f)), the Board Diversity Disclosure Rule (Rule 5606), ]have an audit committee that satisfies Rule 5605(c)(3), and ensure that such audit committee's members meet the independence requirement in Rule 5605(c)(2)(A)(ii). Except as provided in this paragraph, a Foreign Private Issuer must comply with the requirements of the Rule 5000 Series.

(B) No change.

**IM-5615-3. Foreign Private Issuers**

A Foreign Private Issuer (as defined in Rule 5005) listed on Nasdaq may follow the practice in such Company's home country (as defined in General Instruction F of Form 20-F) in lieu of the provisions of the Rule 5600 Series, Rule 5250(b)(3), and Rule 5250(d), subject to several important exceptions. First, such an issuer shall comply with Rule 5625 (Notification of Noncompliance). Second, such a Company shall have an audit committee that satisfies Rule 5605(c)(3). Third, members of such audit committee shall meet the criteria for independence referenced in Rule 5605(c)(2)(A)(ii) (the criteria set forth in Rule 10A-3(b)(1) under the Act, subject to the exemptions provided in Rule 10A-3(c) under the Act). [Fourth, such an issuer shall comply with Rule 5605(f) (Diverse Board Representation) and Rule 5606 (Board Diversity Disclosure). ]Finally, a Foreign Private Issuer that elects to follow home country practice in lieu

of a requirement of Rules 5600, 5250(b)(3), or 5250(d) shall submit to Nasdaq a written statement from an independent counsel in such Company's home country certifying that the Company's practices are not prohibited by the home country's laws. In the case of new listings, this certification is required at the time of listing. For existing Companies, the certification is required at the time the Company seeks to adopt its first noncompliant practice. In the interest of transparency, the rule requires a Foreign Private Issuer to make appropriate disclosures in the Company's annual filings with the Commission (typically Form 20-F or 40-F), and at the time of the Company's original listing in the United States, if that listing is on Nasdaq, in its registration statement (typically Form F-1, 20-F, or 40-F); alternatively, a Company that is not required to file an annual report on Form 20-F may provide these disclosures in English on its website in addition to, or instead of, providing these disclosures on its registration statement or annual report. The Company shall disclose each requirement that it does not follow and include a brief statement of the home country practice the Company follows in lieu of these corporate governance requirement(s). If the disclosure is only available on the website, the annual report and registration statement should so state and provide the web address at which the information may be obtained. Companies that must file annual reports on Form 20-F are encouraged to provide these disclosures on their websites, in addition to the required Form 20-F disclosures, to provide maximum transparency about their practices.

(4) – (7) No change.

(b) No change.

\* \* \* \* \*

#### **5702. Debt Securities (Other than Convertible Debt)**

(a) – (c) No change.

(d) An issuer whose only securities listed on Nasdaq are non-convertible bonds listed under this Rule 5702 is exempt from the requirements relating to Independent Directors (as set forth in Rule 5605(b)), Compensation Committees (as set forth in Rule 5605(d)), Director Nominations (as set forth in Rule 5605(e)), [Diverse Board Representation (as set forth in Rule 5605(f)), Board Diversity Disclosure (as set forth in Rule 5606), ]Codes of Conduct (as set forth in Rule 5610), Meetings of Shareholders (as set forth in Rule 5620(a)), Shareholder Approval (as set forth in Rule 5635) and Voting Rights (as set forth in Rule 5640). In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 5605(c)), except for the applicable requirements of SEC Rule 10A-3.

(e) No change.

\* \* \* \* \*

### **5810. Notification of Deficiency by the Listing Qualifications Department**

When the Listing Qualifications Department determines that a Company does not meet a listing standard set forth in the Rule 5000 Series, it will immediately notify the Company of the deficiency. As explained in more detail below, deficiency notifications are of four types:

- (1) Staff Delisting Determinations, which are notifications of deficiencies that, unless appealed, subject the Company to immediate suspension and delisting;
- (2) notifications of deficiencies for which a Company may submit a plan of compliance for staff review;
- (3) notifications of deficiencies for which a Company is entitled to an automatic cure or compliance period; and
- (4) Public Reprimand Letters, except such notification type is not available for unresolved deficiencies from the standards of Rules 5250(c)Obligation to File Periodic Financial Reports, 5615(a)(4)(D) Partner Meetings of Limited Partnerships and 5620(a) Meetings of Shareholders.

Notifications of deficiencies that allow for submission of a compliance plan or an automatic cure or compliance period may result, after review of the compliance plan or expiration of the cure or compliance period, in issuance of a Staff Delisting Determination or a Public Reprimand Letter.

(a) – (b) No change.

**IM-5810-1.** No change.

### **(c) Types of Deficiencies and Notifications**

The type of deficiency at issue determines whether the Company will be immediately suspended and delisted, or whether it may submit a compliance plan for review or is entitled to an automatic cure or compliance period before a Staff Delisting Determination is issued. In the case of a deficiency not specified below, Staff will issue the Company a Staff Delisting Determination or a Public Reprimand Letter.

(1) No change.

#### **(2) Deficiencies for which a Company may Submit a Plan of Compliance for Staff Review**

(A) Unless the Company is currently under review by an Adjudicatory Body for a Staff Delisting Determination, the Listing Qualifications Department may accept and review a plan to regain compliance when a



Company is deficient with respect to one of the standards listed in subsections (i) through (vi) below. In accordance with Rule 5810(c)(2)(C), plans provided pursuant to subsections (i) through (iv) and (vi) below must be provided generally within 45 calendar days, and in accordance with Rule 5810(c)(2)(F), plans provided pursuant to subsection (v) must be provided generally within 60 calendar days. If a Company's plan consists of transferring from the Nasdaq Global or Global Select Market to the Nasdaq Capital Market, the Company should submit its application and the applicable application fee at the same time as its plan to regain compliance.

(i) – (iii) No change.

(iv) failure to make the disclosure required by Rule 5250(b)(3) {Disclosure of Third Party Director and Nominee Compensation}[ or Rule 5606 {Board Diversity Disclosure}];

(v) – (vi) No change.

**IM-5810-2.** No change.

(B) – (G) No change

**(3) Deficiencies for which the Rules Provide a Specified Cure or Compliance Period**

With respect to deficiencies related to the standards listed in (A) – (G) below, Staff's notification will inform the Company of the applicable cure or compliance period provided by these Rules and discussed below. If the Company does not regain compliance within the specified cure or compliance period, the Listing Qualifications Department will immediately issue a Staff Delisting Determination letter.

(A)– (E) No change.

**(F) [Diverse Board Representation Rule**

If a Company, that is not relying on the grace period set forth in Rule 5605(f)(6)(B), (i) does not meet the applicable diversity objectives as set forth under Rule 5605(f)(2) and fails to provide the disclosure required by Rule 5605(f)(3), or (ii) fails to hold an annual meeting of shareholders during the applicable periods in Rule 5605(f)(5) or (7) and therefore fails to meet, or explain why it does not meet, the diversity objectives of Rule 5605(f)(2), the Company shall be notified promptly and shall have until the later of its next annual shareholders meeting or 180 days from the event that caused the deficiency to cure the deficiency.]Reserved

(G) – (H) No change.

(4) No change.

(d) No change.

\* \* \* \* \*

**IM-5900-9. Reserved [Board Diversity Services**

Nasdaq Rule 5605(f) requires each listed Company, subject to certain exceptions, to have, or explain why it does not have, at least two diverse directors on its board (the “Diversity Objective”). A company with five or fewer directors on its board must have, or explain why it does not have, at least one diverse director on its board. In order to help advance diversity on Company boards and to help Companies prepare for and comply with the Diversity Objective, Nasdaq offers Eligible Companies complimentary access to two seats of a board recruiting solution, which will allow Companies to identify and evaluate diverse board candidates. Until December 1, 2023, any Eligible Company that requests access to this service through the Nasdaq Listing Center will receive complimentary access for one-year from the initiation of the service. This service has a retail value of approximately \$10,000 per year.

An Eligible Company is:

(a) any listed Company, except as described below, that represents to Nasdaq that it does not have (i) at least one director who self-identifies as female; and (ii) at least one director who self-identifies as one or more of the following: Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, or Two or More Races or Ethnicities, or who self-identifies as lesbian, gay, bisexual, transgender or as a member of the queer community;

(b) a listed Company that (i) is a Foreign Private Issuer (as defined in Rule 5005(a)(19), or (ii) is considered a foreign issuer under Rule 3b-4(b) under the Act and has its principal executive offices located outside of the United States, if it represents to Nasdaq that it does not have (i) at least one director who self-identifies as female; and (ii) at least one director who self-identifies as one or more of the following: female, an underrepresented individual based on national, racial, ethnic, indigenous, cultural, religious or linguistic identity in the country of the company’s principal executive offices, or lesbian, gay, bisexual, transgender or as a member of the queer community; or

(c) a listed Company that is a Smaller Reporting Company (as defined in Rule 12b-2 under the Act), if it represents to Nasdaq that it does not have (i) at least one director who self-identifies as female, and (ii) at least one director who self-identifies as one or more of the following: female, Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, or Two or More Races or Ethnicities, or who self-identifies as lesbian, gay, bisexual, transgender or as a member of the queer community.]

\* \* \* \* \*