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February 28, 2025

# 2024-2025 Developments Regarding NYSE and Nasdaq Listing Rules

**Throughout 2024 and early 2025, the Securities and Exchange Commission (SEC) has approved a variety of changes to the listing rules of the New York Stock Exchange LLC (NYSE) and The Nasdaq Stock Market LLC (Nasdaq) relating to reverse stock splits, minimum share price requirements and related grace periods, and other matters. This memorandum summarizes the more significant of these changes.[1] Unless otherwise noted, all of the listing rule changes described below have been approved by the SEC and are effective.**

## I. Reverse Stock Splits[2]

### NYSE[3]

The NYSE has changed its rules regarding reverse stock splits in two respects. The first rule change relates to the compliance period applicable when an NYSE-listed company's average closing price per share is less than $1.00 for 30 consecutive trading days and the company engages in a reverse stock split (or other action that requires stockholder approval) in order to regain compliance with the minimum share price requirement. Prior to this rule change, any NYSE-listed company in this situation would have had six months from receipt of notice from the NYSE or until the company's next annual meeting to obtain the necessary stockholder approval (after which such company must promptly implement the approved action) in order to avoid the commencement of delisting proceedings. With the rule change, none of these periods for regaining compliance would be available, and the NYSE can commence delisting proceedings, if the company has engaged in either (1) a reverse stock split during the previous one-year period (even if the company was in compliance with the share price criteria at the time of the prior reverse stock split) or (2) one or more reverse stock splits during the previous two-year period with a cumulative ratio of 200 shares or more to one.

The second NYSE rule change relating to reverse stock splits prohibits an NYSE-listed company from engaging in a reverse stock split if doing so results in the company's shares falling below the NYSE's continued listing criteria regarding share distribution. These criteria provide that delisting may result if (1) a company's shares are held by less than 400 stockholders, (2) the company's shares are held by less than 1,200 stockholders and the average monthly trading volume of the shares is less than 100,000 shares for the most recent 12 months, or (3) the number of publicly-

[1] Note, however, that certain rule changes applicable to special purpose acquisition companies (SPACs) and foreign private issuers are not addressed in this memorandum.

[2] Generally, a "reverse stock split" is a proportionate decrease in the number of shares, but not the total value of shares, held by stockholders, with the ratio of shares held before and after the reverse stock split being determined by the board and the reverse stock split itself usually requiring stockholder approval. Stockholders maintain the same percentage of equity ownership as before the reverse stock split. For example, a 1-for-2 reverse stock split would result in stockholders owning one share for every two shares owned before the reverse stock split.

[3] See SEC Release No. 34-102201; File No. SR-NYSE-2024-48, January 15, 2025.

held shares is less than 600,000. With this rule change, a company engaging in a reverse stock split without regard to this limitation will not be allowed to submit a plan to regain compliance or follow the other procedures set forth in the NYSE's listed company manual, and the NYSE would immediately commence delisting procedures.

### Nasdaq[4]

Similar to the NYSE, Nasdaq has changed its listing rules relating to reverse stock splits to provide that, in the event a Nasdaq-listed company's shares fail to maintain a minimum bid price of at least $1.00 per share and the company has engaged in a reverse stock split during the prior one-year period, the company will not be eligible for the 180-day compliance period that would otherwise apply (even if the company was in compliance with the minimum bid price requirement at the time of the prior reverse stock split) and Nasdaq can commence delisting proceedings. Notably, Nasdaq rules already provide that the compliance period is not available if the company has engaged in one or more reverse stock splits during the previous two-year period with a cumulative ratio of 250 shares or more to one.

Nasdaq has also changed its rules specific to reverse stock splits by requiring that a Nasdaq-listed company proposing a reverse stock split notify Nasdaq of the reverse stock split no less than 10 calendar days prior to the record date stockholder approval of the reverse stock split. Previously, Nasdaq's rules had required five business days' notice.

## II. Minimum Bid Price Requirements – Nasdaq[5]

Nasdaq has changed its listing rules relating to the minimum bid price of listed shares in two respects. Before these changes, (1) a Nasdaq-listed company whose shares failed to maintain a minimum bid price of at least $1.00 per share was provided an automatic 180-day period from the date Nasdaq notifies the company of such failure in which to regain compliance, (2) a Nasdaq Capital Markets-listed[6] company may, subject to certain requirements, have been eligible for a second 180-day period, and (3) Nasdaq's hearing panel had the authority to allow a company up to an additional 180 days to regain compliance, resulting in the possibility that a Nasdaq-listed company could be in non-compliance with the minimum bid price requirement and continue to be listed on Nasdaq for up to 540 days. Also, in general a timely request by a non-compliant company for a hearing stays the delisting proceeding until the hearing panels' decision.

The first Nasdaq listing rule change relating to minimum bid price requirements provides that a hearing request will no longer stay the suspension of trading if the company has already been afforded the second 180-day period referred to above and has failed to regain compliance.

The second Nasdaq listing rule change relating to minimum bid price requirements is that a company out of compliance with the bid price requirement will not be deemed to be back in compliance if it takes action to regain compliance (such as a reverse stock split) and that action causes the company to fail to meet the numeric threshold of *another* listing requirement (without regard to any other compliance period that would be available for that other listing requirement). For example, this can happen if a company engages in a reverse stock split that, because the number of outstanding shares is reduced by the reverse stock split, causes the company to be out of compliance with Nasdaq's listing requirement relating to share distribution. In such a case, the company would be deemed out of

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[4] See SEC Release No. 34-102245; File No. SR-NASDAQ-2024-045, January 17, 2025, and SEC Release No. 34-101693; File No. SR-NASDAQ-2024-068, November 21, 2024.

[5] See SEC Release No. 34-102245; File No. SR-NASDAQ-2024-045, January 17, 2025, and SEC Release No. 34-101271; File No. SR-NASDAQ-2024-029, October 7, 2024.

[6] Nasdaq Capital Markets is one of the three tiers within Nasdaq and generally includes smaller market capitalization companies. As a result, its listing requirements are generally less strict than the other tiers.

compliance until both the second deficiency is cured and the company meets the bid price requirement for a minimum of 10 consecutive trading days.

## III. Other Matters

### *Phase-In Schedules for Corporate Governance Requirements - Nasdaq*[7]

Nasdaq has changed its rules regarding the phase-in of certain of its corporate governance requirements. In the context of initial public offerings, (1) the requirement that a company have one independent director on its nominating and compensation committees at the time the company's shares are first listed has been changed to allow companies to place a director on each such committee by the time the IPO closes or five business days after first listing, whichever is earlier, (2) the requirement that a company have two independent directors on its compensation committee at the time the company's shares are first listed has been changed to allow companies to have only one independent director on such committee by initial listing and two independent directors on such committee by one year after initial listing, and (3) the requirement that a company have three independent directors on its audit committee at the time the company's shares are first listed has been changed to allow companies to have only one independent director on such committee by initial listing, two independent directors on such committee within 90 days of initial listing, and three independent directors on such committee by one year after initial listing. Similar changes have been made to Nasdaq's corporate governance rules relating to carve-out/spin-off transactions.

### *Change in Primary Business Focus - NYSE*[8]

The NYSE has changed its listing rules to (1) require that any listed company that has changed its primary business focus to provide notice thereof to the NYSE, (2) provide that the NYSE will conduct a continued listing analysis of any listed company that has changed its primary business focus (regardless of whether the listed company provides the required notice), and (3) give the NYSE sole discretion to subject a listed company to suspension of trading and delisting in accordance with its procedures if the company has changed its primary business focus to either a new area of business that it was not engaged in, or that was immaterial to its operations, at the time of its original listing. The NYSE's assessment will focus on whether the NYSE would have accepted the company for initial listing if it had engaged in the changed business at the time of initial listing and will not apply quantitative standards. It will, however, focus on other changes occurring in connection with the business change, such as changes in management or the board, ownership, or financial structure.

### *Board Diversity - Nasdaq*[9]

In 2021, the SEC entered an order approving Nasdaq's disclosure rules regarding board diversity. In light of a Federal court's recent vacatur of that order, Nasdaq proposed, and the SEC has approved, Nasdaq's repeal of these rules.

## IV. Conclusion

A majority of the NYSE's and Nasdaq's recent listing rule changes are directed at making it more difficult for listed companies that are non-compliant to regain compliance or extend compliance periods without demonstrating

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[7] See SEC Release No. 34-100816; File No. SR-NASDAQ-2024-019, August 26, 2024.

[8] See SEC Release No. 34-100585; File No. SR-NYSE-2024-21, July 24, 2024.

[9] See SEC Release No. 34-102281; File No. SR-NASDAQ-2024-007, January 24, 2025, and our previous memorandum on this topic dated February 14, 2025, which can be found here.

substantive improvement in their circumstances. As a result, listed companies at risk of non-compliance or facing delisting will have fewer means at their disposal for regaining compliance.

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If you have any questions about the issues addressed in this memorandum, or would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Dan Anderson (partner) at danderson@cahill.com or 212.701.3819, Geoffrey E. Liebmann (senior counsel) at gliebmann@cahill.com or 212.701.3313, or Jacqueline Hennelly (associate) at jhennelly@cahill.com or 212.701.3485, or email publicationscommittee@cahill.com.