

5000. NASDAQ LISTING RULES

5001. The Qualification, Listing, and Delisting of Companies

This Rule Series 5000 (consisting of Rules 5000-5999) contains rules related to the qualification, listing and delisting of Companies on The Nasdaq Stock Market.

The Rule 5100 Series (consisting of Rules 5100-5199) discusses Nasdaq's general regulatory authority. The Rule 5200 Series (consisting of Rules 5200-5299) sets forth the procedures and prerequisites for gaining a listing on The Nasdaq Stock Market, as well as the disclosure obligations of listed Companies. The Rule 5300, 5400, and 5500 Series (consisting of Rules 5300-5399, 5400-5499, and 5500-5599, respectively) contain the specific quantitative listing requirements for listing on the Global Select, Global Market, and Capital Market, respectively. The corporate governance requirements applicable to all Companies are contained in the Rule 5600 Series (consisting of Rules 5600-5699). Special listing requirements for securities other than common or preferred stock and warrants are contained in the Rule 5700 Series (consisting of Rules 5700- 5799). The consequences of a failure to meet Nasdaq's listing standards are contained in the Rule 5800 Series (consisting of Rules 5800-5899). Finally, Company listing fees are described in the Rule 5900 Series (consisting of Rules 5900-5999).

Nasdaq exercises other authorities important to listed Companies discussed in other Rules Series in the Marketplace Rules. For example, Nasdaq may close markets upon request of the SEC (see Rule 4121). It may also halt the trading of a Company's securities under certain circumstances and pursuant to established procedures (See Rule 4120 and IM-5250-1 and IM-5810). These authorities are exercised primarily by the MarketWatch Department and are contained in the Rule 4000 series.

Nasdaq and Financial Industry Regulatory Authority, Inc. ("FINRA") are parties to a regulatory contract pursuant to which FINRA has agreed to perform certain functions described in the Rules on behalf of Nasdaq. Notwithstanding the fact that Nasdaq has entered into the regulatory contract with FINRA to perform some of Nasdaq's functions, Nasdaq shall retain ultimate legal responsibility for, and control of, such functions.

Amended by SR-NASDAQ-2009-052 eff. June 16, 2009; amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

5005. Definitions

(a) The following is a list of definitions used throughout the Nasdaq Listing Rules. This section also lists various terms together with references to other rules where they are specifically defined. Unless otherwise specified by the Rules, these terms shall have the meanings set forth below. Defined terms are capitalized throughout the Listing Rules.

- (1) "Act" means the Securities Exchange Act of 1934.
- (2) "Best efforts offering" means an offering of securities by members of a selling group under an agreement that imposes no financial commitment on the members of such group to purchase any such securities except as they may elect to do so.
- (3) "Bid Price" means the closing bid price.
- (4) "Cash flows", as it pertains to The Nasdaq Global Select Market, is defined in the Rule 5310(b).
- (5) "Commission" or "SEC" means the United States Securities and Exchange Commission.
- (6) "Company" means the issuer of a security listed or applying to list on Nasdaq. For purposes of the Rule 5000 Series, the term "Company" includes an issuer that is not incorporated, such as, for example, a limited partnership.
- (7) "Consolidated Quotation Service" (CQS) means the consolidated quotation collection system for securities listed on an exchange other than Nasdaq implementing Rule 602 of Regulation NMS under the Act.
- (8) "Country of Domicile" means the country under whose laws a Company is organized or incorporated.
- (9) "Covered Security" means a security described in Section 18(b) of the Securities Act of 1933.
- (10) "Direct Registration Program" means any program by a Company, directly or through its transfer agent, whereby a Shareholder may have securities registered in the Shareholder's name on the books of the Company or its transfer agent without the need for a physical certificate to evidence ownership.
- (11) "Dually-Listed Security" means a security, listed on The Nasdaq Global Market or The Nasdaq Global Select Market, which is also listed on the New York Stock Exchange.

- (12) "EDGAR System" means the SEC's Electronic Data Gathering, Analysis, and Retrieval system.
- (13) "Equity Investment Tracking Stock" means a class of common equity securities that tracks on an unleveraged basis the performance of an investment by the issuer in the common equity securities of a single other company listed on Nasdaq. An Equity Investment Tracking Stock may track multiple classes of common equity securities of a single issuer, so long as all of those classes have identical economic rights and at least one of those classes is listed on Nasdaq.
- (14) "ESOP" means employee stock option plan.
- (15) "Executive Officer" is defined in Rule 5605(a)(1).
- (16) "Filed with Nasdaq" means submitted to Nasdaq directly or filed with the Commission through the EDGAR System.
- (17) "Firm Commitment Offering" means an offering of securities by participants in a selling syndicate under an agreement that imposes a financial commitment on participants in such syndicate to purchase such securities.
- (18) "Family Member" is defined in Rule 5605(a)(2).
- (19) "Foreign Private Issuer" shall have the same meaning as under Rule 3b-4 under the Act.
- (20) "Independent Director" is defined in Rule 5605(a)(2).
- (21) "Index Warrants" is defined in Rule 5725(a).
- (22) "Listed Securities" means securities listed on Nasdaq or another national securities exchange.
- (23) "Market Value" means the consolidated closing bid price multiplied by the measure to be valued (e.g., a Company's Market Value of Publicly Held Shares is equal to the consolidated closing bid price multiplied by a Company's Publicly Held Shares).
- (24) "Member" means a broker or dealer admitted to membership in Nasdaq.
- (25) "Market Maker" means a dealer that, with respect to a security, holds itself out (by entering quotations in the Nasdaq Market Center) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.
- (26) "The Nasdaq Global Market" or "Global Market" or "NGM" is a distinct tier of Nasdaq comprised of two segments: The Nasdaq Global Market and The Nasdaq Global Select Market. The Nasdaq Global Market is the successor to the Nasdaq National Market.
- (27) "Nasdaq Global Market security" or "NGM security" means any security listed on Nasdaq that (1) satisfies all applicable requirements of the Rule 5100 and 5200 Series and meets the criteria set forth in the Rule 5400 Series; (2) is a right to purchase such security; (3) is a warrant to subscribe to such security; or (4) is an Index Warrant which meets the criteria set forth in Rule 5725(a).
- (28) "The Nasdaq Capital Market" or "Capital Market" is a distinct tier of Nasdaq comprised of securities that meet the requirements of the Rule 5100, 5200 and 5500 Series, and are listed as Nasdaq Capital Market securities. The Nasdaq Capital Market is the successor to The Nasdaq SmallCap Market.
- (29) "Nasdaq Capital Market security" means any security listed on The Nasdaq Capital Market that (1) satisfies all applicable requirements of the Rule 5100, 5200 and 5500 Series but that is not a Nasdaq Global Market security; (2) is a right to purchase such security; or (3) is a warrant to subscribe to such security.
- (30) "The Nasdaq Global Select Market" or "Global Select Market" or "Global Select" or "NGSM" is a segment of The Nasdaq Global Market comprised of NGM securities that met the requirements for initial inclusion contained in the Rule 5100, 5200 and 5300 Series.
- (31) "Nasdaq Global Select Market security" or "NGSM security" means any security listed on Nasdaq and included in The Nasdaq Global Select segment of The Nasdaq Global Market.
- (32) "Other Regulatory Authority" means: (i) in the case of a bank or savings authority identified in Section 12(i) of the Act, the agency vested with authority to enforce the provisions of Section 12 of the Act; or (ii) in the case of an insurance company that is subject to an exemption issued by the Commission that permits the listing of the security, notwithstanding its failure to be registered pursuant to section 12(b), the Commissioner of Insurance (or other officer or agency performing a similar function) of its domiciliary state.
- (33) "Primary Equity Security" means a Company's first class of Common Stock, Ordinary Shares, Shares or Certificates of Beneficial Interest of Trust, Limited Partnership Interests or American Depositary Receipts (ADR) or Shares (ADS).

(34) "Private Placement Market" is a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer.

(35) "Publicly Held Shares" means shares not held directly or indirectly by an officer, director or any person who is the beneficial owner of more than 10 percent of the total shares outstanding. Determinations of beneficial ownership in calculating publicly held shares shall be made in accordance with Rule 13d-3 under the Act.

(36) "Public Holders" means holders of a security that includes both beneficial holders and holders of record, but does not include any holder who is, either directly or indirectly, an Executive Officer, director, or the beneficial holder of more than 10% of the total shares outstanding.

(37) "Restrictive Market" means a jurisdiction that does not provide the Public Company Accounting Oversight Board with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies. A Company's business will be considered to be principally administered in a Restrictive Market if: (i) the Company's books and records are located in that jurisdiction; (ii) at least 50% of the Company's assets are located in such jurisdiction; or (iii) at least 50% of the Company's revenues are derived from such jurisdiction.

(38) "Restricted Securities" means securities that are subject to resale restrictions for any reason, including, but not limited to, securities: (1) acquired directly or indirectly from the issuer or an affiliate of the issuer in unregistered offerings such as private placements or Regulation D offerings; (2) acquired through an employee stock benefit plan or as compensation for professional services; (3) acquired in reliance on Regulation S, which cannot be resold within the United States; (4) subject to a lockup agreement or a similar contractual restriction; or (5) considered "restricted securities" under Rule 144.

(39) "Reverse Merger" means any transaction whereby an operating company becomes an Exchange Act reporting company by combining, either directly or indirectly, with a shell company which is an Exchange Act reporting company, whether through a reverse merger, exchange offer, or otherwise. However, a Reverse Merger does not include the acquisition of an operating company by a listed company satisfying the requirements of IM-5101-2 or a business combination described in Rule 5110(a). In determining whether a Company is a shell company, Nasdaq will look to a number of factors, including but not limited to: whether the Company is considered a "shell company" as defined in Rule 12b-2 under the Act; what percentage of the Company's assets are active versus passive; whether the Company generates revenues, and if so, whether the revenues are passively or actively generated; whether the Company's expenses are reasonably related to the revenues being generated; how many employees support the Company's revenue-generating business operations; how long the Company has been without material business operations; and whether the Company has publicly announced a plan to begin operating activities or generate revenues, including through a near-term acquisition or transaction.

(40) "Round Lot" or "Normal Unit of Trading" means 100 shares of a security unless, with respect to a particular security, Nasdaq determines that a normal unit of trading shall constitute other than 100 shares. If a normal unit of trading is other than 100 shares, a special identifier shall be appended to the Company's Nasdaq symbol.

(41) "Round Lot Holder" means a holder of a Normal Unit of Trading of Unrestricted Securities. The number of beneficial holders will be considered in addition to holders of record.

(42) "Shareholder" means a record or beneficial owner of a security listed or applying to list. For purposes of the Rule 5000 Series, the term "Shareholder" includes, for example, a limited partner, the owner of a depository receipt, or unit.

(43) "Substantial Shareholder" is defined in Rule 5635(e)(3).

(44) "Substitution Listing Event" means: a reverse stock split, re-incorporation or a change in the Company's place of organization, the formation of a holding company that replaces a listed Company, reclassification or exchange of a Company's listed shares for another security, the listing of a new class of securities in substitution for a previously-listed class of securities, a business combination described in IM-5101-2, a change in the obligor of a listed debt security, or any technical change whereby the Shareholders of the original Company receive a share-for-share interest in the new Company without any change in their equity position or rights. A Substitution Listing Event also includes the replacement of, or any significant modification to, the index, portfolio or Reference Asset underlying a security listed under the Rule 5700 Series (including, but not limited to, a significant modification to the index methodology, a change in the index provider, or a change in control of the index provider).

(45) "Total Holders" means holders of a security that includes both beneficial holders and holders of record.

(46) "Unrestricted Publicly Held Shares" means the Publicly Held Shares that are Unrestricted Securities.

(47) "Unrestricted Securities" are securities that are not Restricted Securities.

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