

NASDAQ'S BOARD DIVERSITY RULE

WHAT FOREIGN COMPANIES LISTED ON NASDAQ SHOULD KNOW

LAST UPDATED OCTOBER 20, 2021

Nasdaq's Board Diversity Rule, which was approved by the SEC on August 6, 2021, is a disclosure standard designed to encourage a minimum board diversity objective for companies and provide stakeholders with consistent, comparable disclosures concerning a company's current board composition.

If you have questions about implementation of the rule, email us at drivingdiversity@nasdaq.com.

BOARD DIVERSITY RULE

Nasdaq's Board Diversity Rule requires companies listed on our U.S. exchange to:

- Publicly disclose board-level diversity statistics using a standardized template; and
- Have, or explain why they do not have, at least two diverse directors, including one female AND one underrepresented individual or two female directors.

If an issuer has five or fewer directors, the company can meet the diversity objective by including one diverse director who is either female or an underrepresented individual.

The Rule defines an "underrepresented individual" as a person who self-identifies as an underrepresented individual based on national, racial, ethnic, indigenous, cultural, religious, or linguistic identity in the country where the Foreign Issuer's principal executive offices are located.

Transition periods are the same for all companies that listed on Nasdaq prior to August 6, 2021, as detailed in the table below. Transition periods for companies listing on or after August 6, 2021 are detailed [here](#).

	Initial Board Matrix	One Diverse Director or Provide Explanation*	Two Diverse Directors or Provide Explanation*
Nasdaq Global Select or Global Markets	August 8, 2022 or the date the company files its 2022 proxy, whichever is later	August 7, 2023 (2 years)	August 6, 2025 (4 years)
Nasdaq Capital Market			August 6, 2026 (5 years)
Boards with 5 or fewer directors			N/A

*A company that files its proxy statement after these dates in each respective calendar year would have to explain why it meets, or does not meet, the objective at the time of its proxy filing (or, if the company does not file a proxy, in its Form 10-K or 20-F).

WHAT FOREIGN COMPANIES LISTED ON NASDAQ SHOULD KNOW

1. The Board Diversity Rule applies to all foreign private issuers (regardless of where headquartered) and any Foreign Issuers headquartered outside of the United States.

Nasdaq defines a Foreign Issuer as (a) a Foreign Private Issuer or (b) a company that (i) is considered a Foreign Issuer under Rule 3b-4(b) under the Securities Exchange Act of 1934; and (ii) has its principal executive offices located outside of the United States. Refer to [FAQ 1760](#).

2. Companies need to disclose board-level diversity data annually.

All operating companies listed on Nasdaq's U.S. exchange will need to use the Board Diversity Matrix found [here](#), or a format substantially similar, to annually disclose board-level diversity data. Please note that the Matrix template to be completed by Foreign Issuers does not require directors of foreign companies to identify the racial or ethnic demographic they represent.

Companies will need to provide this disclosure in the company's proxy statement or its information statement (or if the company does not file a proxy, its Form 10-K or 20-F), or on the company's website. Examples of acceptable (i.e., same or substantially similar) disclosures are provided [here](#) in examples 3 and 4.

As noted in the chart above, companies must disclose the initial matrix in 2022.

- If a company files its 2022 proxy BEFORE August 8, 2022 and DOES NOT include the Matrix, then the company has until August 8, 2022 to provide the Matrix in its annual filing or on its website.
- If a company files its 2022 proxy ON or AFTER August 8, 2022, then it must either include the Matrix in its proxy or post the Matrix on its website.
- If a company does not intend to file a 2022 proxy, then the company has until August 8, 2022 to provide the Matrix on its website.

Companies that elect to provide the Matrix on their website must also complete a short form through the Listing Center that includes the URL link to the disclosure.

3. Companies need to meet a board diversity objective or explain their reasons for not doing so, and the explanation could include describing a different approach.

Most Foreign Issuers must have, or explain why they do not have, at least two diverse directors, including one female AND one underrepresented individual or two female directors. Issuers that do not have at least two diverse directors can provide an explanation for not doing so, and their explanation could include a description of a different approach. Nasdaq will verify that the company has provided an explanation, but will not assess the merits of the explanation.

This rule is not a mandate. If a company chooses to explain why it does not meet the diversity objectives, it can provide its explanation in its proxy statement, information statement for its annual shareholder meeting, or on the company's website.

4. Companies with five or fewer directors can meet the diversity objective with one diverse director.

Foreign Issuers with five or fewer directors only need to have one diverse director, who self-identifies as either female OR an underrepresented individual.

As with other Nasdaq-listed companies, a Foreign Issuer may choose to explain why it does not meet the diversity objectives and would provide its explanation in its proxy statement (or if the company does not file a proxy, its Form 10-K or 20-F), information statement for its annual shareholder meeting, or on the company's website.

5. There is a transition period for companies to meet the diversity objectives, or explain why they do not.

As noted in the chart above, companies have a transition period to meet the diversity objectives or explain their reasons for not doing so.

6. Nasdaq-listed companies have access to a variety of free and discounted board recruiting services.

Nasdaq is proud to have established partnerships with Equilar, Athena Alliance, Heidrick & Struggles and the Boardlist. We realize one size doesn't fit all, which is why we are building relationships with a growing number of collaborative partners. To learn more about these relationships and how your company can access these resources, please review our guide to [Advancing Boardroom Diversity](#). You can also email your Relationship Manager or Vanessa Mesics at Vaness.Mesics@nasdaq.com.

7. We are prepared to help.

We maintain a toolkit of resources to help our listed companies and their advisors understand and achieve compliance with these new requirements.

- *FAQs.* A list of Frequently Asked Questions is available on Listing Center website [here](#). FAQs specific to the treatment of foreign companies under the Board Diversity Rule are available [here](#).
- *Dedicated Mailbox for Questions.* Email your questions to drivingdiversity@nasdaq.com.