

The Nasdaq Stock Markets Rules 5810 & 5815

Rules 5810 and 5815 were recently amended to modify the bid price compliance periods for certain companies with low priced stocks or that have effected excessive reverse stock splits.

The text below reflects the revised rules, which will be effective for companies that first receive notification of noncompliance with the bid price requirement on or after September 1, 2020. [The currently operative rules are available in the rulebook](#) and will continue to be effective for companies that first receive notification of noncompliance with the bid price requirement before September 1, 2020.

The Nasdaq Stock Market Rules

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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

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deficiency not specified below, Staff will issue the Company a Staff Delisting Determination or a Public Reprimand Letter.

(1) Deficiencies that Immediately Result in a Staff Delisting Determination

Staff's notice will inform the Company that its securities are immediately subject to suspension and delisting when:

- a Company fails to timely solicit proxies;
- an Equity Investment Tracking Stock fails to comply with the additional continued listing requirements in Rule 5222(c) or a Staff Delisting Determination has been issued with respect to the security such Equity Investment Tracking Stock tracks;
- the common stock of the REIT in a Paired Share Unit listed under Rule 5226 becomes separately tradable from the common stock of the Parent;
- An issuer of non-convertible bonds listed on Nasdaq fails to meet its obligations on the non-convertible bonds, as set forth in Rule 5702(b)(2); **[or]**
- a Subscription Receipt listed under Rule 5520 fails to comply with the continued listing requirements in Rule 5565 or a Staff Delisting Determination has been issued with respect to the security such Subscription Receipt is exchangeable for; **[or]**
- a security fails to meet the continued listing requirement for minimum bid price and is not eligible to receive a compliance period as described under Rule 5810(c)(3)(A)(iii) or (iv); or
- Staff has determined, under its discretionary authority in the Rule 5100 Series, that the Company's continued listing raises a public interest concern.

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

(A) No change.

IM-5810-2. No change.

(B) – (G) No change.

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

With respect to deficiencies related to the standards listed in (A) - (F) 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) Bid Price

A failure to meet the continued listing requirement for minimum bid price shall be determined to exist only if the deficiency continues for a period of 30 consecutive business days. Upon such failure, the Company shall be notified promptly and shall have a period of 180 calendar days from such notification to achieve compliance. Compliance can be achieved during any compliance period by meeting the applicable standard for a minimum of 10 consecutive business days during the applicable compliance period, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(G).

(i) Global Select Market and Global Market

If a Company listed on The Nasdaq Global Market has not been deemed in compliance prior to the expiration of the 180 day compliance period, it may transfer to The Nasdaq Capital Market, provided that it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable requirements for initial listing on the Capital Market (except for the bid price requirement) based on the Company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. Following a transfer to The Nasdaq Capital Market, the Company will be afforded the remainder of the applicable compliance period set forth in Rule 5810(c)(3)(A)(ii), unless it does not appear to Nasdaq that it is possible for the Company to cure the deficiency. The Company may also request a hearing to remain on The Nasdaq Global Market pursuant to the Rule 5800 Series. Any time spent in the hearing process will not extend the length of the remaining applicable compliance periods on The Nasdaq Capital Market afforded by this rule.

(ii) Capital Market

If a Company listed on the Capital Market is not deemed in compliance before the expiration of the 180 day compliance period, it will be afforded an additional 180 day compliance period,

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provided that on the 180th day of the first compliance period it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable standards for initial listing on the Capital Market (except the bid price requirement) based on the Company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. If a Company does not indicate its intent to cure the deficiency, or if it does not appear to Nasdaq that it is possible for the Company to cure the deficiency, the Company will not be eligible for the second grace period. If the Company has publicly announced information (e.g., in an earnings release) indicating that it no longer satisfies the applicable listing criteria, it shall not be eligible for the additional compliance period under this rule.

(iii) Low Priced Stocks

Notwithstanding the foregoing, if during any compliance period specified in this Rule 5810(c)(3)(A) a Company's security has a closing bid price of \$0.10 or less for ten consecutive trading days, the Listing Qualifications Department shall issue a Staff Delisting Determination under Rule 5810 with respect to that security.

(iv) Excessive Reverse Stock Splits

Notwithstanding the foregoing, if a Company's security fails to meet the continued listing requirement for minimum bid price and the Company has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 250 shares or more to one, then the Company shall not be eligible for any compliance period specified in this Rule 5810(c)(3)(A) and the Listing Qualifications Department shall issue a Staff Delisting Determination under Rule 5810 with respect to that security.

(B) – (G) No change.

(4) No change.

(d) No change.

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5815. Review of Staff Determinations by Hearings Panel

When a Company receives a Staff Delisting Determination or a Public Reprimand Letter issued by the Listing Qualifications Department, or when its application for initial listing is denied, it may request in writing that the Hearings Panel review the matter in a written or an oral hearing. This section sets forth the procedures for requesting a hearing before a Hearings Panel, describes the Hearings Panel and the possible outcomes of a hearing, and sets forth Hearings Panel procedures.

(a) – (c) No change.

(d) Hearings Panel Procedures

(1) – (3) No change.

(4) Procedures Applicable for Recurring Deficiencies

(A) No change.

(B) No Hearings Panel Monitor

If a Hearings Panel has not opted to **monitor** a Company that has regained compliance with the listing standards requiring the Company to maintain certain levels of stockholders' equity, **[or]** to timely file periodic reports, **or with the bid price requirement where the company was ineligible for a compliance period under Rule 5810(c)(3)(A)(iii) or (iv)** and within one year of the date the Company regained compliance with such listing standard, the Listing Qualifications Department finds the Company again out of compliance with the requirement that was the subject of the exception, then, notwithstanding Rule 5810(c)(2), the Listing Qualifications Department will not allow the Company to provide it with a plan of compliance or grant additional time for the Company to regain compliance. Rather, the Listing Qualifications Department will promptly issue a Staff Delisting Determination, and the Company may request review by a Hearings Panel. The Hearings Panel will consider the Company's compliance history when rendering its Decision.

(5) No change.

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