

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2025 - * 069

Amendment No. (req. for Amendments *) 3

Filing by The Nasdaq Stock Market LLC

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

Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input 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 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 *).

Amendment No. 3 to SR-NASDAQ-2025-069.

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 05/01/2026


(Title *)

By John Zecca

(Name *)

EVP and Chief Legal Officer

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: 2026.05.01 16:18:57 -04'00'

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 EFFS website.

Form 19b-4 Information *

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SR-NASDAQ-2025-069 A-3 19b-4.doc

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 *

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SR-NASDAQ-2025-069 A-3 Exhibit 1.

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

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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

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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

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SR-NASDAQ-2025-069 A-3 Exhibit 4.c

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

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SR-NASDAQ-2025-069 A-3 Exhibit 5.c

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

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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”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to adopt additional initial listing criteria for companies primarily operating in China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region. This Amendment No. 3 supersedes the original filing in its entirety.³

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 the Board of Directors of the Exchange on September 3, 2025. No other action is necessary for the filing of the rule change.



¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This Amendment No. 3 is being filed in order to add additional details to the proposal, and revise the requirements applicable to Direct Listings in the discussion and proposed rule text.

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

a. Purpose

Since 2020, there has been a sharp increase in the number of companies from the People’s Republic of China (“China” or the “PRC”) seeking to list in the United States. A record number of Chinese companies sought a U.S. listing in 2024 and that pace continued in 2025.⁴ U.S. investors have increasingly sought exposure to emerging market companies as part of a diversified portfolio, and China has the most emerging market companies globally, both in terms of number and their collective market value.⁵ Chinese companies have been drawn to the higher valuations, diverse investor base, greater liquidity, and overall size of the U.S. capital markets, which allow Chinese companies to raise significantly more capital than they could in their domestic markets.⁶ As a result of these dynamics, emerging market companies have sought to raise funds in the U.S. and list on Nasdaq.

However, amidst this increase, U.S. policymakers and regulatory agencies have voiced a range of bipartisan concerns regarding the listing of Chinese companies on American securities exchanges, citing risks to investors and national security. For example, in December 2020,

⁴ See “Deloitte China Releases 2025 Review and 2026 Outlook for Chinese Mainland & HK IPO Markets” dated Dec. 18, 2025, available at <https://www.deloitte.com/cn/en/about/press-room/mainland-and-hk-ipo-markets-2025-review-2026-outlook.html>.

⁵ China represents the largest single-country weight in major emerging market indices. For example, it accounts for approximately 25% of the total MSCI Emerging Markets Index as of March 31, 2026. The MSCI Emerging Markets Index captures large and mid-cap representation across 24 Emerging Market countries. With 1,204 constituents, the index covers approximately 85% of the free float-adjusted market capitalization in each country. See “MSCI Emerging Markets Index ((USD)” available at <https://www.msci.com/documents/10199/c0db0a48-01f2-4ba9-ad01-226fd5678111#:~:text=COUNTRY%20WEIGHTS%0AChina%2023.76%25%0ATaiwan%2022.5%25%0ASouth%20Korea%2018.08%25%0AIndia%2012.82%25%0ABrazil%204.56%25%0AOther%2018.26%25>

⁶ See PitchBook, “Chinese Companies Flock to US Exchanges Despite Heightened Tensions” dated Aug. 29, 2025, available at <https://arc-group.com/chinese-companies-listing-united-states/>; see also ARC Group, “Trend of Chinese Companies Listing in the United States” dated July 2, 2025, available at, <https://arc-group.com/chinese-companies-listing-united-states/>.

Congress passed the Holding Foreign Companies Accountable Act,⁷ which among other things, requires the removal of a company's securities from U.S. exchanges if the company's auditor cannot be fully inspected by the Public Company Accounting Oversight Board ("PCAOB") because of a position taken by an authority in a foreign jurisdiction. Before the passage of this law, Nasdaq also identified concerns around the audits of Chinese companies and, in 2020, Nasdaq proposed additional listing requirements applicable to companies from jurisdictions that do not provide the PCAOB with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies.⁸ At the same time, Nasdaq also proposed two other changes seeking to address concerns with companies primarily operating in a Restrictive Market, including Chinese companies.⁹ The PCAOB announced that it was able to secure complete access to inspect and investigate audit firms in the PRC in December 2022.¹⁰

⁷ The Holding Foreign Companies Accountable Act requires, among other things, that the Commission identify public companies that have retained a registered public accounting firm to issue an audit report where the firm has a branch or office that: (1) is located in a foreign jurisdiction, and (2) the Public Company Accounting Oversight Board ("PCAOB") has determined that it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction. Pub. L. No. 116-222, 134 Stat. 1063 (Dec. 18, 2020).

⁸ Securities Exchange Act Release No. 93256 (October 4, 2021), 86 FR 56338 (October 8, 2021) (approving SR-NASDAQ-2021-007, which replaced SR-Nasdaq-2020-027, Securities Exchange Act Release No. 89027 (June 8, 2020), 85 FR 35962 (June 12, 2020)). See also Nasdaq Rule 5005(a)(37), defining a "Restrictive Market" as "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" and Rule 5210(k) imposing additional requirements on any company that principally administers its business in a Restrictive Market.

⁹ Securities Exchange Act Release No. 89028 (June 8, 2020), 85 FR 35967 (June 12, 2020) (SR-NASDAQ-2019-026) and Securities Exchange Act Release No. 88987 (June 2, 2020), 85 FR 34774 (June 8, 2020) (SR-NASDAQ-2020-028). These proposals were withdrawn based, in part, on concerns expressed by the Commission Staff about whether the proposals were "consistent with Section 6(b)(5) of the Exchange Act and its requirement, among other things, that the rules of a national securities exchange not be designed to permit unfair discrimination." See Letters from Arnold Golub to Vanessa A. Countryman (February 1, 2021) available at <https://www.sec.gov/comments/sr-nasdaq-2020-026/srnasdaq2020026-8324959-228601.pdf> (withdrawing SR-Nasdaq-2020-026) and <https://www.sec.gov/comments/sr-nasdaq-2020-028/srnasdaq2020028-8324961-228602.pdf> (withdrawing SR-Nasdaq-2020-028).

¹⁰ FACT SHEET: PCAOB Secures Complete Access to Inspect, Investigate Chinese Firms for First Time in History (December 15, 2022) (available at <https://pcaobus.org/news-events/news-releases/news-release-detail/fact-sheet-pcaob-secures-complete-access-to-inspect-investigate-chinese-firms-for-first-time-in-history>).

More recently, bills introduced in Congress have continued to raise bipartisan concerns about broker-dealers affiliated with China and the risks that China's financial sector poses to U.S. and global financial systems.¹¹ In February 2025, the U.S. Government put forth the "America First Investment Policy" which outlined economic and national security concerns with certain Chinese companies seeking investments in the United States and described various actions the U.S. Government would take with respect to Chinese companies. These actions included preventing U.S. companies and investors from investing in industries that advance China's national Military-Civil Fusion strategy.¹²

In May 2025, the financial officers of 23 states wrote a letter to Chairman Atkins highlighting concerns with the listing of Chinese companies. The letter noted that "China's actions create an environment ripe for fraud and abuse increasing the likelihood that China-based, U.S.-listed companies will violate the disclosure, auditing, or antifraud provisions of the Securities Exchange Act."¹³ Congress members also wrote to Chair Atkins in May 2025 expressing security and human rights concerns and provided specific examples of Chinese companies under the control of the Chinese Communist Party (the "CCP").¹⁴ This letter highlighted a number of concerns with Chinese companies that are not common to companies in

¹¹ See, e.g., the PRC Broker-Dealers and Investment Advisers Moratorium Act, S.2552 (119th Congress); the China Financial Threat Mitigation Act of 2025, H.R. 1549 and S. 1113 (119th Congress).

¹² According to the U.S. State Department, "Military-Civil Fusion," is an aggressive, national strategy of the Chinese Communist Party intended to enable China to develop the most technologically advanced military in the world. See also *America First Investment Policy*, The White House (February 21, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

¹³ See Letter from Adam Crum, Alaska Commissioner of Revenue, et. al. to The Honorable Paul Atkins (May 20, 2025) available at, <https://sfof.com/wp-content/uploads/2025/05/Delisting-Letter.pdf> (highlighting concerns arising from the PCAOB audit inspections of major accounting firms in China).

¹⁴ Letter from Congressmen John Moolenaar and Rick Scott, et. al. to The Honorable Paul Atkins (May 2, 2025) available at <https://chinaselectcommittee.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/SEC%20Letter%20Updated%20compressed.pdf> (the "Congressional Letter").

other foreign jurisdictions. The letter asserted that because of the CCP's authority over companies, "no company is truly private" in the PRC, and that the CCP systematically conceals its control from U.S. investors. For example, in August 2025, it was announced that the CCP had expelled former senior officials accused of making millions from insider trading based on their access to share listings for subsidiaries of Chinese state-owned companies listed on China's two principal stock exchanges.¹⁵

In December 2025, Chairman Atkins explained during an interview that the Commission is tightening scrutiny of Chinese firms in U.S. markets to ensure "our rules... are complied with and that our laws are complied with" as companies "operating in China" list shares in the United States.¹⁶ Chairman Atkins went on to note that the SEC has identified close to a dozen Chinese companies that showed "indications of manipulative behavior" and involvement in "ramp-and-dump" schemes. He made clear that the foreign private issuers that pose a risk to U.S. investors were mainly incorporated outside of China, while the issuer maintained operations in China, or elsewhere in Asia, while the primary listing was in the U.S.¹⁷

The Commission also has recognized that "China's legal system is substantially different from the legal system in the United States and may raise risks and uncertainties concerning the intent, effect, and enforcement of its laws, rules, and regulations..."¹⁸ Investors that incur losses from malfeasance and successfully obtain judgements against Chinese companies and their

¹⁵ Richard Spencer (The Times), "China Purges Insider Traders After £30m Raid on Official's Home" (August 20, 2025), available at <https://www.thetimes.com/world/asia/article/china-purges-insider-traders-after-30m-raid-on-officials-home-hsk0jvcgp>.

¹⁶ See Kristen Altus (Fox Business), "SEC Chairman Paul Atkins Says Agency Tightening Scrutiny of Chinese Firms Listing in US Markets" (December 3, 2025), available at <https://www.foxbusiness.com/politics/sec-chairman-paul-atkins-says-agency-tightening-scrutiny-chinese-firms-listing-us-markets.amp>.

¹⁷ Id.

¹⁸ "Disclosure Considerations for China-Based Issuers" available at <https://www.sec.gov/rules-regulations/staff-guidance/disclosure-guidance/disclosure-considerations-china-based-issuers>.

officers and directors located in China may face greater difficulties in enforcing and collecting on those judgements. Further, in September 2025, the Commission announced the creation of a cross-border task force which will focus on market manipulation and other securities law violations involving foreign jurisdiction, specifically naming China as a country where governmental control and other factors pose unique investor risks.¹⁹ Nasdaq shares similar concerns regarding manipulation and potential securities law violations. Additionally, it has also been reported that China's securities regulator, the China Securities Regulatory Commission, has taken action to prohibit small company Chinese listings in the U.S. based on "concerns over excessive speculation on New York-listed Chinese stocks."²⁰

Although concerns may exist with the trading of companies from any foreign jurisdiction, companies headquartered, incorporated or whose business is principally administered in China are more frequently the subject of trading concerns than those from other regions. For example, based on data covering the period of August 2022 to April 2025, 70% of the matters where Nasdaq referred concerns about potential manipulation to the SEC or FINRA were related to trading in Chinese emerging market companies and the number of referrals increased each year during this time period.²¹ During the same time period, Chinese companies represented less than 10% of all Nasdaq listings.²² Nasdaq believes that these trading concerns are due, in part, to the

¹⁹ See Press Release, "SEC Announces Formation of Cross-Border Task Force to Combat Fraud" (September 5, 2025) available at, <https://www.sec.gov/newsroom/press-releases/2025-113-sec-announces-formation-cross-border-task-force-combat-fraud>.

²⁰ See *China Puts Brakes on US Stock Listings for Homegrown Companies*, Financial Times (February 27, 2025), available at <https://www.ft.com/content/a5640320-7ed3-47c5-b9a1-2c0d600170be>.

²¹ The total number of referrals to the SEC or FINRA was 10 in 2022, 8 in 2023, 52 in 2024, 91 in 2025. To date, 46 referrals have been made for 2026.

²² Nasdaq vigorously regulates trading on its marketplace and brings appropriate enforcement action against its trading members. However, due to U.S. market structure, where trading in listed securities takes place across all equities exchanges and on off-exchange venues, Nasdaq does not have insight into all trading activity in listed securities and must refer matters involving cross-market trading to other U.S. regulators, including the SEC and FINRA.

companies listing through an initial public offering (“IPO”) or business combination with a small offering size or a low public float percentage, which, together with the other concerns identified above about companies from China, result in the company not attracting market attention nor developing sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading. As a result, the securities may trade infrequently, in a more volatile manner and with a wider bid-ask spread, all of which may result in trading at a price that may not reflect their true market value. These factors, in concert with the risks specific to Chinese companies under CCP authority, make the securities more susceptible to price manipulation by bad actors due to insider trading. The erosion of investor confidence and the risk to investors in such cases may be compounded if regulatory investigations into price manipulation, insider trading and compliance concerns are impeded. For example, U.S. investors and exchanges may not be made aware of CCP ownership in certain Chinese companies. Additionally, investor protections and remedies may be limited due to obstacles encountered by U.S. authorities in bringing or enforcing actions against entities and individuals in China involved in potentially manipulative trading activities. Collectively, these Congressional bills, letters and findings raise significant concerns, which Nasdaq shares, and support the imposition of stricter initial listing requirements for Chinese companies.²³

For these reasons, and as described more fully below, Nasdaq proposes to require that, in the case of an IPO, China-based companies must offer a minimum number of securities through

²³ Since the initial proposal of this filing, Nasdaq has also proposed and implemented additional rules, which may help address concerns raised by state and congressional leaders. See Nasdaq Rule IM-5101-3, allowing Nasdaq to use its authority under Rule 5101 to deny initial listing based on factors that make a company’s securities susceptible to manipulation. See also Exchange Act Release No. 104450 (December 18, 2025), 90 FR 60184 (December 23, 2025) (modifying Rules 5405(b)(1)(C) and 5505(b)(3)(C) to increase the minimum Market Value of Unrestricted Publicly Held Share for initial listing). This proposal seeks areas of concern that may not be adequately addressed within the existing Nasdaq rules.

a Firm Commitment Offering²⁴ in the United States to public holders that will result in gross proceeds to the company of at least \$25 million. In addition, as described in detail below, Nasdaq also proposes to adopt additional requirements for Chinese companies that are currently trading on the over-the-counter (“OTC”) market or another national securities exchange and are seeking to list in connection with the rules applicable to a business combination and for companies seeking to list in connection with a Direct Listing.

Identification of Companies Based in China

Nasdaq is proposing to adopt a new initial listing requirement for companies based in China. More specifically, proposed Rule 5210(l) would apply to any company that is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions. Nasdaq will determine in which jurisdiction a company is principally administered based on the analysis of the facts and circumstances, including if: (1) the company’s books and records are located in such jurisdiction; (2) at least 50% of the company’s assets are located in such jurisdiction; (3) at least 50% of the company’s revenues are derived from such jurisdiction; (4) at least 50% of the company’s directors are citizens of, or reside in, such jurisdiction; (5) at least 50% of the company’s officers are citizens of, or reside in, such jurisdiction; (6) at least 50% of the company’s employees are based in such jurisdiction; or (7) the company is controlled by, or under common control with,²⁵ one or more

²⁴ The term “Firm Commitment Offering” shall have the meaning as set forth in Rule 5005(a)(17), which 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.

²⁵ The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) shall have the same meaning as set forth in 17 CFR § 240.12b-2(4), which means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

persons or entities that are citizens of, reside in, or whose business is headquartered, incorporated, or principally administered in such jurisdiction.²⁶ Nasdaq is proposing to broaden the criteria used for identifying which jurisdiction a company is principally administered from the current criteria in Listing Rule 5005(a)(37) to better identify Chinese companies that present risks to investors.²⁷

Nasdaq believes the risks associated with Chinese companies that have substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter,²⁸ does not promote sufficient investor base and trading interest to support fair and orderly trading in the secondary market. Furthermore, as more Chinese companies seek to list on U.S. exchanges, the risk to U.S. investors due to the limited ability for U.S. regulators to conduct inspections and investigations or bring or enforce actions against entities and individuals involved in potentially manipulative trading activities in securities from Chinese companies, create compliance concerns. Therefore, the new initial listing requirements, specifically for Chinese companies, are intended to increase investor protections by strengthening the requirements for such companies to list on Nasdaq and to ensure sufficient liquidity exists for meaningful price discovery.

²⁶ Several of these factors are also already used by Nasdaq rules to determine whether a company's business is principally administered in a "Restrictive Market." See Listing Rule 5005(a)(37). The additional factors that Nasdaq would consider when determining whether a business is principally administered in China are supported by Nasdaq's experience in applying the Restrictive Market definition and SEC guidance regarding foreign private issuer status, which suggests that a foreign company may consider certain factors when determining whether a foreign company's business is located principally in the U.S., including the locations of: the company's principal business segments or operations; its board and shareholders' meetings; its headquarters; and its most influential key executives (potentially a subset of all executives). See Division of Corporation Finance of the SEC, Accessing the U.S. Capital Markets — A Brief Overview for Foreign Private Issuers (February 13, 2013), available at <https://www.sec.gov/divisions/corpfin/internatl/foreign-private-issuers-overview.shtml>.

²⁷ Nasdaq will request information from a company during the application process where the company's public filings do not provide sufficient information necessary to determine the applicability of a factor.

²⁸ See Congressional Letter, *supra* note 14.

When determining whether a company is principally administered in one of the jurisdictions, Nasdaq will consider the seven elements holistically, recognizing that there are various factors to consider when determining which jurisdiction a company conducts its principal business activities. For example, Company X could be incorporated in Country Y and its headquarters could be located in Country Z, while at least half of its senior management, employees, and assets are located in China. If Company X applies to list its Primary Equity Security on Nasdaq in connection with an IPO, Nasdaq would consider Company X's business to be principally administered in China, and Company X would therefore be subject to the proposed additional requirements applicable to a Chinese company. Nasdaq would also consider a company to be principally administered in China if, for example, the company's book and records are located in the Hong Kong Special Administrative Region and at least half of the company's revenues are derived from the Macau Special Administrative Region. Where Nasdaq determines that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or that the company's business is principally administered in one of those jurisdictions, and the company does not satisfy the additional requirements described, Nasdaq would deny the company's listing application, and the company could appeal Nasdaq's determination pursuant to the Rule 5800 Series.

Minimum Offering Size for an IPO

The substantive change being proposed is to adopt new Rule 5210(l)(i), which would require that a company that falls under Rule 5210(l) (a "China-based Issuer") and is conducting

an IPO must offer a minimum amount of securities in a Firm Commitment Offering²⁹ in the United States to Public Holders³⁰ that will result in gross proceeds to the company of at least \$25 million. This proposed amount is the same as the requirement for companies that administer their business in a Restrictive Market, while other companies seeking to list on the Nasdaq Capital Market (“NCM”) through an IPO must satisfy the \$15 million Market Value of Unrestricted Publicly Held Shares³¹ from their offering proceeds. A company that falls under proposed Rule 5210(l) will also need to comply with all other applicable listing requirements.

The Exchange has observed that China-based Issuers listing on Nasdaq in connection with an IPO with an offering size below \$25 million have a higher rate of compliance concerns. Nasdaq believes that these higher rates of concern may be mitigated by requiring that the company conduct a Firm Commitment Offering of at least \$25 million. Firm Commitment Offerings typically involve a book building process that helps to generate an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Such offerings also typically involve more due diligence by the broker-dealer than would be done in connection with a best-efforts offering, which helps to

²⁹ Rule 5005(a)(17) defines “Firm Commitment Offering” as “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.”

³⁰ Rule 5005(a)(36) defines “Public Holders” as “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.”

³¹ Rule 5005(a)(46) defines “Unrestricted Publicly Held Shares” as the Publicly Held Shares that are Unrestricted Securities. Rule 5005(a)(35) defines “Publicly Held Shares” as 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. Rule 5005(a)(47) defines “Unrestricted Securities” as securities that are not Restricted Securities and Rule 5005(a)(38) defines “Restricted Securities” as 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.

ensure that third parties subject to U.S. regulatory oversight are conducting significant due diligence on the company, its registration statement and its financial statements. The Exchange believes that the proposal will help ensure that China-based Issuers seeking to list on the Exchange have sufficient investor base to support fair and orderly trading on the Exchange.

In developing the Proposal, Nasdaq analyzed the data behind its observations. An analysis of IPOs from August 2022 to April 2025 found that of the 151 China-based Issuers listed on Nasdaq through an IPO, 143 of such companies would not have qualified under proposed Rule 5210(l)(i) because they had offering amounts less than \$25 million.³² Relatedly, nearly half of these 143 companies were cited for failure to comply with Nasdaq's continued listing standards.

This data illustrates the growing concerns with China-based Issuers listing on U.S. exchanges and the increased risk to U.S. investors, including the risk of quickly becoming non-compliant with the listing requirements and therefore facing delisting. Therefore, the Exchange believes that requiring a Firm Commitment Offering with proceeds to the company of at least \$25 million will mitigate these concerns and provide greater support for a China-based Issuer's price, as determined through the offering, and will help assure that there will be sufficient liquidity, U.S. investor interest and distribution to support price discovery and fair and orderly trading on the Exchange once a security is listed.

Minimum Market Value of Publicly Held Shares for a Business Combination

In the case of a business combination, as described in Rule 5110(a) or IM-5101-2(b),³³ Nasdaq believes that such transactions when involving China-based Issuers, present similar risks

³² All 151 companies were headquartered or incorporated in China.

³³ Rule 5110(a) relates to business combinations with non-Nasdaq entities resulting in a change of control. Rule IM-5101-2(b) relates to a business combination with an acquisition company, which is a company

to U.S. investors as IPOs of China-based Issuers. However, such a business combination would typically not involve an offering. Therefore, Nasdaq is proposing to adopt a new Rule 5210(l)(ii) that would impose a similar new requirement as applicable to IPOs but would reflect that the listing would not typically be accompanied by an offering. Specifically, proposed Rule 5210(l)(ii) would require a China-based Issuer that has gone through a business combination to have a minimum Market Value of Unrestricted Publicly Held Shares equal to at least \$25 million.

Market Value of Unrestricted Publicly Held Shares excludes securities subject to resale restrictions from the calculation of Publicly Held Shares because securities subject to resale restrictions are not freely transferrable or available for outside investors to purchase and therefore do not truly contribute to a security's liquidity upon listing. Nasdaq believes that requiring a post-business combination entity headquartered or incorporated in China, or whose business is principally administered in China, to have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million would help to provide an additional assurance that there are sufficient freely tradable shares and investor interest to support fair and orderly trading on the Exchange. Nasdaq believes that this will help mitigate the unique risks that China-based Issuers present to U.S. investors due to barriers on access to information and limitations on U.S. regulators to conduct investigations or bring or enforce actions against the company and non-U.S. persons. Also mitigated are concerns about the accuracy of disclosures, accountability and access to information. Adopting this additional requirement will help prevent China-based Issuers from using a business combination to avoid the requirement being imposed on IPOs.

whose business plan at the time of its initial listing is to complete an IPO and engage in a merger or acquisition with one or more unidentified companies within a specific period of time.

Direct Listings of Chinese Companies

In the case of a Direct Listing³⁴ (as defined in Rule IM-5315-1) Nasdaq is proposing to adopt Rule 5210(l)(iii) which requires a Chinese company to meet all applicable listing requirements for the Nasdaq Global Select Market (“NGS”) and the additional requirements of Rule IM-5315-1. However, a company whose business is headquartered, incorporated, or principally administered in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region) will not be permitted to list on the Nasdaq Global Market (“NGM”) or the NCM in connection with a Direct Listing, notwithstanding that the Company may meet the applicable initial listing requirements for the NGM or NCM and the additional requirements of IM-5405-1 or IM-5505-1.

Companies seeking to list through a Direct Listing are currently required to satisfy enhanced listing standards to determine compliance with the price-based listing requirements pursuant to Rules IM-5315-1 (NGS), IM-5405-1 (NGM) and IM-5505-1 (NCM). If a company’s security that is seeking to list on NGS, NGM or NCM has had sustained recent trading in a Private Placement Market,³⁵ Nasdaq may attribute a Market Value of Unrestricted Publicly Held Shares equal to the lesser of (i) the value calculable based on a Valuation performed by an independent valuation agent pursuant to Rule IM-5315-1(f) and (ii) the value calculable based on the most recent trading price in the Private Placement Market.³⁶ Nasdaq believes that the price

³⁴ Pursuant to Nasdaq Rule IM-5315-1, a Direct Listing occurs when a company that wishes to list on Nasdaq has sold common equity securities in a private placement, which have not been listed on a national securities exchange or traded in the OTC market pursuant to FINRA Form 211 immediately prior to the initial pricing.

³⁵ A “Private Placement Market” is defined as a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer. See Rule 5005(a)(34).

³⁶ See IM-5315-1(a)(1) (NGS), IM-5405-1(a)(1) (NGM) and IM-5505-1 (NCM). The Valuation must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the Company for listing and the evaluator must have considered, among other factors, the annual financial statements

from such sustained trading in the Private Placement Market for the company's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq, and that qualifying a company based on the lower of such trading price or the Valuation helps assure that the company satisfies Nasdaq's listing requirements. Nasdaq may require a company listing on the NGS that has not had sustained recent trading in a Private Placement Market to satisfy the applicable Market Value of Unrestricted Publicly Held Shares requirement and provide a Valuation evidencing a Market Value of Publicly Held Shares of at least \$250,000,000.³⁷ For a company that has not had sustained recent trading in a Private Placement Market and that is applying to list on the NGM or NCM, Nasdaq will generally require the company to provide a Valuation that demonstrates a price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares that exceeds 200% of the otherwise applicable requirement.³⁸

Historically, Nasdaq has not observed any companies seeking to list in connection with a Direct Listing that have had sustained recent trading in a Private Placement Market. In the absence of sustained recent trading in the Private Placement Market, a company seeking to list on NGS is required to demonstrate a Market Value of Publicly Held Shares of at least \$250 million and a Market Value of Unrestricted Publicly Held Shares of at least \$100 million.³⁹ On

required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. Nasdaq will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the Company had diminished since the date of the Valuation and will continue to monitor the Company and the appropriateness of relying on the Valuation up to the time of listing. Nasdaq may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

³⁷ See IM-5315-1(b).

³⁸ See IM-5405-1(a)(2) (NGM); Rule IM-5505-1(a)(2) (NCM).

³⁹ A company can list with a Market Value of Unrestricted Publicly Held Shares of at least \$100 million if the company also has stockholders' equity of at least \$110 million; otherwise the company is required to have Market Value of Unrestricted Publicly Held Shares of at least \$110 million. See Rule 5315(f)(2).

the other hand, a company conducting a Direct Listing on NGM or NCM can list with a Market Value of Unrestricted Publicly Held Shares as low as \$30 million, with that amount calculated based on an independent third-party valuation of the company. Because a Direct Listing does not raise any offering proceeds and typically does not involve an underwriter to market the transaction and help develop distribution and investor interest, Nasdaq does not believe that the NGM and NCM minimum of \$30 million in Unrestricted Publicly Held Shares is sufficient for China-based Issuers to support meaningful price discovery and fair and orderly trading. In that regard, Nasdaq notes that the valuation on which the amount of Unrestricted Publicly Held Shares is derived is subjective and the \$30 million requirement is just barely above the \$25 million offering proceeds that would be required in an IPO. As discussed above, Nasdaq believes that China-based Issuers present unique risks to U.S. investors and therefore precluding a China-based Issuer from listing through a Direct Listing on the NGM and NCM will help to ensure that the company has sufficient public float, investor base, and trading interest likely to generate depth and liquidity necessary to promote fair and orderly trading on the secondary market. Adopting this additional requirement also will help prevent companies from using a Direct Listing to avoid the requirement being imposed on IPOs.

Transfer of a Chinese Company Listing

Nasdaq notes that other markets do not have comparable requirements to what is being proposed. Therefore, China-based Issuers that do not meet the heightened requirements of proposed Rule 5210(l) may elect to list on those other markets. Nasdaq believes that a China-based Issuers initially trading on the OTC market or listing on another national securities exchange and then quickly transferring to Nasdaq may present similar risks to U.S. investors as IPOs of China-based Issuers. Therefore, Nasdaq proposes to adopt Rule 5210(l)(iv), which

would require a China-based Issuer that transfers from the OTC market or from another national securities exchange to first trade on that other market for at least one year before it is eligible to list on Nasdaq. This prerequisite will provide sufficient time for the company to establish a trading history and publicly disclose the result of operations, upon which investors can rely, and minimizes the risk that companies are utilizing the OTC market or another national securities exchange solely to circumvent Nasdaq's proposed requirements for China-based Issuers.⁴⁰ In addition, like the requirement proposed for companies listing in connection with a business combination, Nasdaq proposes that these seasoned companies, which will be listing without an offering, must have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million to ensure that a security to be listed on Nasdaq has adequate liquidity, distribution and U.S. investor interest. Elements of the proposed requirements for a China-based Issuer that transfers from the OTC market are similar to the current Rule 5210(k), applicable to Restrictive Market Companies,⁴¹ and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which provides for a period that a company must trade on another market before it can list on Nasdaq, and each of which was found by the Commission to be consistent with the Act.

Implementation Timeline and Other Changes

In order to provide companies with a reasonable opportunity to adjust to the proposed changes, Nasdaq is proposing a delay of 30 days after Commission approval before the changes

⁴⁰ Companies trading in the OTC Market at the time of application must also satisfy a minimum average daily trading volume before listing. See Listing Rules 5405(a)(4) and 5505(a)(5).

⁴¹ Unlike the requirement for Restrictive Markets, the proposed rules do not include an alternative allowing companies to list if the proceeds from the offering would represent at least 25% of the Company's post-offering Market Value of Listed Securities. In applying that alternative in connection with the Restrictive Market requirements, Nasdaq observed that the alternative allowed smaller companies to list without achieving the rule's liquidity objectives of supporting meaningful price discovery.

become effective. Therefore, companies listing on or after 30 days from the date the Commission’s approval order must comply with the proposed rules. This will allow companies that have taken substantial steps to list under the current rules to complete the process. Nasdaq also proposes to renumber the remainder of Rules 5210 as subsections (m) and (n) and update the cross-reference in Rule 1031(b) to ensure consistency in its rulebook.

Nasdaq will issue a denial letter where it concludes that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions, and the company does not meet the additional requirements applicable to its type of listing. A company can request a review of that denial letter pursuant to Rule 5815.

Comment Letters

The Commission received several comment letters in response to its solicitation of comments about the proposed changes. Three commenters expressed general support for the proposal⁴² while others expressed concern that the proposal unfairly singles out China-based companies and is inconsistent with recent U.S.-China regulatory cooperation.⁴³

⁴² See Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Oct. 10, 2025 (“CII Letter 1”); see also Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Jan. 13, 2026 (“CII Letter 2”); Letter from Jeffrey Starr, Managing Director, Head of Operations, Charles Schwab & Co., dated Dec. 16, 2025 (“Schwab Letter”); Letter from Hunter Taubman Fischer & Li LLC, dated Sept. 16, 2025 (“HTFL Letter”).

⁴³ See Letter from Beijing Guo Huan Law Firm, dated Jan. 4, 2026 (“Beijing Guo Han Letter”); Letter from Joseph Wilson, Esq. at 2-3, Bevilacqua PLLC, dated Oct. 10, 2025 (“Bevilacqua Letter 1”); Letter from Joseph Wilson, Esq. at 3, Bevilacqua PLLC, dated Jan. 13, 2026 (“Bevilacqua Letter 2”); Letter from USA World Management Group LTD, dated Dec. 30, 2025 (“USA World Letter”); Letter from US International Finance Foundation, dated Jan. 4, 2026 (“USIFF Letter”); Letter from Sen Time Studio, dated Dec. 28, 2025 (“SEN Time Studio Letter”); Hong Kong United Business Consulting Limited, dated Jan. 13, 2026 (“HKUBC Letter”); Letter from HIGO Global Technology, Inc. dated Jan. (“HIGO Letter”); Letter from US Unicorn Foundation Inc., dated Dec. 19, 2025 (“US Unicorn Letter”); Letter from China Listed Companies Association, dated Jan. 14, 2026 (“China LCA Letter”); Letter from Cecilia, dated Jan. 4, 2026 (“Cecilia Letter”).

Of the commenters that expressed general support, one commenter proposed certain modifications to the proposal, noting that Chinese citizenship alone does not signify a regulatory risk. The commenter asserted that the current proposal “risks unintentionally capturing issuers that do not present the same regulatory concerns” for which the proposal was designed to address.⁴⁴ This commenter suggested that the heightened requirements should apply only to companies “principally operating in China, rather than issuers that are based in the U.S. simply because their founders, controlling persons, directors, or officers are Chinese citizens.”⁴⁵ This commenter also suggested extending the transition period for compliance with the proposal from 30 days to 60 days for issuers with pending initial listing applications.⁴⁶ Another commenter that supported the proposal recommended that “the increased standards should apply to companies based in additional foreign jurisdictions where it is determined there are elevated levels of fraud” to prevent fraudsters from “simply mov[ing] to other jurisdictions where it’s even easier to commit fraud.”⁴⁷ Finally, a third commenter in general support of the proposal noted that the proposal takes “meaningful steps to preserve market integrity and protect U.S. investors from potential losses associated with the smallest microcap Chinese companies.”⁴⁸ This commenter also suggests “expanding the application of the proposed rule to the smallest microcap companies generally, including those companies incorporated in the Cayman Islands.”⁴⁹

Nasdaq recognizes that there are various factors to consider when determining where a company conducts its principal business activities and believes that the location and citizenship

⁴⁴ See HTFL Letter at 2.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ See Schwab Letter at 4.

⁴⁸ See CII Letter 2 at 2.

⁴⁹ Id. at 2 – 4.

of the company's founders, controlling persons, directors, or officers is an important factor. The presence of one factor will not automatically result in a determination that the issuer is a China-based Issuer. Rather, as discussed above, Nasdaq will consider the seven elements holistically when determining whether a company is principally administered in one of the subject jurisdictions and the location and citizenship of associated persons will be considered in the context of the other factors.

With respect to the request for a longer transition period, Nasdaq notes that the initial proposal was published in September 2025, which has provided issuers with pending listing applications with sufficient time to prepare for the heightened listing standards. Therefore, Nasdaq is not amending the transition period for compliance. Additionally, Nasdaq intends that the proposal will capture China-based Issuers that are typically cited for compliance issues. Based on the data discussed above, Nasdaq does not believe that a country-specific rule is necessary for any other country at this time, and that its current listing standards, including rules recently adopted to increase the initial listing requirements and accelerate delisting of non-compliant companies, are sufficient to address the commenters' concerns related to companies in other jurisdictions.⁵⁰ Nasdaq is limiting the proposed listing standards to China-based Issuers based on the concerns that Nasdaq, along with U.S. policymakers and regulatory agencies, have observed with such companies. Further, Nasdaq notes that it recently adopted Listing Rule IM-5101-3, which provides greater ability for Nasdaq to deny listing to companies from other jurisdictions that meet all stated listing requirements based on, among other things, considerations related to the company's advisors (including auditors, underwriters, law firms, brokers, clearing firms, or other professional service providers) or concerns Nasdaq has

⁵⁰ See supra, note 23; Exchange Act Release No. 104318 (December 5, 2025), 90 FR 57225 (December 10, 2025) (modifying the compliance periods available when a security's closing bid price is below \$0.10).

identified with other previously listed companies that are similarly situated to the company. Additionally, Listing Rule IM-5101-3 provides a qualitative description of factors related to Nasdaq's use of discretion in denying an initial listing, including where a company is located, and whether the company is in a jurisdiction where there are limited legal remedies to U.S. shareholders. Nasdaq believes Listing Rule IM-5101-3 helps to address commenters' desire to extend the proposal to other jurisdictions. However, unlike Rule IM-5101-3, the proposed rule specifies a minimum threshold of \$25 million Firm Commitment Offering for IPOs and a \$25 million minimum Market Value of Unrestricted Publicly Held Shares following the business combination, for Chinese companies. Nasdaq believes the \$25 million minimum threshold is reasonable and necessary because the data has shown that China-based Issuers below the threshold have a higher rate of compliance concerns, which may be mitigated by a higher threshold because Firm Commitment Offerings typically generates an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Additionally, Firm Commitment Offerings typically involve more due diligence by the broker-dealer which helps to ensure that third parties subject to U.S. regulatory oversight are conducting significant due diligence on the company. Nasdaq will also continue to monitor and will increase listing standards to additional specific countries if necessary.

Of the commenters in opposition, most raised concerns that the proposal violates Section 6(b)(5) of the Act by permitting unfair discrimination among issuers by singling out China-based Issuers and deterring qualified issuers from listing on the Exchange.⁵¹ Typical of these comments, one commenter stated that the proposal “would be unlawful and make for bad policy,” is “not necessary or appropriate to protect national security” and is “anti-competitive as

⁵¹ See China LCA Letter; Bevilacqua Letter; HKUBC Letter; Beijing Guo Han Letter at 2-3; USA World Letter; SEN Time Studio Letter at 4.

it discriminates against certain Chinese issuers imposing additional, more onerous listing criteria on them than are imposed on other foreign issuers.”⁵² Other commenters also suggested that Nasdaq should apply a more neutral and metrics-based alternative.⁵³

While the proposal imposes heightened initial listing requirements on China-based Issuers, Nasdaq believes the proposal is consistent with the requirements of Section 6(b)(5) of the Act, which requires that an Exchange’s rules be designed to prohibit unfair discrimination. As outlined above, Nasdaq and U.S. regulators and policymakers have identified specific and serious concerns with companies that principally operate in China, which increase the risks to investors and make the protection of investors more difficult. These concerns include heightened risk of fraud and manipulative behavior, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Thus, while the proposed rules would provide for heightened requirements for companies that principally operate in China, those rules are not unfairly discriminatory and would enhance investor protection, which is a central purpose of the Act.

Conclusion

Nasdaq believes that the U.S. exchanges can provide U.S. investors with opportunities to diversify their portfolio by providing exposure to emerging market companies in China. However, due to heightened risks identified in the trading of these companies’ securities, Nasdaq also believes it is necessary to increase the requirements for these companies to list to help provide better liquidity in their securities. Nasdaq believes that the proposed rule changes will

⁵² See Bevilacqua Letter.

⁵³ See China LCA Letter at 2-3; Bevilacqua Letter at 3-4; HKUBC Letter at 3; USA World Letter at 2-3 (suggesting increasing listing standards for “all issuers regardless of geographic location,” and “establish[ing] objective liquidity metrics applicable to all issuers.”)

enhance the liquidity available in China-based Issuers listing in the United States, thereby making trading in the secondary market more difficult for bad actors to manipulate while helping to balance the desirability of China-based Issuers to access U.S. markets with necessary protections for investors.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Further, the Exchange believes that this proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has previously opined on the importance of meaningful listing standards for the protection of investors and the public interest.⁵⁶ In particular, the Commission has stated:

The development and enforcement of meaningful listing standards for an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public

⁵⁴ 15 U.S.C. 78f(b).

⁵⁵ 15 U.S.C. 78f(b)(5).

⁵⁶ Securities Exchange Act Release No. 102622 (March 12, 2025), 90 FR 12608 (March 18, 2025) (approving SR-Nasdaq-2024-084 adopting initial listing liquidity requirements for companies applying to list or uplist on the NGM or NCM).

float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.⁵⁷

Nasdaq believes that the factors for determining whether a company is based in China will assist Nasdaq in determining which companies should be subject to the proposed new standard, which will prevent fraudulent and manipulative acts and practices. Nasdaq also believes that the factors are not unfairly discriminatory. The proposed factors used to determine if a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions, are similar to the factors contained in current Rule 5005(a)(37) and adds additional factors because, as discussed above, China-based Issuers carry a risk of insufficient investor base and trading interest to support fair and orderly trading in the secondary market due to substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter. Moreover, Nasdaq will consider the seven elements holistically when determining whether a company is principally administered in one of the jurisdictions. Nasdaq therefore believes that these companies should be subject to heightened standards for listing on Nasdaq.

Nasdaq believes that requiring a \$25 million minimum offering size for China-based Issuers seeking to list on Nasdaq through an IPO or \$25 million in Unrestricted Publicly Held Shares for China-based Issuers seeking to list on Nasdaq through a business combination or transfer from the OTC market or another national securities exchange may decrease the number of companies subsequently cited for compliance issues and help ensure that a security of a

⁵⁷ Id. at 12609.

China-based Issuer to be listed on Nasdaq has adequate liquidity and distribution to support fair and orderly trading in the secondary market, which will reduce trading volatility and price manipulation, thereby protecting investors and the public interest.

Additionally, Nasdaq believes that allowing China-based Issuers to list on the NGS, rather than the NGM or NCM, in connection with a Direct Listing, will ensure that such companies satisfy higher listing requirements, including the minimum amount of Publicly Held Shares and Market Value of Unrestricted Publicly Held Shares, which will help to ensure that the security has sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly trading, thereby protecting investors and the public interest.

Nasdaq also believes that extending the \$25 million minimum offering size and the requirement for the company to have traded for at least one year when transferring from the OTC market or another exchange aligns with similar listing requirements.⁵⁸

While the proposals apply only to China-based Issuers, the Exchange believes that the proposals are not designed to permit unfair discrimination among companies because Nasdaq believes that trading in China-based Issuers presents unique potential risks to U.S. investors, including heightened susceptibility to fraud and manipulation by bad actors, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Nasdaq believes that companies with a Firm Commitment Offering size or a Market Value of Unrestricted Publicly Held Shares below \$25 million may not develop a sufficient investor base and trading interest to provide the depth and liquidity necessary to

⁵⁸ See Rule 5110(c)(1)(A) (requiring a company that completed a Reverse Merger, as defined in Rule 5005(a)(39) to trade on another market for at least one year before being eligible to apply to Nasdaq) and 5210(k) (requiring companies from a Restrictive Market, as defined in Rule 5005(a)(39) to satisfy heightened listing requirements).

promote fair and orderly trading, resulting in a security that is illiquid thereby amplifying these risks.

Less liquid securities also may be more susceptible to price manipulation, as a relatively small amount of trading activity can have an inordinate effect on market prices. Price manipulation is a particular concern when insiders retain a significant ownership portion of the company. Therefore, Nasdaq believes that it is not unfairly discriminatory to treat China-based Issuers differently under these proposals because the proposed rules will help ensure that securities of a China-based Issuer listed on Nasdaq have sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets, thereby promoting investor protection and the public interest.

Additionally, elements of these proposals are similar to the current Rule 5210(k), applicable to Restrictive Market Companies, and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which was found by the Commission to be consistent with the Act.

Lastly, Nasdaq believes that implementing a 30-day delay from the date of the Commission's approval order before the changes become effective provides companies with an opportunity to adjust to the proposed changes. The delay is not unfairly discriminatory because it will allow companies that have taken substantial steps to list under the current rules to complete the process. Additionally, Nasdaq also proposes to renumber the remainder of Rule 5210 as subsections (m) and (n) and update the cross reference to Rule 5210(m) found in Rule 1031(b) to ensure consistency in its rulebook.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the

proposed rule changes will apply only to companies primarily operating in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), Nasdaq, Congress, state financial officers and the SEC have identified specific concerns with such companies that make the imposition of additional initial listing criteria on such companies appropriate to enhance investor protection, which is a central purpose of the Act. Any impact on competition, either among listed companies or between exchanges, is incidental to that purpose. As noted above, other markets do not have comparable requirements to what is being proposed, and therefore China-based Issuers may elect to list on those other markets.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

The Exchange requests accelerated effectiveness pursuant to Section 19(b)(2) of the Act and requests that the Commission approve the proposal, as amended by this Amendment No. 3, sooner than 30 days after its publication.⁵⁹ Accelerated approval would allow the Exchange to more quickly apply the rules to the benefit of investors and mitigate any potential surge in listing applications from companies that are otherwise unready to list but may accelerate their timeframe to try to get ahead of the approval of this rule filing. Additionally, accelerating approval would more immediately establish the new listing standards, and thereby more quickly:

⁵⁹ 15 U.S.C. 78s(b)(2)(C)(iii).

help ensure sufficient liquidity and meaningful price discovery exists for new China-Based Issuers; promote fair and efficient markets; and otherwise increase investor protections. Finally, accelerated approval will more quickly give, U.S. investors additional safeguards and opportunities to diversify their portfolio and increase exposure to emerging market companies in China. The proposed changes in this Amendment No. 3 are designed to clarify the initial filing but do not raise new issues. In addition, this Amendment No. 3 revises the requirements applicable to Direct Listings to prohibit such listings on both the NGM and NCM, instead of just the NCM, however these changes are consistent with the initial proposal in that they are designed to assure that China-based Issuers have sufficient liquidity and are not able to circumvent the other aspects of the proposal. Accordingly, the Exchange believes that no regulatory purpose would be served by delaying its approval.

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. 34- ; File No. SR-NASDAQ-2025-069]****Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Adopt Additional Listing Criteria for Companies Primarily Operating in China**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on May 1, 2026, 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 adopt additional initial listing criteria for companies primarily operating in China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region. This Amendment No. 3 supersedes the original filing in its entirety.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This Amendment No. 3 is being filed in order to add additional details to the proposal, and revise the requirements applicable to Direct Listings in the discussion and proposed rule text.

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

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

Since 2020, there has been a sharp increase in the number of companies from the People's Republic of China ("China" or the "PRC") seeking to list in the United States. A record number of Chinese companies sought a U.S. listing in 2024 and that pace continued in 2025.⁴ U.S. investors have increasingly sought exposure to emerging market companies as part of a diversified portfolio, and China has the most emerging market companies globally, both in terms of number and their collective market value.⁵ Chinese companies have been drawn to the higher

⁴ See "Deloitte China Releases 2025 Review and 2026 Outlook for Chinese Mainland & HK IPO Markets" dated Dec. 18, 2025, available at <https://www.deloitte.com/cn/en/about/press-room/mainland-and-hk-ipo-markets-2025-review-2026-outlook.html>.

⁵ China represents the largest single-country weight in major emerging market indices. For example, it accounts for approximately 25% of the total MSCI Emerging Markets Index as of March 31, 2026. The MSCI Emerging Markets Index captures large and mid-cap representation across 24 Emerging Market countries. With 1,204 constituents, the index covers approximately 85% of the free float-adjusted market capitalization in each country. See "MSCI Emerging Markets Index ((USD))" available at <https://www.msci.com/documents/10199/c0db0a48-01f2-4ba9-ad01-226fd5678111#:~:text=COUNTRY%20WEIGHTS%0AChina%2023.76%25%0ATaiwan%2022.5%25%0>

valuations, diverse investor base, greater liquidity, and overall size of the U.S. capital markets, which allow Chinese companies to raise significantly more capital than they could in their domestic markets.⁶ As a result of these dynamics, emerging market companies have sought to raise funds in the U.S. and list on Nasdaq.

However, amidst this increase, U.S. policymakers and regulatory agencies have voiced a range of bipartisan concerns regarding the listing of Chinese companies on American securities exchanges, citing risks to investors and national security. For example, in December 2020, Congress passed the Holding Foreign Companies Accountable Act,⁷ which among other things, requires the removal of a company's securities from U.S. exchanges if the company's auditor cannot be fully inspected by the Public Company Accounting Oversight Board ("PCAOB") because of a position taken by an authority in a foreign jurisdiction. Before the passage of this law, Nasdaq also identified concerns around the audits of Chinese companies and, in 2020, Nasdaq proposed additional listing requirements applicable to companies from jurisdictions that do not provide the PCAOB with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies.⁸ At the same time, Nasdaq also proposed two other changes

ASouth%20Korea%2018.08%25%0AIndia%2012.82%25%0ABrazil%204.56%25%0AOther%2018.26%25.5.

⁶ See PitchBook, "Chinese Companies Flock to US Exchanges Despite Heightened Tensions" dated Aug. 29, 2025, available at <https://arc-group.com/chinese-companies-listing-united-states/>; see also ARC Group, "Trend of Chinese Companies Listing in the United States" dated July 2, 2025, available at, <https://arc-group.com/chinese-companies-listing-united-states/>.

⁷ The Holding Foreign Companies Accountable Act requires, among other things, that the Commission identify public companies that have retained a registered public accounting firm to issue an audit report where the firm has a branch or office that: (1) is located in a foreign jurisdiction, and (2) the Public Company Accounting Oversight Board ("PCAOB") has determined that it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction. Pub. L. No. 116-222, 134 Stat. 1063 (Dec. 18, 2020).

⁸ Securities Exchange Act Release No. 93256 (October 4, 2021), 86 FR 56338 (October 8, 2021) (approving SR-NASDAQ-2021-007, which replaced SR-Nasdaq-2020-027, Securities Exchange Act Release No. 89027 (June 8, 2020), 85 FR 35962 (June 12, 2020)). See also Nasdaq Rule 5005(a)(37), defining a "Restrictive Market" as "a jurisdiction that does not provide the Public Company Accounting Oversight

seeking to address concerns with companies primarily operating in a Restrictive Market, including Chinese companies.⁹ The PCAOB announced that it was able to secure complete access to inspect and investigate audit firms in the PRC in December 2022.¹⁰

More recently, bills introduced in Congress have continued to raise bipartisan concerns about broker-dealers affiliated with China and the risks that China's financial sector poses to U.S. and global financial systems.¹¹ In February 2025, the U.S. Government put forth the "America First Investment Policy" which outlined economic and national security concerns with certain Chinese companies seeking investments in the United States and described various actions the U.S. Government would take with respect to Chinese companies. These actions included preventing U.S. companies and investors from investing in industries that advance China's national Military-Civil Fusion strategy.¹²

Board with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies" and Rule 5210(k) imposing additional requirements on any company that principally administers its business in a Restrictive Market.

⁹ Securities Exchange Act Release No. 89028 (June 8, 2020), 85 FR 35967 (June 12, 2020) (SR-NASDAQ-2019-026) and Securities Exchange Act Release No. 88987 (June 2, 2020), 85 FR 34774 (June 8, 2020) (SR-NASDAQ-2020-028). These proposals were withdrawn based, in part, on concerns expressed by the Commission Staff about whether the proposals were "consistent with Section 6(b)(5) of the Exchange Act and its requirement, among other things, that the rules of a national securities exchange not be designed to permit unfair discrimination." See Letters from Arnold Golub to Vanessa A. Countryman (February 1, 2021) available at <https://www.sec.gov/comments/sr-nasdaq-2020-026/srnasdaq2020026-8324959-228601.pdf> (withdrawing SR-Nasdaq-2020-026) and <https://www.sec.gov/comments/sr-nasdaq-2020-028/srnasdaq2020028-8324961-228602.pdf> (withdrawing SR-Nasdaq-2020-028).

¹⁰ FACT SHEET: PCAOB Secures Complete Access to Inspect, Investigate Chinese Firms for First Time in History (December 15, 2022) (available at <https://pcaobus.org/news-events/news-releases/news-release-detail/fact-sheet-pcaob-secures-complete-access-to-inspect-investigate-chinese-firms-for-first-time-in-history>).

¹¹ See, e.g., the PRC Broker-Dealers and Investment Advisers Moratorium Act, S.2552 (119th Congress); the China Financial Threat Mitigation Act of 2025, H.R. 1549 and S. 1113 (119th Congress).

¹² According to the U.S. State Department, "Military-Civil Fusion," is an aggressive, national strategy of the Chinese Communist Party intended to enable China to develop the most technologically advanced military in the world. See also *America First Investment Policy*, The White House (February 21, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

In May 2025, the financial officers of 23 states wrote a letter to Chairman Atkins highlighting concerns with the listing of Chinese companies. The letter noted that “China’s actions create an environment ripe for fraud and abuse increasing the likelihood that China-based, U.S.-listed companies will violate the disclosure, auditing, or antifraud provisions of the Securities Exchange Act.”¹³ Congress members also wrote to Chair Atkins in May 2025 expressing security and human rights concerns and provided specific examples of Chinese companies under the control of the Chinese Communist Party (the “CCP”).¹⁴ This letter highlighted a number of concerns with Chinese companies that are not common to companies in other foreign jurisdictions. The letter asserted that because of the CCP’s authority over companies, “no company is truly private” in the PRC, and that the CCP systematically conceals its control from U.S. investors. For example, in August 2025, it was announced that the CCP had expelled former senior officials accused of making millions from insider trading based on their access to share listings for subsidiaries of Chinese state-owned companies listed on China’s two principal stock exchanges.¹⁵

In December 2025, Chairman Atkins explained during an interview that the Commission is tightening scrutiny of Chinese firms in U.S. markets to ensure “our rules... are complied with and that our laws are complied with” as companies “operating in China” list shares in the United

¹³ See Letter from Adam Crum, Alaska Commissioner of Revenue, et. al. to The Honorable Paul Atkins (May 20, 2025) available at, <https://sfof.com/wp-content/uploads/2025/05/Delisting-Letter.pdf> (highlighting concerns arising from the PCAOB audit inspections of major accounting firms in China).

¹⁴ Letter from Congressmen John Moolenaar and Rick Scott, et. al. to The Honorable Paul Atkins (May 2, 2025) available at <https://chinaselectcommittee.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/SEC%20Letter%20Updated%20compressed.pdf> (the “Congressional Letter”).

¹⁵ Richard Spencer (The Times), “China Purges Insider Traders After £30m Raid on Official’s Home” (August 20, 2025), available at <https://www.thetimes.com/world/asia/article/china-purges-insider-traders-after-30m-raid-on-officials-home-hsk0jvcgp>.

States.¹⁶ Chairman Atkins went on to note that the SEC has identified close to a dozen Chinese companies that showed “indications of manipulative behavior” and involvement in “ramp-and-dump” schemes. He made clear that the foreign private issuers that pose a risk to U.S. investors were mainly incorporated outside of China, while the issuer maintained operations in China, or elsewhere in Asia, while the primary listing was in the U.S.¹⁷

The Commission also has recognized that “China’s legal system is substantially different from the legal system in the United States and may raise risks and uncertainties concerning the intent, effect, and enforcement of its laws, rules, and regulations...”¹⁸ Investors that incur losses from malfeasance and successfully obtain judgements against Chinese companies and their officers and directors located in China may face greater difficulties in enforcing and collecting on those judgements. Further, in September 2025, the Commission announced the creation of a cross-border task force which will focus on market manipulation and other securities law violations involving foreign jurisdiction, specifically naming China as a country where governmental control and other factors pose unique investor risks.¹⁹ Nasdaq shares similar concerns regarding manipulation and potential securities law violations. Additionally, it has also been reported that China’s securities regulator, the China Securities Regulatory Commission, has

¹⁶ See Kristen Altus (Fox Business), “SEC Chairman Paul Atkins Says Agency Tightening Scrutiny of Chinese Firms Listing in US Markets” (December 3, 2025), available at <https://www.foxbusiness.com/politics/sec-chairman-paul-atkins-says-agency-tightening-scrutiny-chinese-firms-listing-us-markets.amp>.

¹⁷ Id.

¹⁸ “Disclosure Considerations for China-Based Issuers” available at <https://www.sec.gov/rules-regulations/staff-guidance/disclosure-guidance/disclosure-considerations-china-based-issuers>.

¹⁹ See Press Release, “SEC Announces Formation of Cross-Border Task Force to Combat Fraud” (September 5, 2025) available at, <https://www.sec.gov/newsroom/press-releases/2025-113-sec-announces-formation-cross-border-task-force-combat-fraud>.

taken action to prohibit small company Chinese listings in the U.S. based on “concerns over excessive speculation on New York-listed Chinese stocks.”²⁰

Although concerns may exist with the trading of companies from any foreign jurisdiction, companies headquartered, incorporated or whose business is principally administered in China are more frequently the subject of trading concerns than those from other regions. For example, based on data covering the period of August 2022 to April 2025, 70% of the matters where Nasdaq referred concerns about potential manipulation to the SEC or FINRA were related to trading in Chinese emerging market companies and the number of referrals increased each year during this time period.²¹ During the same time period, Chinese companies represented less than 10% of all Nasdaq listings.²² Nasdaq believes that these trading concerns are due, in part, to the companies listing through an initial public offering (“IPO”) or business combination with a small offering size or a low public float percentage, which, together with the other concerns identified above about companies from China, result in the company not attracting market attention nor developing sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading. As a result, the securities may trade infrequently, in a more volatile manner and with a wider bid-ask spread, all of which may result in trading at a price that may not reflect their true market value. These factors, in concert with the risks specific to Chinese companies under CCP authority, make the securities more

²⁰ See *China Puts Brakes on US Stock Listings for Homegrown Companies*, Financial Times (February 27, 2025), available at <https://www.ft.com/content/a5640320-7ed3-47c5-b9a1-2c0d600170be>.

²¹ The total number of referrals to the SEC or FINRA was 10 in 2022, 8 in 2023, 52 in 2024, 91 in 2025. To date, 46 referrals have been made for 2026.

²² Nasdaq vigorously regulates trading on its marketplace and brings appropriate enforcement action against its trading members. However, due to U.S. market structure, where trading in listed securities takes place across all equities exchanges and on off-exchange venues, Nasdaq does not have insight into all trading activity in listed securities and must refer matters involving cross-market trading to other U.S. regulators, including the SEC and FINRA.

susceptible to price manipulation by bad actors due to insider trading. The erosion of investor confidence and the risk to investors in such cases may be compounded if regulatory investigations into price manipulation, insider trading and compliance concerns are impeded. For example, U.S. investors and exchanges may not be made aware of CCP ownership in certain Chinese companies. Additionally, investor protections and remedies may be limited due to obstacles encountered by U.S. authorities in bringing or enforcing actions against entities and individuals in China involved in potentially manipulative trading activities. Collectively, these Congressional bills, letters and findings raise significant concerns, which Nasdaq shares, and support the imposition of stricter initial listing requirements for Chinese companies.²³

For these reasons, and as described more fully below, Nasdaq proposes to require that, in the case of an IPO, China-based companies must offer a minimum number of securities through a Firm Commitment Offering²⁴ in the United States to public holders that will result in gross proceeds to the company of at least \$25 million. In addition, as described in detail below, Nasdaq also proposes to adopt additional requirements for Chinese companies that are currently trading on the over-the-counter (“OTC”) market or another national securities exchange and are seeking to list in connection with the rules applicable to a business combination and for companies seeking to list in connection with a Direct Listing.

Identification of Companies Based in China

²³ Since the initial proposal of this filing, Nasdaq has also proposed and implemented additional rules, which may help address concerns raised by state and congressional leaders. See Nasdaq Rule IM-5101-3, allowing Nasdaq to use its authority under Rule 5101 to deny initial listing based on factors that make a company’s securities susceptible to manipulation. See also Exchange Act Release No. 104450 (December 18, 2025), 90 FR 60184 (December 23, 2025) (modifying Rules 5405(b)(1)(C) and 5505(b)(3)(C) to increase the minimum Market Value of Unrestricted Publicly Held Share for initial listing). This proposal seeks areas of concern that may not be adequately addressed within the existing Nasdaq rules.

²⁴ The term “Firm Commitment Offering” shall have the meaning as set forth in Rule 5005(a)(17), which 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.

Nasdaq is proposing to adopt a new initial listing requirement for companies based in China. More specifically, proposed Rule 5210(l) would apply to any company that is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions. Nasdaq will determine in which jurisdiction a company is principally administered based on the analysis of the facts and circumstances, including if: (1) the company's books and records are located in such jurisdiction; (2) at least 50% of the company's assets are located in such jurisdiction; (3) at least 50% of the company's revenues are derived from such jurisdiction; (4) at least 50% of the company's directors are citizens of, or reside in, such jurisdiction; (5) at least 50% of the company's officers are citizens of, or reside in, such jurisdiction; (6) at least 50% of the company's employees are based in such jurisdiction; or (7) the company is controlled by, or under common control with,²⁵ one or more persons or entities that are citizens of, reside in, or whose business is headquartered, incorporated, or principally administered in such jurisdiction.²⁶ Nasdaq is proposing to broaden the criteria used for identifying which jurisdiction a company is principally administered from

²⁵ The term "control" (including the terms "controlling," "controlled by" and "under common control with") shall have the same meaning as set forth in 17 CFR § 240.12b-2(4), which means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

²⁶ Several of these factors are also already used by Nasdaq rules to determine whether a company's business is principally administered in a "Restrictive Market." See Listing Rule 5005(a)(37). The additional factors that Nasdaq would consider when determining whether a business is principally administered in China are supported by Nasdaq's experience in applying the Restrictive Market definition and SEC guidance regarding foreign private issuer status, which suggests that a foreign company may consider certain factors when determining whether a foreign company's business is located principally in the U.S., including the locations of: the company's principal business segments or operations; its board and shareholders' meetings; its headquarters; and its most influential key executives (potentially a subset of all executives). See Division of Corporation Finance of the SEC, Accessing the U.S. Capital Markets — A Brief Overview for Foreign Private Issuers (February 13, 2013), available at <https://www.sec.gov/divisions/corpfin/internatl/foreign-private-issuers-overview.shtml>.

the current criteria in Listing Rule 5005(a)(37) to better identify Chinese companies that present risks to investors.²⁷

Nasdaq believes the risks associated with Chinese companies that have substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter,²⁸ does not promote sufficient investor base and trading interest to support fair and orderly trading in the secondary market. Furthermore, as more Chinese companies seek to list on U.S. exchanges, the risk to U.S. investors due to the limited ability for U.S. regulators to conduct inspections and investigations or bring or enforce actions against entities and individuals involved in potentially manipulative trading activities in securities from Chinese companies, create compliance concerns. Therefore, the new initial listing requirements, specifically for Chinese companies, are intended to increase investor protections by strengthening the requirements for such companies to list on Nasdaq and to ensure sufficient liquidity exists for meaningful price discovery.

When determining whether a company is principally administered in one of the jurisdictions, Nasdaq will consider the seven elements holistically, recognizing that there are various factors to consider when determining which jurisdiction a company conducts its principal business activities. For example, Company X could be incorporated in Country Y and its headquarters could be located in Country Z, while at least half of its senior management, employees, and assets are located in China. If Company X applies to list its Primary Equity Security on Nasdaq in connection with an IPO, Nasdaq would consider Company X's business to be principally administered in China, and Company X would therefore be subject to the proposed

²⁷ Nasdaq will request information from a company during the application process where the company's public filings do not provide sufficient information necessary to determine the applicability of a factor.

²⁸ See Congressional Letter, supra note 14.

additional requirements applicable to a Chinese company. Nasdaq would also consider a company to be principally administered in China if, for example, the company's book and records are located in the Hong Kong Special Administrative Region and at least half of the company's revenues are derived from the Macau Special Administrative Region. Where Nasdaq determines that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or that the company's business is principally administered in one of those jurisdictions, and the company does not satisfy the additional requirements described, Nasdaq would deny the company's listing application, and the company could appeal Nasdaq's determination pursuant to the Rule 5800 Series.

Minimum Offering Size for an IPO

The substantive change being proposed is to adopt new Rule 5210(l)(i), which would require that a company that falls under Rule 5210(l) (a "China-based Issuer") and is conducting an IPO must offer a minimum amount of securities in a Firm Commitment Offering²⁹ in the United States to Public Holders³⁰ that will result in gross proceeds to the company of at least \$25 million. This proposed amount is the same as the requirement for companies that administer their business in a Restrictive Market, while other companies seeking to list on the Nasdaq Capital Market ("NCM") through an IPO must satisfy the \$15 million Market Value of

²⁹ Rule 5005(a)(17) defines "Firm Commitment Offering" as "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."

³⁰ Rule 5005(a)(36) defines "Public Holders" as "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."

Unrestricted Publicly Held Shares³¹ from their offering proceeds. A company that falls under proposed Rule 5210(l) will also need to comply with all other applicable listing requirements.

The Exchange has observed that China-based Issuers listing on Nasdaq in connection with an IPO with an offering size below \$25 million have a higher rate of compliance concerns. Nasdaq believes that these higher rates of concern may be mitigated by requiring that the company conduct a Firm Commitment Offering of at least \$25 million. Firm Commitment Offerings typically involve a book building process that helps to generate an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Such offerings also typically involve more due diligence by the broker-dealer than would be done in connection with a best-efforts offering, which helps to ensure that third parties subject to U.S. regulatory oversight are conducting significant due diligence on the company, its registration statement and its financial statements. The Exchange believes that the proposal will help ensure that China-based Issuers seeking to list on the Exchange have sufficient investor base to support fair and orderly trading on the Exchange.

In developing the Proposal, Nasdaq analyzed the data behind its observations. An analysis of IPOs from August 2022 to April 2025 found that of the 151 China-based Issuers listed on Nasdaq through an IPO, 143 of such companies would not have qualified under

³¹ Rule 5005(a)(46) defines “Unrestricted Publicly Held Shares” as the Publicly Held Shares that are Unrestricted Securities. Rule 5005(a)(35) defines “Publicly Held Shares” as 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. Rule 5005(a)(47) defines “Unrestricted Securities” as securities that are not Restricted Securities and Rule 5005(a)(38) defines “Restricted Securities” as 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.

proposed Rule 5210(l)(i) because they had offering amounts less than \$25 million.³² Relatedly, nearly half of these 143 companies were cited for failure to comply with Nasdaq's continued listing standards.

This data illustrates the growing concerns with China-based Issuers listing on U.S. exchanges and the increased risk to U.S. investors, including the risk of quickly becoming non-compliant with the listing requirements and therefore facing delisting. Therefore, the Exchange believes that requiring a Firm Commitment Offering with proceeds to the company of at least \$25 million will mitigate these concerns and provide greater support for a China-based Issuer's price, as determined through the offering, and will help assure that there will be sufficient liquidity, U.S. investor interest and distribution to support price discovery and fair and orderly trading on the Exchange once a security is listed.

Minimum Market Value of Publicly Held Shares for a Business Combination

In the case of a business combination, as described in Rule 5110(a) or IM-5101-2(b),³³ Nasdaq believes that such transactions when involving China-based Issuers, present similar risks to U.S. investors as IPOs of China-based Issuers. However, such a business combination would typically not involve an offering. Therefore, Nasdaq is proposing to adopt a new Rule 5210(l)(ii) that would impose a similar new requirement as applicable to IPOs but would reflect that the listing would not typically be accompanied by an offering. Specifically, proposed Rule 5210(l)(ii) would require a China-based Issuer that has gone through a business combination to

³² All 151 companies were headquartered or incorporated in China.

³³ Rule 5110(a) relates to business combinations with non-Nasdaq entities resulting in a change of control. Rule IM-5101-2(b) relates to a business combination with an acquisition company, which is a company whose business plan at the time of its initial listing is to complete an IPO and engage in a merger or acquisition with one or more unidentified companies within a specific period of time.

have a minimum Market Value of Unrestricted Publicly Held Shares equal to at least \$25 million.

Market Value of Unrestricted Publicly Held Shares excludes securities subject to resale restrictions from the calculation of Publicly Held Shares because securities subject to resale restrictions are not freely transferrable or available for outside investors to purchase and therefore do not truly contribute to a security's liquidity upon listing. Nasdaq believes that requiring a post-business combination entity headquartered or incorporated in China, or whose business is principally administered in China, to have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million would help to provide an additional assurance that there are sufficient freely tradable shares and investor interest to support fair and orderly trading on the Exchange. Nasdaq believes that this will help mitigate the unique risks that China-based Issuers present to U.S. investors due to barriers on access to information and limitations on U.S. regulators to conduct investigations or bring or enforce actions against the company and non-U.S. persons. Also mitigated are concerns about the accuracy of disclosures, accountability and access to information. Adopting this additional requirement will help prevent China-based Issuers from using a business combination to avoid the requirement being imposed on IPOs.

Direct Listings of Chinese Companies

In the case of a Direct Listing³⁴ (as defined in Rule IM-5315-1) Nasdaq is proposing to adopt Rule 5210(l)(iii) which requires a Chinese company to meet all applicable listing requirements for the Nasdaq Global Select Market ("NGS") and the additional requirements of Rule IM-5315-1. However, a company whose business is headquartered, incorporated, or

³⁴ Pursuant to Nasdaq Rule IM-5315-1, a Direct Listing occurs when a company that wishes to list on Nasdaq has sold common equity securities in a private placement, which have not been listed on a national securities exchange or traded in the OTC market pursuant to FINRA Form 211 immediately prior to the initial pricing.

principally administered in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region) will not be permitted to list on the Nasdaq Global Market (“NGM”) or the NCM in connection with a Direct Listing, notwithstanding that the Company may meet the applicable initial listing requirements for the NGM or NCM and the additional requirements of IM-5405-1 or IM-5505-1.

Companies seeking to list through a Direct Listing are currently required to satisfy enhanced listing standards to determine compliance with the price-based listing requirements pursuant to Rules IM-5315-1 (NGS), IM-5405-1 (NGM) and IM-5505-1 (NCM). If a company’s security that is seeking to list on NGS, NGM or NCM has had sustained recent trading in a Private Placement Market,³⁵ Nasdaq may attribute a Market Value of Unrestricted Publicly Held Shares equal to the lesser of (i) the value calculable based on a Valuation performed by an independent valuation agent pursuant to Rule IM-5315-1(f) and (ii) the value calculable based on the most recent trading price in the Private Placement Market.³⁶ Nasdaq believes that the price from such sustained trading in the Private Placement Market for the company’s securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq, and that qualifying a company based on the lower of such trading price or the Valuation helps assure that the company satisfies Nasdaq’s listing requirements. Nasdaq may

³⁵ A “Private Placement Market” is defined as a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer. See Rule 5005(a)(34).

³⁶ See IM-5315-1(a)(1) (NGS), IM-5405-1(a)(1) (NGM) and IM-5505-1 (NCM). The Valuation must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the Company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. Nasdaq will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the Company had diminished since the date of the Valuation and will continue to monitor the Company and the appropriateness of relying on the Valuation up to the time of listing. Nasdaq may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

require a company listing on the NGS that has not had sustained recent trading in a Private Placement Market to satisfy the applicable Market Value of Unrestricted Publicly Held Shares requirement and provide a Valuation evidencing a Market Value of Publicly Held Shares of at least \$250,000,000.³⁷ For a company that has not had sustained recent trading in a Private Placement Market and that is applying to list on the NGM or NCM, Nasdaq will generally require the company to provide a Valuation that demonstrates a price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares that exceeds 200% of the otherwise applicable requirement.³⁸

Historically, Nasdaq has not observed any companies seeking to list in connection with a Direct Listing that have had sustained recent trading in a Private Placement Market. In the absence of sustained recent trading in the Private Placement Market, a company seeking to list on NGS is required to demonstrate a Market Value of Publicly Held Shares of at least \$250 million and a Market Value of Unrestricted Publicly Held Shares of at least \$100 million.³⁹ On the other hand, a company conducting a Direct Listing on NGM or NCM can list with a Market Value of Unrestricted Publicly Held Shares as low as \$30 million, with that amount calculated based on an independent third-party valuation of the company. Because a Direct Listing does not raise any offering proceeds and typically does not involve an underwriter to market the transaction and help develop distribution and investor interest, Nasdaq does not believe that the NGM and NCM minimum of \$30 million in Unrestricted Publicly Held Shares is sufficient for China-based Issuers to support meaningful price discovery and fair and orderly trading. In that

³⁷ See IM-5315-1(b).

³⁸ See IM-5405-1(a)(2) (NGM); Rule IM-5505-1(a)(2) (NCM).

³⁹ A company can list with a Market Value of Unrestricted Publicly Held Shares of at least \$100 million if the company also has stockholders' equity of at least \$110 million; otherwise the company is required to have Market Value of Unrestricted Publicly Held Shares of at least \$110 million. See Rule 5315(f)(2).

regard, Nasdaq notes that the valuation on which the amount of Unrestricted Publicly Held Shares is derived is subjective and the \$30 million requirement is just barely above the \$25 million offering proceeds that would be required in an IPO. As discussed above, Nasdaq believes that China-based Issuers present unique risks to U.S. investors and therefore precluding a China-based Issuer from listing through a Direct Listing on the NGM and NCM will help to ensure that the company has sufficient public float, investor base, and trading interest likely to generate depth and liquidity necessary to promote fair and orderly trading on the secondary market. Adopting this additional requirement also will help prevent companies from using a Direct Listing to avoid the requirement being imposed on IPOs.

Transfer of a Chinese Company Listing

Nasdaq notes that other markets do not have comparable requirements to what is being proposed. Therefore, China-based Issuers that do not meet the heightened requirements of proposed Rule 5210(l) may elect to list on those other markets. Nasdaq believes that a China-based Issuers initially trading on the OTC market or listing on another national securities exchange and then quickly transferring to Nasdaq may present similar risks to U.S. investors as IPOs of China-based Issuers. Therefore, Nasdaq proposes to adopt Rule 5210(l)(iv), which would require a China-based Issuer that transfers from the OTC market or from another national securities exchange to first trade on that other market for at least one year before it is eligible to list on Nasdaq. This prerequisite will provide sufficient time for the company to establish a trading history and publicly disclose the result of operations, upon which investors can rely, and minimizes the risk that companies are utilizing the OTC market or another national securities exchange solely to circumvent Nasdaq's proposed requirements for China-based Issuers.⁴⁰ In

⁴⁰ Companies trading in the OTC Market at the time of application must also satisfy a minimum average daily trading volume before listing. See Listing Rules 5405(a)(4) and 5505(a)(5).

addition, like the requirement proposed for companies listing in connection with a business combination, Nasdaq proposes that these seasoned companies, which will be listing without an offering, must have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million to ensure that a security to be listed on Nasdaq has adequate liquidity, distribution and U.S. investor interest. Elements of the proposed requirements for a China-based Issuer that transfers from the OTC market are similar to the current Rule 5210(k), applicable to Restrictive Market Companies,⁴¹ and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which provides for a period that a company must trade on another market before it can list on Nasdaq, and each of which was found by the Commission to be consistent with the Act.

Implementation Timeline and Other Changes

In order to provide companies with a reasonable opportunity to adjust to the proposed changes, Nasdaq is proposing a delay of 30 days after Commission approval before the changes become effective. Therefore, companies listing on or after 30 days from the date the Commission's approval order must comply with the proposed rules. This will allow companies that have taken substantial steps to list under the current rules to complete the process. Nasdaq also proposes to renumber the remainder of Rules 5210 as subsections (m) and (n) and update the cross-reference in Rule 1031(b) to ensure consistency in its rulebook.

Nasdaq will issue a denial letter where it concludes that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau

⁴¹ Unlike the requirement for Restrictive Markets, the proposed rules do not include an alternative allowing companies to list if the proceeds from the offering would represent at least 25% of the Company's post-offering Market Value of Listed Securities. In applying that alternative in connection with the Restrictive Market requirements, Nasdaq observed that the alternative allowed smaller companies to list without achieving the rule's liquidity objectives of supporting meaningful price discovery.

Special Administrative Region), or whose business is principally administered in one of those jurisdictions, and the company does not meet the additional requirements applicable to its type of listing. A company can request a review of that denial letter pursuant to Rule 5815.

Comment Letters

The Commission received several comment letters in response to its solicitation of comments about the proposed changes. Three commenters expressed general support for the proposal⁴² while others expressed concern that the proposal unfairly singles out China-based companies and is inconsistent with recent U.S.-China regulatory cooperation.⁴³

Of the commenters that expressed general support, one commenter proposed certain modifications to the proposal, noting that Chinese citizenship alone does not signify a regulatory risk. The commenter asserted that the current proposal “risks unintentionally capturing issuers that do not present the same regulatory concerns” for which the proposal was designed to address.⁴⁴ This commenter suggested that the heightened requirements should apply only to companies “principally operating in China, rather than issuers that are based in the U.S. simply because their founders, controlling persons, directors, or officers are Chinese citizens.”⁴⁵ This

⁴² See Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Oct. 10, 2025 (“CII Letter 1”); see also Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Jan. 13, 2026 (“CII Letter 2”); Letter from Jeffrey Starr, Managing Director, Head of Operations, Charles Schwab & Co., dated Dec. 16, 2025 (“Schwab Letter”); Letter from Hunter Taubman Fischer & Li LLC, dated Sept. 16, 2025 (“HTFL Letter”).

⁴³ See Letter from Beijing Guo Huan Law Firm, dated Jan. 4, 2026 (“Beijing Guo Han Letter”); Letter from Joseph Wilson, Esq. at 2-3, Bevilacqua PLLC, dated Oct. 10, 2025 (“Bevilacqua Letter 1”); Letter from Joseph Wilson, Esq. at 3, Bevilacqua PLLC, dated Jan. 13, 2026 (“Bevilacqua Letter 2”); Letter from USA World Management Group LTD, dated Dec. 30, 2025 (“USA World Letter”); Letter from US International Finance Foundation, dated Jan. 4, 2026 (“USIFF Letter”); Letter from Sen Time Studio, dated Dec. 28, 2025 (“SEN Time Studio Letter”); Hong Kong United Business Consulting Limited, dated Jan. 13, 2026 (“HKUBC Letter”); Letter from HIGO Global Technology, Inc. dated Jan. (“HIGO Letter”); Letter from US Unicorn Foundation Inc., dated Dec. 19, 2025 (“US Unicorn Letter”); Letter from China Listed Companies Association, dated Jan. 14, 2026 (“China LCA Letter”); Letter from Cecilia, dated Jan. 4, 2026 (“Cecilia Letter”).

⁴⁴ See HTFL Letter at 2.

⁴⁵ Id.

commenter also suggested extending the transition period for compliance with the proposal from 30 days to 60 days for issuers with pending initial listing applications.⁴⁶ Another commenter that supported the proposal recommended that “the increased standards should apply to companies based in additional foreign jurisdictions where it is determined there are elevated levels of fraud” to prevent fraudsters from “simply mov[ing] to other jurisdictions where it’s even easier to commit fraud.”⁴⁷ Finally, a third commenter in general support of the proposal noted that the proposal takes “meaningful steps to preserve market integrity and protect U.S. investors from potential losses associated with the smallest microcap Chinese companies.”⁴⁸ This commenter also suggests “expanding the application of the proposed rule to the smallest microcap companies generally, including those companies incorporated in the Cayman Islands.”⁴⁹

Nasdaq recognizes that there are various factors to consider when determining where a company conducts its principal business activities and believes that the location and citizenship of the company’s founders, controlling persons, directors, or officers is an important factor. The presence of one factor will not automatically result in a determination that the issuer is a China-based Issuer. Rather, as discussed above, Nasdaq will consider the seven elements holistically when determining whether a company is principally administered in one of the subject jurisdictions and the location and citizenship of associated persons will be considered in the context of the other factors.

With respect to the request for a longer transition period, Nasdaq notes that the initial proposal was published in September 2025, which has provided issuers with pending listing

⁴⁶ Id.

⁴⁷ See Schwab Letter at 4.

⁴⁸ See CII Letter 2 at 2.

⁴⁹ Id. at 2 – 4.

applications with sufficient time to prepare for the heightened listing standards. Therefore, Nasdaq is not amending the transition period for compliance. Additionally, Nasdaq intends that the proposal will capture China-based Issuers that are typically cited for compliance issues. Based on the data discussed above, Nasdaq does not believe that a country-specific rule is necessary for any other country at this time, and that its current listing standards, including rules recently adopted to increase the initial listing requirements and accelerate delisting of non-compliant companies, are sufficient to address the commenters' concerns related to companies in other jurisdictions.⁵⁰ Nasdaq is limiting the proposed listing standards to China-based Issuers based on the concerns that Nasdaq, along with U.S. policymakers and regulatory agencies, have observed with such companies. Further, Nasdaq notes that it recently adopted Listing Rule IM-5101-3, which provides greater ability for Nasdaq to deny listing to companies from other jurisdictions that meet all stated listing requirements based on, among other things, considerations related to the company's advisors (including auditors, underwriters, law firms, brokers, clearing firms, or other professional service providers) or concerns Nasdaq has identified with other previously listed companies that are similarly situated to the company. Additionally, Listing Rule IM-5101-3 provides a qualitative description of factors related to Nasdaq's use of discretion in denying an initial listing, including where a company is located, and whether the company is in a jurisdiction where there are limited legal remedies to U.S. shareholders. Nasdaq believes Listing Rule IM-5101-3 helps to address commenters' desire to extend the proposal to other jurisdictions. However, unlike Rule IM-5101-3, the proposed rule specifies a minimum threshold of \$25 million Firm Commitment Offering for IPOs and a \$25 million minimum Market Value of Unrestricted Publicly Held Shares following the business

⁵⁰ See supra, note 23; Exchange Act Release No. 104318 (December 5, 2025), 90 FR 57225 (December 10, 2025) (modifying the compliance periods available when a security's closing bid price is below \$0.10).

combination, for Chinese companies. Nasdaq believes the \$25 million minimum threshold is reasonable and necessary because the data has shown that China-based Issuers below the threshold have a higher rate of compliance concerns, which may be mitigated by a higher threshold because Firm Commitment Offerings typically generates an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Additionally, Firm Commitment Offerings typically involve more due diligence by the broker-dealer which helps to ensure that third parties subject to U.S. regulatory oversight are conducting significant due diligence on the company. Nasdaq will also continue to monitor and will increase listing standards to additional specific countries if necessary.

Of the commenters in opposition, most raised concerns that the proposal violates Section 6(b)(5) of the Act by permitting unfair discrimination among issuers by singling out China-based Issuers and deterring qualified issuers from listing on the Exchange.⁵¹ Typical of these comments, one commenter stated that the proposal “would be unlawful and make for bad policy,” is “not necessary or appropriate to protect national security” and is “anti-competitive as it discriminates against certain Chinese issuers imposing additional, more onerous listing criteria on them than are imposed on other foreign issuers.”⁵² Other commenters also suggested that Nasdaq should apply a more neutral and metrics-based alternative.⁵³

While the proposal imposes heightened initial listing requirements on China-based Issuers, Nasdaq believes the proposal is consistent with the requirements of Section 6(b)(5) of

⁵¹ See China LCA Letter; Bevilacqua Letter; HKUBC Letter; Beijing Guo Han Letter at 2-3; USA World Letter; SEN Time Studio Letter at 4.

⁵² See Bevilacqua Letter.

⁵³ See China LCA Letter at 2-3; Bevilacqua Letter at 3-4; HKUBC Letter at 3; USA World Letter at 2-3 (suggesting increasing listing standards for “all issuers regardless of geographic location,” and “establish[ing] objective liquidity metrics applicable to all issuers.”)

the Act, which requires that an Exchange's rules be designed to prohibit unfair discrimination. As outlined above, Nasdaq and U.S. regulators and policymakers have identified specific and serious concerns with companies that principally operate in China, which increase the risks to investors and make the protection of investors more difficult. These concerns include heightened risk of fraud and manipulative behavior, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Thus, while the proposed rules would provide for heightened requirements for companies that principally operate in China, those rules are not unfairly discriminatory and would enhance investor protection, which is a central purpose of the Act.

Conclusion

Nasdaq believes that the U.S. exchanges can provide U.S. investors with opportunities to diversify their portfolio by providing exposure to emerging market companies in China. However, due to heightened risks identified in the trading of these companies' securities, Nasdaq also believes it is necessary to increase the requirements for these companies to list to help provide better liquidity in their securities. Nasdaq believes that the proposed rule changes will enhance the liquidity available in China-based Issuers listing in the United States, thereby making trading in the secondary market more difficult for bad actors to manipulate while helping to balance the desirability of China-based Issuers to access U.S. markets with necessary protections for investors.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Further, the Exchange believes that this proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has previously opined on the importance of meaningful listing standards for the protection of investors and the public interest.⁵⁶ In particular, the Commission has stated:

The development and enforcement of meaningful listing standards for an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.⁵⁷

Nasdaq believes that the factors for determining whether a company is based in China will assist Nasdaq in determining which companies should be subject to the proposed new standard, which will prevent fraudulent and manipulative acts and practices. Nasdaq also

⁵⁴ 15 U.S.C. 78f(b).

⁵⁵ 15 U.S.C. 78f(b)(5).

⁵⁶ Securities Exchange Act Release No. 102622 (March 12, 2025), 90 FR 12608 (March 18, 2025) (approving SR-Nasdaq-2024-084 adopting initial listing liquidity requirements for companies applying to list or uplist on the NGM or NCM).

⁵⁷ Id. at 12609.

believes that the factors are not unfairly discriminatory. The proposed factors used to determine if a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions, are similar to the factors contained in current Rule 5005(a)(37) and adds additional factors because, as discussed above, China-based Issuers carry a risk of insufficient investor base and trading interest to support fair and orderly trading in the secondary market due to substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter. Moreover, Nasdaq will consider the seven elements holistically when determining whether a company is principally administered in one of the jurisdictions. Nasdaq therefore believes that these companies should be subject to heightened standards for listing on Nasdaq.

Nasdaq believes that requiring a \$25 million minimum offering size for China-based Issuers seeking to list on Nasdaq through an IPO or \$25 million in Unrestricted Publicly Held Shares for China-based Issuers seeking to list on Nasdaq through a business combination or transfer from the OTC market or another national securities exchange may decrease the number of companies subsequently cited for compliance issues and help ensure that a security of a China-based Issuer to be listed on Nasdaq has adequate liquidity and distribution to support fair and orderly trading in the secondary market, which will reduce trading volatility and price manipulation, thereby protecting investors and the public interest.

Additionally, Nasdaq believes that allowing China-based Issuers to list on the NGS, rather than the NGM or NCM, in connection with a Direct Listing, will ensure that such companies satisfy higher listing requirements, including the minimum amount of Publicly Held

Shares and Market Value of Unrestricted Publicly Held Shares, which will help to ensure that the security has sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly trading, thereby protecting investors and the public interest.

Nasdaq also believes that extending the \$25 million minimum offering size and the requirement for the company to have traded for at least one year when transferring from the OTC market or another exchange aligns with similar listing requirements.⁵⁸

While the proposals apply only to China-based Issuers, the Exchange believes that the proposals are not designed to permit unfair discrimination among companies because Nasdaq believes that trading in China-based Issuers presents unique potential risks to U.S. investors, including heightened susceptibility to fraud and manipulation by bad actors, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Nasdaq believes that companies with a Firm Commitment Offering size or a Market Value of Unrestricted Publicly Held Shares below \$25 million may not develop a sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading, resulting in a security that is illiquid thereby amplifying these risks.

Less liquid securities also may be more susceptible to price manipulation, as a relatively small amount of trading activity can have an inordinate effect on market prices. Price manipulation is a particular concern when insiders retain a significant ownership portion of the company. Therefore, Nasdaq believes that it is not unfairly discriminatory to treat China-based

⁵⁸ See Rule 5110(c)(1)(A) (requiring a company that completed a Reverse Merger, as defined in Rule 5005(a)(39) to trade on another market for at least one year before being eligible to apply to Nasdaq) and 5210(k) (requiring companies from a Restrictive Market, as defined in Rule 5005(a)(39) to satisfy heightened listing requirements).

Issuers differently under these proposals because the proposed rules will help ensure that securities of a China-based Issuer listed on Nasdaq have sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets, thereby promoting investor protection and the public interest.

Additionally, elements of these proposals are similar to the current Rule 5210(k), applicable to Restrictive Market Companies, and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which was found by the Commission to be consistent with the Act.

Lastly, Nasdaq believes that implementing a 30-day delay from the date of the Commission's approval order before the changes become effective provides companies with an opportunity to adjust to the proposed changes. The delay is not unfairly discriminatory because it will allow companies that have taken substantial steps to list under the current rules to complete the process. Additionally, Nasdaq also proposes to renumber the remainder of Rule 5210 as subsections (m) and (n) and update the cross reference to Rule 5210(m) found in Rule 1031(b) to ensure consistency in its rulebook.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the proposed rule changes will apply only to companies primarily operating in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), Nasdaq, Congress, state financial officers and the SEC have identified specific concerns with such companies that make the imposition of additional initial listing criteria on such companies appropriate to enhance investor protection, which is a central purpose of the Act. Any impact on competition, either among listed companies or between exchanges, is incidental to that purpose.

As noted above, other markets do not have comparable requirements to what is being proposed, and therefore China-based Issuers may elect to list on those other markets

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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-069 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-2025-069. 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 filing 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-2025-069 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.⁵⁹

Sherry R. Haywood,

Assistant Secretary.

⁵⁹ 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Changes to the Proposed Rule Text

Text is marked to show changes to proposed rule language in the initial filing. Additions to the initial filing are double underlined; deletions from the initial filing are ~~stricken through~~.

THE NASDAQ STOCK MARKET LLC RULES**5200. GENERAL PROCEDURES AND PREREQUISITES FOR INITIAL AND CONTINUED LISTING ON THE NASDAQ STOCK MARKET****5210. Prerequisites for Applying to List on The Nasdaq Stock Market**

All Companies applying to list on The Nasdaq Stock Market must meet the following prerequisites:

(a) – (k) No change.

(l) Special Requirements for Companies based in China, Hong Kong and Macau

The following requirements apply to any Company that is headquartered or incorporated in the People’s Republic of China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions. Nasdaq will determine in which jurisdiction a Company is principally administered based on an analysis of the facts and circumstances, including if: (1) the Company’s books and records are located in such jurisdiction; (2) at least 50% of the Company’s assets are located in such jurisdiction; (3) at least 50% of the Company’s revenues are derived from such jurisdiction; (4) at least 50% of the Company’s directors are citizens of, or reside in, such jurisdiction; (5) at least 50% of the Company’s officers are citizens of, or reside in, such jurisdiction; (6) at least 50% of the Company’s employees are based in such jurisdiction; or (7) the Company is controlled by, or under common control with, one or more persons or entities that are citizens of, reside in, or whose business is headquartered, incorporated, or principally administered in such jurisdiction.

(i) In the case of an initial public offering, the Company must offer a minimum amount of securities in a Firm Commitment Offering in the United States to Public Holders that will result in gross proceeds to the Company of at least \$25 million.

(ii) In the case of a business combination, as described in Rule 5110(a) or IM-5101-2, the Company must have a minimum Market Value of Unrestricted Publicly Held Shares following the business combination equal to at least \$25 million.

(iii) In the case of a Direct Listing, as defined in IM-5315-1, the Company will be permitted to list on the Nasdaq Global Select Market, provided that the Company must meet the applicable listing requirements for the Nasdaq Global Select Market and the additional requirements of IM-5315-1, ~~or on the Nasdaq Global Market, provided that the Company must meet the applicable listing requirements for the Nasdaq Global Market~~

~~and the additional requirements of IM-5405-1. A Company whose business is headquartered, incorporated, or principally administered in the People's Republic of China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region) will not be permitted to list on the Nasdaq Global Market or the Nasdaq Capital Market in connection with a Direct Listing, notwithstanding the fact that the Company may meet the applicable initial listing requirements for the Nasdaq Global Market or the Nasdaq Capital Market and the additional requirements of IM-5405-1 or IM-5505-1.~~

(iv) In the case of a company whose security is trading on the over-the-counter market or that is transferring its listing from another national securities exchange, the Company must have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million and have traded on the other market for at least one year.

(m) As required by SEC Rule 10D-1, any Company listing on Nasdaq must comply with the requirements of Rule 5608 (Recovery of Erroneously Awarded Compensation).

([m]n) Principal Underwriter

(i) – (ii) No change.

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GENERAL 3 MEMBERSHIP AND ACCESS

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1031. Limited Underwriting Membership

(a) No change.

(b) Limited Underwriting Member Access to the Exchange

A limited underwriting membership provides no rights to transact on the Exchange. A limited underwriting membership is solely to allow a firm that is not otherwise a Member to serve as a principal underwriter, pursuant to the requirement in Rule 5210([m])n, for a Company applying to list on the Exchange.

(c) No change.

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EXHIBIT 5

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

THE NASDAQ STOCK MARKET LLC RULES**5200. GENERAL PROCEDURES AND PREREQUISITES FOR INITIAL AND CONTINUED LISTING ON THE NASDAQ STOCK MARKET****5210. Prerequisites for Applying to List on The Nasdaq Stock Market**

All Companies applying to list on The Nasdaq Stock Market must meet the following prerequisites:

(a) – (k) No change.

(l) Special Requirements for Companies based in China, Hong Kong and Macau

The following requirements apply to any Company that is headquartered or incorporated in the People's Republic of China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions. Nasdaq will determine in which jurisdiction a Company is principally administered based on an analysis of the facts and circumstances, including if: (1) the Company's books and records are located in such jurisdiction; (2) at least 50% of the Company's assets are located in such jurisdiction; (3) at least 50% of the Company's revenues are derived from such jurisdiction; (4) at least 50% of the Company's directors are citizens of, or reside in, such jurisdiction; (5) at least 50% of the Company's officers are citizens of, or reside in, such jurisdiction; (6) at least 50% of the Company's employees are based in such jurisdiction; or (7) the Company is controlled by, or under common control with, one or more persons or entities that are citizens of, reside in, or whose business is headquartered, incorporated, or principally administered in such jurisdiction.

(i) In the case of an initial public offering, the Company must offer a minimum amount of securities in a Firm Commitment Offering in the United States to Public Holders that will result in gross proceeds to the Company of at least \$25 million.

(ii) In the case of a business combination, as described in Rule 5110(a) or IM-5101-2, the Company must have a minimum Market Value of Unrestricted Publicly Held Shares following the business combination equal to at least \$25 million.

(iii) In the case of a Direct Listing, as defined in IM-5315-1, the Company will be permitted to list on the Nasdaq Global Select Market, provided that the Company must meet the applicable listing requirements for the Nasdaq Global Select Market and the additional requirements of IM-5315-1. A Company whose business is headquartered, incorporated, or principally administered in the People's Republic of China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region) will not be permitted to list on the Nasdaq Global Market or the Nasdaq Capital Market in connection with a Direct Listing, notwithstanding the fact that the Company

may meet the applicable initial listing requirements for the Nasdaq Global Market or the Nasdaq Capital Market and the additional requirements of IM-5405-1 or IM-5505-1.

(iv) In the case of a company whose security is trading on the over-the-counter market or that is transferring its listing from another national securities exchange, the Company must have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million and have traded on the other market for at least one year.

(m) As required by SEC Rule 10D-1, any Company listing on Nasdaq must comply with the requirements of Rule 5608 (Recovery of Erroneously Awarded Compensation).

([m]n) Principal Underwriter

(i) – (ii) No change.

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GENERAL 3 MEMBERSHIP AND ACCESS

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1031. Limited Underwriting Membership

(a) No change.

(b) Limited Underwriting Member Access to the Exchange

A limited underwriting membership provides no rights to transact on the Exchange. A limited underwriting membership is solely to allow a firm that is not otherwise a Member to serve as a principal underwriter, pursuant to the requirement in Rule 5210([m]n), for a Company applying to list on the Exchange.

(c) No change.

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