
Nasdaq Responds to Comments on Board Diversity Rule Request with Explanations and a Few Modifications

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On February 26, 2021, Nasdaq submitted a response (the “Response”) to comments received by the Securities and Exchange Commission (the “Commission”) on Nasdaq’s December 1, 2020 rule request (the “Proposal”) regarding board diversity. The Commission received over 200 letters regarding the Proposal from Nasdaq-listed issuers, institutional investors, asset managers, legislators at both the state and federal levels, advocacy organizations, law firms, board members and other individuals. In the Response, Nasdaq describes the overwhelming majority of commenters as supporting the goals of the Proposal, recognizing that some supportive commenters recommended modifications or clarifications and other commenters opposed the Proposal. The Response offers further insight into Nasdaq’s rationale for the Proposal and its intended effect and makes proposed modifications and clarifications to the Proposal. The proposed modifications and clarifications are designed to offer more flexibility to companies with smaller boards, provide a one year grace period for newly listed companies, align disclosure requirements with annual meetings, and provide companies listing on Nasdaq after the new rules’ phase-in period two years to meet the board diversity requirements.

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