

ES/3235C



National Venture Capital Association

September 29, 2009

The Honorable Mary Schapiro
Chair
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090



Wednesday 2009- 77

RE: Temporary Suspension of NASDAQ's Minimum Listing Requirements

Dear Chairwoman Schapiro:

On behalf of its members, the National Venture Capital Association (NVCA) is writing to request that the Securities and Exchange Commission ("SEC" or "Commission") extend a temporary suspension of NASDAQ's minimum listing requirements which expired on July 31, 2009. While the temporary suspension over the past year has helped biotechnology companies, a portion of emerging biotechnology companies need additional time to attract ongoing investment capital and emerge in a healthier condition.

NVCA represents over 400 venture capital firms in the United States. NVCA's mission is to foster greater understanding of the importance of venture capital to the U.S. economy, and support entrepreneurial activity and innovation. According to a 2009 Global Insight study, venture-backed companies accounted for 12.1 million jobs and \$2.9 trillion in revenue in the U.S. in 2008.

The venture capital industry has been the backbone in creating the biotechnology industry and continues to play a critical role in fueling biotechnology innovation. Medical innovation has been the hallmark of American medicine and has revolutionized the practice of medicine by helping physicians detect diseases earlier, treat both acute and chronic diseases more effectively, and prevent some of the leading causes of death. Small venture-backed companies are developing much of the innovative therapies that our healthcare systems needs today.

While we appreciate the Commission's decision to extend the suspension of listing requirements through the end of July 2009, capital intensive emerging biotechnology companies still face significant challenges and we believe an additional extension is warranted and in the best interest of not just listed companies but also retail investors reliant upon the public disclosures that come with the responsibilities of being a listed company. In addition, while the capital markets have stabilized for some industries, the effects of this unprecedented economic crisis still remain for many of the small

emerging biotechnology companies. Currently, 18 percent of biotechnology companies that trade on NASDAQ markets are trading below the \$1 minimum bid price, and 19 percent are trading under the \$50 million market value requirements. Since the temporary suspension was lifted on August 1st, 24 companies have received delisting notices or warnings. Dramatic market fluctuations still persist for emerging biotechnology companies, and it is difficult to predict where the capital markets will be in coming months. Thus, an extension of the temporary suspension of NASDAQ's minimum requirements will allow emerging companies to withstand the current financing environment, and enable them to continue their primary focus of conducting the research and development of new innovative therapies for life saving diseases.

Furthermore, many biotechnology companies with novel therapies require large capital infusions in order to move these innovative therapies through clinical trials. Most in fact have clinical trials currently underway and need ongoing access to markets and capital so that patient care and follow up may be completed. The majority of microcap biotech companies are on singularly long time-frames and have yet to return original investment capital to the venture capital and angel investors that took the early risk. Placing these companies in a further precarious financial position could either force a company to compromise the status of a clinical trial or make return of capital nearly impossible for investors.

We understand that the suspension of the minimum requirements is a temporary solution, but the extreme circumstances facing companies in October 2008 remain an obstacle for far too many emerging biotechnology companies who did not contribute to the severe economic instability. In order to overcome the current financial crisis, emerging companies need additional time to attract ongoing investment capital and emerge in a healthier condition than before the crisis.

NVCA, and its members, appreciate the efforts of the Commission to help our companies deal with the current challenges of this economic crisis. Please feel free to contact Kelly Slone, Director, Medical Industry Group, at Kslone@nvca.org, if you have any further questions.

Sincerely,



Mark Heesen
President

cc: Ms. Florence Harmon
Deputy Secretary

McElveen, Josephine

From: Kelly Slone [Kelly.Slone@nvca.org]
Sent: Tuesday, September 29, 2009 9:45 PM
To: CHAIRMANOFFICE
Subject: NVCA Letter re: NASDAQ Delisting of Biotechnology Firms
Attachments: NVCA%20letter%20re%20NASDAQ%20Delisting%20of%20Biotech%20Startups%20final%200909.pdf

Please see the attached letter on behalf of the National Venture Capital Association.

Please feel free to contact me if you have any questions.

Thank you.

Kelly Slone
Director, Medical Industry Group
National Venture Capital Association
703-524-2549