WESTPARK CAPITAL, INC.
INVESTMENT BANKING
Member FINRA/SIPC

September 2, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. SR-NASDAQ-2011-073
Proposed Rule Change to Adopt Additional Listing Requirements for Reverse Mergers

Dear Ms. Murphy:

The NASDAQ Stock Market proposes to adopt additional initial listing requirements for a company that has become public through a combination with a public shell, whether through a reverse merger, exchange offer, share exchange or similar transaction (a "Reverse Merger"). The proposed amendment would require a Reverse Merger company to (i) trade for at least six months in the U.S. over-the-counter market, on another national securities exchange, or on a foreign exchange, and (ii) maintain a minimum bid price of $4 per share on at least 30 of the most recent 60 trading days, and (iii) timely filing of its two most recent SEC financial reports during the six-month seasoning period. The proposed rule change also eliminates a previously proposed exception for a Reverse Merger company that also conducts a firm commitment underwritten public offering.

We support the objective of this proposed rule change to protect investors from potential accounting fraud, manipulative trading, abusive practices or other inappropriate behavior on the part of companies, promoters and others. However, we believe that the proposed rule change overreaches by inclusion of a Form 10 share exchange transaction within the Reverse Merger definition, and by failing to allow an exception for a Reverse Merger company that also conducts a firm commitment underwritten public offering. The overall effect of the proposed rule change would subject smaller capitalization issuers to a significantly more burdensome listing requirement that is unrelated to achievement of the stated objective.

In particular, please note that the Reverse Merger definition fails to differentiate between (a) a "legacy" or "backdoor" reverse merger company, and (b) a "Form 10" reverse merger company that may be otherwise indistinguishable from a regular initial public offering issuer. This distinction is highly significant, since the "legacy" or "backdoor" reverse merger process has been used by many issuers to gain trading liquidity while avoiding underwriter due diligence and the SEC review process.

In contrast, a Form 10 reverse merger company begins as a non-trading, fully-reporting public company with no prior operations or other potential undisclosed liabilities. After closing a share exchange with a non-trading Form 10 corporation, the issuer must complete a firm commitment initial public offering requiring (i) underwriters' due diligence, (ii) filing and full SEC review of an S-1 registration statement, (iii) due diligence by the listing stock exchange, and (iv) a FINRA "no objection letter" prior to any trading in the stock.

This Form 10 IPO process is equivalent to a traditional initial public offering and does not compromise investor protection in any way. In fact, the Form 10 process ensures additional investor protection since the issuer is subject to SEC reporting requirements, including 10-K, 10-Q, 8-K and other filings, and must establish Sarbanes-Oxley compliance during the entire registration period prior to the effectiveness of the S-1 registration statement.

The Form 10 IPO process provides a significant additional benefit for both issuers and investors. Many small cap issuers who wish to go public require private equity funding prior to the IPO to cover offering costs that would otherwise create a substantial negative impact on working capital and cash flow. When a private equity offering is closed in connection with a Form 10 share exchange, investors benefit from the Form 10 IPO process that requires issuer transparency with the Super 8-K disclosure document, Sarbanes-Oxley compliance, and SEC filings, including 10-K, 10-Q and 8-K reports. Private equity investors in a non-reporting company receive none of these protections or disclosures. The proposed rule change would significantly limit the use of the Form 10 IPO process, and greatly increase the cost of equity capital for smaller capitalization issuers.

We therefore recommend that the proposed Nasdaq rule change be modified to exclude Form 10 share exchange transactions from the Reverse Merger definition, or to provide an exception for a Reverse Merger company listing in connection with a firm commitment underwritten public offering. Should the proposed rule change be adopted as currently drafted, we believe that investor protections will be compromised by restricting capital availability for smaller capitalization issuers, and by pushing Form 10 IPOs onto the poorly supervised and under-regulated OTCBB market, or onto foreign stock exchanges.

Lastly, we recommend that Nasdaq consider requiring companies listing on the exchange to engage a recognized independent diligence firm to conduct a forensic audit and issue a forensic diligence report prior to approval of the listing application.

I am available to discuss any questions that you might have related to this matter.

Regards,

Richard Rappaport
Chief Executive Officer
WestPark Capital, Inc.