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December 31, 2020

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Email: rule-comments@sec.gov

Re: The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Adopt Listing Rules Related to Board Diversity; File No. SR-NASDAQ-2020-081

Dear Ms. Countryman:

On behalf of Teachers Insurance and Annuity Association of America ("TIAA") and its asset management arm, Nuveen, LLC ("Nuveen"), we welcome the opportunity to submit this comment to the Securities and Exchange Commission (the "SEC" or "Commission") in response to Nasdaq's proposed Rule 5605(f)(2) and Rule 5606 regarding board diversity (the "Proposed Rules").[1] We are writing to express our organization's strong support for the Proposed Rules, which are designed to encourage greater diversity and inclusion on boards of Nasdaq-listed companies and also prompt consistent, transparent disclosure by these companies about the makeup of their boards. As industry leaders in responsible investing, TIAA and Nuveen have been staunch advocates of board diversity for decades. We firmly believe that diverse boards produce better outcomes for the companies and investors they serve, as well as markets in general, by promoting innovation and long-term financial performance. The Proposed Rules are a significant step in an industry-wide effort to enhance the diversity of corporate boards, and we respectfully urge the Commission to approve them without delay.

Founded in 1918, TIAA is the leading retirement provider for those in academic, research, medical and cultural fields. For over a century, TIAA's mission has been to aid and strengthen the institutions and participants we serve and to provide investment solutions that meet their needs. TIAA also has five decades of experience in responsible investing, and offered one of the first dedicated environmental, social and governance funds, the CREF Social Choice Account. As TIAA's asset manager, Nuveen offers a comprehensive range of outcome-focused investment solutions designed to secure the long-term financial goals of institutional and individual investors. Nuveen is also responsible for executing TIAA's responsible investing policy across the enterprise. Drawing on TIAA's decades of expertise, Nuveen has established

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[1] *Notice of Filing of Proposed Rule Change to Adopt Listing Rules Related to Board Diversity* (Dec. 1, 2020), *available at*: https://listingcenter.nasdaq.com/assets/RuleBook/Nasdaq/filings/SR-NASDAQ-2020-081.pdf.

itself as a leader in the responsible investing space and is dedicated to promoting the financial progress of its investors while also advancing global economic, social and environmental well-being.

Since the 1990s, TIAA has identified board diversity as an issue of crucial importance to our organization – and to our clients' outcomes. In our experience, diverse boards fuel greater innovation and solve problems more creatively and effectively, in turn producing better long-term financial outcomes for companies and investors. Including diverse directors on a company's board can also be an effective tool in combatting management entrenchment and groupthink. Recent research shows that directors themselves see the benefits of board diversity in promoting unique perspectives among the board, improving a company's relationships with its investors and enhancing long-term performance.[2]

As companies become increasingly complex in nature and global in scope, boards too must become more diverse – not just in terms of their members' gender, race, ethnicity, or identification as LGBTQ+, but in their skills and experience as well. Studies have shown that diverse boards are more likely to include directors who possess nontraditional skills (*e.g.*, technology, sales, risk management) in addition to more traditional skills (*e.g.*, leadership experience, management training, industry knowledge).[3] A board consisting of directors with a diverse range of abilities and experience will be better positioned to provide oversight through the many challenges and complexities facing 21st-century companies. For this reason, we urge companies to take a holistic approach to diversifying their boards, focusing not only on directors' self-identification as members of underrepresented groups, but also on the unique and varied skills they have to offer.

Despite the extensive evidence of the benefits of board diversity, there has been a lack of incentive, outside of shareholder pressure, for publicly traded companies in the United States to diversify their boards. Moreover, investors have struggled to get uniform and transparent data about board members. Many investors are left to consult board data that has been "assessed" by third parties for commercial purposes rather than collected directly from company reporting, which raises concerns about accuracy, objectivity and consistency. Regulators and self-regulatory organizations have failed to act on this issue with the appropriate level of urgency, neglecting to hold companies sufficiently accountable for diversifying their boards and providing reliable board data to investors. We believe it is high time for that failure to be remedied.

For these reasons, we enthusiastically support Nasdaq's filing of the Proposed Rules. We, along with many others in the financial-services industry, favor the creation of an external framework that would motivate companies to diversify their boards and standardize disclosures regarding their board composition. The Proposed Rules would provide just such a framework. Proposed rule 5605(f)(2) would require Nasdaq-listed companies to have, or explain why they do not have, at least (i) one director who self-identifies as female, and (ii) one who self-identifies as an underrepresented minority or LGBTQ+ (as those terms are defined in the Proposed

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[2] *See* Loop, Paula, Paul DeNicola, and Leah Malone, "2020 Annual Corporate Directors Survey," *Harvard Law School Forum on Corporate Governance* (Nov. 1, 2020), *available at*: https://corpgov.law.harvard.edu/2020/11/01/2020-annual-corporate-directors-survey/.

[3] *See* Garcia, Anthony, "Director Skills: Diversity of Thought and Experience in the Boardroom," *Harvard Law School Forum on Corporate Governance* (Oct. 10, 2018), *available at*: https://corpgov.law.harvard.edu/2018/10/10/director-skills-diversity-of-thought-and-experience-in-the-boardroom/.

Rules). Proposed rule 5606 would require listed companies to provide statistical information regarding the diversity of their board in a uniform format. We believe these rules will provide companies with much-needed encouragement to not only diversify their boards, but also to provide clear, easily accessible information about their board makeup in a consistent manner so that investors can make more informed investment decisions that reflect their values and objectives. The Proposed Rules will shed long-overdue light on the efforts of individual issuers to diversify their boards and will make it easier for institutional investors like TIAA and Nuveen to ensure that their investment decisions are consistent with their responsible investing policies.

In our view, the benefits of implementing the Proposed Rules far outweigh the costs, particularly given that many Nasdaq-listed companies already collect the data required to be reported under proposed rule 5606 and will be subject to a generous phase-in period. While the costs of complying with the Proposed Rules should be relatively limited and predictable, the potential upside is extensive. Investors will enjoy easy access to clear, reliable, standardized information about board diversity that will help them make more informed investment decisions and better understand how issuers think about this important topic. Issuers will be able to take advantage of "a network of board-ready diverse candidates and a tool to support board evaluation, benchmarking and refreshment," provided free of charge by Nasdaq. And U.S. capital markets will be brought more in line with global markets, which have already adopted quota systems, listing rules and disclosure requirements aimed at increasing board diversity among publicly listed companies. This is a key point, as the board diversity initiatives adopted in other countries have in many cases helped to drive local company performance.[4] Given the wide-ranging potential benefits of Nasdaq's proposal, we urge the SEC to approve the Proposed Rules in short order, for the good of investors, issuers, and the market as a whole.

TIAA and Nuveen appreciate your consideration of our thoughts on this important issue. We hope the perspective we have offered will assist the Commission in its review of the Proposed Rules, and we welcome further engagement on any aspect of this letter.

Sincerely,

Roger W. Ferguson, Jr.
President and CEO
TIAA

Jose Minaya
CEO
Nuveen, a TIAA Company

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[4] As an example, MSCI and Morningstar both offer indices with above-average exposure to non-US companies located in jurisdictions that have stricter gender diversity reporting requirements. Data over the past several years show that these indices have outperformed their more "mainstream" peers. *See* "Japan's government pension fund unveils $12bn allocation to global ESG and gender equity indices," *Responsible Investor* (Dec. 18, 2020), *available at*: https://www.responsible-investor.com/articles/japan-s-government-pension-fund-unveils-usd12bn-allocation-to-global-esg-and-gender-equity-indices.