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February 5, 2025

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Amendment No. 1 (SR-NASDAQ-2024-084 A-1)

Dear Ms. Countryman:

The Nasdaq Stock Market LLC filed the above-referenced filing on February 5, 2025.

Sincerely,

A handwritten signature in black ink that reads 'Nikolai Utochkin'.

Nikolai Utochkin
Counsel – Listing and Governance

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25

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

File No. * SR 2024 - * 084

Amendment No. (req. for Amendments *) 1

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 *).

A proposal to modify certain initial listing liquidity requirements.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Nikolai Last Name * Utochkin

Title * Senior Counsel Listing and Governance

E-mail * nikolai.utochkin@nasdaq.com

Telephone * (202) 329-2787 Fax

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 02/05/2025

(Title *)

By John A. Zecca

EVP and Chief Legal Officer

(Name *)

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: 2025.02.05 15:14:45 -05'00'

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 *

Add Remove View

SR-NASDAQ-2024-084 A-1 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 *

Add Remove View

SR-NASDAQ-2024-084 A-1 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

Add Remove View

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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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

Add Remove View

SR-NASDAQ-2024-084 A-1 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

Add Remove View

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 modify certain initial listing liquidity requirements. This Amendment No. 1 supersedes the original filing in its entirety.

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 November 20, 2024. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Nikolai Utochkin
Senior Counsel Listing and Governance
Nasdaq, Inc.
(202) 329-2787

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

Nasdaq is filing this amendment to SR-NASDAQ-2024-084,³ which was published for comment by the Commission on December 19, 2024, in order to: (i) provide for a 30-day operative delay after this proposed rule change has been approved by the Commission and (ii) make minor technical changes to improve clarity and readability of this proposal. This amendment supersedes and replaces the Initial Proposal in its entirety.

Nasdaq is proposing to modify Listing Rules 5405 and 5505 to require that a company listing on the Nasdaq Global Market or Nasdaq Capital Market in connection with an initial public offering (“IPO”) satisfy the applicable minimum Market Value of Unrestricted Publicly Held Shares (“MVUPHS”) requirement solely from the proceeds of the offering. Nasdaq is also proposing to make similar changes affecting companies that uplist to Nasdaq from the U.S. over-the-counter market (“OTC market”) in conjunction with a public offering.

Nasdaq Listing Rules require a company to have a minimum Market Value of Unrestricted Publicly Held Shares. For initial listing on the Nasdaq Global Market, a company must have a minimum MVUPHS of \$8 million under the Income Standard, \$18 million under the Equity Standard, and \$20 million under either the Market Value or Total Assets/Total Revenue Standards.⁴ For initial listing on the Nasdaq Capital

³ Securities Exchange Act Release No. 101978 (December 19, 2024), 89 FR 106717 (December 30, 2024) (the “Initial Proposal”).

⁴ See Listing Rules 5405(b)(1)(C), 5405(b)(2)(C), 5405(b)(3)(B), and 5405(b)(4)(B).

Market, a company must have a minimum MVUPHS of \$5 million under the Net Income Standard, and \$15 million under either the Equity or Market Value of Listed Securities Standards.⁵

Unrestricted Publicly Held Shares are shares that are not held by an officer, director or 10% shareholder of the company and which are not subject to resale restrictions of any kind.⁶ In the case of a company listing in conjunction with a public offering, previously issued shares registered for resale (“Resale Shares”), and not held by an officer, director or 10% shareholder of the company, are counted as Unrestricted Publicly Held Shares in addition to the shares being sold in an offering.

The MVUPHS standard is one of the core liquidity requirements within the Nasdaq listing rules. Like the other liquidity requirements, it is meant to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company’s securities. Nonetheless, Nasdaq has observed that the securities companies that meet the applicable MVUPHS requirement by including Resale Shares have experienced higher volatility on the date of listing than those of similarly situated companies that meet the requirement with only the proceeds from the offering. Nasdaq believes that the Resale Shares may not contribute to liquidity to the same degree as the shares sold in the public offering. As such, Nasdaq believes it is appropriate to modify the rules to exclude the Resale Shares from the calculation of MVUPHS for initial listing of companies listing in conjunction with a public offering.

⁵ See Listing Rules 5505(b)(1)(B), 5505(b)(2)(C), and 5505(b)(3)(C).

⁶ See Listing Rule 5005(a)(46).

Accordingly, Nasdaq proposes to modify Listing Rules 5405(b) and 5505(b) to provide that a company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, must satisfy the applicable MVUPHS requirement for each initial listing standard for primary equity securities⁷ with the proceeds of that offering.

Related to this change, Nasdaq believes it also is appropriate to apply a similar requirement to companies trading in the OTC market that qualify for listing based on an offering. Specifically, a company trading in the OTC market prior to listing must currently satisfy either a minimum daily trading volume on the OTC market of 2,000 shares over the past 30 trading days with trading occurring in at least 50% of those days (the “ADV Requirement”) or, alternatively, list in connection with a firm commitment underwritten public offering of at least \$4 million.⁸ This alternative recognizes that where a company is listing in connection with a significant firm commitment underwritten public offering the liquidity characteristics of its prior trading will change and reflect the offering, just like in an IPO, and shares in the offering will be the primary source of liquidity and price discovery upon listing.

Given Nasdaq’s observations about the liquidity characteristics of IPOs with Resale Shares, Nasdaq believes it is appropriate to treat OTC companies relying on an offering in a similar manner, given that the liquidity in such listings is also expected to be supported by the offering. Accordingly, Nasdaq proposes to modify the alternative to the ADV requirement in Listing Rules 5405(a)(4) and 5505(a)(5). As revised, a company

⁷ See footnotes 3 and 4, above.

⁸ See Listing Rules 5405(a) and 5505(a). This requirement is the same under the listing rules of both the Nasdaq Global Market and Nasdaq Capital Market.

relying on the alternative will be required to satisfy the applicable MVUPHS requirements with only the proceeds from the offering. As a result, Nasdaq also proposes to modify Listing Rules 5405(a)(4) and 5505(a)(5) to increase the size of the required public offering for this alternative to the ADV Requirement from \$4 million to \$5 million for Capital Market applicants and \$8 million for Global Market applicants to align with the minimum MVUPHS requirement for each market.⁹ If the company qualifies under a different standard, instead of the income standard, the minimum raise instead would have to satisfy the MVUPHS requirement of the applicable standard. Specifically, for a company listing on the Global Market under the Equity Standard and the Market Value or Total Assets/Total Revenue Standards, the required public offering will be at least \$18 million and \$20 million, respectively.¹⁰ Similarly, for a company listing on the Capital Market under the Equity Standard and the Market Value of Listed Securities Standard, the required public offering will be at least \$15 million.¹¹

Nasdaq will make the proposed rule changes described herein operative 30 days after it has been approved by the Commission. This delayed implementation will allow companies time to adjust to the new rules and will minimize disruption for companies that are close to being listed on Nasdaq.

b. Statutory Basis

⁹ See footnotes 3 and 4, above.

¹⁰ See Listing Rules 5405(b)(2)(C), 5405(b)(3)(B), and 5405(b)(4)(B).

¹¹ See Listing Rules 5505(b)(1)(B) and 5505(b)(2)(C).

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed 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. Specifically, Nasdaq believes that the proposal to modify Listing Rules 5405(b) and 5505(b) to require that a company listing on the Nasdaq Global Market or Capital Market in connection with an IPO satisfy the applicable minimum MVUPHS requirement solely from the proceeds of the offering is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market and a national market system because Nasdaq believes that the change will likely result in less volatile trading of affected companies upon listing. As described above, the MVUPHS standard is one of the core liquidity requirements within the Nasdaq listing rules designed to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company's securities. Based on Nasdaq's experience, companies that meet the applicable MVUPHS requirement by including Resale Shares are more likely to be subject to volatile trading on the date of listing than similarly situated companies that meet the requirement with only the proceeds from the offering. Nasdaq believes that this proposed change will help ensure that the initial pool of liquidity available for trading meets or exceeds the minimum applicable MVUPHS requirement.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

Nasdaq also believes that the proposal to modify Listing Rules 5405(a)(4) and 5505(a)(5) to require that a company that is trading on the OTC market at the time of its application and that is listing in conjunction with a firm commitment public offering in lieu of meeting the ADV Requirement must satisfy the applicable MVUPHS requirements with only the proceeds from the offering is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market and a national market system because, Nasdaq believes it is appropriate to align the minimum offering size for this alternative to the ADV Requirement with the minimum MVUPHS requirement for each market¹⁴ by modifying Listing Rules 5405(a)(4) and 5505(a)(5) to set the minimum offering under this alternative to \$5 million on the Capital Market and to \$8 million on the Global Market because, in the case where a company does not meet the ADV Requirement, the offering serves as the primary source of price discovery in the same way the offering does in an IPO, as described above. Moreover, failure to align these requirements could allow a company to begin trading on the OTC market and then uplist to Nasdaq a short time later with an offering that does not satisfy the proposed new requirements for companies listed in connection with an IPO, as described above.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While Nasdaq does not believe there will be any impact on inter-market competition from the proposed change, any impact on competition that does arise will be

¹⁴ See text accompanying footnotes 3 and 4, above.

necessary to better protect investors, in furtherance of a central purpose of the Act. Moreover, each national securities exchange can elect how to structure its listing requirements and respond in a competitive manner. In that regard, Nasdaq notes, for example, that in 2019 Nasdaq first enhanced its initial listing requirements to exclude holders of restricted stock from the calculation of the market value of publicly held shares and imposed a requirement that a minimum number of shareholders hold at least \$2,500 worth of unrestricted stock, however New York Stock Exchange and NYSE American have not adopted comparable requirements and compete for listings on such basis.¹⁵

Nasdaq also believes that any impact on intra-market competition from the proposed change affecting companies listing on the Nasdaq Global and Capital Markets in connection with an IPO or uplisting from the OTC market, as described above, will be necessary to better protect investors, in furtherance of a central purpose of the Act. In that regard, companies listing on Nasdaq through other means, such as those listing on the Nasdaq Global Select Market or listing through a Direct Listing for a security that that has not had sustained recent trading in a Private Placement Market prior to listing,¹⁶ are already subject to higher initial listing standards than companies impacted by this proposed change and Nasdaq has not observed similar concerns with the trading of these companies' securities.

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.

¹⁵ Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102 (July 11, 2019) (approving SR-NASDAQ-2019-009).

¹⁶ Private Placement Market is a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer. See Listing Rule 5005(a)(34).

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)

Not applicable.

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. _____ ; File No. SR-NASDAQ-2024-084)

February __, 2025

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Modify Certain Initial Listing Liquidity Requirements

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 February 5, 2025, 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 modify certain initial listing liquidity requirements.

This Amendment No. 1 supersedes the original filing in its entirety.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Nasdaq is filing this amendment to SR-NASDAQ-2024-084,³ which was published for comment by the Commission on December 19, 2024, in order to: (i) provide for a 30-day operative delay after this proposed rule change has been approved by the Commission and (ii) make minor technical changes to improve clarity and readability of this proposal. This amendment supersedes and replaces the Initial Proposal in its entirety.

Nasdaq is proposing to modify Listing Rules 5405 and 5505 to require that a company listing on the Nasdaq Global Market or Nasdaq Capital Market in connection with an initial public offering (“IPO”) satisfy the applicable minimum Market Value of Unrestricted Publicly Held Shares (“MVUPHS”) requirement solely from the proceeds of the offering. Nasdaq is also proposing to make similar changes affecting companies that uplist to Nasdaq from the U.S. over-the-counter market (“OTC market”) in conjunction with a public offering.

³ Securities Exchange Act Release No. 101978 (December 19, 2024), 89 FR 106717 (December 30, 2024) (the “Initial Proposal”).

Nasdaq Listing Rules require a company to have a minimum Market Value of Unrestricted Publicly Held Shares. For initial listing on the Nasdaq Global Market, a company must have a minimum MVUPHS of \$8 million under the Income Standard, \$18 million under the Equity Standard, and \$20 million under either the Market Value or Total Assets/Total Revenue Standards.⁴ For initial listing on the Nasdaq Capital Market, a company must have a minimum MVUPHS of \$5 million under the Net Income Standard, and \$15 million under either the Equity or Market Value of Listed Securities Standards.⁵

Unrestricted Publicly Held Shares are shares that are not held by an officer, director or 10% shareholder of the company and which are not subject to resale restrictions of any kind.⁶ In the case of a company listing in conjunction with a public offering, previously issued shares registered for resale (“Resale Shares”), and not held by an officer, director or 10% shareholder of the company, are counted as Unrestricted Publicly Held Shares in addition to the shares being sold in the offering.

The MVUHPS standard is one of the core liquidity requirements within the Nasdaq listing rules. Like the other liquidity requirements, it is meant to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company’s securities. Nonetheless, Nasdaq has observed that the securities companies that meet the applicable MVUPHS requirement by including Resale Shares have experienced higher volatility on the date of listing than those of similarly situated companies that meet the requirement with only the proceeds from the offering.

⁴ See Listing Rules 5405(b)(1)(C), 5405(b)(2)(C), 5405(b)(3)(B), and 5405(b)(4)(B).

⁵ See Listing Rules 5505(b)(1)(B), 5505(b)(2)(C), and 5505(b)(3)(C).

⁶ See Listing Rule 5005(a)(46).

Nasdaq believes that the Resale Shares may not contribute to liquidity to the same degree as the shares sold in the public offering. As such, Nasdaq believes it is appropriate to modify the rules to exclude the Resale Shares from the calculation of MVUPHS for initial listing of companies listing in conjunction with a public offering.

Accordingly, Nasdaq proposes to modify Listing Rules 5405(b) and 5505(b) to provide that a company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, must satisfy the applicable MVUPHS requirement for each initial listing standard for primary equity securities⁷ with the proceeds of that offering.

Related to this change, Nasdaq believes it also is appropriate to apply a similar requirement to companies trading in the OTC market that qualify for listing based on an offering. Specifically, a company trading in the OTC market prior to listing must currently satisfy either a minimum daily trading volume on the OTC market of 2,000 shares over the past 30 trading days with trading occurring in at least 50% of those days (the “ADV Requirement”) or, alternatively, list in connection with a firm commitment underwritten public offering of at least \$4 million.⁸ This alternative recognizes that where a company is listing in connection with a significant firm commitment underwritten public offering the liquidity characteristics of the prior trading will change and reflect the offering, just like in an IPO, and shares in the offering will be the primary source of liquidity and price discovery upon listing.

⁷ See footnotes 3 and 4, above.

⁸ See Listing Rules 5405(a) and 5505(a). This requirement is the same under the listing rules of both the Nasdaq Global Market and Nasdaq Capital Market.

Given Nasdaq's observations about the liquidity characteristics of IPOs with Resale Shares, Nasdaq believes it is appropriate to treat OTC companies relying on an offering in a similar manner, given that the liquidity in such listings is also expected to be supported by the offering. Accordingly, Nasdaq proposes to modify the alternative to the ADV requirement in Listing Rules 5405(a)(4) and 5505(a)(5). As revised, a company relying on the alternative will be required to satisfy the applicable MVUPHS requirements with only the proceeds from the offering. As a result, Nasdaq also proposes to modify Listing Rules 5405(a)(4) and 5505(a)(5) to increase the size of the required public offering for this alternative to the ADV Requirement from \$4 million to \$5 million for Capital Market applicants and \$8 million for Global Market applicants to align with the minimum MVUHPS requirement for each market.⁹ If the company qualifies under a different standard, instead of the income standard, the minimum raise instead would have to satisfy the MVUPHS requirement of the applicable standard. Specifically, for a company listing on the Global Market under the Equity Standard and the Market Value or Total Assets/Total Revenue Standards, the required public offering will be at least \$18 million and \$20 million, respectively.¹⁰ Similarly, for a company listing on the Capital Market under the Equity Standard and the Market Value of Listed Securities Standard, the required public offering will be at least \$15 million.¹¹

Nasdaq will make the proposed rule changes described herein operative 30 days after it has been approved by the Commission. This delayed implementation will allow

⁹ See footnotes 3 and 4, above.

¹⁰ See Listing Rules 5405(b)(2)(C), 5405(b)(3)(B), and 5405(b)(4)(B).

¹¹ See Listing Rules 5505(b)(1)(B) and 5505(b)(2)(C).

companies time to adjust to the new rules and will minimize disruption for companies that are close to being listed on Nasdaq.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed 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. Specifically, Nasdaq believes that the proposal to modify Listing Rules 5405(b) and 5505(b) to require that a company listing on the Nasdaq Global Market or Capital Market in connection with an IPO satisfy the applicable minimum MVUPHS requirement solely from the proceeds of the offering is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market and a national market system because Nasdaq believes that the change will likely result in less volatile trading of affected companies upon listing. As described above, the MVUHPS standard is one of the core liquidity requirements within the Nasdaq listing rules designed to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company's securities. Based on Nasdaq's experience, companies that meet the applicable MVUPHS requirement by including Resale Shares are more likely to be subject to volatile trading on the date of listing than similarly situated companies that meet the requirement with only the proceeds from the offering. Nasdaq

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

believes that this proposed change will help ensure that the initial pool of liquidity available for trading meets or exceeds the minimum applicable MVUHPS requirement.

Nasdaq also believes that the proposal to modify Listing Rules 5405(a)(4) and 5505(a)(5) to require that a company that is trading on the OTC market at the time of its application and that is listing in conjunction with a firm commitment public offering in lieu of meeting the ADV Requirement must satisfy the applicable MVUPHS requirements with only the proceeds from the offering is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market and a national market system because, Nasdaq believes it is appropriate to align the minimum offering size for this alternative to the ADV Requirement with the minimum MVUHPS requirement for each market¹⁴ by modifying Listing Rules 5405(a)(4) and 5505(a)(5) to set the minimum offering under this alternative to \$5 million on the Capital Market and to \$8 million on the Global Market because, in the case where a company does not meet the ADV Requirement, the offering serves as the primary source of price discovery in the same way the offering does in an IPO, as described above. Moreover, failure to align these requirements could allow a company to begin trading on the OTC market and then uplist to Nasdaq a short time later with an offering that does not satisfy the proposed new requirements for companies listed in connection with an IPO, as described above.

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

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

¹⁴ See text accompanying footnotes 3 and 4, above.

Act. While Nasdaq does not believe there will be any impact on inter-market competition from the proposed change, any impact on competition that does arise will be necessary to better protect investors, in furtherance of a central purpose of the Act. Moreover, each national securities exchange can elect how to structure its listing requirements and respond in a competitive manner. In that regard, Nasdaq notes, for example, that in 2019 Nasdaq first enhanced its initial listing requirements to exclude holders of restricted stock from the calculation of the market value of publicly held shares and to impose a requirement that a minimum number of shareholders hold at least \$2,500 worth of unrestricted stock, however New York Stock Exchange and NYSE American have not adopted comparable requirements and compete for listings on such basis.¹⁵

Nasdaq also believes that any impact on intra-market competition from the proposed change affecting companies listing on the Nasdaq Global and Capital Markets in connection with an IPO or uplisting from the OTC market, as described above, will be necessary to better protect investors, in furtherance of a central purpose of the Act. In that regard, companies listing on Nasdaq through other means, such as those listing on the Nasdaq Global Select Market or listing through a Direct Listing for a security that that has not had sustained recent trading in a Private Placement Market prior to listing,¹⁶ are already subject to higher initial listing standards than companies impacted by this proposed change and Nasdaq has not observed similar concerns with the trading of these companies' securities.

¹⁵ Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102 (July 11, 2019) (approving SR-NASDAQ-2019-009).

¹⁶ Private Placement Market is a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer. See Listing Rule 5005(a)(34).

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-2024-084 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-2024-084. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also 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-2024-084 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.¹⁷

Sherry R. Haywood,

Assistant Secretary.

¹⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

THE NASDAQ STOCK MARKET LLC RULES

* * * * *

5405. Initial Listing Requirements and Standards for Primary Equity Securities

A Company applying to list its Primary Equity Security on the Global Market shall meet all of the requirements set forth in Rule 5405(a) and at least one of the Standards in Rule 5405(b).

(a) Initial Listing Requirements for Primary Equity Securities:

(1) – (3) No change.

(4) If the security is trading in the U.S. over-the-counter market as of the date of application, such security must have a minimum average daily trading volume of 2,000 shares over the 30 trading day period prior to listing (including trading volume of the underlying security on the primary market with respect to an ADR), with trading occurring on more than half of those 30 days, unless such security is listed on the Exchange in connection with a firm commitment underwritten public offering of at least \$[4]8 million and the Company satisfies the applicable Market Value of Unrestricted Publicly Held Shares of paragraph (b) below from the offering proceeds; and

(5) No change.

(b) Initial Listing Standards for Primary Equity Securities:**(1) Income Standard**

(A) Annual income from continuing operations before income taxes of at least \$1,000,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years;

(B) Stockholders' equity of at least \$15 million;

(C) Market Value of Unrestricted Publicly Held Shares of at least \$8 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depositary Receipts, this requirement must be satisfied from the offering proceeds); and

(D) At least three registered and active Market Makers.

(2) Equity Standard

- (A) Stockholders' equity of at least \$30 million;
- (B) Two-year operating history;
- (C) Market Value of Unrestricted Publicly Held Shares of at least \$18 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, this requirement must be satisfied from the offering proceeds); and
- (D) At least three registered and active Market Makers.

(3) Market Value Standard

A Company listed under this paragraph does not also need to be in compliance with the quantitative criteria for initial listing in the Rule 5500 series.

- (A) Market Value of Listed Securities of \$75 million (current publicly traded Companies must meet this requirement and the \$4 bid price requirement for 90 consecutive trading days prior to applying for listing if qualifying to list only under the Market Value Standard);
- (B) Market Value of Unrestricted Publicly Held Shares of at least \$20 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, this requirement must be satisfied from the offering proceeds); and
- (C) At least four registered and active Market Makers.

(4) Total Assets/Total Revenue Standard

A Company listed under this paragraph does not also need to be in compliance with the quantitative criteria for initial listing in the Rule 5500 series.

- (A) Total assets and total revenue of \$75 million each for the most recently completed fiscal year or two of the three most recently completed fiscal years;
- (B) Market Value of Unrestricted Publicly Held Shares of at least \$20 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, this requirement must be satisfied from the offering proceeds); and
- (C) At least four registered and active Market Makers.

* * * * *

5505. Initial Listing of Primary Equity Securities

A Company applying to list its Primary Equity Security on the Capital Market must meet all of the requirements set forth in Rule 5505(a) and at least one of the Standards in Rule 5505(b).

(a) Initial Listing Requirements for Primary Equity Securities:

(1) – (4) No change.

(5) If the security is trading in the U.S. over-the-counter as of the date of application, such security must have a minimum average daily trading volume of 2,000 shares over the 30 trading day period prior to listing (including trading volume of the underlying security on the primary market with respect to an ADR), with trading occurring on more than half of those 30 days, unless such security is listed on the Exchange in connection with a firm commitment underwritten public offering of at least \$[4]5 million and the Company satisfies the applicable Market Value of Unrestricted Publicly Held Shares of paragraph (b) below from the offering proceeds; and

(6) No change.

(b) Initial Listing Standards for Primary Equity Securities:**(1) Equity Standard**

(A) Stockholders' equity of at least \$5 million;

(B) Market Value of Unrestricted Publicly Held Shares of at least \$15 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, this requirement must be satisfied from the offering proceeds); and

(C) Two year operating history.

(2) Market Value of Listed Securities Standard

(A) Market Value of Listed Securities of at least \$50 million (current publicly traded Companies must meet this requirement and the price requirement for 90 consecutive trading days prior to applying for listing if qualifying to list only under the Market Value of Listed Securities Standard);

(B) Stockholders' equity of at least \$4 million; and

(C) Market Value of Unrestricted Publicly Held Shares of at least \$15 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depository Receipts, this requirement must be satisfied from the offering proceeds).

(3) Net Income Standard

- (A) Net income from continuing operations of \$750,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years;
- (B) Stockholders' equity of at least \$4 million; and
- (C) Market Value of Unrestricted Publicly Held Shares of at least \$5 million (for a Company listing in connection with an initial public offering, including through the issuance of American Depositary Receipts, this requirement must be satisfied from the offering proceeds).

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