

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103982; File No. SR-NASDAQ-2025-068]

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

September 16, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 4, 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 and II, 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 and continued listing requirements.

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

### 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 proposing to amend Listing Rules 5405(b)(1)(C) and 5505(b)(3)(C) to increase the minimum Market Value of Unrestricted Publicly Held Shares (“MVUPHS”) requirement for companies listing under the net income standard on the Nasdaq Global and Capital Markets, respectively, to \$15 million. Nasdaq is also proposing to suspend from Nasdaq trading and immediately delist (rather than providing a compliance period) any company that becomes non-compliant with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and that has a Market Value of Listed Securities of less than \$5 million.

Minimum \$15 million MVUPHS for Initial Listing

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.<sup>3</sup> 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.<sup>4</sup> Unrestricted Publicly Held Shares are shares

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

<sup>4</sup> See Listing Rules 5505(b)(1)(B), 5505(b)(2)(C), and 5505(b)(3)(C).

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.<sup>5</sup>

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 problems with the trading of smaller company listings more generally and proposes to increase the minimum MVUPHS to help address these concerns.

Nasdaq recently modified the liquidity requirements for initial listing such that shares registered for resale are no longer counted as Unrestricted Publicly Held Shares.<sup>6</sup> As a result, a newly listing company listing in connection with an initial public offering must meet the MVUPHS based on shares being sold in the offering. When Nasdaq made this change, it did not increase any of the numeric requirements for MVUPHS under any of the listing standards.

Following this change, Nasdaq Staff has observed an increase in the number of companies applying for listing based on Nasdaq's net income requirement, which requires a lower MVUPHS than the other standards.<sup>7</sup> As noted above, Nasdaq Staff has observed problematic trading in companies with low public floats and liquidity, and Nasdaq is concerned that companies initially listing with just \$5 million or \$8 million MVUPHS on the Nasdaq

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<sup>5</sup> See Listing Rule 5005(a)(46).

<sup>6</sup> Securities Exchange Act Release No. 102622 (March 12, 2025), 90 FR 12608 (March 18, 2025) (SR-NASDAQ-2024-084).

<sup>7</sup> As noted above, companies listing under the net income standard on the Capital Market tier must have a minimum MVUPHS of \$5 million under the Net Income Standard, as opposed to \$15 million under the other standards. Prior to the new rule taking effect, less than one-third of companies listed under the net income standard. In about five months since the change requiring companies to satisfy the MVUPHS requirement by proceeds of the initial public offering nearly three-quarters of companies listing on the Capital Market tier have listed under that standard.

Capital or Global Markets, respectively, may not trade in a manner supportive of price discovery. In particular, Nasdaq believes that the MVUPHS is an indicator of liquidity and does not believe it is appropriate to require such a significantly lower liquidity threshold for companies simply because they have a minimum level of net income, as opposed to equity or market value.

Accordingly, Nasdaq is proposing to modify Listing Rule 5505(b)(3)(C) to increase the minimum MVUPHS for companies listing under the net income standard on the Nasdaq Capital Market from \$5 million to \$15 million to align this requirement across all of the listing standards on the Capital Market. In addition, to avoid having the standard on the Nasdaq Global Market be lower than that on the Capital Market, Nasdaq also proposes to modify Listing Rule 5405(b)(1)(C) to increase the minimum MVUPHS for companies listing under the net income standard on the Global Market from \$8 million to \$15 million. Nasdaq believes that these changes will help ensure that there is a sufficient initial pool of liquidity available to support liquid trading.

#### Accelerated Suspension and Delisting if MVLS is less than \$5 million

Nasdaq rules have minimum requirements for companies to remain listed and provide compliance periods for companies that fail to maintain compliance with those rules. The compliance periods are designed to allow time for companies to take action to come back into compliance for a company facing temporary business issues, a temporary decrease in the value of its securities, or temporary market conditions. However, Nasdaq has observed that some companies, typically those in financial distress or experiencing a prolonged operational downturn, are unable to regain compliance with the listing requirements for the long-term. The market typically identifies these companies and investors lose interest in the companies, resulting in their having low market values.

Nasdaq believes that once the market identifies significant problems in a company otherwise deficient in the listing standards by assigning a very low market value, that company is no longer appropriate for continued trading on Nasdaq because challenges facing such companies, generally, are not temporary and may be so severe that the company is not likely to regain compliance within the prescribed compliance period and sustain compliance thereafter. Moreover, it is more difficult for market makers to make markets in these securities and for their to be a fair and orderly market.

While Nasdaq has taken action to enhance its listing standards and more quickly delist certain companies that have repeated failures to maintain compliance with those standards, Nasdaq now proposes further enhancing investor protections by providing for suspension from Nasdaq trading and immediate delisting (rather than providing a compliance period) of any company that becomes non-compliant with a numeric listing requirement, including the bid price, market value of public float, equity, income and total assets/revenue requirements, and that has a market value of listed securities of less than \$5 million.

To effect this change, Nasdaq proposes to modify Listing Rule 5810(c)(1) to add an additional type of a deficiency that results in immediate delisting and suspension from trading of the company's securities. Specifically, Listing Rule 5810(c)(1) will provide that staff's delisting notice will inform the company that its securities are immediately subject to suspension and delisting when a company is non-compliant with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and the company's Market Value of Listed Securities has failed to maintain a value of at least \$5 million for a period of 10 consecutive business days.

Listing Rule 5810(c)(2)(A)(i) currently identifies all quantitative deficiencies from standards that do not provide a compliance period as deficiencies for which a company may

submit a plan of compliance for staff review.<sup>8</sup> Nasdaq proposes to modify Listing Rule 5810(c)(2)(A)(i) to provide that the company may not submit such a plan when the company's Market Value of Listed Securities had been less than \$5 million for a period of 10 consecutive business days. Further, Listing Rule 5810(c)(3) currently identifies deficiencies for which the rules provide a specified cure or compliance period. Nasdaq proposes to modify Listing Rule 5810(c)(3) to provide that a company will not be entitled to such cure or compliance period if the company's Market Value of Listed Securities has failed to maintain a value of at least \$5 million for a period of 10 consecutive business days.

Finally, as described above, Nasdaq proposes to modify Listing Rule 5810(c)(1) to provide that staff's delisting notice in these circumstances will inform the company that its securities are immediately subject to suspension from trading on Nasdaq. Nasdaq believes that it is not appropriate for such a company to continue trading on Nasdaq during the pendency of the Hearings Panel review process. Instead, Nasdaq proposes to amend Rule 5815 to remove the stay provision in these situations so that the company's securities will be suspended from trading on Nasdaq during the pendency of the Hearings Panel's review.

Specifically, Nasdaq proposes to adopt Listing Rule 5815(a)(1)(B)(ii)e. to provide that notwithstanding the general rule that a timely request for a hearing shall ordinarily stay the suspension and delisting action pending the issuance of a written panel decision, a request for a hearing shall not stay the suspension of the securities from trading where the matter relates to a

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<sup>8</sup> As provided in Rule 5810(c)(2)(A)(i), the staff may accept a plan to regain compliance with respect to quantitative deficiencies from standards that do not themselves provide a compliance period. Such standards include: Rules 5550(b)(1) {Stockholders' Equity} and 5550(b)(3) {Net Income from Continuing Operations}; Rule 5550(a)(3) {Public Holders}; Rule 5550(a)(4) {Publicly Held Shares}; Rules 5350 [sic] (b)(1)(B) {Publicly Held Shares}, 5450(b)(1)(A) {Stockholders' Equity}, and 5450(a)(2) {Total Holders}; Rules 5450(b)(3)(A) {Total Assets/Total Revenue}, 5450(b)(2)(B) {Publicly Held Shares}, and 5450(a)(2) {Total Holders}; and Rules 5460(a)(1) {Publicly Held Shares} and 5460(a)(4) {Public Holders}. See IM-5810-2. Staff Review of Deficiencies.

request made by a company that received a Staff Delisting Determination notice due to non-compliance with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and the company's Market Value of Listed Securities has failed to maintain a value of at least \$5 million for a period of 10 consecutive business days.

A company that is suspended under the proposed rule could appeal the Delisting Determination to a Hearings Panel, but its securities would trade in the over-the-counter (OTC) market while that appeal is pending. Pursuant to Listing Rule 5815(c)(1)(E) the Hearings Panel will also continue to have the authority to find the company in compliance with all applicable listing standards and reinstate the trading of the company's securities on Nasdaq (e.g., if the company regains compliance with the numeric listing requirement it failed to maintain while trading in the OTC market). In addition, pursuant to Listing Rule 5815(c)(1)(A) the Hearings Panel will continue to have discretion, where it deems appropriate, to provide an exception for up to 180 days from the Delisting Determination date for the company to regain compliance with the applicable requirements, although it is expected that trading would continue in the OTC market during the pendency of the exception.

Nasdaq proposes to make the proposed rule change to the initial listing MVUPHS requirement operative for companies listing 30 days after Commission approval. Nasdaq proposes to make the proposed rule change related to suspending from Nasdaq trading and immediately delisting a company that becomes non-compliant with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and that has a Market Value of Listed Securities of less than \$5 million effective for new notifications of non-compliance sent beginning 60 days after Commission approval.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> 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)(1)(C) and 5505(b)(3)(C) to increase the minimum MVUPHS for companies listing under the net income standard on the Nasdaq Global and Capital Markets, respectively, to \$15 million 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 more orderly 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 listing under different standards that meet the \$15 million MVUPHS requirement are less likely to be subject to volatile trading than similarly situated companies that meet the current, lower requirement for companies listing under the net income standard. Nasdaq believes that these changes will help ensure that there is a sufficient initial pool of liquidity available to support liquid and orderly trading.

Nasdaq also believes that the proposal to suspend from Nasdaq trading and immediately delist (rather than providing a compliance period) any company that becomes non-compliant

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).



with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and that has a Market Value of Listed Securities of less than \$5 million is designed to promote just and equitable principles of trade and, in general to protect investors and the public interest by enhancing Nasdaq's listing requirements and limiting the time that a security can remain listed and trade on Nasdaq in these circumstances. In that regard, Nasdaq has observed that the challenges facing such companies generally are not temporary and may be so severe that the company is not likely to regain compliance within the prescribed compliance period. Moreover, the concerns with Market Value of Listed Securities of less than \$5 million with these companies can be a leading indicator of other listing compliance concerns, and these companies often become subject to delisting for other reasons during the compliance periods.

Nasdaq also believes that the proposal to amend Listing Rule 5815(a)(1)(B)(ii) to provide that a hearing request shall not stay the suspension of the securities from trading when the matter relates to a request made by a company that received a Staff Delisting Determination notice due to non-compliance with one or more of the listing requirements contained in Rule 5450 or Rule 5550 and the company's Market Value of Listed Securities has failed to maintain a value of at least \$5 million for a period of 10 consecutive business days is designed to protect investors and the public interest. In particular, this change will prevent continued trading in such company's securities until an independent Hearings Panel reviews the Delisting Determination and determines that the company has regained compliance with all listing requirements and that continued trading on Nasdaq is appropriate.

Finally, Nasdaq believes the proposed rule change furthers the objectives of Section 6(b)(7) of the Act in that it continues to provide a fair procedure for companies subject to these enhanced listing requirements. These companies can seek review of a Delisting Determination

from a Hearings Panel, which can afford the company additional time to regain compliance, and can appeal the Hearings Panel decision to the Nasdaq Listing and Hearing Review Council.<sup>11</sup> As a result, Nasdaq believes that the proposed rule appropriately balances the need for appropriate listing standards with the statutory requirement to protect investors and the public interest.

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 Act. While Nasdaq does not believe there will be any impact on 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.

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 up to 90 days (i) as the Commission may designate 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.

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<sup>11</sup> See Listing Rules 5815 and 5820, respectively.

#### 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](mailto:rule-comments@sec.gov). Please include file number SR-NASDAQ-2025-068 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-2025-068. 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 filing 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-2025-068 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.<sup>12</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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<sup>12</sup> 17 CFR 200.30-3(a)(12).