

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105494; File No. SR-NASDAQ-2025-069]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to Adopt Additional Initial Listing Criteria for Companies Primarily Operating in China

May 14, 2026.

I. Introduction

On September 4, 2025, the Nasdaq Stock Market LLC (“Exchange” or “Nasdaq”) filed with the Securities and Exchange Commission (“Commission” or “SEC”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt heightened initial listing standards for companies primarily operating in the People’s Republic of China (“China” or “PRC”), including the Hong Kong Special Administrative Region (“Hong Kong”) and the Macau Special Administrative Region (“Macau”) (collectively “China-based companies”). On September 12, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on September 19, 2025.³ On September 25, 2025, the Commission designated a longer period within which to take action on the proposed rule change,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 103979 (Sept. 16, 2025), 90 FR 45298 (“Notice”). Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nasdaq-2025-069/srnasdaq2025069.htm>.

as modified by Amendment No. 1.⁴ On December 18, 2025, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁶ On March 11, 2026, the Commission issued a notice of designation of a longer period of time for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁷

On April 14, 2026, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded the original proposed rule change, as modified by Amendment No. 1, in its entirety.⁸ On May 1, 2026, the Exchange filed Amendment No. 3 to the proposed rule change, which superseded the original proposed rule change, as modified by Amendment No. 2, in its entirety.⁹ The Commission is publishing this notice and order to solicit comments on Amendment No. 3 in Items II and III below, which Items have been prepared by the Exchange,

⁴ See Securities Exchange Act Release No. 104058, 90 FR 46973 (Sept. 30, 2025). The Commission designated December 18, 2025, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change, as modified by Amendment No. 1. See *id.*

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Securities Exchange Act Release No. 104456, 90 FR 60214 (Dec. 23, 2025) (“OIP”).

⁷ See Securities Exchange Act Release No. 104969, 91 FR 12644 (Mar. 16, 2026). The Commission designated May 17, 2026, as the date by which the Commission must issue an order approving or disapproving the proposed rule change, as modified by Amendment No. 1. See *id.*

⁸ In Amendment No. 2, the Exchange: (1) made certain clarifications to proposed Nasdaq Rule 5210(l)(iii) in relation to a company seeking to list by Direct Listing, and proposed Nasdaq Rule 5210(l)(iv) in relation to a company whose security is trading on the over-the-counter market or that is transferring its listing from another national securities exchange; (2) provided additional explanation of certain aspects of the proposal; (3) provided responses to comment letters; and (4) made other technical and non-substantive changes. The full text of Amendment No. 2 can be found on the Commission’s website at <https://www.sec.gov/comments/SR-NASDAQ-2025-069/srnasdaq2025069-751908-2319014.pdf> (“Amendment No. 2”).

⁹ In Amendment No. 3, the Exchange: (1) amended proposed Nasdaq Rule 5210(1)(iii) such that a China-based company seeking to list in connection with a Direct Listing will not be permitted to list on the Nasdaq Global Market (“NGM”), (2) provided additional explanation of certain aspects of the proposal; and (3) made other technical and non-substantive changes. The full text of Amendment No. 3 can be found on the Commission’s website at <https://www.sec.gov/comments/SR-NASDAQ-2025-069/srnasdaq2025069-765987-2350834.pdf> (“Amendment No. 3”).

and to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

II. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt additional initial listing criteria for companies primarily operating in China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region. This Amendment No. 3 supersedes the original filing in its entirety.¹⁰

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.

III. 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 [V] 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

Since 2020, there has been a sharp increase in the number of companies from the People’s Republic of China (“China” or the “PRC”) seeking to list in the United States. A record

¹⁰ This Amendment No. 3 is being filed in order to add additional details to the proposal, and revise the requirements applicable to Direct Listings in the discussion and proposed rule text.

number of Chinese companies sought a U.S. listing in 2024 and that pace continued in 2025.¹¹ U.S. investors have increasingly sought exposure to emerging market companies as part of a diversified portfolio, and China has the most emerging market companies globally, both in terms of number and their collective market value.¹² Chinese companies have been drawn to the higher valuations, diverse investor base, greater liquidity, and overall size of the U.S. capital markets, which allow Chinese companies to raise significantly more capital than they could in their domestic markets.¹³ As a result of these dynamics, emerging market companies have sought to raise funds in the U.S. and list on Nasdaq.

However, amidst this increase, U.S. policymakers and regulatory agencies have voiced a range of bipartisan concerns regarding the listing of Chinese companies on American securities exchanges, citing risks to investors and national security. For example, in December 2020, Congress passed the Holding Foreign Companies Accountable Act,¹⁴ which among other things,

¹¹ See “Deloitte China Releases 2025 Review and 2026 Outlook for Chinese Mainland & HK IPO Markets” dated Dec. 18, 2025, available at <https://www.deloitte.com/cn/en/about/press-room/mainland-and-hk-ipo-markets-2025-review-2026-outlook.html>.

¹² China represents the largest single-country weight in major emerging market indices. For example, it accounts for approximately 25% of the total MSCI Emerging Markets Index as of March 31, 2026. The MSCI Emerging Markets Index captures large and mid-cap representation across 24 Emerging Market countries. With 1,204 constituents, the index covers approximately 85% of the free float-adjusted market capitalization in each country. See “MSCI Emerging Markets Index ((USD)” available at <https://www.msci.com/documents/10199/c0db0a48-01f2-4ba9-ad01-226fd5678111#:~:text=COUNTRY%20WEIGHTS%0AChina%2023.76%25%0ATaiwan%2022.5%25%0ASouth%20Korea%2018.08%25%0AIndia%2012.82%25%0ABrazil%204.56%25%0AOther%2018.26%25>.

¹³ See PitchBook, “Chinese Companies Flock to US Exchanges Despite Heightened Tensions” dated Aug. 29, 2025, available at <https://arc-group.com/chinese-companies-listing-united-states/>; see also ARC Group, “Trend of Chinese Companies Listing in the United States” dated July 2, 2025, available at, <https://arc-group.com/chinese-companies-listing-united-states/>.

¹⁴ The Holding Foreign Companies Accountable Act requires, among other things, that the Commission identify public companies that have retained a registered public accounting firm to issue an audit report where the firm has a branch or office that: (1) is located in a foreign jurisdiction, and (2) the Public Company Accounting Oversight Board (“PCAOB”) has determined that it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction. Pub. L. No. 116-222, 134 Stat. 1063 (Dec. 18, 2020).

requires the removal of a company’s securities from U.S. exchanges if the company’s auditor cannot be fully inspected by the Public Company Accounting Oversight Board (“PCAOB”) because of a position taken by an authority in a foreign jurisdiction. Before the passage of this law, Nasdaq also identified concerns around the audits of Chinese companies and, in 2020, Nasdaq proposed additional listing requirements applicable to companies from jurisdictions that do not provide the PCAOB with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies.¹⁵ At the same time, Nasdaq also proposed two other changes seeking to address concerns with companies primarily operating in a Restrictive Market, including Chinese companies.¹⁶ The PCAOB announced that it was able to secure complete access to inspect and investigate audit firms in the PRC in December 2022.¹⁷

More recently, bills introduced in Congress have continued to raise bipartisan concerns about broker-dealers affiliated with China and the risks that China’s financial sector poses to U.S. and global financial systems.¹⁸ In February 2025, the U.S. Government put forth the

¹⁵ Securities Exchange Act Release No. 93256 (October 4, 2021), 86 FR 56338 (October 8, 2021) (approving SR-NASDAQ-2021-007, which replaced SR-Nasdaq-2020-027, Securities Exchange Act Release No. 89027 (June 8, 2020), 85 FR 35962 (June 12, 2020)). See also Nasdaq Rule 5005(a)(37), defining a “Restrictive Market” as “a jurisdiction that does not provide the Public Company Accounting Oversight Board with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies” and Rule 5210(k) imposing additional requirements on any company that principally administers its business in a Restrictive Market.

¹⁶ Securities Exchange Act Release No. 89028 (June 8, 2020), 85 FR 35967 (June 12, 2020) (SR-NASDAQ-2019-026) and Securities Exchange Act Release No. 88987 (June 2, 2020), 85 FR 34774 (June 8, 2020) (SR-NASDAQ-2020-028). These proposals were withdrawn based, in part, on concerns expressed by the Commission Staff about whether the proposals were “consistent with Section 6(b)(5) of the Exchange Act and its requirement, among other things, that the rules of a national securities exchange not be designed to permit unfair discrimination.” See Letters from Arnold Golub to Vanessa A. Countryman (February 1, 2021) available at <https://www.sec.gov/comments/sr-nasdaq-2020-026/srnasdaq2020026-8324959-228601.pdf> (withdrawing SR-Nasdaq-2020-026) and <https://www.sec.gov/comments/sr-nasdaq-2020-028/srnasdaq2020028-8324961-228602.pdf> (withdrawing SR-Nasdaq-2020-028).

¹⁷ FACT SHEET: PCAOB Secures Complete Access to Inspect, Investigate Chinese Firms for First Time in History (December 15, 2022) (available at <https://pcaobus.org/news-events/news-releases/news-release-detail/fact-sheet-pcaob-secures-complete-access-to-inspect-investigate-chinese-firms-for-first-time-in-history>).

¹⁸ See, e.g., the PRC Broker-Dealers and Investment Advisers Moratorium Act, S.2552 (119th Congress); the

“America First Investment Policy” which outlined economic and national security concerns with certain Chinese companies seeking investments in the United States and described various actions the U.S. Government would take with respect to Chinese companies. These actions included preventing U.S. companies and investors from investing in industries that advance China’s national Military-Civil Fusion strategy.¹⁹

In May 2025, the financial officers of 23 states wrote a letter to Chairman Atkins highlighting concerns with the listing of Chinese companies. The letter noted that “China’s actions create an environment ripe for fraud and abuse increasing the likelihood that China-based, U.S.-listed companies will violate the disclosure, auditing, or antifraud provisions of the Securities Exchange Act.”²⁰ Congress members also wrote to Chair Atkins in May 2025 expressing security and human rights concerns and provided specific examples of Chinese companies under the control of the Chinese Communist Party (the “CCP”).²¹ This letter highlighted a number of concerns with Chinese companies that are not common to companies in other foreign jurisdictions. The letter asserted that because of the CCP’s authority over companies, “no company is truly private” in the PRC, and that the CCP systematically conceals its control from U.S. investors. For example, in August 2025, it was announced that the CCP had expelled former senior officials accused of making millions from insider trading based on

China Financial Threat Mitigation Act of 2025, H.R. 1549 and S. 1113 (119th Congress).

¹⁹ According to the U.S. State Department, “Military-Civil Fusion,” is an aggressive, national strategy of the Chinese Communist Party intended to enable China to develop the most technologically advanced military in the world. See also *America First Investment Policy*, The White House (February 21, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

²⁰ See Letter from Adam Crum, Alaska Commissioner of Revenue, et. al. to The Honorable Paul Atkins (May 20, 2025) available at, <https://sfof.com/wp-content/uploads/2025/05/Delisting-Letter.pdf> (highlighting concerns arising from the PCAOB audit inspections of major accounting firms in China).

²¹ Letter from Congressmen John Moolenaar and Rick Scott, et. al. to The Honorable Paul Atkins (May 2, 2025) available at <https://chinaselectcommittee.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/SEC%20Letter%20Updated%20compressed.pdf> (the “Congressional Letter”).

their access to share listings for subsidiaries of Chinese state-owned companies listed on China's two principal stock exchanges.²²

In December 2025, Chairman Atkins explained during an interview that the Commission is tightening scrutiny of Chinese firms in U.S. markets to ensure “our rules... are complied with and that our laws are complied with” as companies “operating in China” list shares in the United States.²³ Chairman Atkins went on to note that the SEC has identified close to a dozen Chinese companies that showed “indications of manipulative behavior” and involvement in “ramp-and-dump” schemes. He made clear that the foreign private issuers that pose a risk to U.S. investors were mainly incorporated outside of China, while the issuer maintained operations in China, or elsewhere in Asia, while the primary listing was in the U.S.²⁴

The Commission also has recognized that “China’s legal system is substantially different from the legal system in the United States and may raise risks and uncertainties concerning the intent, effect, and enforcement of its laws, rules, and regulations...”²⁵ Investors that incur losses from malfeasance and successfully obtain judgements against Chinese companies and their officers and directors located in China may face greater difficulties in enforcing and collecting

²² Richard Spencer (The Times), “China Purges Insider Traders After £30m Raid on Official’s Home” (August 20, 2025), available at <https://www.thetimes.com/world/asia/article/china-purges-insider-traders-after-30m-raid-on-officials-home-hsk0jvcgp>.

²³ See Kristen Altus (Fox Business), “SEC Chairman Paul Atkins Says Agency Tightening Scrutiny of Chinese Firms Listing in US Markets” (December 3, 2025), available at <https://www.foxbusiness.com/politics/sec-chairman-paul-atkins-says-agency-tightening-scrutiny-chinese-firms-listing-us-markets.amp>.

²⁴ Id.

²⁵ “Disclosure Considerations for China-Based Issuers” available at <https://www.sec.gov/rules-regulations/staff-guidance/disclosure-guidance/disclosure-considerations-china-based-issuers>. The Commission notes that staff reports, statistics, and other staff documents (including those cited herein) represent the views of Commission staff and are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the content of these documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person.

on those judgements. Further, in September 2025, the Commission announced the creation of a cross-border task force which will focus on market manipulation and other securities law violations involving foreign jurisdiction, specifically naming China as a country where governmental control and other factors pose unique investor risks.²⁶ Nasdaq shares similar concerns regarding manipulation and potential securities law violations. Additionally, it has also been reported that China’s securities regulator, the China Securities Regulatory Commission, has taken action to prohibit small company Chinese listings in the U.S. based on “concerns over excessive speculation on New York-listed Chinese stocks.”²⁷

Although concerns may exist with the trading of companies from any foreign jurisdiction, companies headquartered, incorporated or whose business is principally administered in China are more frequently the subject of trading concerns than those from other regions. For example, based on data covering the period of August 2022 to April 2025, 70% of the matters where Nasdaq referred concerns about potential manipulation to the SEC or FINRA were related to trading in Chinese emerging market companies and the number of referrals increased each year during this time period.²⁸ During the same time period, Chinese companies represented less than 10% of all Nasdaq listings.²⁹ Nasdaq believes that these trading concerns are due, in part, to the companies listing through an initial public offering (“IPO”) or business combination with a small

²⁶ See Press Release, “SEC Announces Formation of Cross-Border Task Force to Combat Fraud” (September 5, 2025) available at, <https://www.sec.gov/newsroom/press-releases/2025-113-sec-announces-formation-cross-border-task-force-combat-fraud>.

²⁷ See *China Puts Brakes on US Stock Listings for Homegrown Companies*, Financial Times (February 27, 2025), available at <https://www.ft.com/content/a5640320-7ed3-47c5-b9a1-2c0d600170be>.

²⁸ The total number of referrals to the SEC or FINRA was 10 in 2022, 8 in 2023, 52 in 2024, 91 in 2025. To date, 46 referrals have been made for 2026.

²⁹ Nasdaq vigorously regulates trading on its marketplace and brings appropriate enforcement action against its trading members. However, due to U.S. market structure, where trading in listed securities takes place across all equities exchanges and on off-exchange venues, Nasdaq does not have insight into all trading activity in listed securities and must refer matters involving cross-market trading to other U.S. regulators, including the SEC and FINRA.

offering size or a low public float percentage, which, together with the other concerns identified above about companies from China, result in the company not attracting market attention nor developing sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading. As a result, the securities may trade infrequently, in a more volatile manner and with a wider bid-ask spread, all of which may result in trading at a price that may not reflect their true market value. These factors, in concert with the risks specific to Chinese companies under CCP authority, make the securities more susceptible to price manipulation by bad actors due to insider trading. The erosion of investor confidence and the risk to investors in such cases may be compounded if regulatory investigations into price manipulation, insider trading and compliance concerns are impeded. For example, U.S. investors and exchanges may not be made aware of CCP ownership in certain Chinese companies. Additionally, investor protections and remedies may be limited due to obstacles encountered by U.S. authorities in bringing or enforcing actions against entities and individuals in China involved in potentially manipulative trading activities. Collectively, these Congressional bills, letters and findings raise significant concerns, which Nasdaq shares, and support the imposition of stricter initial listing requirements for Chinese companies.³⁰

For these reasons, and as described more fully below, Nasdaq proposes to require that, in the case of an IPO, China-based companies must offer a minimum number of securities through

³⁰ Since the initial proposal of this filing, Nasdaq has also proposed and implemented additional rules, which may help address concerns raised by state and congressional leaders. See Nasdaq Rule IM-5101-3, allowing Nasdaq to use its authority under Rule 5101 to deny initial listing based on factors that make a company's securities susceptible to manipulation. See also Exchange Act Release No. 104450 (December 18, 2025), 90 FR 60184 (December 23, 2025) (modifying Rules 5405(b)(1)(C) and 5505(b)(3)(C) to increase the minimum Market Value of Unrestricted Publicly Held Share for initial listing). This proposal seeks areas of concern that may not be adequately addressed within the existing Nasdaq rules.

a Firm Commitment Offering³¹ in the United States to public holders that will result in gross proceeds to the company of at least \$25 million. In addition, as described in detail below, Nasdaq also proposes to adopt additional requirements for Chinese companies that are currently trading on the over-the-counter (“OTC”) market or another national securities exchange and are seeking to list in connection with the rules applicable to a business combination and for companies seeking to list in connection with a Direct Listing.

Identification of Companies Based in China

Nasdaq is proposing to adopt a new initial listing requirement for companies based in China. More specifically, proposed Rule 5210(l) would apply to any company that is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions. Nasdaq will determine in which jurisdiction a company is principally administered based on the analysis of the facts and circumstances, including if: (1) the company’s books and records are located in such jurisdiction; (2) at least 50% of the company’s assets are located in such jurisdiction; (3) at least 50% of the company’s revenues are derived from such jurisdiction; (4) at least 50% of the company’s directors are citizens of, or reside in, such jurisdiction; (5) at least 50% of the company’s officers are citizens of, or reside in, such jurisdiction; (6) at least 50% of the company’s employees are based in such jurisdiction; or (7) the company is controlled by, or under common control with,³² one or more

³¹ The term “Firm Commitment Offering” shall have the meaning as set forth in Rule 5005(a)(17), which means an offering of securities by participants in a selling syndicate under an agreement that imposes a financial commitment on participants in such syndicate to purchase such securities.

³² The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) shall have the same meaning as set forth in 17 CFR § 240.12b-2(4), which means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

persons or entities that are citizens of, reside in, or whose business is headquartered, incorporated, or principally administered in such jurisdiction.³³ Nasdaq is proposing to broaden the criteria used for identifying which jurisdiction a company is principally administered from the current criteria in Listing Rule 5005(a)(37) to better identify Chinese companies that present risks to investors.³⁴

Nasdaq believes the risks associated with Chinese companies that have substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter,³⁵ does not promote sufficient investor base and trading interest to support fair and orderly trading in the secondary market. Furthermore, as more Chinese companies seek to list on U.S. exchanges, the risk to U.S. investors due to the limited ability for U.S. regulators to conduct inspections and investigations or bring or enforce actions against entities and individuals involved in potentially manipulative trading activities in securities from Chinese companies, create compliance concerns. Therefore, the new initial listing requirements, specifically for Chinese companies, are intended to increase investor protections by strengthening the requirements for such companies to list on Nasdaq and to ensure sufficient liquidity exists for meaningful price discovery.

³³ Several of these factors are also already used by Nasdaq rules to determine whether a company's business is principally administered in a "Restrictive Market." See Listing Rule 5005(a)(37). The additional factors that Nasdaq would consider when determining whether a business is principally administered in China are supported by Nasdaq's experience in applying the Restrictive Market definition and SEC guidance regarding foreign private issuer status, which suggests that a foreign company may consider certain factors when determining whether a foreign company's business is located principally in the U.S., including the locations of: the company's principal business segments or operations; its board and shareholders' meetings; its headquarters; and its most influential key executives (potentially a subset of all executives). See Division of Corporation Finance of the SEC, Accessing the U.S. Capital Markets — A Brief Overview for Foreign Private Issuers (February 13, 2013), available at <https://www.sec.gov/divisions/corpfin/internatl/foreign-private-issuers-overview.shtml>.

³⁴ Nasdaq will request information from a company during the application process where the company's public filings do not provide sufficient information necessary to determine the applicability of a factor.

³⁵ See Congressional Letter, *supra* note 21.

When determining whether a company is principally administered in one of the jurisdictions, Nasdaq will consider the seven elements holistically, recognizing that there are various factors to consider when determining which jurisdiction a company conducts its principal business activities. For example, Company X could be incorporated in Country Y and its headquarters could be located in Country Z, while at least half of its senior management, employees, and assets are located in China. If Company X applies to list its Primary Equity Security on Nasdaq in connection with an IPO, Nasdaq would consider Company X's business to be principally administered in China, and Company X would therefore be subject to the proposed additional requirements applicable to a Chinese company. Nasdaq would also consider a company to be principally administered in China if, for example, the company's book and records are located in the Hong Kong Special Administrative Region and at least half of the company's revenues are derived from the Macau Special Administrative Region. Where Nasdaq determines that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or that the company's business is principally administered in one of those jurisdictions, and the company does not satisfy the additional requirements described, Nasdaq would deny the company's listing application, and the company could appeal Nasdaq's determination pursuant to the Rule 5800 Series.

Minimum Offering Size for an IPO

The substantive change being proposed is to adopt new Rule 5210(l)(i), which would require that a company that falls under Rule 5210(l) (a "China-based Issuer") and is conducting an IPO must offer a minimum amount of securities in a Firm Commitment Offering³⁶ in the

³⁶ Rule 5005(a)(17) defines "Firm Commitment Offering" as "an offering of securities by participants in a

United States to Public Holders³⁷ that will result in gross proceeds to the company of at least \$25 million. This proposed amount is the same as the requirement for companies that administer their business in a Restrictive Market, while other companies seeking to list on the Nasdaq Capital Market (“NCM”) through an IPO must satisfy the \$15 million Market Value of Unrestricted Publicly Held Shares³⁸ from their offering proceeds. A company that falls under proposed Rule 5210(l) will also need to comply with all other applicable listing requirements.

The Exchange has observed that China-based Issuers listing on Nasdaq in connection with an IPO with an offering size below \$25 million have a higher rate of compliance concerns. Nasdaq believes that these higher rates of concern may be mitigated by requiring that the company conduct a Firm Commitment Offering of at least \$25 million. Firm Commitment Offerings typically involve a book building process that helps to generate an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Such offerings also typically involve more due diligence by the broker-dealer than would be done in connection with a best-efforts offering, which helps to ensure that third parties subject to U.S. regulatory oversight are conducting significant due

selling syndicate under an agreement that imposes a financial commitment on participants in such syndicate to purchase such securities.”

³⁷ Rule 5005(a)(36) defines “Public Holders” as “holders of a security that includes both beneficial holders and holders of record, but does not include any holder who is, either directly or indirectly, an Executive Officer, director, or the beneficial holder of more than 10% of the total shares outstanding.”

³⁸ Rule 5005(a)(46) defines “Unrestricted Publicly Held Shares” as the Publicly Held Shares that are Unrestricted Securities. Rule 5005(a)(35) defines “Publicly Held Shares” as shares not held directly or indirectly by an officer, director or any person who is the beneficial owner of more than 10 percent of the total shares outstanding. Rule 5005(a)(47) defines “Unrestricted Securities” as securities that are not Restricted Securities and Rule 5005(a)(38) defines “Restricted Securities” as securities that are subject to resale restrictions for any reason, including, but not limited to, securities: (1) acquired directly or indirectly from the issuer or an affiliate of the issuer in unregistered offerings such as private placements or Regulation D offerings; (2) acquired through an employee stock benefit plan or as compensation for professional services; (3) acquired in reliance on Regulation S, which cannot be resold within the United States; (4) subject to a lockup agreement or a similar contractual restriction; or (5) considered “restricted securities” under Rule 144.

diligence on the company, its registration statement and its financial statements. The Exchange believes that the proposal will help ensure that China-based Issuers seeking to list on the Exchange have sufficient investor base to support fair and orderly trading on the Exchange.

In developing the Proposal, Nasdaq analyzed the data behind its observations. An analysis of IPOs from August 2022 to April 2025 found that of the 151 China-based Issuers listed on Nasdaq through an IPO, 143 of such companies would not have qualified under proposed Rule 5210(l)(i) because they had offering amounts less than \$25 million.³⁹ Relatedly, nearly half of these 143 companies were cited for failure to comply with Nasdaq's continued listing standards.

This data illustrates the growing concerns with China-based Issuers listing on U.S. exchanges and the increased risk to U.S. investors, including the risk of quickly becoming non-compliant with the listing requirements and therefore facing delisting. Therefore, the Exchange believes that requiring a Firm Commitment Offering with proceeds to the company of at least \$25 million will mitigate these concerns and provide greater support for a China-based Issuer's price, as determined through the offering, and will help assure that there will be sufficient liquidity, U.S. investor interest and distribution to support price discovery and fair and orderly trading on the Exchange once a security is listed.

Minimum Market Value of Publicly Held Shares for a Business Combination

In the case of a business combination, as described in Rule 5110(a) or IM-5101-2(b),⁴⁰ Nasdaq believes that such transactions when involving China-based Issuers, present similar risks

³⁹ All 151 companies were headquartered or incorporated in China.

⁴⁰ Rule 5110(a) relates to business combinations with non-Nasdaq entities resulting in a change of control. Rule IM-5101-2(b) relates to a business combination with an acquisition company, which is a company whose business plan at the time of its initial listing is to complete an IPO and engage in a merger or acquisition with one or more unidentified companies within a specific period of time.

to U.S. investors as IPOs of China-based Issuers. However, such a business combination would typically not involve an offering. Therefore, Nasdaq is proposing to adopt a new Rule 5210(l)(ii) that would impose a similar new requirement as applicable to IPOs but would reflect that the listing would not typically be accompanied by an offering. Specifically, proposed Rule 5210(l)(ii) would require a China-based Issuer that has gone through a business combination to have a minimum Market Value of Unrestricted Publicly Held Shares equal to at least \$25 million.

Market Value of Unrestricted Publicly Held Shares excludes securities subject to resale restrictions from the calculation of Publicly Held Shares because securities subject to resale restrictions are not freely transferrable or available for outside investors to purchase and therefore do not truly contribute to a security's liquidity upon listing. Nasdaq believes that requiring a post-business combination entity headquartered or incorporated in China, or whose business is principally administered in China, to have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million would help to provide an additional assurance that there are sufficient freely tradable shares and investor interest to support fair and orderly trading on the Exchange. Nasdaq believes that this will help mitigate the unique risks that China-based Issuers present to U.S. investors due to barriers on access to information and limitations on U.S. regulators to conduct investigations or bring or enforce actions against the company and non-U.S. persons. Also mitigated are concerns about the accuracy of disclosures, accountability and access to information. Adopting this additional requirement will help prevent China-based Issuers from using a business combination to avoid the requirement being imposed on IPOs.

Direct Listings of Chinese Companies

In the case of a Direct Listing⁴¹ (as defined in Rule IM-5315-1) Nasdaq is proposing to adopt Rule 5210(l)(iii) which requires a Chinese company to meet all applicable listing requirements for the Nasdaq Global Select Market (“NGS”) and the additional requirements of Rule IM-5315-1. However, a company whose business is headquartered, incorporated, or principally administered in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region) will not be permitted to list on the Nasdaq Global Market (“NGM”) or the NCM in connection with a Direct Listing, notwithstanding that the Company may meet the applicable initial listing requirements for the NGM or NCM and the additional requirements of IM-5405-1 or IM-5505-1.

Companies seeking to list through a Direct Listing are currently required to satisfy enhanced listing standards to determine compliance with the price-based listing requirements pursuant to Rules IM-5315-1 (NGS), IM-5405-1 (NGM) and IM-5505-1 (NCM). If a company’s security that is seeking to list on NGS, NGM or NCM has had sustained recent trading in a Private Placement Market,⁴² Nasdaq may attribute a Market Value of Unrestricted Publicly Held Shares equal to the lesser of (i) the value calculable based on a Valuation performed by an independent valuation agent pursuant to Rule IM-5315-1(f) and (ii) the value calculable based on the most recent trading price in the Private Placement Market.⁴³ Nasdaq believes that the price

⁴¹ Pursuant to Nasdaq Rule IM-5315-1, a Direct Listing occurs when a company that wishes to list on Nasdaq has sold common equity securities in a private placement, which have not been listed on a national securities exchange or traded in the OTC market pursuant to FINRA Form 211 immediately prior to the initial pricing.

⁴² A “Private Placement Market” is defined as a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer. See Rule 5005(a)(34).

⁴³ See IM-5315-1(a)(1) (NGS), IM-5405-1(a)(1) (NGM) and IM-5505-1 (NCM). The Valuation must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the Company for

from such sustained trading in the Private Placement Market for the company's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq, and that qualifying a company based on the lower of such trading price or the Valuation helps assure that the company satisfies Nasdaq's listing requirements. Nasdaq may require a company listing on the NGS that has not had sustained recent trading in a Private Placement Market to satisfy the applicable Market Value of Unrestricted Publicly Held Shares requirement and provide a Valuation evidencing a Market Value of Publicly Held Shares of at least \$250,000,000.⁴⁴ For a company that has not had sustained recent trading in a Private Placement Market and that is applying to list on the NGM or NCM, Nasdaq will generally require the company to provide a Valuation that demonstrates a price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares that exceeds 200% of the otherwise applicable requirement.⁴⁵

Historically, Nasdaq has not observed any companies seeking to list in connection with a Direct Listing that have had sustained recent trading in a Private Placement Market. In the absence of sustained recent trading in the Private Placement Market, a company seeking to list on NGS is required to demonstrate a Market Value of Publicly Held Shares of at least \$250 million and a Market Value of Unrestricted Publicly Held Shares of at least \$100 million.⁴⁶ On

listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. Nasdaq will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the Company had diminished since the date of the Valuation and will continue to monitor the Company and the appropriateness of relying on the Valuation up to the time of listing. Nasdaq may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

⁴⁴ See IM-5315-1(b).

⁴⁵ See IM-5405-1(a)(2) (NGM); Rule IM-5505-1(a)(2) (NCM).

⁴⁶ A company can list with a Market Value of Unrestricted Publicly Held Shares of at least \$100 million if the

the other hand, a company conducting a Direct Listing on NGM or NCM can list with a Market Value of Unrestricted Publicly Held Shares as low as \$30 million, with that amount calculated based on an independent third-party valuation of the company. Because a Direct Listing does not raise any offering proceeds and typically does not involve an underwriter to market the transaction and help develop distribution and investor interest, Nasdaq does not believe that the NGM and NCM minimum of \$30 million in Unrestricted Publicly Held Shares is sufficient for China-based Issuers to support meaningful price discovery and fair and orderly trading. In that regard, Nasdaq notes that the valuation on which the amount of Unrestricted Publicly Held Shares is derived is subjective and the \$30 million requirement is just barely above the \$25 million offering proceeds that would be required in an IPO. As discussed above, Nasdaq believes that China-based Issuers present unique risks to U.S. investors and therefore precluding a China-based Issuer from listing through a Direct Listing on the NGM and NCM will help to ensure that the company has sufficient public float, investor base, and trading interest likely to generate depth and liquidity necessary to promote fair and orderly trading on the secondary market. Adopting this additional requirement also will help prevent companies from using a Direct Listing to avoid the requirement being imposed on IPOs.

Transfer of a Chinese Company Listing

Nasdaq notes that other markets do not have comparable requirements to what is being proposed. Therefore, China-based Issuers that do not meet the heightened requirements of proposed Rule 5210(l) may elect to list on those other markets. Nasdaq believes that a China-based Issuers initially trading on the OTC market or listing on another national securities

company also has stockholders' equity of at least \$110 million; otherwise the company is required to have Market Value of Unrestricted Publicly Held Shares of at least \$110 million. See Rule 5315(f)(2).

exchange and then quickly transferring to Nasdaq may present similar risks to U.S. investors as IPOs of China-based Issuers. Therefore, Nasdaq proposes to adopt Rule 5210(l)(iv), which would require a China-based Issuer that transfers from the OTC market or from another national securities exchange to first trade on that other market for at least one year before it is eligible to list on Nasdaq. This prerequisite will provide sufficient time for the company to establish a trading history and publicly disclose the result of operations, upon which investors can rely, and minimizes the risk that companies are utilizing the OTC market or another national securities exchange solely to circumvent Nasdaq's proposed requirements for China-based Issuers.⁴⁷ In addition, like the requirement proposed for companies listing in connection with a business combination, Nasdaq proposes that these seasoned companies, which will be listing without an offering, must have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million to ensure that a security to be listed on Nasdaq has adequate liquidity, distribution and U.S. investor interest. Elements of the proposed requirements for a China-based Issuer that transfers from the OTC market are similar to the current Rule 5210(k), applicable to Restrictive Market Companies,⁴⁸ and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which provides for a period that a company must trade on another market before it can list on Nasdaq, and each of which was found by the Commission to be consistent with the Act.

⁴⁷ Companies trading in the OTC Market at the time of application must also satisfy a minimum average daily trading volume before listing. See Listing Rules 5405(a)(4) and 5505(a)(5).

⁴⁸ Unlike the requirement for Restrictive Markets, the proposed rules do not include an alternative allowing companies to list if the proceeds from the offering would represent at least 25% of the Company's post-offering Market Value of Listed Securities. In applying that alternative in connection with the Restrictive Market requirements, Nasdaq observed that the alternative allowed smaller companies to list without achieving the rule's liquidity objectives of supporting meaningful price discovery.

Implementation Timeline and Other Changes

In order to provide companies with a reasonable opportunity to adjust to the proposed changes, Nasdaq is proposing a delay of 30 days after Commission approval before the changes become effective. Therefore, companies listing on or after 30 days from the date the Commission’s approval order must comply with the proposed rules. This will allow companies that have taken substantial steps to list under the current rules to complete the process. Nasdaq also proposes to renumber the remainder of Rules 5210 as subsections (m) and (n) and update the cross-reference in Rule 1031(b) to ensure consistency in its rulebook.

Nasdaq will issue a denial letter where it concludes that a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions, and the company does not meet the additional requirements applicable to its type of listing. A company can request a review of that denial letter pursuant to Rule 5815.

Comment Letters

The Commission received several comment letters in response to its solicitation of comments about the proposed changes. Three commenters expressed general support for the proposal⁴⁹ while others expressed concern that the proposal unfairly singles out China-based companies and is inconsistent with recent U.S.-China regulatory cooperation.⁵⁰

⁴⁹ See Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Oct. 10, 2025 (“CII Letter 1”); see also Letter from Emmanuel Tamrat, Senior Research Analyst, Council of Institutional Investors, dated Jan. 13, 2026 (“CII Letter 2”); Letter from Jeffrey Starr, Managing Director, Head of Operations, Charles Schwab & Co., dated Dec. 16, 2025 (“Schwab Letter”); Letter from Hunter Taubman Fischer & Li LLC, dated Sept. 16, 2025 (“HTFL Letter”).

⁵⁰ See Letter from Beijing Guo Huan Law Firm, dated Jan. 4, 2026 (“Beijing Guo Han Letter”); Letter from Joseph Wilson, Esq. at 2-3, Bevilacqua PLLC, dated Oct. 10, 2025 (“Bevilacqua Letter 1”); Letter from Joseph Wilson, Esq. at 3, Bevilacqua PLLC, dated Jan. 13, 2026 (“Bevilacqua Letter 2”); Letter from USA World Management Group LTD, dated Dec. 30, 2025 (“USA World Letter”); Letter from US International Finance Foundation, dated Jan. 4, 2026 (“USIFF Letter”); Letter from Sen Time Studio, dated Dec. 28,

Of the commenters that expressed general support, one commenter proposed certain modifications to the proposal, noting that Chinese citizenship alone does not signify a regulatory risk. The commenter asserted that the current proposal “risks unintentionally capturing issuers that do not present the same regulatory concerns” for which the proposal was designed to address.⁵¹ This commenter suggested that the heightened requirements should apply only to companies “principally operating in China, rather than issuers that are based in the U.S. simply because their founders, controlling persons, directors, or officers are Chinese citizens.”⁵² This commenter also suggested extending the transition period for compliance with the proposal from 30 days to 60 days for issuers with pending initial listing applications.⁵³ Another commenter that supported the proposal recommended that “the increased standards should apply to companies based in additional foreign jurisdictions where it is determined there are elevated levels of fraud” to prevent fraudsters from “simply mov[ing] to other jurisdictions where it’s even easier to commit fraud.”⁵⁴ Finally, a third commenter in general support of the proposal noted that the proposal takes “meaningful steps to preserve market integrity and protect U.S. investors from potential losses associated with the smallest microcap Chinese companies.”⁵⁵ This commenter

2025 (“SEN Time Studio Letter”); Hong Kong United Business Consulting Limited, dated Jan. 13, 2026 (“HKUBC Letter”); Letter from HIGO Global Technology, Inc. dated Jan. (“HIGO Letter”); Letter from US Unicorn Foundation Inc., dated Dec. 19, 2025 (“US Unicorn Letter”); Letter from China Listed Companies Association, dated Jan. 14, 2026 (“China LCA Letter”); Letter from Cecilia, dated Jan. 4, 2026 (“Cecilia Letter”).

⁵¹ See HTFL Letter at 2.

⁵² Id.

⁵³ Id.

⁵⁴ See Schwab Letter at 4.

⁵⁵ See CII Letter 2 at 2.

also suggests “expanding the application of the proposed rule to the smallest microcap companies generally, including those companies incorporated in the Cayman Islands.”⁵⁶

Nasdaq recognizes that there are various factors to consider when determining where a company conducts its principal business activities and believes that the location and citizenship of the company’s founders, controlling persons, directors, or officers is an important factor. The presence of one factor will not automatically result in a determination that the issuer is a China-based Issuer. Rather, as discussed above, Nasdaq will consider the seven elements holistically when determining whether a company is principally administered in one of the subject jurisdictions and the location and citizenship of associated persons will be considered in the context of the other factors.

With respect to the request for a longer transition period, Nasdaq notes that the initial proposal was published in September 2025, which has provided issuers with pending listing applications with sufficient time to prepare for the heightened listing standards. Therefore, Nasdaq is not amending the transition period for compliance. Additionally, Nasdaq intends that the proposal will capture China-based Issuers that are typically cited for compliance issues. Based on the data discussed above, Nasdaq does not believe that a country-specific rule is necessary for any other country at this time, and that its current listing standards, including rules recently adopted to increase the initial listing requirements and accelerate delisting of non-compliant companies, are sufficient to address the commenters’ concerns related to companies in other jurisdictions.⁵⁷ Nasdaq is limiting the proposed listing standards to China-based Issuers based on the concerns that Nasdaq, along with U.S. policymakers and regulatory agencies, have

⁵⁶ Id. at 2 – 4.

⁵⁷ See supra, note 30; Exchange Act Release No. 104318 (December 5, 2025), 90 FR 57225 (December 10, 2025) (modifying the compliance periods available when a security’s closing bid price is below \$0.10).

observed with such companies. Further, Nasdaq notes that it recently adopted Listing Rule IM-5101-3, which provides greater ability for Nasdaq to deny listing to companies from other jurisdictions that meet all stated listing requirements based on, among other things, considerations related to the company's advisors (including auditors, underwriters, law firms, brokers, clearing firms, or other professional service providers) or concerns Nasdaq has identified with other previously listed companies that are similarly situated to the company. Additionally, Listing Rule IM-5101-3 provides a qualitative description of factors related to Nasdaq's use of discretion in denying an initial listing, including where a company is located, and whether the company is in a jurisdiction where there are limited legal remedies to U.S. shareholders. Nasdaq believes Listing Rule IM-5101-3 helps to address commenters' desire to extend the proposal to other jurisdictions. However, unlike Rule IM-5101-3, the proposed rule specifies a minimum threshold of \$25 million Firm Commitment Offering for IPOs and a \$25 million minimum Market Value of Unrestricted Publicly Held Shares following the business combination, for Chinese companies. Nasdaq believes the \$25 million minimum threshold is reasonable and necessary because the data has shown that China-based Issuers below the threshold have a higher rate of compliance concerns, which may be mitigated by a higher threshold because Firm Commitment Offerings typically generates an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange. Additionally, Firm Commitment Offerings typically involve more due diligence by the broker-dealer which helps to ensure that third parties subject to U.S. regulatory oversight are conducting significant due diligence on the company. Nasdaq will also continue to monitor and will increase listing standards to additional specific countries if necessary.

Of the commenters in opposition, most raised concerns that the proposal violates Section 6(b)(5) of the Act by permitting unfair discrimination among issuers by singling out China-based Issuers and deterring qualified issuers from listing on the Exchange.⁵⁸ Typical of these comments, one commenter stated that the proposal “would be unlawful and make for bad policy,” is “not necessary or appropriate to protect national security” and is “anti-competitive as it discriminates against certain Chinese issuers imposing additional, more onerous listing criteria on them than are imposed on other foreign issuers.”⁵⁹ Other commenters also suggested that Nasdaq should apply a more neutral and metrics-based alternative.⁶⁰

While the proposal imposes heightened initial listing requirements on China-based Issuers, Nasdaq believes the proposal is consistent with the requirements of Section 6(b)(5) of the Act, which requires that an Exchange’s rules be designed to prohibit unfair discrimination. As outlined above, Nasdaq and U.S. regulators and policymakers have identified specific and serious concerns with companies that principally operate in China, which increase the risks to investors and make the protection of investors more difficult. These concerns include heightened risk of fraud and manipulative behavior, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Thus, while the proposed rules would provide for heightened requirements for companies that principally operate in China, those rules are not unfairly discriminatory and would enhance investor protection, which is a central purpose of the Act.

⁵⁸ See China LCA Letter; Bevilacqua Letter; HKUBC Letter; Beijing Guo Han Letter at 2-3; USA World Letter; SEN Time Studio Letter at 4.

⁵⁹ See Bevilacqua Letter.

⁶⁰ See China LCA Letter at 2-3; Bevilacqua Letter at 3-4; HKUBC Letter at 3; USA World Letter at 2-3 (suggesting increasing listing standards for “all issuers regardless of geographic location,” and “establish[ing] objective liquidity metrics applicable to all issuers.”)

Conclusion

Nasdaq believes that the U.S. exchanges can provide U.S. investors with opportunities to diversify their portfolio by providing exposure to emerging market companies in China. However, due to heightened risks identified in the trading of these companies' securities, Nasdaq also believes it is necessary to increase the requirements for these companies to list to help provide better liquidity in their securities. Nasdaq believes that the proposed rule changes will enhance the liquidity available in China-based Issuers listing in the United States, thereby making trading in the secondary market more difficult for bad actors to manipulate while helping to balance the desirability of China-based Issuers to access U.S. markets with necessary protections for investors.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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. Further, the Exchange believes that this proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

⁶¹ 15 U.S.C. 78f(b).

⁶² 15 U.S.C. 78f(b)(5).

The Commission has previously opined on the importance of meaningful listing standards for the protection of investors and the public interest.⁶³ In particular, the Commission has stated:

The development and enforcement of meaningful listing standards for an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.⁶⁴

Nasdaq believes that the factors for determining whether a company is based in China will assist Nasdaq in determining which companies should be subject to the proposed new standard, which will prevent fraudulent and manipulative acts and practices. Nasdaq also believes that the factors are not unfairly discriminatory. The proposed factors used to determine if a company is headquartered or incorporated in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), or whose business is principally administered in one of those jurisdictions, are similar to the factors contained in current Rule 5005(a)(37) and adds additional factors because, as discussed above, China-based Issuers carry a risk of insufficient investor base and trading interest to support fair and orderly trading in the secondary market due to substantial participation by Chinese investors, combined with insiders retaining significant ownership, and the potential hidden ownership of the CCP cited in the Congressional Letter. Moreover, Nasdaq will consider the seven elements holistically

⁶³ Securities Exchange Act Release No. 102622 (March 12, 2025), 90 FR 12608 (March 18, 2025) (approving SR-Nasdaq-2024-084 adopting initial listing liquidity requirements for companies applying to list or uplist on the NGM or NCM).

⁶⁴ Id. at 12609.

when determining whether a company is principally administered in one of the jurisdictions. Nasdaq therefore believes that these companies should be subject to heightened standards for listing on Nasdaq.

Nasdaq believes that requiring a \$25 million minimum offering size for China-based Issuers seeking to list on Nasdaq through an IPO or \$25 million in Unrestricted Publicly Held Shares for China-based Issuers seeking to list on Nasdaq through a business combination or transfer from the OTC market or another national securities exchange may decrease the number of companies subsequently cited for compliance issues and help ensure that a security of a China-based Issuer to be listed on Nasdaq has adequate liquidity and distribution to support fair and orderly trading in the secondary market, which will reduce trading volatility and price manipulation, thereby protecting investors and the public interest.

Additionally, Nasdaq believes that allowing China-based Issuers to list on the NGS, rather than the NGM or NCM, in connection with a Direct Listing, will ensure that such companies satisfy higher listing requirements, including the minimum amount of Publicly Held Shares and Market Value of Unrestricted Publicly Held Shares, which will help to ensure that the security has sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly trading, thereby protecting investors and the public interest.

Nasdaq also believes that extending the \$25 million minimum offering size and the requirement for the company to have traded for at least one year when transferring from the OTC market or another exchange aligns with similar listing requirements.⁶⁵

⁶⁵ See Rule 5110(c)(1)(A) (requiring a company that completed a Reverse Merger, as defined in Rule 5005(a)(39) to trade on another market for at least one year before being eligible to apply to Nasdaq) and 5210(k) (requiring companies from a Restrictive Market, as defined in Rule 5005(a)(39) to satisfy heightened listing requirements).

While the proposals apply only to China-based Issuers, the Exchange believes that the proposals are not designed to permit unfair discrimination among companies because Nasdaq believes that trading in China-based Issuers presents unique potential risks to U.S. investors, including heightened susceptibility to fraud and manipulation by bad actors, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgements. Nasdaq believes that companies with a Firm Commitment Offering size or a Market Value of Unrestricted Publicly Held Shares below \$25 million may not develop a sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading, resulting in a security that is illiquid thereby amplifying these risks.

Less liquid securities also may be more susceptible to price manipulation, as a relatively small amount of trading activity can have an inordinate effect on market prices. Price manipulation is a particular concern when insiders retain a significant ownership portion of the company. Therefore, Nasdaq believes that it is not unfairly discriminatory to treat China-based Issuers differently under these proposals because the proposed rules will help ensure that securities of a China-based Issuer listed on Nasdaq have sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets, thereby promoting investor protection and the public interest.

Additionally, elements of these proposals are similar to the current Rule 5210(k), applicable to Restrictive Market Companies, and the one-year seasoning requirement for companies formed by a Reverse Merger under current Rule 5110(c)(1)(A), each of which was found by the Commission to be consistent with the Act.

Lastly, Nasdaq believes that implementing a 30-day delay from the date of the Commission's approval order before the changes become effective provides companies with an opportunity to adjust to the proposed changes. The delay is not unfairly discriminatory because it will allow companies that have taken substantial steps to list under the current rules to complete the process. Additionally, Nasdaq also proposes to renumber the remainder of Rule 5210 as subsections (m) and (n) and update the cross reference to Rule 5210(m) found in Rule 1031(b) to ensure consistency in its rulebook.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the proposed rule changes will apply only to companies primarily operating in China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), Nasdaq, Congress, state financial officers and the SEC have identified specific concerns with such companies that make the imposition of additional initial listing criteria on such companies appropriate to enhance investor protection, which is a central purpose of the Act. Any impact on competition, either among listed companies or between exchanges, is incidental to that purpose. As noted above, other markets do not have comparable requirements to what is being proposed, and therefore China-based Issuers may elect to list on those other markets

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.⁶⁶

⁶⁶ The Commission notes that this section refers to Nasdaq not soliciting or receiving comments directly.

IV. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶⁷ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with Section 6(b)(5) of the Act,⁶⁸ which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and Section 6(b)(8) of the Act,⁶⁹ which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

The Exchange proposes to adopt heightened initial listing standards for China-based companies conducting an IPO, engaged in a business combination, or transferring from another trading venue to list on Nasdaq. The Exchange states that China-based companies present unique risks to U.S. investors, and the heightened requirements for China-based companies to list will help provide better liquidity in their securities.⁷⁰ In addition, the Exchange has proposed to prohibit Direct Listings on the NGM and NCM of securities issued by China-based companies due to concerns regarding liquidity and fair and orderly trading.⁷¹

⁶⁷ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶⁸ 15 U.S.C. 78f(b)(5).

⁶⁹ 15 U.S.C. 78f(b)(8).

⁷⁰ See Amendment No. 3, supra note 9, at 24-25.

⁷¹ See id. at 18.

The Commission has consistently recognized that the development and enforcement of meaningful listing standards⁷² by an exchange is of critical importance to financial markets and the investing public.⁷³ Among other things, the Commission has stated that listing standards provide the means for an exchange to screen issuers that seek to become listed, and to provide listed status only to bona fide companies that have or will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.⁷⁴ Meaningful listing standards are also important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.⁷⁵

Focus on China-Based Companies

The Exchange's proposal provides for differential treatment of China-based companies seeking Exchange listing as compared to companies based in the United States or other foreign jurisdictions. The Exchange states that trading in China-based companies presents unique

⁷² This reference to "listing standards" is referring to both initial and continued listing standards.

⁷³ See, e.g., Securities Exchange Act Release No. 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR-NYSE-2008-17).

⁷⁴ See, e.g., Securities Exchange Act Release Nos. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR-NYSE-2017-11); 65708 (Nov. 8, 2011), 76 FR 70799, 70802 (Nov. 15, 2011) (SR-NASDAQ-2011-073); 63607 (Dec. 23, 2010), 75 FR 82420, 82422 (Dec. 30, 2010) (SR-NASDAQ-2010-137); and 57785 (May 6, 2008), 73 FR 27597, 27599 (May 13, 2008) (SR-NYSE-2008-17). The Commission has stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. See, e.g., Securities Exchange Act Release Nos. 82627 (Feb. 2, 2018), 83 FR 5650, 5633, n.53 (Feb. 8, 2018) (SR-NYSE-2017-30); 87648 (Dec. 3, 2019), 84 FR 67308, 67314, n.42 (Dec. 9, 2019) (SR-NASDAQ-2019-059); and 88716 (Apr. 21, 2020), 85 FR 23393, 23395, n.22 (Apr. 27, 2020) (SR-NASDAQ-2020-001).

⁷⁵ See, e.g., Securities Exchange Act Release Nos. 88716 (Apr. 21, 2020), 85 FR 23393 (Apr. 27, 2020) (SR-NASDAQ-2020-001); 88389 (Mar. 16, 2020), 85 FR 16163 (Mar. 20, 2020) (SR-NASDAQ-2019-089). See also Securities Exchange Act Release No. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31) (stating that "[a]dequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market" and that "[o]nce a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue ... so that fair and orderly markets can be maintained").

potential risk to U.S. investors, and China-based companies increasingly have sought listings in the United States as U.S. investors have sought exposure to companies from emerging markets, such as China.⁷⁶ The Exchange also states that U.S. lawmakers and regulators have identified concerns with the listing of China-based companies, including indications of manipulative trading of their securities, difficulty enforcing and collecting on judgments on officers and directors in China, and CCP control of China-based companies.⁷⁷ The Exchange states that, collectively, these findings raise significant concerns, which Nasdaq shares, and support the imposition of stricter initial listing standards for China-based companies.⁷⁸

The Exchange further states that China-based companies are more frequently the subject of trading and non-compliance concerns than similarly-situated companies from other regions.⁷⁹ According to the Exchange, during the period of August 2022 to April 2025, it observed that nearly 70% of the matters where Nasdaq referred concerns about potential manipulation to the Commission or FINRA were related to trading in Chinese emerging market companies and the number of referrals increased during this time period.⁸⁰ During the same time period, Chinese companies represented less than 10% of all Nasdaq listings.⁸¹ The Exchange states that it believes that these trading concerns are due, in part, to China-based companies listing through an IPO or business combination that have certain characteristics, such as a small offering size or a low public float percentage, which in combination with the other concerns identified about China-based companies may result in the companies not attracting market attention or

⁷⁶ See Amendment No. 3, supra note 9, at 4, 24.

⁷⁷ See id. at 4-9.

⁷⁸ See id. at 9-10.

⁷⁹ See id. at 8.

⁸⁰ See id.

⁸¹ See id.

developing sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading.⁸² The Exchange states that such securities may trade infrequently, in a more volatile manner, and with a wider bid-ask spread, all of which may result in trading at prices that may not reflect their true market value.⁸³ Furthermore, the Exchange states that these securities may be more susceptible to price manipulation by bad actors.⁸⁴

The Exchange states that the risk to investors related to low-priced securities issued by China-based companies may be compounded because regulatory investigations into price manipulation, insider trading, and compliance concerns may be impeded, and investor protections and remedies may be limited in such cases, due to obstacles in bringing or enforcing actions against entities and individuals in China involved in potentially manipulative trading activities.⁸⁵ The Exchange states that therefore it believes that the proposal to impose heightened initial listing standards would enhance the liquidity available in China-based companies listing in the U.S., thereby making trading in the secondary market more difficult to manipulate and balancing access to China-based companies with the protection of investors.⁸⁶

Some commenters expressed general support for Nasdaq’s ongoing efforts to enhance its listing standards, including the current proposal.⁸⁷ One commenter stated that it supports “Nasdaq for taking action to preserve market integrity and protect U.S. investors from potential losses in shareholder value resulting from the high volatility and potential market manipulation

⁸² See id. at 8-9.

⁸³ See id. at 9.

⁸⁴ See id.

⁸⁵ See id.

⁸⁶ See id. at 24-25.

⁸⁷ See CII Letter 1; CII Letter 2; Schwab Letter at 1. See also HTFL Letter at 1.

of the smallest microcap Chinese companies.”⁸⁸ This commenter stated that based on its August 2025 report, certain China-based companies circumvent restrictions on foreign investment in strategically sensitive sectors and “U.S. rules” by using the variable interest entity (“VIE”) structure.⁸⁹ This commenter also stated that these companies are “beyond the reach of enforcement actions by U.S. authorities;” and China-based companies that employ the VIE structure have been associated with “widely reported controversies that resulted in delistings and/or losses in shareholder value.”⁹⁰

Several commenters raised concerns that the proposal is overly broad and unfairly discriminatory against China-based companies.⁹¹ One of these commenters stated that the proposal “would be unlawful,” is “not necessary or appropriate to protect national security,” and is “anti-competitive as it discriminates against certain Chinese issuers.”⁹² Several commenters stated that the proposal does not provide adequate justification for why it does not constitute

⁸⁸ CII Letter 1 at 2.

⁸⁹ See CII Letter 2 at 3. See also id. at 5-44 (attaching Emmanuel Tamrat, Senior Research Analyst, CII, Behind the Veil: Risks of Chinese Companies and the VIE Structure, Aug. 2025).

⁹⁰ Id. at 3.

⁹¹ See Bevilacqua Letter 1 at 2-3; US Unicorn Letter at 1; HIGO Letter at 1; SEN Time Studio Letter at 1-2; USA World Letter at 2; USIFF Letter at 1-2; Letter from United Securities Legal Group, APC, The State Bar of California, dated Jan. 4, 2026 (“United Securities Letter”) at 2; Cecilia Letter at 1; Guo Huan Letter at 1-4; Bevilacqua Letter 2 at 2-4; China LCA Letter at 1. One commenter stated that the Commission should strike Nasdaq’s response to comment letters in Amendment No. 2 because Nasdaq filed Amendment No. 2 after the deadline for rebuttal comments set forth in the OIP. See Letter from Joseph D. Wilson, Esq. Bevilacqua PLLC, dated Apr. 21, 2026. Although the Commission acknowledges that Nasdaq filed Amendment No. 2 after January 27, 2026, which was the deadline for rebuttal comments set forth in the OIP, the Commission, at its discretion, has traditionally considered comments submitted after a comment period closes but before final action has been taken on a proposed rule change. Accordingly, in approving this proposal, the Commission has considered the Exchange’s statements, including responses to comment letters, in Amendment No. 3, which superseded and replaced Amendment No. 2 in its entirety.

⁹² See Bevilacqua Letter 1 at 2-3. This commenter stated that allowing larger companies to raise more capital would pose a greater threat to national security; and that impediments to regulatory investigations or actions may occur in foreign countries other than China. See Bevilacqua Letter 2 at 3. Another commenter stated that “Congress and the Executive Branch addressed [national security and geopolitical concerns] through targeted statutes,” and an exchange listing rule is not an appropriate venue to address these issues. See United Securities Letter at 2.

unfair discrimination.⁹³ One commenter stated that the proposal would “deter reputable, rule-abiding enterprises from listing on the Exchange.”⁹⁴ Another commenter stated that the proposal would “establish a dangerous precedent allowing national securities exchanges to impose heightened listing standards on issuers from any disfavored jurisdiction.”⁹⁵

In response to these comments, the Exchange states that Nasdaq and U.S. regulators and policymakers have identified specific and serious concerns with China-based companies.⁹⁶ These concerns include heightened risk of fraud and manipulative behavior, hidden CCP ownership and control, and greater difficulties enforcing laws and rules and collecting on judgments.⁹⁷ Accordingly, the Exchange states that it believes imposing heightened initial listing standards for China-based companies is not unfairly discriminatory and will enhance investor protection.⁹⁸

The Exchange has identified unique risks regarding China-based companies, including a heightened susceptibility to manipulative trading, potential governmental control of companies, and the difficulties that may be presented when enforcing laws and rules and collecting on judgments on entities within China. In addition, the Exchange provided information observing that nearly 70% of the matters the Exchange referred to the Commission or FINRA based on concerns about potential manipulation were related to trading in Chinese emerging market

⁹³ See Bevilacqua Letter 1 at 2; SEN Time Studio Letter at 1-2. A commenter recommended that Nasdaq should conduct and publicly disclose a quantitative assessment of the anticipated impact of the proposed rule. See SEN Time Studio Letter at 5. Another commenter stated that the Commission and FINRA referral statistics “[do] not establish causation unique to Chinese jurisdiction,” and that the Commission “has previously rejected SRO attempts to impose jurisdiction-specific restrictions when the risks are not demonstrably unique.” United Securities Letter at 3.

⁹⁴ HIGO Letter at 1. Another commenter stated that the proposal “may exclude high-quality, compliant small and medium-sized companies.” SEN Time Studio Letter at 5.

⁹⁵ United Securities Letter at 4.

⁹⁶ See Amendment No. 3, supra note 9, at 24.

⁹⁷ See id.

⁹⁸ See id.

companies, while during the same period of time, Chinese companies represented less than 10% of all Nasdaq listings.⁹⁹ This information demonstrates that the Exchange has made a disproportionate amount of referrals in recent years regarding potentially manipulative trading concerning China-based companies, supporting its belief that China-based companies pose a heightened risk to investors. The Commission agrees that the risks to U.S. investors associated with listing China-based companies identified by the Exchange justify the imposition of heightened initial listing standards on China-based companies; therefore, the Commission concludes that the proposal is appropriately targeted in a manner that is not unfairly discriminatory, consistent with Section 6(b)(5) of the Act, and will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 6(b)(8) of the Act.

One commenter that supported the proposal and acknowledged that the “rate of fraud associated with Chinese firms is certainly high,” stated that “the increased standards should apply to companies based in additional foreign jurisdictions where it is determined there are elevated levels of fraud.”¹⁰⁰ This commenter stated that, “[o]therwise, fraudsters will simply move to other jurisdictions where it’s even easier to commit fraud” and that “other jurisdictions also see many instances of fraudulent activities.”¹⁰¹ Another commenter that supported the proposal suggested that the Exchange expand the application of the proposed rule to “small microcap companies,” including those companies incorporated in the Cayman Islands.¹⁰²

⁹⁹ See supra notes 80-81 and accompanying text.

¹⁰⁰ Schwab Letter at 4.

¹⁰¹ Id. One commenter, who opposed the proposal, stated that market volatility and price manipulation concerns are not unique to any geographic region. See USA World Letter at 2-3.

¹⁰² See CII Letter 2 at 2-4.

In response, the Exchange states that it does not believe that a country-specific rule is necessary for any other country at this time and that its current listing standards, including recently adopted changes to increase initial listing standards and accelerate the delisting of non-compliant companies, are sufficient to address commenters' concerns related to companies in other jurisdictions.¹⁰³ The Exchange also states that recently-adopted Nasdaq Rule IM-5101-3 provides Nasdaq with greater ability to deny listing to a company from another jurisdiction based on, among other things, considerations related to the company's advisors or concerns Nasdaq has identified with other similarly-situated companies.¹⁰⁴ The Exchange states that Nasdaq Rule IM-5101-3 also provides a qualitative description of factors related to Nasdaq's use of discretion in denying an initial listing, including where a company is located and whether the company is in a jurisdiction where there are limited legal remedies available to U.S. investors.¹⁰⁵ The Exchange believes that Nasdaq Rule IM-5101-3 helps to address commenters' desires to extend the proposal to other jurisdictions.¹⁰⁶ Furthermore, the Exchange states that it will continue to monitor and will increase listing standards for companies from additional countries, as necessary.¹⁰⁷

Despite the suggestions by commenters to apply heightened listing standards to companies from other jurisdictions, the Commission must approve the proposal if it finds that the proposal is consistent with the Act and rules thereunder.¹⁰⁸ The Exchange may exercise its discretion, through application of Nasdaq Rule 5101 and Nasdaq Rule IM-5101-3, to deny initial

¹⁰³ See Amendment No. 3, supra note 9, at 22.

¹⁰⁴ See id. at 22.

¹⁰⁵ See id. at 23.

¹⁰⁶ See id.

¹⁰⁷ See id.

¹⁰⁸ 15 U.S.C. 78s(b)(2)(C)(i).

listing to a company based on factors that make a company's securities susceptible to manipulation, including where the company is located (with such location not being limited to China) and whether the expected public float and dissemination of the share distribution raises concerns about adequate liquidity and potential concentration. While the Exchange's general discretionary authority thus allows for heightened scrutiny of a company from another foreign jurisdiction if the Exchange identifies an elevated level of fraud involving companies in that jurisdiction, the unique and persistent risks presented by China-based companies, as discussed above, justify the articulation of clear heightened listing standards for China-based companies as reasonably designed means to address those risks. As such, the Commission finds that the proposal is not unfairly discriminatory and is designed to prevent fraudulent and manipulative acts, consistent with Section 6(b)(5) of the Act, and will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 6(b)(8) of the Act.

Identification of China-Based Companies

The Exchange proposes to apply heightened initial listing standards to China-based companies that are headquartered or incorporated in China (including Hong Kong and Macau), or whose business is principally administered in one of these jurisdictions. Proposed Nasdaq Rule 5210(l) provides that the Exchange will determine in which jurisdiction a company is principally administered based on an analysis of the facts and circumstances, including seven enumerated elements.¹⁰⁹

¹⁰⁹ See Amendment No. 3, supra note 9, at 10.

The Exchange states that it will consider these elements holistically.¹¹⁰ Several of these elements are already used to determine whether a company’s business is principally administered in a Restrictive Market under Nasdaq Rule 5005(a)(37).¹¹¹ The Exchange states that it is proposing to broaden its criteria from the current criteria under Nasdaq Rule 5005(a)(37) and that the additional elements are supported by Nasdaq’s experience in applying the Restrictive Market definition and Commission staff guidance regarding foreign private issuers.¹¹² According to the Exchange, the use of the factors for determining whether a company is based in China will assist Nasdaq in determining which companies should be subject to the proposed new standard, which will prevent fraudulent and manipulative acts and practices.¹¹³ The Exchange also states that it believes that the factors are not unfairly discriminatory.¹¹⁴ The Exchange states that if it determines that a company is a China-based company and denies such company’s listing application for failure to satisfy the proposed heightened initial listing standards, the company could appeal Nasdaq’s determination pursuant to the Nasdaq Rule 5800 Series.¹¹⁵

One commenter generally supported the proposal, but expressed concern that the proposed scope of issuers that would be considered to be China-based companies “could capture issuers that are incorporated, headquartered, and operating entirely in the United States, or in other transparent jurisdictions, merely because (i) they were founded or controlled by entrepreneurs who are Chinese citizens or (ii) 50% of their officers or directors are Chinese

¹¹⁰ See id. at 12.

¹¹¹ See id. at 11, n.26. See also Nasdaq Rule 5005(a)(37).

¹¹² See Amendment No. 3, supra note 9, at 11, n.26.

¹¹³ See Amendment No. 3, supra note 9, at 26.

¹¹⁴ See id.

¹¹⁵ See id. at 12.

citizens, even if such individuals have long resided in the United States.”¹¹⁶ This commenter stated that the current proposal “risks unintentionally capturing issuers that do not present the same regulatory concerns” as the concerns that the proposal was designed to address and suggested that the heightened requirements in the proposal only apply to issuers “principally operating in China, rather than issuers that are based in the U.S. simply because their founders, controlling persons, directors, or officers are Chinese citizens.”¹¹⁷

In response, the Exchange states that the location and citizenship of a company’s founders and leadership is an important factor in determining where a company conducts its principal business activities.¹¹⁸ The Exchange also explains that location and citizenship of such persons will be considered in the context of other elements in making its determination, and the presence of one element would not necessarily result in a determination that the issuer is China-based.¹¹⁹

The Exchange’s consideration of where a company is principally administered is reasonably designed to prevent companies from evading heightened initial listing standards imposed on China-based companies by moving the location of their headquarters or jurisdiction in which they are incorporated and avoids differential treatment of companies that present similar risks. The specific elements that will be used to determine whether an issuer has a business that is principally administered in China are substantially similar to the elements in

¹¹⁶ HTFL Letter at 2.

¹¹⁷ Id. This commenter stated that the proposed listing standard should be based on “operational jurisdiction and regulatory oversight, not citizenship per se” so as not to create “unintended barriers for legitimate issuers operating under robust local regulations.” Id. (emphasis omitted). See also US Unicorn Letter at 1. Another commenter stated that the criteria “risks capturing companies that are headquartered, incorporated, and operating entirely within the United States or other transparent jurisdictions,” and the proposal “conflates citizenship with regulatory risk.” See US Unicorn Letter at 1.

¹¹⁸ See Amendment No. 3, supra note 9, at 21-22.

¹¹⁹ See id. at 22.

Nasdaq’s rules that are used to determine whether a business is principally administered in a Restrictive Market, with additional elements that the Exchange states that it added based on its experience applying the Restrictive Market definition.¹²⁰ The application of these elements in a holistic manner, rather than an automatic classification of a company based on a single element, will allow the Exchange to use its judgment to determine whether or not a particular company’s ties with China are significant enough to indicate that the company principally administers its business in China. Accordingly, the specific elements proposed by the Exchange for determining whether an issuer has a business that is principally administered in China and thus will be considered a China-based company, which the Exchange will consider holistically based on the facts and circumstances, should help to ensure that the Exchange applies the heightened initial listing standards to companies in a manner that is not unfairly discriminatory, consistent with Section 6(b)(5) of the Act, and will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 6(b)(8) of the Act.

Heightened Initial Listing Standards for IPOs, Business Combinations, and Transfers

The Exchange proposes heightened initial listing standards that require (i) a China-based company conducting an IPO to offer a minimum amount of securities in the U.S. to Public Holders in a Firm Commitment Offering that will result in gross proceeds to the company of at least \$25 million; (ii) a company conducting a business combination, as described in Nasdaq Rules 5110(a) or IM-5101-2, with a China-based company, to have a minimum Market Value of Unrestricted Publicly Held Shares following the business combination equal to at least \$25

¹²⁰ See id. at 5 (citing to Securities Exchange Act Release No. 93256 (Oct. 4, 2021), 86 FR 56338 (Oct. 8, 2021) (SR-NASDAQ-2021-007)).

million; and (iii) a China-based company whose security is trading on the OTC market or that is transferring its listing from another national securities exchange to have a minimum Market Value of Unrestricted Publicly Held Shares of at least \$25 million and have traded on the other market for at least one year before it is eligible to list on Nasdaq.

The Exchange states that it has observed that China-based companies listing on Nasdaq in connection with an IPO that had an offering size below \$25 million have a higher rate of compliance concerns.¹²¹ According to the Exchange, companies with a Firm Commitment Offering size or Market Value of Unrestricted Publicly Held Shares below \$25 million may not develop a sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading, resulting in an illiquid security and amplifying the unique risks to U.S. investors presented by China-based issuers.¹²² The Exchange states that less liquid securities may also be more susceptible to price manipulation, which is a particular concern when insiders retain significant ownership interest in the company.¹²³ The Exchange states that requiring heightened initial listing standards would mitigate the non-compliance concerns by ensuring that price discovery would be supported by sufficient liquidity, U.S. investor interest, and distribution to support fair and orderly trading.¹²⁴

In particular, the Exchange's proposal to heighten the requirement for a China-based company listing in connection with an IPO such that the company would be required to offer a

¹²¹ See Amendment No. 3, *supra* note 9, at 13. Specifically, the Exchange states that its analysis of IPOs from April 2022 to April 2025 found that of the 151 companies headquartered or incorporated in China that listed on Nasdaq through an IPO, 143 of such companies had offering amounts of less than \$25 million, and nearly half of those 143 companies were cited for failure to comply with Nasdaq's continued listing standards. See *id.* at 14.

¹²² See *id.* at 13-14.

¹²³ See *id.* at 28.

¹²⁴ See *id.* at 14.

minimum amount of securities in a Firm Commitment Offering in the United States to Public Holders that will result in gross proceeds to the company of at least \$25 million is higher than the minimum Market Value of Unrestricted Publicly Held Shares of \$15 million from offering proceeds generally required for a company seeking to list through an IPO on the NCM.¹²⁵ The Exchange states that a Firm Commitment Offering typically involves a book building process that helps to generate an investor base and trading interest that promotes sufficient depth and liquidity to help support fair and orderly trading on the Exchange.¹²⁶ The Exchange also states that these offerings typically involve significant due diligence by third parties that are subject to U.S. regulatory oversight.¹²⁷ The Exchange states that the proposals to heighten the initial listing standards for a company conducting a business combination with a China-based company and a China-based company whose security is trading on the OTC market or that is transferring its listing from another national securities exchange will impose comparable standards and help prevent China-based companies from using a business combination or a transfer to avoid heightened listing standards.¹²⁸ A China-based company subject to the proposed initial listing standards for an IPO, business combination, or transfer would also need to comply with all other applicable listing standards for the market tier on which it is listing.¹²⁹

¹²⁵ See *id.* at 12-13. See also Nasdaq Rules 5505(b)(1)(B), 5505(b)(2)(C), and 5505(b)(3)(C). The initial listing standards for a company listing in connection with an IPO that principally administers its business in a Restrictive Market include a similar \$25 million threshold. See *id.* at 13. However, no China-based jurisdiction has fallen within the Restrictive Market definition since December 2022, when the PCAOB secured access to inspect and investigate audit firms in the PRC. See *id.* at 5. See also https://assets.pcaobus.org/pcaob-dev/docs/default-source/international/documents/2022-hfcaa-determination-report.pdf?sfvrsn=1345a530_4.

¹²⁶ See Amendment No. 3, *supra* note 9, at 13.

¹²⁷ See *id.* at 13-14.

¹²⁸ See *id.* at 18-19.

¹²⁹ See *id.* at 13.

One commenter stated that most emerging growth, China-based companies raised funds in the range of \$5 million to \$15 million, “an amount generally sufficient to support phased objectives such as technology research and development and market expansion.”¹³⁰ This commenter stated that increasing the minimum IPO threshold to \$25 million, as proposed, “would exclude approximately 88% of potential listing candidates based solely on the offering size requirement.”¹³¹ Another commenter stated that the proposed \$25 million minimum proceeds requirement “lacks adequate empirical support and rationale.”¹³² Several commenters stated that the proposal limits the investment opportunities for U.S. investors and their ability to make their own investment decisions.¹³³

The Commission has previously stated that a Firm Commitment Offering is designed to promote appropriate price discovery and assists in creating a liquid market.¹³⁴ In addition, having a minimum Market Value of Unrestricted Publicly Held Shares, and minimum duration, where applicable, should allow the Exchange to more accurately determine whether a China-based company conducting an IPO, a post-business combination entity involving a China-based company, or a China-based company seeking to transfer from a different market has a sufficient market, adequate distribution, liquidity, and investor interest, and is thus suitable for listing and trading on the Exchange. Further, the Exchange provided information showing that nearly half of

¹³⁰ SEN Time Studio Letter at 3. See also Cecilia Letter at 1.

¹³¹ SEN Time Studio Letter at 3. One commenter stated that “genuine high-growth companies ... will be forced to pivot to other capital markets.” US Unicorn Letter at 2. See also HIGO Letter at 1; SEN Time Studio Letter at 3; USA World Letter at 3.

¹³² See USA World Letter at 2-3. This commenter stated that there is no “transparent empirical analysis” to support the proposed \$25 million standard and that a “minimum fundraising amount does not necessarily translate into increased liquidity or improved trading conditions.” Id. at 2.

¹³³ See US Unicorn Letter at 2; USA World Letter at 3; Bevilacqua Letter 1 at 3.

¹³⁴ See Securities Exchange Act Release No. 93256 (Oct. 4, 2021), 86 FR 56338, 56343 (Oct. 8, 2021) (SR-NASDAQ-2021-007). See also Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102, 33112 (July 11, 2019) (SR-NASDAQ-2019-009).

the China-based companies that listed on Nasdaq through an IPO from April 2022 to August 2025 were subsequently cited for failure to comply with continued listing standards.¹³⁵ This information supports concerns about the rate of non-compliance exhibited by China-based companies with offering proceeds below \$25 million. Accordingly, the proposed \$25 million threshold is reasonably designed to exclude from listing companies that are more likely to experience issues complying with the Exchange’s continued listing standards. The proposal is appropriately targeted to the unique risks that may be posed by China-based companies and, within that subset of companies, those that may not develop a sufficient investor base and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets and reduce the risk of manipulative trading. Therefore, the Commission finds that the heightened initial listing standards for China-based companies are reasonably designed and consistent with the requirements of Section 6(b)(5) of the Act that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest, and not be designed to permit unfair discrimination.

The Commission also finds that the proposal is consistent with Section 6(b)(8) of the Act in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.¹³⁶ The Commission recognizes that imposing heightened listing standards on China-based companies will result in a segment of smaller, China-based companies not qualifying for initial listing that would have otherwise satisfied the Exchange’s initial listing standards. As such, the heightened listing standards may hamper the ability of these

¹³⁵ See supra note 121.

¹³⁶ 15 U.S.C. 78f(b)(8).

companies to attract investors and raise capital. However, as discussed above, the risks to U.S. investors posed by China-based companies justify imposing heightened initial listing standards and the \$25 million threshold is reasonably designed to promote fair and orderly markets and reduce the risk of manipulative trading. Therefore, the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

Several commenters stated that Nasdaq’s current rules already provide the Exchange with discretionary authority to address its concerns regarding liquidity and potential manipulation of China-based companies.¹³⁷ The commenters cited Nasdaq Rule 5101 in relation to Exchange’s discretionary authority,¹³⁸ Nasdaq Rule 5210(k) in relation to heightened initial listing standards for Restrictive Market companies,¹³⁹ and Nasdaq Rules 5810(c)(3)(A)(iii) and 5815(a)(1)(B)(ii) in relation to immediate delisting and suspension from trading if a company’s security closes at or below \$0.10 for ten consecutive business days.¹⁴⁰

The Exchange states that the proposal seeks to address areas of concern that may not be adequately addressed by the existing Nasdaq rules.¹⁴¹ In response to commenters, the Exchange states that, unlike Nasdaq Rule IM-5101-3, the proposed rule contains a minimum threshold of \$25 million that is reasonable and necessary because imposing the threshold may mitigate the

¹³⁷ See US Unicorn Letter at 1-2; SEN Time Studio Letter at 2-3; United Securities Letter at 2-3; Cecilia Letter at 1; HKUBC Letter at 1-2.

¹³⁸ See US Unicorn Letter at 1-2. See also SEN Time Studio Letter at 2; HKUBC Letter at 1-2. One commenter stated that Nasdaq is “well-positioned” to achieve the proposals’ objective through Nasdaq Rule IM-5101-3. See HKUBC Letter at 2-3.

¹³⁹ See US Unicorn Letter at 1-2. Another commenter stated that audit and enforcement concerns have been “substantially mitigated by the 2022 U.S.-China agreement granting inspection access and ongoing cooperation.” United Securities Letter at 3. See also Cecilia Letter at 1.

¹⁴⁰ See SEN Time Studio Letter at 3. One commenter stated that the proposed rules would compound the effect of delisting rules on China-based companies. See Cecilia Letter at 1-2.

¹⁴¹ See Amendment No. 3, supra note 9, at n.23. The Exchange also states that current listing standards are sufficient to address the commenters’ concerns related to companies in other jurisdictions. See id. at 22. See also supra notes 103-106 and accompanying text.

higher rate of compliance concerns observed in China-based companies below the \$25 million threshold.¹⁴²

While existing Nasdaq initial and continued listing standards may address some similar concerns, the risks identified by the Exchange discussed above justify the imposition of requirements that specifically target China-based companies with a smaller offering size or public float. As compared to the Exchange’s broad discretionary authority under Nasdaq Rules 5101 and IM-5101-3, the imposition of a \$25 million threshold for China-based companies that seek to list on the Exchange in connection with an IPO, in conjunction with a business combination, or through a transfer from another market will provide transparency regarding how the Exchange will make its listing determinations regarding China-based companies and allow for the listing of those China-based companies whose securities the Exchange can reasonably expect to have sufficient depth and liquidity to promote fair and orderly markets. Additionally, following changes that secured access to inspect and investigate audit firms by PCAOB in the PRC in December 2022, China (including Hong Kong and Macau) no longer qualifies as a Restrictive Market and therefore China-based companies are no longer subject to the heightened listing standards for Restrictive Market companies under Nasdaq Rule 5210(k).¹⁴³ Further, recent changes to Nasdaq Rules 5810(c)(3)(A)(iii) and 5815(a)(1)(B)(ii), along with other recently adopted changes to the Exchange’s continued listing standards, address suspension and delisting from the Exchange.¹⁴⁴ In contrast, the current proposal is reasonably designed to help prevent the

¹⁴² See Amendment No. 3, supra note 9, at 23.

¹⁴³ See id. at 5.

¹⁴⁴ See, e.g., Securities Exchange Act Release Nos. 101271 (Oct. 7, 2024), 89 FR 82652 (Oct. 11, 2024) (SR-NASDAQ-2024-029) (modifying the application of bid price compliance periods where a listed company takes action to achieve compliance with the minimum bid price rule and that action causes non-compliance with another continued listing requirement); 102245 (Jan. 17, 2025), 90 FR 8081 (Jan. 23, 2025) (SR-NASDAQ-2024-045) (modifying the application of bid price compliance periods and the delisting appeals

initial listing of companies that otherwise would be reasonably expected to have difficulties maintaining compliance with the Exchange’s continued listing standards, thereby promoting fair and orderly markets and preventing potential harm to investors.

Several commenters provided suggested alternatives to the proposal. One commenter stated that a more effective strategy for addressing market manipulation would be to expand cross-market trading surveillance and enforcement tools.¹⁴⁵ In addition, the commenter suggested strengthening universal disclosure and corporate governance requirements and adopting market-wide liquidity and quality metrics.¹⁴⁶ Another commenter recommended that the Exchange impose industry-specific exemptions and publicly disclose the “material considerations . . . when rejecting listing applications,” and improve procedural protections.¹⁴⁷ Another commenter suggested that the Exchange and the Commission should conduct further dialogue with market participants on the proposal.¹⁴⁸ Even if commenters’ suggestions could provide an alternative means of addressing the risks presented by China-based companies that are discussed above, these suggestions are not part of Nasdaq’s proposal and the Commission must approve the proposal if it finds that the proposal is consistent with the Act and rules thereunder. As discussed above, the proposed heightened initial listing standards are reasonably designed to address these risks.

process for non-compliance with the minimum bid price rule under certain circumstances); 104318 (Dec. 5, 2025), 90 FR 57225 (Dec. 10, 2025) (SR-NASDAQ-2025-065) (modifying the application of minimum bid price rule in situations where a security does not maintain a closing bid price of greater than \$0.10 for ten consecutive business days).

¹⁴⁵ See USA World Letter at 4.

¹⁴⁶ See id.

¹⁴⁷ See SEN Time Studio Letter at 4. This commenter also suggested that the Exchange allow certain companies to raise capital through a combination of new share issuance and convertible debt issuance. See id.

¹⁴⁸ See China LCA Letter at 2.

Restricted Use of Direct Listings

Under the proposal, the Exchange will not permit China-based companies to list on the NGM and NCM in connection with a Direct Listing.¹⁴⁹ The Exchange states that it does not believe the initial listing standards for Direct Listings on the NGM and NCM, which require a Market Value of Unrestricted Publicly Held Shares as low as \$30 million, are sufficient for China-based companies to support meaningful price discovery and fair and orderly trading because Direct Listings do not raise any offering proceeds and typically do not involve an underwriter to market the transaction and help develop investor interest.¹⁵⁰ The Exchange also states that adopting this additional requirement will help prevent companies from using a Direct Listing to avoid the proposed requirement for IPOs.¹⁵¹ China-based companies will continue to be permitted to list on the NGS in connection with a Direct Listing, provided they meet the applicable listing standards.¹⁵²

Given the heightened risks identified by the Exchange regarding China-based companies, the restriction on China-based companies listing on the NCM or NGM in connection with a Direct Listing is reasonably designed to ensure that these companies have adequate liquidity to support fair and orderly trading and prevent China-based companies from using Direct Listings to avoid the heightened initial listing requirements for IPOs. Accordingly, the Commission finds that the proposal to prohibit China-based companies from listing on the NGM and NCM in connection with a Direct Listing is consistent with the requirements of Section 6(b)(5) of the Act

¹⁴⁹ See proposed Nasdaq Rule 5210(l)(iii).

¹⁵⁰ See Amendment No. 3, supra note 9, at 17-18.

¹⁵¹ See id. at 18.

¹⁵² See id. at 16. In contrast to the relatively low Market Value of Publicly Held Shares requirements on the NGM and NCM, a company seeking to list on the NGS in connection with a Direct Listing must demonstrate a Market Value of Publicly Held Shares of at least \$250 million and a Market Value of Unrestricted Publicly Held Shares of at least \$100 million. See id. at 17.

that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest, and not be designed to permit unfair discrimination, and the requirements of Section 6(b)(8) of the Act that the rules of the exchange not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

In sum, the Commission concludes that given the risks Nasdaq, along with U.S. policymakers and regulatory agencies, have identified as being presented by China-based companies, the proposed heightened initial listing standards for China-based companies, including the prohibition on Direct Listings on the NGM and NCM, would help ensure that listed companies have a sufficient market, with adequate depth and liquidity, and sufficient investor interest to support listing on the Exchange. Accordingly, the proposal to impose these heightened listing standards on China-based issuers will help maintain fair and orderly markets and is designed to protect investors and the public interest, and is not designed to permit unfair discrimination. Further, the proposal does not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the risks posed by China-based companies justify their differential treatment and the heightened initial listing standards are reasonably designed to protect investors and help maintain a fair and orderly market.

Implementation Period

The Exchange has proposed a delay of 30 days after Commission approval of the proposal before the changes become effective. The Exchange states that this will allow companies that have taken substantial steps to list under the current rules to complete the initial

listing process.¹⁵³ Two commenters requested a longer transition period.¹⁵⁴ In response, the Exchange states that the initial proposal was published in September 2025, and it has provided issuers with pending listing applications with sufficient time to prepare for heightened listing standards.¹⁵⁵ The Commission finds that the proposed implementation period is appropriate and consistent with the requirements of the Act because a 30-day implementation period should allow prospective issuers time to prepare while avoiding an unnecessary delay in the Exchange implementing the proposed heightened listing standards to address the risks it has identified pertaining to China-based companies.

Based on the foregoing, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the Act.

V. Solicitation of Comments on Amendment No. 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 3, 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

¹⁵³ See *id.* at 19-20.

¹⁵⁴ See HTFL Letter at 3 (recommending at 60-day period); SEN Time Studio Letter at 4 (recommending a period of no less than 180 days for issuers already in the listing review or preparation process). In addition, one commenter provided examples of pending business combination listings of Special Purpose Acquisition Companies (“SPACs”) with China-based companies and observed that “they have been at a standstill since this new rule proposal.” See Letter from Anonymous, dated Apr. 23, 2026, at 1, 2-8. This commenter stated that the proposal “appears to retroactively alter the regulatory landscape for any and all China-linked SPACs,” and suggested that the proposal “should be implemented prospectively, with sufficient transition periods and safeguards to protect existing investors.” *Id.* at 1, 10.

¹⁵⁵ See Amendment No. 3, *supra* note 9, at 22.

SR-NASDAQ-2025-069 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-2025-069. 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-2025-069 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

VI. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 3, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 3 in the Federal Register. The change made to the proposal in Amendment No. 3 to remove the ability of China-based companies listing in connection with a Direct Listing to list on the NGM is consistent with the proposal's aim to impose heightened listing standards on China-based companies to help provide better liquidity in those securities, and thus mitigate the unique risks that such companies may present. This change to the proposal also will help to

ensure that China-based companies are not able to evade the heightened listing standards for IPOs by listing in connection with a Direct Listing on the NGM and ensures consistent treatment with Direct Listings seeking to list on the NCM. In addition, as compared to the Notice, Amendment No. 3 provides additional clarity to the proposal by (1) making certain clarifications to proposed Nasdaq Rule 5210(l)(iii) in relation to a company seeking to list by Direct Listing, and proposed Nasdaq Rule 5210(l)(iv) in relation to a company whose security is trading on the OTC market or that is transferring its listing from another national securities exchange; (2) providing additional explanation of certain aspects of the proposal; (3) providing responses to comment letters; and (4) making other technical and non-substantive changes.

These changes to the proposal and additional information in Amendment No. 3 assist the Commission in evaluating the proposal and determining that it is consistent with the Act, and do not raise any regulatory issues substantially different from those that had previously been subject to comment. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the

Act,¹⁵⁶ to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

VII. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁵⁷ that the proposed rule change (SR-NASDAQ-2025-069), as modified by Amendment No. 3 be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵⁸

J. Matthew DeLesDernier,

Deputy Secretary.

¹⁵⁶ 15 U.S.C. 78s(b)(2).

¹⁵⁷ Id.

¹⁵⁸ 17 CFR 200.30-3(a)(12).