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November 9, 2005

By E-Mail to: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549  
Attn: Jonathan G. Katz, Secretary

Re: The Nasdaq Stock Market Inc., Notice of Filing of Amendment Nos. 4 and 5 to its Application for Registration as a National Securities Exchange under Section 6 of the Securities Exchange Act of 1934

Release No. 34-52559 (File No. 10-131)

Ladies and Gentlemen:

We are writing on behalf of our client, Nissan Motor Co., Ltd., a Japanese corporation ("Nissan"). Nissan is one of the world's largest automotive companies, with consolidated net revenues for the fiscal year ended March 31, 2005 of approximately \$80 billion, and net income of approximately \$4.7 billion. We are writing to you in connection with the application filed by The Nasdaq Stock Market Inc. to register as a national securities exchange under Section 6 of the Securities Exchange Act of 1934 (the "Exchange Act").

American Depositary Shares ("ADSs") of Nissan, have been listed on the Nasdaq Stock Market since December 1, 1970. Unlike most companies with shares listed on the Nasdaq Stock Market, the shares underlying the Nissan ADSs have never been registered pursuant to Section 12 of the Exchange Act. This situation derives from the listing rules of Nasdaq in effect prior to October 5, 1983, which permitted the listing of ADSs of foreign private issuers that were exempt from reporting obligations under the Exchange Act pursuant to Rule 12g3-2(b) under the Exchange Act. Pursuant to an order of the Commission effective October 14, 1983 (Release Nos. 33-6493, 34-20264), 102 non-Canadian foreign securities included in Nasdaq as of October 5, 1983 were "grandfathered", and permitted to

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remain on Nasdaq provided they satisfied all other requirements for continued inclusion. In its release, the Commission stated that all affected issuers other than Canadian issuers would be grandfathered "indefinitely". The Nasdaq provision with respect to the inclusion of grandfathered companies is currently set forth in Marketplace Rule 4320(c).

The sensitivity of Nasdaq and the Commission to the issues affecting grandfathered companies did not terminate in 1983. On December 10, 2004, the Commission approved NASDAQ Interpretive Material IM 4520-1, which provided that, pursuant to the authority granted to Nasdaq to waive all or part of the additional share and annual listing fees otherwise due, Nasdaq had determined to waive any additional share or annual fee that would otherwise be due from any grandfathered foreign private issuer. (Adopted by SR-NASD-2004-128). In its proposal to adopt this Interpretive Material (set forth in SEC Release 34-50577, October 21, 2004) Nasdaq noted that "[t]hese companies are not listed on Nasdaq at their own initiative, and have not signed an application or listing agreement. As such, Nasdaq believes it would be inequitable to assess fees against this small group of uniquely situated issuers."

We understand that, in connection with the application of The Nasdaq Stock Market Inc. to register as a national securities exchange, the Commission is reviewing the proposed listing requirements relating to Nasdaq-listed companies. In its above filing, Nasdaq included as Exhibit A, Tab 7, the proposed 4000 Series of Nasdaq rules. Rule 4320 in the submission relates to the Listing Requirements for Non-Canadian Foreign Securities and American Depositary Shares. As indicated in the submission, the security of a foreign issuer, other than a newly issued security, shall be considered for Nasdaq listing provided that it is either registered pursuant to Section 12(b) of the Exchange Act, or subject to an exemption issued by the Commission that permits the listing of the security notwithstanding its failure to be registered pursuant to Section 12(b).

We respectfully suggest that the Commission, in any adopting release or through the exercise of its exemptive authority, approve an exemption from Section 12 registration for grandfathered foreign issuers to permit their continued inclusion on Nasdaq. The Commission's determination in this regard may have profound implications for grandfathered companies, such as Nissan, which have been trading on Nasdaq prior to the 1983 Commission order. The number of such companies has, by reason of attrition, decreased from 102 in 1983 to, we understand,

fewer than 20 today. However, among those companies are some of the world's largest public companies, including Nissan, Fuji Photo Film Co., Ltd., Kirin Brewery Company, Limited, and Sanyo Electric Co., Ltd.

Nissan believes that any change to the requirements with respect to its continued listing would be inconsistent with the indefinite grandfathering approved by the Commission in 1983. Nissan also believes that its existing investor base is both fully informed regarding its business and affairs, and understands (as it has for over 35 years) that the nature of the information Nissan provides to its investors differs from that which would be made available by a U.S.-reporting foreign private issuer. In 1983, the Commission took the view that it would be in the best interests of U.S. investors to retain the U.S. presence of companies such as Nissan. We believe this still to be the case. The imposition of Section 12 registration obligations on grandfathered companies such as Nissan would require such companies to choose either to register under the Exchange Act or to delist from Nasdaq. To an even greater extent than in 1983, registration would impose substantial additional disclosure obligations on Nissan and result in the imposition of significant costs. The alternative, delisting from Nasdaq, would quite possibly be adverse to Nissan's U.S. investor constituency, with whom Nissan has worked for over three decades. Nissan continues to believe, as did the Commission in 1983, that grandfathering is in the best interests of U.S. investors.

In the event that the Commission is not amenable to a permanent continuation of the grandfathered status of the 12g3-2(b) Nasdaq-listed companies, we would ask that the Commission consider the imposition of a reasonable transition period. The transition period would permit the grandfathered companies to review their listing status and to consider whether it would be in their interests and the interests of their shareholders to register their securities under Section 12(b) of the Exchange Act. The transition period would be required for a number of reasons. In some cases, the governance structures of the companies may not comply with current requirements. In other situations, the current auditors of the foreign issuers may not be deemed independent under the applicable rules of the PCAOB and the Commission, and the issuer would therefore be required to consider the engagement of new auditors with respect to each of the periods for which financial statements will be required to be provided under applicable Commission regulations. Still other companies may need to assure that they will have available the financial information necessary to comply with the Commission and PCAOB requirements relating to issuers and associated entities. While this is not intended to be an

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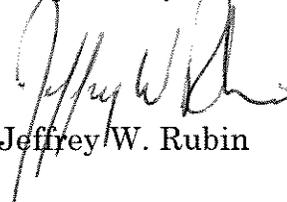
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exhaustive list of the issues that foreign issuers may confront if Section 12 registration is mandated by the Commission, we believe these considerations indicate that any determination by the Commission which does not provide for an appropriate transition period could result in a number of the grandfathered foreign issuers terminating their Nasdaq listings. Without suggesting that it has performed a detailed analysis of these and the other matters related to U.S. registration, Nissan suggests that a transition period of at least five years would be appropriate.

We understand that Nasdaq's application to register as a national securities exchange involves an extensive review by the Commission as to a broad range of market implications. We ask that, in the context of this review, the Commission remain sensitive to the potential consequences of the proposed Nasdaq rules to the companies whose Nasdaq registration was, as the Commission indicated in 1983, to extend indefinitely.

We appreciate your consideration of this request, and would be pleased to discuss with the staff of the Commission any questions the staff may have.

Respectfully submitted,



Jeffrey W. Rubin

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