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Nasdaq Extends Time for Noncompliant Companies to Remain Listed

On January 29, 2010, the Securities Exchange Commission ("SEC") approved a rule submitted by The NASDAQ Stock Market LLC ("Nasdaq") to lengthen the amount of time that noncompliant companies may remain listed on the Nasdaq exchange. The rule also extends the time available for a company to comply with listing requirements after it becomes noncompliant.

Generally, companies must maintain between \$1 to \$15 million in market value of publicly held securities to remain listed with Nasdaq, depending on the particular listing standard. Prior to the rule change, if a company traded below the applicable market value requirement for 10 consecutive business days, the company would be notified by Nasdaq that it was noncompliant. The new rule extends this period of time to 30 days. Additionally, the prior change required that once a company was notified that it was noncompliant, the company had 90 calendar days to regain compliance. The new rule extends this period to 180 days.

Additionally, the new rule extends the period of time available for companies to provide Nasdaq staff with a compliance plan after it fails to meet the minimum standards for stockholders' equity, publically held shares, or the number of shareholders. Currently, companies have only 15 calendar days to submit a plan and regain compliance, and Nasdaq staff have the discretion to allow the company up to 105 calendar days to regain compliance. Under the new rule, the number of days that a company has to present its plan is increased from 15 to 45, and the number of days for which staff can grant an extension of time to regain compliance is increased from 105 to 180.

If you have any questions regarding the proposed amendments or would like to coordinate a comment to the SEC, please contact [John Henry](mailto:jhenry@millermartin.com) at jhenry@millermartin.com, [Beth Sims](mailto:bsims@millermartin.com) at bsims@millermartin.com or any other member of Miller & Martin's [Securities Practice Group](#).

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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