

## INFORMATION FOR NASDAQ LISTED COMPANIES ABOUT THE IMPACT OF CORONAVIRUS (COVID-19)

[AS OF APRIL 17, 2020](#)

Nasdaq understands that companies may have questions about the impact of disruptions caused by COVID-19. Below are some resources that may be of assistance to companies. We will be updating this document as conditions continue to evolve.

Companies adversely impacted by COVID-19 or the resulting market conditions, or that have any questions regarding the application of the Nasdaq Listing Rules, may contact their Listing Analyst, the Nasdaq Listing Qualifications Department by phone at +301-978-8008 or via email at [continuedlisting@nasdaq.com](mailto:continuedlisting@nasdaq.com).

### NASDAQ RELIEF FROM PRICE-BASED CONTINUED LISTING REQUIREMENTS

In response to the COVID-19 pandemic and related extraordinary market conditions, Nasdaq is providing temporary relief from the continued listing bid price and market value of publicly held shares listing requirements through June 30, 2020. Under the relief, companies will have additional time to regain compliance for these price-based requirements.

For further information, please see Nasdaq's April 16, 2020 [Issuer Alert 2020-2](#) and [Nasdaq's rule filing](#).

### PERIODIC REPORTING OBLIGATIONS

On March 25, 2020, the SEC issued an updated [Order](#) granting companies that qualify for relief, subject to certain conditions, an additional 45 days to file Exchange Act reports. This relief applies to filings originally due between March 1 and July 1, 2020. As a result of the Commission's action, Nasdaq-listed companies impacted by the COVID-19 outbreak that satisfy the conditions in the Commission's Order and are eligible for the 45 day extension to file will not be deficient under Nasdaq Rule 5250(c) for failing to file Exchange Act reports by the existing deadlines and will not receive a deficiency letter from Nasdaq.

This order supersedes the original order issued on March 4, 2020. For further information, links to the orders as well as Nasdaq's March 6, 2020 Issuer Alert 2020-1 (*Impact under Nasdaq Rules of SEC Relief to Companies Affected by the Coronavirus*) can be found in the *Additional Resources* Section below.

Companies that are unable to file a periodic report by the relevant due date, but that are not eligible for the relief granted by the SEC, can submit a plan to Nasdaq Listing Qualifications describing how they intend to regain compliance and, under the Listing Rules, Listing Qualifications' staff can allow them up to six months to file.

### ANNUAL MEETINGS AND PROXY STATEMENTS

Nasdaq's [Issuer Alert 2020-1](#) also addresses the impact of the [SEC Order](#) on furnishing of proxy and information statements. The SEC Order exempts companies from any requirement, including under Regulation 14A, to file or furnish proxy statements, annual reports, and other solicitation materials to shareholders with a mailing address where common carrier service has been suspended due to the Coronavirus, provided the registrant has made a good faith effort to deliver such materials. A company that satisfies the conditions and requirements in the Commission's Order is exempt from Regulation 14A (including Rule 14a-16) with respect to shareholders in affected areas and therefore will satisfy Nasdaq Listing Rule 5250(d), which requires companies to make available their annual, quarterly and interim reports to shareholders, and Nasdaq Rule 5620(b), which requires that a company solicit proxies and provide proxy statements for

all meetings of shareholders. The SEC Guidance dated April 7<sup>th</sup> also includes new guidance on compliance with Rule 14a-16 for companies encountering delays in printing and physical delivery of proxy materials.

See Nasdaq's [Reports to Shareholder FAQs](#) and [Proxy Solicitation FAQs](#) for more information.

On April 7, 2020, the SEC updated [Guidance](#) regarding the logistics of conducting annual meetings including "virtual" meetings. If "virtual" meetings are permitted by state law and the issuer's governing documents, issuers wishing to hold such meetings are required to notify shareholders within a timely manner with clear directions on how to access the meeting. Issuers who have yet to file their definitive proxy statement should include such information in the proxy statement when filed. Issuers that have already filed a definitive proxy statement are not required to file and mail additional proxy materials if they follow certain steps outlined by the SEC for announcing changes to a previously announced meeting. Nasdaq permits virtual meetings if permissible under the relevant state law and shareholders have the opportunity to ask questions of management.

See Nasdaq's [Virtual Meeting FAQ](#)

## SHAREHOLDER APPROVAL RULES

The Nasdaq shareholder approval rules generally require companies to obtain approval from shareholders prior to issuing securities in connection with: (i) certain acquisitions of the stock or assets of another company; (ii) equity-based compensation of officers, directors, employees or consultants; (iii) a change of control; and (iv) certain private placements at a price less than the Minimum Price as defined in Listing Rule 5635(d).

An exception is available for companies in financial distress where the delay in securing stockholder approval would seriously jeopardize the financial viability of the company. To request a financial viability exception, the company must complete a Rule Interpretation Request form electronically through the Listing Center. To support the request, the company should attach a letter addressing how a delay resulting from seeking shareholder approval would seriously jeopardize its financial viability and how the proposed transaction would benefit the company. The letter should also describe the proposed transaction in detail and should include the identity of the investors.

Although generally this is a difficult standard to meet, Nasdaq will consider the impact of disruptions caused by COVID-19 in its review of any pending or new requests for a financial viability exception.

In addition, reliance by the company on a financial viability exception must expressly be approved by the company's audit committee and the company must obtain Nasdaq's approval to rely upon the financial viability exception prior to proceeding with the transaction. Under the rule, companies must also provide notice to shareholders at least ten days prior to issuing securities in the exempted transaction.

See [Nasdaq Listing Rule 5635\(f\)](#) and the [Financial Viability Exception FAQ](#) for more information.

## OTHER NASDAQ LISTING RULES

The Nasdaq Listing Rules allow companies that do not meet specific rules additional time to regain compliance. While at this time Nasdaq has not sought to suspend any Listing Rules, we are closely monitoring the impact of COVID-19, including the resultant market volatility, on Nasdaq-listed companies.

Companies newly deficient with the bid price, market value of listed securities, or market value of public float requirements have at least 180 days to regain compliance and may be eligible for additional time.

Companies that no longer satisfy the applicable equity requirement can submit a plan to Nasdaq Listing Qualifications describing how they intend to regain compliance and, under the Listing Rules, Listing Qualifications' staff can allow them up to six months to come back into compliance with the requirement.

Companies are encouraged to contact Listing Qualifications for guidance on any other situations that may warrant an exception to the rules.

## EXCHANGE-TRADED FUNDS

On March 25, 2020, the SEC issued an updated order granting exemptions to companies facing challenges due to COVID-19 from certain provisions of the Investment Company Act of 1940 (the "1940 Act"). The [SEC Order](#) includes a temporary exemption for Exchange-Traded Funds (ETF) registered under the 1940 Act that are required to file Form N-CEN or Form N-PORT. Under the updated order, reports eligible to rely on the relief now include filings originally due between March 1 and June 30, 2020 and must be filed within 45 days of the original filing date. ETFs that rely on the relief and file within the extended deadline will not be considered deficient under Nasdaq rules. This order supersedes the original order that was issued on March 13, 2020.

The March 25 SEC Order also updated the conditions for reliance on the exemptions. An ETF relying on the relief must 1) promptly notify the SEC via email ([IM-EmergencyRelief@sec.gov](mailto:IM-EmergencyRelief@sec.gov)) stating that the ETF is relying on the relief; 2) include a statement on the ETF's website stating that the ETF is relying on the relief; and 3) once filed, the report must include a statement as to why the ETF was unable to file within the original filing deadline.

The SEC Order also exempts ETFs structured as Unit Investment Trusts (UIT) that meet certain conditions from the requirement to furnish annual and semi-annual reports to shareholders.

## HEARINGS PANELS

When a company receives a Staff Delisting Determination or a Public Reprimand Letter issued by the Listing Qualifications Department, or when its application for initial listing is denied, it may request that an independent Hearings Panel review the matter at a written or an oral hearing. These hearings take place, to the extent practicable, within 45 days of the request for a hearing.

Hearings Panels are continuing to convene to consider matters, and companies can continue to request written or oral hearings. Until at least April 16, 2020, there will be no in-person hearings and all oral hearings will be conducted through video teleconferencing. While Hearings Panels recognize and will consider the unique circumstances currently facing companies, each company seeking an extension to regain compliance with the Listing Rules must still present the Hearings Panel with their plan to regain compliance based on the facts and circumstances of that company's situation.

Please contact [hearings@nasdaq.com](mailto:hearings@nasdaq.com) if you have any questions.

## IMPACT ON TRADING AND OPERATIONS

**Market Wide Circuit Breaker:** A decline in the S&P 500 Index of 7% from the prior day's close that occurs before 3:25 p.m. triggers a 15-minute trading halt. If the S&P 500 Index continues to decline following the resumption of trading and reaches a 13% decline from the prior day's close before 3:25 p.m., there will be an additional 15-minute trading halt. A 20% decline at any time halts trading for the remainder of the trading day.

**Individual Stocks:** For individual stocks, Limit Up/Limit Down (LULD) rules are in place. LULD is meant to address extraordinary market volatility by preventing trades outside of specified bands. For stocks above \$3, the bands are generally 5% for S&P 500 & Russell 1000 stocks and 10% for all other stocks. Bands are based on a security-specific

rolling average reference price over the immediately preceding five-minute period, which means that a security can decline more than 5% or 10%, respectively, so long as trading is orderly.

**Short Sales:** SEC Rule 201, the “short sale circuit breaker”, limits short selling once a stock declines by 10% from the prior day’s close. The rule does not prohibit shorting but places a new price test on short sale activity: short sell orders may not trade at or below the national best bid. Once triggered, the short sale circuit breaker remains in place for the balance of the trading day and the entire next trading day, even if the stock moves back above the -10% threshold.

**North American Exchange Operations:** Initial public offerings (IPOs) and first trade operations continue as scheduled. All client events have been cancelled and general public access is restricted until further notice.

## ADDITIONAL RESOURCES

[Issuer Alert 2020-2](#), Issued April 16, 2020, which explains the temporary relief provided by Nasdaq from the continued listing bid price and market value of publicly held shares listing requirements.

[SEC Public Statement](#), issued April 8, 2020, from SEC Chairman Jay Clayton and William Hinman, Director, Division of Corporate Finance, discussing the importance of disclosure for investors and the markets during the current economic uncertainty caused by COVID-19.

[SEC Guidance](#), first issued on March 13, 2020 and updated on April 7, 2020, regarding conducting annual meetings including “virtual” meetings.

[SEC Order](#), issued on March 25, 2020, which grants companies, subject to certain conditions, an additional 45 days to file Exchange Act Reports that would otherwise have been due between March 1 and July 1, 2020.

[SEC Order](#), issued on March 25, 2020, which updates the exemptions to companies facing challenges due to COVID-19 from certain provisions of the Investment Company Act of 1940.

[SEC Order](#), issued on March 13, 2020, which grants exemptions to companies facing challenges due to COVID-19 from certain provisions of the Investment Company Act of 1940.

[Issuer Alert 2020-1](#), issued on March 6, 2020, which explains the impact under Nasdaq Rules of SEC Relief to companies affected by COVID-19

[SEC Order](#), issued on March 4, 2020, which grants companies, subject to certain conditions, an additional 45 days to file Exchange Act Reports that would otherwise have been due between March 1 and April 30, 2020.

[Frequently Asked Questions on Market Wide Circuit Breakers](#)

[Frequently Asked Questions on Limit Up-Limit Down](#)

[Nasdaq Statement on North American Operations](#)

[Webinar](#) on implications and insight on trading as it relates to COVID-19 (*March 12, 2020*)

[Nasdaq COVID-19 Microsite](#) Stay on top of the market environment and COVID-19 resources on Nasdaq.com. View a collection of our recent webinars, reports, news updates and more information designed for Nasdaq corporate clients.

## VERSION HISTORY

March 17, 2020: Original posting

March 20, 2020: Added *Hearings Panel* section

March 26, 2020: Updated *Periodic Reporting Obligations, Annual Meeting and Proxy Statements* and *Exchange-Traded Funds* sections

April 9, 2020: Updated *Annual Meetings and Proxy Statements* and *Additional Resources* sections

April 16, 2020: Added *Nasdaq Relief From Price-Based Continued Listing Requirements* section and updated *Additional Resources* section.