

NASDAQ LISTING RULES

5001. The Qualification, Listing, and Delisting of Companies

This Rule Series 5000 (consisting of Rules 5000-5999) contains rules related to the qualification, listing and delisting of Companies on The Nasdaq Stock Market.

The Rule 5100 Series (consisting of Rules 5100-5199) discusses Nasdaq's general regulatory authority. The Rule 5200 Series (consisting of Rules 5200-5299) sets forth the procedures and prerequisites for gaining a listing on The Nasdaq Stock Market, as well as the disclosure obligations of listed Companies. The Rule 5300, 5400, and 5500 Series (consisting of Rules 5300-5399, 5400-5499, and 5500-5599, respectively) contain the specific the quantitative listing requirements for listing on the Global Select, Global Market, and Capital Market, respectively. The corporate governance requirements applicable to all Companies are contained in the Rule 5600 Series (consisting of Rules 5600-5699). Special listing requirements for securities other than common or preferred stock and warrants are contained in the Rule 5700 Series (consisting of Rules 5700- 5799). The consequences of a failure to meet Nasdaq's listing standards are contained in the Rule 5800 Series (consisting of Rules 5800-5899). Finally, Company listing fees are described in the Rule 5900 Series (consisting of Rules 5900-5999).

Nasdaq exercises other authorities important to listed Companies discussed in other Rules Series in the Marketplace Rules. For example, Nasdaq may close markets upon request of the SEC (see Rule 4121). It may also halt the trading of a Company's securities under certain circumstances and pursuant to established procedures (See Rule 4120 and IM-5250-1 and IM-5810). These authorities are exercised primarily by the MarketWatch Department and are contained in the Rule 4000 series.

Nasdaq and Financial Industry Regulatory Authority, Inc. ("FINRA") are parties to a regulatory contract pursuant to which FINRA has agreed to perform certain functions described in the Rules on behalf of Nasdaq. Notwithstanding the fact that Nasdaq has entered into the regulatory contract with FINRA to perform some of Nasdaq's functions, Nasdaq shall retain ultimate legal responsibility for, and control of, such functions.

Amended by SR-NASDAQ-2009-052 eff. June 16, 2009; amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

5005. Definitions

(a) The following is a list of definitions used throughout the Nasdaq Listing Rules. This section also lists various terms together with references to other rules where they are specifically defined. Unless otherwise specified by the Rules, these terms shall have the meanings set forth below. Defined terms are capitalized throughout the Listing Rules.

(1) "Act" means the Securities Exchange Act of 1934.

(2) "Best efforts offering" means an offering of securities by members of a selling group under an agreement that imposes no financial commitment on the members of such group to purchase any such securities except as they may elect to do so.

(3) "Bid Price" means the closing bid price.

(4) "Cash flows", as it pertains to The Nasdaq Global Select Market, is defined in the Rule 5310(b).

(5) "Commission" or "SEC" means the United States Securities and Exchange Commission.

(6) "Company" means the issuer of a security listed or applying to list on Nasdaq. For purposes of the Rule 5000 Series, the term "Company" includes an issuer that is not incorporated, such as, for example, a limited partnership.

(7) "Consolidated Quotation Service" (CQS) means the consolidated quotation collection system for securities listed on an exchange other than Nasdaq implementing Rule 602 of Regulation NMS under the Act.

(8) "Country of Domicile" means the country under whose laws a Company is organized or incorporated.

(9) "Covered Security" means a security described in Section 18(b) of the Securities Act of 1933.

(10) "Direct Registration Program" means any program by a Company, directly or through its transfer agent, whereby a Shareholder may have securities registered in the Shareholder's name on the books of the Company or its transfer agent without the need for a physical certificate to evidence ownership.

(11) "Dually-Listed Security" means a security, listed on The Nasdaq Global Market or The Nasdaq Global Select Market, which is also listed on the New York Stock Exchange.

(12) "EDGAR System" means the SEC's Electronic Data Gathering, Analysis, and Retrieval system.

(13) "Equity Investment Tracking Stock" means a class of common equity securities that tracks on an unleveraged basis the performance of an investment by the issuer in the common equity securities of a single other company listed on Nasdaq. An Equity Investment Tracking Stock may track multiple classes of common equity securities of a single issuer, so long as all of those classes have identical economic rights and at least one of those classes is listed on Nasdaq.

(14) "ESOP" means employee stock option plan.

(15) "Executive Officer" is defined in Rule 5605(a)(1).

(16) "Filed with Nasdaq" means submitted to Nasdaq directly or filed with the Commission through the EDGAR System.

(17) "Firm Commitment Offering" 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.

(18) "Family Member" is defined in Rule 5605(a)(2).

(19) "Foreign Private Issuer" shall have the same meaning as under Rule 3b-4 under the Act.

(20) "Independent Director" is defined in Rule 5605(a)(2).

(21) "Index Warrants" is defined in Rule 5725(a).

(22) "Listed Securities" means securities listed on Nasdaq or another national securities exchange.

(23) "Market Value" means the consolidated closing bid price multiplied by the measure to be valued (e.g., a Company's Market Value of Publicly Held Shares is equal to the consolidated closing bid price multiplied by a Company's Publicly Held Shares).

(24) "Member" means a broker or dealer admitted to membership in Nasdaq.

(25) "Market Maker" means a dealer that, with respect to a security, holds itself out (by entering quotations in the Nasdaq Market Center) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.

(26) "The Nasdaq Global Market" or "Global Market" or "NGM" is a distinct tier of Nasdaq comprised of two segments: The Nasdaq Global Market and The Nasdaq Global Select Market. The Nasdaq Global Market is the successor to the Nasdaq National Market.

(27) "Nasdaq Global Market security" or "NGM security" means any security listed on Nasdaq that (1) satisfies all applicable requirements of the Rule 5100 and 5200 Series and meets the criteria set forth in the Rule 5400 Series; (2) is a right to purchase such security; (3) is a warrant to subscribe to such security; or (4) is an Index Warrant which meets the criteria set forth in Rule 5725(a).

(28) "The Nasdaq Capital Market" or "Capital Market" is a distinct tier of Nasdaq comprised of securities that meet the requirements of the Rule 5100, 5200 and 5500 Series, and are listed as Nasdaq Capital Market securities. The Nasdaq Capital Market is the successor to The Nasdaq SmallCap Market.

(29) "Nasdaq Capital Market security" means any security listed on The Nasdaq Capital Market that (1) satisfies all applicable requirements of the Rule 5100, 5200 and 5500 Series but that is not a Nasdaq Global Market security; (2) is a right to purchase such security; or (3) is a warrant to subscribe to such security.

(30) "The Nasdaq Global Select Market" or "Global Select Market" or "Global Select" or "NGSM" is a segment of The Nasdaq Global Market comprised of NGM securities that met the requirements for initial inclusion contained in the Rule 5100, 5200 and 5300 Series.

(31) "Nasdaq Global Select Market security" or "NGSM security" means any security listed on Nasdaq and included in The Nasdaq Global Select segment of The Nasdaq Global Market.

(32) "Other Regulatory Authority" means: (i) in the case of a bank or savings authority identified in Section 12(i) of the Act, the agency vested with authority to enforce the provisions of Section 12 of the Act; or (ii) in the case of an insurance company that is 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), the Commissioner of Insurance (or other officer or agency performing a similar function) of its domiciliary state.

(33) "Primary Equity Security" means a Company's first class of Common Stock, Ordinary Shares, Shares or Certificates of Beneficial Interest of Trust, Limited Partnership Interests or American Depositary Receipts (ADR) or Shares (ADS).

(34) "Publicly Held Shares" means 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. Determinations of beneficial ownership in calculating publicly held shares shall be made in accordance with Rule 13d-3 under the Act.

(35) "Public Holders" means 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.

(36) "Reverse Merger" means any transaction whereby an operating company becomes an Exchange Act reporting company by combining, either directly or indirectly, with a shell company which is an Exchange Act reporting company, whether through a reverse merger, exchange offer, or otherwise. However, a Reverse Merger does not include the acquisition of an operating company by a listed company satisfying the requirements of IM-5101-2 or a business combination described in Rule 5110(a). In determining whether a Company is a shell company, Nasdaq will look to a number of factors, including but not limited to: whether the Company is considered a "shell company" as defined in Rule 12b-2 under the Act; what percentage of the Company's assets are active versus passive; whether the Company generates revenues, and if so, whether the revenues are passively or actively generated; whether the Company's expenses are reasonably related to the revenues being generated; how many employees support the Company's revenue-generating business operations; how long the Company has been without material business operations; and whether the Company has publicly announced a plan to begin operating activities or generate revenues, including through a near-term acquisition or transaction.

(37) "Round Lot" or "Normal Unit of Trading" means 100 shares of a security unless, with respect to a particular security, Nasdaq determines that a normal unit of trading shall constitute other than 100 shares. If a normal unit of trading is other than 100 shares, a special identifier shall be appended to the Company's Nasdaq symbol.

(38) "Round Lot Holder" means a holder of a Normal Unit of Trading. The number of beneficial holders will be considered in addition to holders of record.

(39) "Shareholder" means a record or beneficial owner of a security listed or applying to list. For purposes of the Rule 5000 Series, the term "Shareholder" includes, for example, a limited partner, the owner of a depository receipt, or unit.

(40) "Substantial Shareholder" is defined in Rule 5635(e)(3).

(41) "Substitution Listing Event" means: a reverse stock split, re-incorporation or a change in the Company's place of organization, the formation of a holding company that replaces a listed Company, reclassification or exchange of a Company's listed shares for another security, the listing of a new class of securities in substitution for a previously-listed class of securities, a business combination described in IM-5101-2, or any technical change whereby the Shareholders of the original Company receive a share-for-share interest in the new Company without any change in their equity position or rights. A Substitution Listing Event also includes the replacement of, or any significant modification to, the index, portfolio or Reference Asset underlying a security listed under the Rule 5700 Series (including, but not limited to, a significant modification to the index methodology, a change in the index provider, or a change in control of the index provider).

(42) "Total Holders" means holders of a security that includes both beneficial holders and holders of record.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Nov. 8, 2011 (SR-NASDAQ-2011-073); amended Oct. 2, 2013 (SR-NASDAQ-2013-130); amended Apr. 20, 2016 (SR-NASDAQ-2016-059); amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

5100. Nasdaq's Regulatory Authority

5101. Preamble to the Rule 5100 Series

Nasdaq is entrusted with the authority to preserve and strengthen the quality of and public confidence in its market. Nasdaq stands for integrity and ethical business practices in order to enhance investor confidence, thereby contributing to the financial health of the economy and supporting the capital formation process. Nasdaq Companies, from new public Companies to Companies of international stature, are publicly recognized as sharing these important objectives.

Nasdaq, therefore, in addition to applying the enumerated criteria set forth in the Rule 5000 Series, has broad discretionary authority over the initial and continued listing of securities in Nasdaq in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Nasdaq may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq. In all circumstances where the Listing Qualifications Department (as defined in Rule 5805) exercises its authority under Rule 5101, the Listing Qualifications Department shall issue a Staff Delisting Determination under Rule 5810(c)(1), and in all circumstances where an Adjudicatory Body (as defined in Rule 5805) exercises such authority, the use of the authority shall be described in the written decision of the Adjudicatory Body.

Amended June 16, 2009 (SR-NASDAQ-2009-052).

IM-5101-1. Use of Discretionary Authority

To further Companies' understanding of Rule 5101, Nasdaq has adopted this Interpretive Material as a non-exclusive description of the circumstances in which the Rule is generally invoked.

Nasdaq may use its authority under Rule 5101 to deny initial or continued listing to a Company when an individual with a history of regulatory misconduct is associated with the Company. Such individuals are typically an officer, director, Substantial Shareholder (as defined in Rule 5635(e)(3)), or consultant to the Company. In making this determination, Nasdaq will consider a variety of factors, including:

- the nature and severity of the conduct, taken in conjunction with the length of time since the conduct occurred;
- whether the conduct involved fraud or dishonesty;
- whether the conduct was securities-related;
- whether the investing public was involved;
- how the individual has been employed since the violative conduct;
- whether there are continuing sanctions (either criminal or civil) against the individual;
- whether the individual made restitution;
- whether the Company has taken effective remedial action; and
- the totality of the individual's relationship to the Company, giving consideration to:
 - the individual's current or proposed position;
 - the individual's current or proposed scope of authority;
 - the extent to which the individual has responsibility for financial accounting or reporting; and
 - the individual's equity interest.

Based on this review, Nasdaq may determine that the regulatory history rises to the level of a public interest concern, but may also consider whether remedial measures proposed by the Company, if taken, would allay that concern. Examples of such remedial measures could include any or all of the following, as appropriate:

- the individual's resignation from officer and director positions, and/or other employment with the Company;
- divestiture of stock holdings;
- terminations of contractual arrangements between the Company and the individual;
or
- the establishment of a voting trust surrounding the individual's shares.

Nasdaq staff is willing to discuss with Companies, on a case-by-case basis, what remedial measures may be appropriate to address public interest concerns, and for how long such remedial measures would be required. Alternatively, Nasdaq may conclude that a public interest concern is so serious that no remedial measure would

be sufficient to alleviate it. In the event that Nasdaq staff denies initial or continued listing based on such public interest considerations, the Company may seek review of that determination through the procedures set forth in the Rule 5800 Series. On consideration of such appeal, a listing qualifications panel comprised of persons independent of Nasdaq may accept, reject or modify the staff's recommendations by imposing conditions.

Nasdaq may also use its discretionary authority, for example, when a Company files for protection under any provision of the federal bankruptcy laws or comparable foreign laws, when a Company's independent accountants issue a disclaimer opinion on financial statements required to be audited, or when financial statements do not contain a required certification.

In addition, pursuant to its discretionary authority, Nasdaq will review the Company's past corporate governance activities. This review may include activities taking place while the Company is listed on Nasdaq or an exchange that imposes corporate governance requirements, as well as activities taking place after a formerly listed company is no longer listed on Nasdaq or such an exchange. Based on such review, and in accordance with the Rule 5800 Series, Nasdaq may take any appropriate action, including placing restrictions on or additional requirements for listing, or denying listing of a security, if Nasdaq determines that there have been violations or evasions of such corporate governance standards. Such determinations will be made on a case-by-case basis as necessary to protect investors and the public interest.

Although Nasdaq has broad discretion under Rule 5101 to impose additional or more stringent criteria, the Rule does not provide a basis for Nasdaq to grant exemptions or exceptions from the enumerated criteria for initial or continued listing, which may be granted solely pursuant to rules explicitly providing such authority.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052).

IM-5101-2. Listing of Companies Whose Business Plan is to Complete One or More Acquisitions

Generally, Nasdaq will not permit the initial or continued listing of a Company that has no specific business plan or that has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies.

However, in the case of a Company whose business plan is to complete an initial public offering and engage in a merger or acquisition with one or more unidentified companies within a specific period of time, Nasdaq will permit the listing if the Company meets all applicable initial listing requirements, as well as the conditions described below.

(a) At least 90% of the gross proceeds from the initial public offering and any concurrent sale by the company of equity securities must be deposited in a trust account maintained by an independent trustee, an escrow account maintained by an

"insured depository institution," as that term is defined in Section 3(c)(2) of the Federal Deposit Insurance Act or in a separate bank account established by a registered broker or dealer (collectively, a "deposit account").

(b) Within 36 months of the effectiveness of its IPO registration statement, or such shorter period that the company specifies in its registration statement, the Company must complete one or more business combinations having an aggregate fair market value of at least 80% of the value of the deposit account (excluding any deferred underwriters fees and taxes payable on the income earned on the deposit account) at the time of the agreement to enter into the initial combination.

(c) Until the Company has satisfied the condition in paragraph (b) above, each business combination must be approved by a majority of the Company's Independent Directors.

(d) Until the Company has satisfied the condition in paragraph (b) above, if the Company holds a shareholder vote on a business combination for which the Company must file and furnish a proxy or information statement subject to Regulation 14A or 14C under the Act in advance of the shareholder meeting, the business combination must be approved by a majority of the shares of common stock voting at the meeting at which the combination is being considered. If a shareholder vote on the business combination is held, public Shareholders voting against a business combination must have the right to convert their shares of common stock into a pro rata share of the aggregate amount then in the deposit account (net of taxes payable and amounts distributed to management for working capital purposes) if the business combination is approved and consummated. A Company may establish a limit (set no lower than 10% of the shares sold in the IPO) as to the maximum number of shares with respect to which any Shareholder, together with any affiliate of such Shareholder or any person with whom such shareholder is acting as a "group" (as such term is used in Sections 13(d) and 14(d) of the Act), may exercise such conversion rights. For purposes of this paragraph (d), public Shareholder excludes officers and directors of the Company, the Company's sponsor, the founding Shareholders of the Company, and any Family Member or affiliate of any of the foregoing persons, or the beneficial holder of more than 10% of the total shares outstanding.

Until the Company completes a business combination where all conditions in paragraph (b) above are met, the Company must notify Nasdaq on the appropriate form about each proposed business combination. Following each business combination, the combined Company must meet the requirements for initial listing. If the Company does not meet the requirements for initial listing following a business combination or does not comply with one of the requirements set forth above, Nasdaq will issue a Staff Delisting Determination under Rule 5810 to delist the Company's securities.

(e) Until the Company has satisfied the condition in paragraph (b) above, if a shareholder vote on the business combination is not held for which the Company must file and furnish a proxy or information statement subject to Regulation 14A or 14C

under the Act, the Company must provide all Shareholders with the opportunity to redeem all their shares for cash equal to their pro rata share of the aggregate amount then in the deposit account (net of taxes payable and amounts distributed to management for working capital purposes), pursuant to Rule 13e-4 and Regulation 14E under the Act, which regulate issuer tender offers. The Company must file tender offer documents with the Commission containing substantially the same financial and other information about the business combination and the redemption rights as would be required under Regulation 14A of the Act, which regulates the solicitation of proxies.

Until the Company completes a business combination where all conditions in paragraph (b) above are met, the Company must notify Nasdaq on the appropriate form about each proposed business combination. Following each business combination, the combined Company must meet the requirements for initial listing. If the Company does not meet the requirements for initial listing following a business combination or does not comply with one of the requirements set forth above, Nasdaq will issue a Staff Delisting Determination under Rule 5810 to delist the Company's securities.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Dec. 23, 2010 (SR-NASDAQ-2010-137).

5110. Change of Control, Bankruptcy and Liquidation, and Reverse Mergers

(a) Business Combinations with non-Nasdaq Entities Resulting in a Change of Control

A Company must apply for initial listing in connection with a transaction whereby the Company combines with a non-Nasdaq entity, resulting in a change of control of the Company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq Listing. In determining whether a change of control has occurred, Nasdaq shall consider all relevant factors including, but not limited to, changes in the management, board of directors, voting power, ownership, and financial structure of the Company. Nasdaq shall also consider the nature of the businesses and the relative size of the Nasdaq Company and non-Nasdaq entity. The Company must submit an application for the post-transaction entity with sufficient time to allow Nasdaq to complete its review before the transaction is completed. If the Company's application for initial listing has not been approved prior to consummation of the transaction, Nasdaq will issue a Staff Delisting Determination and begin delisting proceedings pursuant to the Rule 5800 Series.

(b) Bankruptcy and Liquidation

Nasdaq may use its discretionary authority under the Rule 5100 Series to suspend or terminate the listing of a Company that has filed for protection under any provision of the federal bankruptcy laws or comparable foreign laws, or has announced that liquidation has been authorized by its board of directors and that it is committed to

proceed, even though the Company's securities otherwise meet all enumerated criteria for continued listing on Nasdaq. In the event that Nasdaq determines to continue the listing of such a Company during a bankruptcy reorganization, the Company shall nevertheless be required to satisfy all requirements for initial listing, including the payment of initial listing fees, upon emerging from bankruptcy proceedings.

(c) Reverse Mergers

(1) A Company that is formed by a Reverse Merger (a "Reverse Merger Company") shall be eligible to submit an application for initial listing only if the combined entity has, immediately preceding the filing of the initial listing application:

(A) traded for at least one year in the U.S. over-the-counter market, on another national securities exchange, or on a regulated foreign exchange, following the filing with the Commission or Other Regulatory Authority of all required information about the transaction, including audited financial statements for the combined entity; and

(B) maintained a closing price equal to the share price requirement applicable to the initial listing standard under which the Reverse Merger Company is qualifying to list for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days.

(2) In addition to satisfying all of Nasdaq's other initial listing requirements, a Reverse Merger Company will only be approved for listing if, at the time of approval, it has:

(A) timely filed all required periodic financial reports with the Commission or Other Regulatory Authority (Forms 10-Q, 10-K or 20-F) for the prior year, including at least one annual report. The annual report must contain audited financial statements for a full fiscal year commencing after filing the information described in paragraph (1)(A) above; and

(B) maintained a closing price equal to the share price requirement applicable to the initial listing standard under which the Reverse Merger Company is qualifying to list for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days prior to approval.

(3) A Reverse Merger Company will not be subject to the requirements of this Rule 5110(c) if, in connection with its listing, it completes a firm commitment underwritten public offering where the gross proceeds to the Reverse Merger Company will be at least \$40 million. In addition, a Reverse Merger Company will no longer be subject to the requirements of this Rule 5110(c) once it has satisfied the one-year trading requirement contained in paragraph (1)(A) above and has filed at least four annual reports with the Commission or Other Regulatory Authority containing all required audited financial statements for a full fiscal year commencing after filing the information described in that paragraph. In either case described in this paragraph (3), the Reverse Merger Company must satisfy all applicable requirements for initial

listing, including the minimum price requirement and the requirement contained in Rule 5210(e) that the Company not be delinquent in its filing obligation with the Commission or Other Regulatory Authority.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Nov. 8, 2011 (SR-NASDAQ-2011-073); amended May 25, 2017 (SR-NASDAQ-2017-053), operative June 24, 2017.

5200. General Procedures and Prerequisites for Initial and Continued Listing on The Nasdaq Stock Market

5205. The Applications and Qualifications Process

(a) To apply for listing on Nasdaq, a Company shall execute a Listing Agreement and a Listing Application on the forms designated by Nasdaq providing the information required by Section 12(b) of the Act.

(b) A Company's compliance with the initial listing criteria will be determined on the basis of the Company's most recent information filed with the Commission or Other Regulatory Authority and information provided to Nasdaq. The Company shall certify, at or before the time of listing, that all applicable listing criteria have been satisfied.

(c) A Company's qualifications will be determined on the basis of financial statements that are either: (i) prepared in accordance with U.S. generally accepted accounting principles; or (ii) reconciled to U.S. generally accepted accounting principles as required by the Commission's rules; or (iii) prepared in accordance with International Financial Reporting Standards, as issued by the International Accounting Standards Board, for Companies that are permitted to file financial statements using those standards consistent with the Commission's rules.

(d) A Company that has applied for initial listing on Nasdaq shall file with Nasdaq all reports and other documents filed or required to be filed with the Commission or Other Regulatory Authority. This requirement is satisfied by publicly filing documents through the EDGAR System. All required reports must be filed with Nasdaq on or before the date they are required to be filed with the Commission or Other Regulatory Authority. Annual reports filed with Nasdaq shall contain audited financial statements.

(e) Nasdaq may request any information or documentation, public or non-public, deemed necessary to make a determination regarding a security's initial listing, including, but not limited to, any material provided to or received from the Commission or Other Regulatory Authority. A Company's security may be denied listing if the Company fails to provide such information within a reasonable period of time or if any communication to Nasdaq contains a material misrepresentation or omits material information necessary to make the communication to Nasdaq not misleading.

(f) All forms and applications relating to listing of securities on Nasdaq referenced in the Rule 5000 Series are available on *www.nasdaq.com*

(g) The computation of Publicly Held Shares and Market Value of Publicly Held Shares shall be as of the date of application of the Company.

(h) An account of a Member that is beneficially owned by a customer (as defined in Rule 0120) will be considered a holder of a security upon appropriate verification by the Member.

(i) (1) A Company may withdraw its application for initial listing at any time.

(2) A Company that receives a written determination denying its application for listing must, within four business days, make a public announcement in a press release or other Regulation FD compliant manner about the receipt of the determination and the Rule(s) upon which the determination is based, describing each specific basis and concern identified by Nasdaq in reaching its determination. If the public announcement is not made by the Company within the time allotted or does not include all of the required information, Nasdaq will make a public announcement with the required information and, if the Company appeals the determination as set forth in Rule 5815, the Hearings Panel will consider the Company's failure to make the public announcement in considering whether to list the Company.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Feb. 13, 2015 (SR-NASDAQ-2014-102).

5210. Prerequisites for Applying to List on The Nasdaq Stock Market

All Companies applying to list on The Nasdaq Stock Market must meet the following prerequisites:

(a) Registration under 12(b) of the Act

A security shall be eligible for listing on Nasdaq provided that it is:

- (1) registered pursuant to Section 12(b) of the Act; or
- (2) 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).

(b) Auditor Registration

Each Company applying for initial listing must be audited by an independent public accountant that is registered as a public accounting firm with the Public Company Accounting Oversight Board, as provided for in Section 102 of the Sarbanes-Oxley Act of 2002 [15 U.S.C. 7212].

(c) Direct Registration Program

All securities initially listing on Nasdaq, except securities which are book-entry only, must be eligible for a Direct Registration Program operated by a clearing agency registered under Section 17A of the Act. A foreign issuer, as defined under Rule 3b-4 under the Act, including a Foreign Private Issuer, shall not be subject to this requirement if it submits to Nasdaq a written statement from an independent counsel in such Company's home country certifying that a law or regulation in the home country prohibits compliance.

(d) Fees

The Company is required to pay all applicable fees as described in the Rule 5900 Series.

(e) Good Standing

No security shall be approved for listing that is delinquent in its filing obligation with the Commission or Other Regulatory Authority or suspended from trading by the Commission pursuant to Section 12(k) of the Act or by the appropriate regulatory authorities of the Company's country of domicile.

(f) Nasdaq Certification

Upon approval of a listing application, Nasdaq shall certify to the Commission, pursuant to Section 12(d) of the Act and the rules thereunder, that it has approved the security for listing and registration. Listing can commence only upon effectiveness of the security's registration pursuant to Section 12(d).

(g) Security Depository

(1) "Securities Depository" means a securities depository registered as a clearing agency under Section 17A of the Act.

(2) For initial listing, a security shall have a CUSIP number or foreign equivalent identifying the securities included in the file of eligible issues maintained by a Securities Depository in accordance with the rules and procedures of such securities depository. This subparagraph shall not apply to a security if the terms of the security do not and cannot be reasonably modified to meet the criteria for depository eligibility at all Securities Depositories.

(3) A Security Depository's inclusion of a CUSIP number or foreign equivalent identifying a security in its file of eligible issues does not render the security "depository eligible" under Rule 11310 until:

(A) in the case of any new issue distributed by an underwriting syndicate on or after the date a Securities Depository system for monitoring repurchases of distributed shares by the underwriting syndicate is available, the date of the commencement of trading in such security on Nasdaq; or

(B) in the case of any new issue distributed by an underwriting syndicate prior to the date a Securities Depository system for monitoring repurchases of distributed shares by the underwriting syndicate is available where the managing underwriter elects not to deposit the securities on the date of the commencement of trading in such security on Nasdaq, such later date designated by the managing underwriter in a notification submitted to the Securities Depository; but in no event more than three (3) months after the commencement of trading in such security on Nasdaq.

(h) Limited Partnerships

No security issued in a limited partnership rollup transaction (as defined by Section 14(h) of the Act), shall be eligible for listing unless:

(i) the rollup transaction was conducted in accordance with procedures designed to protect the rights of limited partners as provided in Section 6(b)(9) of the Act, as it may from time to time be amended, and

(ii) a broker-dealer that is a member of a national securities association subject to Section 15A(b)(12) of the Act participates in the rollup transaction.

The Company shall further provide an opinion of counsel stating that such broker-dealer's participation in the rollup transaction was conducted in compliance with the rules of a national securities association designed to protect the rights of limited partners, as specified in the Limited Partnership Rollup Reform Act of 1993.

In addition to any other applicable requirements, each limited partnership listed on the Exchange shall have a corporate general partner or co-general partner that satisfies the Independent Director and audit committee requirements set forth in the Rule 5600 Series.

Note: The only currently existing national securities association subject to Section 15A(b)(12) of the Act is FINRA. Its rules designed to protect the rights of limited partners, pursuant to the Limited Partnership Rollup Reform Act of 1993, are specified in FINRA Rule 2310.

(i) Reverse Mergers

A security issued by a Company formed by a Reverse Merger shall be eligible for initial listing only if the conditions set forth in Rule 5110(c) are satisfied.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Nov. 23, 2009 (SR-NASDAQ-2009-101); amended Nov. 8, 2011 (SR-NASDAQ-2011-073); amended Aug. 24, 2012 (SR-NASDAQ-2012-100), operative Sep. 23, 2012; amended Nov. 7, 2012 (SR-NASDAQ-2012-128).

5215. American Depositary Receipts

(a) Eligibility

American Depositary Receipts can be listed on Nasdaq provided they represent shares in a non-Canadian foreign Company.

(b) Computations

In the case of American Depositary Receipts, annual income from continuing operations and Stockholders' Equity shall relate to the foreign issuer and not to any depositary or any other person deemed to be an issuer for purposes of Form S-12 under the Securities Act of 1933. The underlying security will be considered when determining annual income from continuing operations, Publicly Held Shares, Market Value of Publicly Held Shares, Stockholders' Equity, Round Lot or Public Holders, operating history, Market Value of Listed Securities, and total assets and total revenue.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5220. Dually-Listed Securities

Issuer Designation Requirements

Pursuant to Rule 600 of Regulation NMS under the Act, those securities for which transaction reporting is required by an effective transaction reporting plan are designated as national market system securities. A transaction reporting plan has been filed with the Commission covering securities listed on Nasdaq.

IM-5220. Impact of Non-Designation of Dually Listed Securities

To foster competition among markets and further the development of the national market system following the repeal of NYSE Rule 500, Nasdaq shall permit Companies whose securities are listed on the New York Stock Exchange to apply also to list those securities on The Nasdaq Global Market. Nasdaq shall make an independent determination of whether such Companies satisfy all applicable listing requirements and shall require Companies to enter into a dual listing agreement with Nasdaq.

While Nasdaq shall certify such dually listed securities for listing on the NGM, Nasdaq shall not exercise its authority under Rule 5220 separately to designate or register such dually listed securities as Nasdaq national market system securities within the meaning of Section 11A of the Act or the rules thereunder. As a result, these securities, which are already designated as national market system securities under the Consolidated Quotation Service ("CQS") and Consolidated Tape Association national market system plans ("CQ and CTA Plans"), shall remain subject to those plans and shall not become subject to the Nasdaq UTP Plan, the national market system plan governing securities designated by Nasdaq. For purposes of the national market system, such securities shall continue to trade under their current one, two, or three-character ticker symbol. Nasdaq shall continue to send all quotations and transaction reports in such securities to the processor for the CTA Plan. In addition, dually listed issues that are currently eligible for trading via the Intermarket Trading

System ("ITS") shall remain so and continue to trade on the Nasdaq Intermarket trading platform as they do today.

Through this interpretation, Nasdaq also resolves any potential conflicts that arise under Nasdaq rules as a result of a single security being both a security subject to the CQ and CTA Plans (a "CQS security"), which is subject to one set of rules, and a listed NGM security, which is subject to a different set of rules. Specifically, dually listed securities shall be Nasdaq securities for purposes of rules related to listing and delisting, and shall remain as CQS securities under all other Nasdaq rules. Treating dually listed securities as CQS securities under Nasdaq rules is consistent with their continuing status as CQS securities under the CTA, CQ, and ITS national market system, as described above. This interpretation also preserves the status quo and avoids creating potential confusion for investors and market participants that currently trade these securities on Nasdaq.

For example, Nasdaq shall continue to honor the trade halt authority of the primary market under the CQ and CT Plans. Nasdaq Rule 4120(a)(2) and (3) governing CQS securities shall apply to dually listed securities, whereas Nasdaq Rule 4120(a)(1), (4), (5), (6), and (7) shall not. The fees applicable to CQS securities set forth in Nasdaq Rule 7010 shall continue to apply to dually listed issues.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5222. Equity Investment Tracking Stock

(a) Eligibility

- (1) An Equity Investment Tracking Stock may be listed under the Rule 5300 Series, the Rule 5400 Series, or the Rule 5500 Series, provided it also meets the additional requirements set forth in paragraphs (b) and (c) of this Rule.
- (2) Prior to the commencement of trading of any Equity Investment Tracking Stock, Nasdaq will distribute an information circular to its members that describes any special characteristics and risks of trading the Equity Investment Tracking Stock, and Nasdaq's rules that apply to the Equity Investment Tracking Stock, including the rules that:
 - (A) require members to use reasonable diligence in regard to the opening and maintenance of every account, to know (and retain) the essential facts concerning every customer and concerning the authority of each person acting on behalf of such customer; and
 - (B) require members in recommending transactions in the Equity Investment Tracking Stock to have a reasonable basis to believe that: (i) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such members, and (ii) the customer can evaluate the

special characteristics, and is able to bear the financial risks, of an investment in the Equity Investment Tracking Stock.

(b) Additional Initial Listing Requirements

- (1) The issuer of the Equity Investment Tracking Stock must own (directly or indirectly) at least 50% of both the economic interest and voting power of all of the outstanding classes of common equity securities of the issuer whose equity is tracked by the Equity Investment Tracking Stock.
- (2) At the time of listing, the issuer of the equity security tracked by the Equity Investment Tracking Stock must not have received a Staff Delisting Determination with respect to such security and must not have been notified about a deficiency, except with respect to a corporate governance requirement where the issuer of the equity security tracked by the Equity Investment Tracking Stock has received a grace period under Rule 5810(c)(3)(E).
- (3) An Equity Investment Tracking Stock is only eligible to be listed on the same tier of Nasdaq (Global Select, Global or Capital) as the equity security it tracks.

(c) Additional Continued Listing Requirements

- (1) The following additional continued listing requirements apply to Equity Investment Tracking Stocks:
 - (A) The Equity Investment Tracking Stock must be listed on the same tier of Nasdaq (Global Select, Global or Capital) as the listed equity security it tracks;
 - (B) the listed equity security or securities whose value is tracked by the Equity Investment Tracking Stock must remain listed on Nasdaq and not be suspended pending delisting;
 - (C) the issuer of the Equity Investment Tracking Stock must continue to own (directly or indirectly) at least 50% of the economic interest and the voting power of all of the outstanding classes of common equity of the issuer whose equity is tracked by the Equity Investment Tracking Stock; and
 - (D) the Equity Investment Tracking Stock must continue to track the performance of the listed equity security or securities that was tracked at the time of initial listing.
- (2) If any of the requirements of the paragraph (1) above are not met then Nasdaq will determine whether the Equity Investment Tracking Stock meets any other applicable initial listing standard in place at that time. If the Equity Investment Tracking Stock does not qualify for initial listing at that time under another applicable initial listing standard, Nasdaq will halt trading in the security and issue a Staff Delisting Determination pursuant to Listing Rule 5810(c)(1).

(3) Notwithstanding paragraph (2) above, if the listed equity security or securities whose value is tracked by the Equity Investment Tracking Stock is transferred to a different tier of Nasdaq, the Equity Investment Tracking Stock that tracks such security will be automatically transferred to the same tier of Nasdaq, provided the Equity Investment Tracking Stock meets the applicable listing standards.

(d) Deficiency Proceedings Involving a Listed Equity Security whose Value is Tracked by the Equity Investment Tracking Stock

Rule 5222(c)(1)(B) requires the listed equity security or securities whose value is tracked by the Equity Investment Tracking Stock must remain listed on Nasdaq and not be suspended pending delisting. In order to provide investors in the Equity Investment Tracking Stock with notice about the potential delisting of the listed equity security or securities whose value is tracked by the Equity Investment Tracking Stock and to assure orderly trading in the Equity Investment Tracking Stock, additional disclosure and procedural requirements are placed on the Equity Investment Tracking Stock when a listed equity security whose value is tracked by the Equity Investment Tracking Stock is subject to deficiency procedures, as follows:

- (1) If the issuer of the listed equity security whose value is tracked by the Equity Investment Tracking Stock makes a public announcement disclosing receipt of a deficiency notification as required by Rules 5250(b)(2) and 5810(b), the issuer of the Equity Investment Tracking Stock must promptly disclose that fact by making a public announcement either by filing a Form 8-K, where required by SEC rules, or by issuing a press release.
- (2) Rule 5810(c)(1) provides that Nasdaq Staff will issue a Staff Delisting Determination to an Equity Investment Tracking Stock if a Staff Delisting Determination has been issued with respect to the security such Equity Investment Tracking Stock tracks. Notwithstanding any provisions to the contrary, if the Staff Delisting Determination issued to the security such Equity Investment Tracking Stock tracks is stayed pursuant to the Rule 5800 Series, the suspension of the Equity Investment Tracking Stock also will be stayed and will remain stayed on the same terms that apply to the security such Equity Investment Tracking Stock tracks.

Adopted June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

5225. Listing Requirements for Units (other than Paired Share Units)

(a) The Global Select Market and Global Market

(1) Initial and Continued Listing Requirements

(A) All units shall have at least one equity component. All components of such units shall satisfy the requirements for initial and continued listing on the Global Select Market or Global Market, as applicable, or, in the case of debt components, satisfy the requirements of 5225(a)(1)(B), set forth below.

(B) All debt components of a unit, if any, shall meet the following requirements:

(i) the debt issue must have an aggregate market value or principal amount of at least \$5 million;

(ii) the issuer of the debt security must have equity securities listed on the Nasdaq Global Market; and

(iii) in the case of convertible debt, the equity into which the debt is convertible must itself be subject to real-time last sale reporting in the United States, and the convertible debt must not contain a provision which gives the company the right, at its discretion, to reduce the conversion price for periods of time or from time to time unless the company establishes a minimum period of ten business days within which such price reduction will be in effect.

(C) All components of the unit shall be issued by the same issuer. All units and issuers of such units shall comply with the initial and continued listing requirements on the Global Select Market or Global Market, as applicable.

(2) Minimum Listing Period and Notice of Withdrawal

In the case of units, the minimum listing period of the units shall be 30 days from the first day of listing, except the period may be shortened if the units are suspended or withdrawn for regulatory purposes. Companies and underwriters seeking to withdraw units from listing must provide Nasdaq with notice of such intent at least 15 days prior to withdrawal.

(3) Disclosure Requirements for Units

Each Nasdaq Global Market issuer of units shall include in its prospectus or other offering document used in connection with any offering of securities that is required to be filed with the Commission under the federal securities laws and the rules and regulations promulgated thereunder a statement regarding any intention to delist the units immediately after the minimum inclusion period. The issuer of a unit shall further provide information regarding the terms and conditions of the components of the unit (including information with respect to any original issue discount or other significant tax attributes of any component) and the ratio of the components comprising the unit. A Company shall also disclose when a component of the unit is separately listed on Nasdaq. These disclosures shall be made on the Company's website, or if it does not maintain a website, in its annual report provided to unit holders. A Company shall also immediately make a public announcement by filing a Form 8-K, where required by SEC rules, or by issuing a press release disclosing, any change in the terms of the unit, such as changes to the terms and conditions of any of the components (including changes with respect to any original issue discount or other significant tax attributes of any component), or to the ratio of the components within the unit. Such public announcement shall be made as soon as practicable in relation to the effective date of the change.

(4) Market Makers

(A) For initial inclusion, a unit shall have at least three registered and active Market Makers.

(B) For continued listing, a unit shall have at least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.

(b) The Capital Market

(1) Units Issued by a Domestic or Canadian Company

(A) In the case of units, all component parts shall meet the requirements for initial and continued listing.

(B) In the case of units, the minimum period for listing of the units shall be 30 days from the first day of listing, except the period may be shortened if the units are suspended or withdrawn for regulatory purposes. Companies and underwriters seeking to withdraw units from listing must provide Nasdaq with notice of such intent at least 15 days prior to withdrawal.

(C) The issuer of units shall include in its prospectus or other offering document used in connection with any offering of securities that is required to be filed with the Commission under the federal securities law and the rules and regulations thereunder a statement regarding any intention to delist the units immediately after the minimum listing period.

(2) In the case of units issued by a non-Canadian foreign Company, all component parts shall meet the requirements for initial and continued listing.

(3) Market Makers

(A) For initial inclusion, a unit shall have at least three registered and active Market Makers.

(B) For continued listing, a unit shall have at least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended May 30, 2018 (SR-NASDAQ-2018-041).

5226. Paired Share Units

A "Paired Share Unit" is a security consisting of a share of the common stock of a Company (the "Parent") and a share of the common stock of that Company's controlled subsidiary, which: (1) are attached together; and (2) only can be traded together as a unit pursuant to a pairing agreement. Instead of the requirements in Rule

5225 (except as indicated below), a Paired Share Unit can list on the Nasdaq Global or Global Select Markets if it meets the following requirements:

- (a) For initial and continued listing, the controlled subsidiary must be a real estate investment trust (the "REIT") and the Parent must maintain ownership control, including voting control, over the REIT.
- (b) For initial listing, the Parent and the REIT must each separately satisfy the entity-level requirements of Rule 5315(f)(3) or Rule 5405(b) (e.g., the stockholders' equity, income, market capitalization, assets, revenue and operating history requirements), as applicable, and the Paired Share Unit must satisfy the security-level requirements of Rule 5315 or Rule 5405 (e.g., the price, publicly held shares, holder, market value of publicly held shares and market maker requirements), as applicable.
- (c) For continued listing, the Parent and the REIT must each separately satisfy the applicable entity-level requirements of Rule 5450(b) and the Paired Share Unit must satisfy the applicable security-level requirements of Rules 5450(a) and 5450(b).
- (d) For initial and continued listing, the Parent and the REIT must each separately satisfy all other requirements of the listing rules applicable to a Company listing its primary equity security, including, without limitation, the corporate governance requirements in the Rule 5600 Series.
- (e) For initial and continued listing, the common stock of the Parent, the common stock of the REIT and the Paired Share Unit must each be registered pursuant to Section 12(b) of the Act.
- (f) For initial and continued listing, the common stock of the Parent and the common stock of the REIT, as attached and traded together in the Paired Share Unit, must be the only securities of each of the Parent and the REIT available to public investors.
- (g) The provisions of Rules 5225(a)(2) and 5225(a)(3) are applicable to Paired Share Units.
- (h) In the event the common stock of the REIT becomes separately tradable from the common stock of the Parent, Nasdaq will immediately issue a Staff Delisting Determination for the Paired Share Unit pursuant to Listing Rule 5810(c)(1), and each of the Parent and the REIT must apply, and each of the Parent and the REIT, and their respective securities, must separately qualify for initial listing to remain listed on Nasdaq.

Adopted May 30, 2018 (SR-NASDAQ-2018-041).

5250. Obligations for Companies Listed on The Nasdaq Stock Market

(a) Obligation to Provide Information to Nasdaq

(1) Nasdaq may request any additional information or documentation, public or non-public, deemed necessary to make a determination regarding a Company's continued listing, including, but not limited to, any material provided to or received from the Commission or Other Regulatory Authority. A Company may be denied continued listing if it fails to provide such information within a reasonable period of time or if any communication to Nasdaq contains a material misrepresentation or omits material information necessary to make the communication to Nasdaq not misleading. The Company shall provide full and prompt responses to requests by Nasdaq or by FINRA acting on behalf of Nasdaq for information related to unusual market activity or to events that may have a material impact on trading of its securities in Nasdaq.

(2) As set forth in Rule 5625, a Company must provide Nasdaq with prompt notification after an Executive Officer of the Company becomes aware of any noncompliance by the Company with the requirements of the Rule 5600 Series.

(b) Obligation to Make Public Disclosure

(1) Disclosure of Material Information

Except in unusual circumstances, a Nasdaq-listed Company shall make prompt disclosure to the public through any Regulation FD compliant method (or combination of methods) of disclosure of any material information that would reasonably be expected to affect the value of its securities or influence investors' decisions. The Company shall, prior to the release of the information, provide notice of such disclosure to Nasdaq's MarketWatch Department at least ten minutes prior to public announcement if the information involves any of the events set forth in IM-5250-1 and the public release of the material information is made between 7:00 a.m. to 8:00 p.m. If the public release of the material information is made outside the hours of 7:00 a.m. to 8:00 p.m, Nasdaq Companies must notify MarketWatch of the material information prior to 6:50 a.m. ET. As described in IM-5250-1, prior notice to the MarketWatch Department must be made through the electronic disclosure submission system available at www.nasdaq.net, except in emergency situations.

(2) Disclosure of Notification of Deficiency

As set forth in Rule 5810(b) and IM-5810-1, a Company that receives a notification of deficiency from Nasdaq is required to make a public announcement by filing a Form 8-K, where required by SEC rules, or by issuing a press release disclosing receipt of the notification and the Rule(s) upon which the deficiency is based, and describing each specific basis and concern identified by Nasdaq in reaching its determination that the Company does not meet the listing standard. However, note that in the case of a deficiency related to the requirement to file a periodic report contained in Rule 5250(c)(1) or (2), the Company is required to make the public announcement by issuing a press release. As described in Rule 5250(b)(1) and IM-5250-1, the Company must notify Nasdaq's MarketWatch Department about the announcement through the

electronic disclosure submission system available at www.nasdaq.net, except in emergency situations when notification may instead be provided by telephone or facsimile. If the public announcement is made between 7:00 a.m. to 8:00 p.m, the Company must notify MarketWatch at least ten minutes prior to the announcement. If the public announcement is made outside 7:00 a.m. to 8:00 p.m, the Company must notify MarketWatch of the announcement prior to 6:50 a.m. ET.

(3) Disclosure of Third Party Director and Nominee Compensation

Companies must disclose all agreements and arrangements in accordance with this rule by no later than the date on which the Company files or furnishes a proxy or information statement subject to Regulation 14A or 14C under the Act in connection with the Company's next shareholders' meeting at which directors are elected (or, if they do not file proxy or information statements, no later than when the Company files its next Form 10-K or Form 20-F).

- (A) A Company shall disclose either on or through the Company's website or in the proxy or information statement for the next shareholders' meeting at which directors are elected (or, if the Company does not file proxy or information statements, in its Form 10-K or 20-F), the material terms of all agreements and arrangements between any director or nominee for director, and any person or entity other than the Company (the "Third Party"), relating to compensation or other payment in connection with such person's candidacy or service as a director of the Company. A Company need not disclose pursuant to this rule agreements and arrangements that: (i) relate only to reimbursement of expenses in connection with candidacy as a director; (ii) existed prior to the nominee's candidacy (including as an employee of the other person or entity) and the nominee's relationship with the Third Party has been publicly disclosed in a proxy or information statement or annual report (such as in the director or nominee's biography); or (iii) have been disclosed under Item 5(b) of Schedule 14A of the Act or Item 5.02(d)(2) of Form 8-K in the current fiscal year. Disclosure pursuant to Commission rule shall not relieve a Company of its annual obligation to make disclosure under subparagraph (B).
- (B) A Company must make the disclosure required in subparagraph (A) at least annually until the earlier of the resignation of the director or one year following the termination of the agreement or arrangement.
- (C) If a Company discovers an agreement or arrangement that should have been disclosed pursuant to subparagraph (A) but was not, the Company must promptly make the required disclosure by filing a Form 8-K or 6-K, where required by SEC rules, or by issuing a press release. Remedial disclosure under this subparagraph, regardless of its timing, does not satisfy the annual disclosure requirements under subparagraph (B).
- (D) A Company shall not be considered deficient with respect to this paragraph for purposes of Rule 5810 if the Company has undertaken reasonable efforts to

identify all such agreements or arrangements, including asking each director or nominee in a manner designed to allow timely disclosure, and makes the disclosure required by subparagraph (C) promptly upon discovery of the agreement or arrangement. In all other cases, the Company must submit a plan sufficient to satisfy Nasdaq staff that the Company has adopted processes and procedures designed to identify and disclose relevant agreements or arrangements.

(E) A Foreign Private Issuer may follow its home country practice in lieu of the requirements of Rule 5250(b)(3) by utilizing the process described in Rule 5615(a)(3).

(c) Obligation to File Periodic Financial Reports

(1) A Company shall timely file all required periodic financial reports with the Commission through the EDGAR System or with the Other Regulatory Authority. A Company that does not file through the EDGAR System shall supply to Nasdaq two (2) copies of all reports required to be filed with the Other Regulatory Authority or email an electronic version of the report to Nasdaq at *continuedlisting@nasdaq.com*. All required reports must be filed with Nasdaq on or before the date they are required to be filed with the Commission or Other Regulatory Authority. Annual reports filed with Nasdaq shall contain audited financial statements.

(2) Foreign Private Issuer Interim Reports

Each Foreign Private Issuer shall submit on a Form 6-K an interim balance sheet and income statement as of the end of its second quarter. This information, which must be presented in English, but does not have to be reconciled to U.S. GAAP, must be provided no later than six months following the end of the Company's second quarter. In the case of a Foreign Private Issuer that is a limited partnership, such information shall be distributed to limited partners if required by statute or regulation in the jurisdiction in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement.

(3) Auditor Registration

Each listed Company shall be audited by an independent public accountant that is registered as a public accounting firm with the Public Company Accounting Oversight Board, as provided for in Section 102 of the Sarbanes-Oxley Act of 2002 [15 U.S.C. 7212].

(d) Distribution of Annual and Interim Reports

(1) Distribution of Annual Reports

Each Company (including a limited partnership) shall make available to Shareholders an annual report containing audited financial statements of the Company and its subsidiaries (which, for example, may be on Form 10-K, 20-F, 40-F or N-CSR) within

a reasonable period of time following the filing of the annual report with the Commission. A Company may comply with this requirement either:

(A) by mailing the report to Shareholders;

(B) by satisfying the requirements for furnishing an annual report contained in Rule 14a-16 under the Act; or

(C) by posting the annual report to Shareholders on or through the Company's website (or, in the case of a Company that is an investment company that does not maintain its own website, on a website that the Company is allowed to use to satisfy the website posting requirement in Rule 16a-3(k) under the Act), along with a prominent undertaking in the English language to provide Shareholders, upon request, a hard copy of the Company's annual report free of charge. A Company that chooses to satisfy this requirement pursuant to this paragraph (C) must, simultaneous with this posting, issue a press release stating that its annual report has been filed with the Commission (or Other Regulatory Authority). This press release shall also state that the annual report is available on the Company's website and include the website address and that Shareholders may receive a hard copy free of charge upon request. A Company must provide such hard copies within a reasonable period of time following the request.

(2) Distribution of Interim Reports

Nasdaq Companies that distribute interim reports to Shareholders should distribute such reports to both registered and beneficial Shareholders. Nasdaq Companies are also encouraged to consider additional technological methods to communicate such information to Shareholders in a timely and less costly manner as such technology becomes available.

(3) Access to Quarterly Reports

(A) Each Company that is not a limited partnership (limited partnerships are governed by paragraph (B) below) and is subject to Rule 13a-13 under the Act shall make available copies of quarterly reports including statements of operating results to Shareholders either prior to or as soon as practicable following the Company's filing of its Form 10-Q with the Commission. If the form of such quarterly report differs from the Form 10-Q, the Company shall file one copy of the report with Nasdaq in addition to filing its Form 10-Q pursuant to Rule 5250(c)(1). The statement of operations contained in quarterly reports shall disclose, at a minimum, any substantial items of an unusual or non-recurrent nature and net income before and after estimated federal income taxes or net income and the amount of estimated federal taxes.

(B) Each Company that is limited partnership and is subject to Rule 13a-13 under the Act shall make available copies of quarterly reports including statements of operating results to limited partners either prior to or as soon as practicable following the partnership's filing of its Form 10-Q with the Commission. Such reports shall be

distributed to limited partners if required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement. If the form of such quarterly report differs from the Form 10-Q, the Company shall file one copy of the report with Nasdaq in addition to filing its Form 10-Q pursuant to Rule 5250(c)(1). The statement of operations contained in quarterly reports shall disclose, at a minimum, any substantial items of an unusual or non-recurrent nature and net income before and after estimated federal income taxes or net income and the amount of estimated federal taxes.

(4) Access to Interim Reports

(A) Each Company that is not a limited partnership and is not subject to Rule 13a-13 under the Act and that is required to file with the Commission, or Other Regulatory Authority, interim reports relating primarily to operations and financial position, shall make available to Shareholders reports which reflect the information contained in those interim reports. Such reports shall be made available to Shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report provided to Shareholders differs from that filed with the regulatory authority, the Company shall file one copy of the report to Shareholders with Nasdaq in addition to the report to the regulatory authority that is filed with Nasdaq pursuant to Rule 5250(c)(1).

(B) Each Company that is a limited partnership that is not subject to Rule 13a-13 under the Act and is required to file with the Commission, or Other Regulatory Authority, interim reports relating primarily to operations and financial position, shall make available to limited partners reports which reflect the information contained in those interim reports. Such reports shall be distributed to limited partners if required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement. Such reports shall be distributed to limited partners either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report provided to limited partners differs from that filed with the regulatory authority, the Company shall file one copy of the report to limited partners with Nasdaq in addition to the report to the regulatory authority that is filed with Nasdaq pursuant to Rule 5250(c)(1).

(5) A Foreign Private Issuer may follow its home country practice in lieu of the requirements of Rule 5250(d)(1), (2), (3) or (4) by utilizing the process described in Rule 5615(a)(3).

(6) The Company shall comply with any obligation of any person regarding filing or disclosure of information material to the Company or the security, whether such obligation arises under the securities laws of the United States or the Company's country of domicile, or other applicable federal or state statutes or rules.

(e) Nasdaq Notification Requirements

Various corporate events resulting in material changes will trigger the requirement for Companies to submit certain forms and applicable fees to Nasdaq as specified below.

All applicable forms can be found at http://www.nasdaq.com/about/listing_information.stm#forms.

(1) Change in Number of Shares Outstanding

The Company shall file, on a form designated by Nasdaq no later than 10 days after the occurrence, any aggregate increase or decrease of any class of securities listed on Nasdaq that exceeds 5% of the amount of securities of the class outstanding.

(2) Listing of Additional Shares

A Company shall be required to notify Nasdaq, except for a Company solely listing American Depositary Receipts, at least 15 calendar days prior to:

(A)

(i) establishing or materially amending a stock option plan, purchase plan or other equity compensation arrangement pursuant to which stock may be acquired by officers, directors, employees, or consultants without shareholder approval;

(ii) Nasdaq recognizes that when a Company makes an equity grant to induce an individual to accept employment, as permitted by the exception contained in Rule 5635(c)(4), it may not be practical to provide the advance notice otherwise required by this Rule. Therefore, when a Company relies on that exception to make such an inducement grant without shareholder approval, it is sufficient to notify Nasdaq about the grant and the use of the exception no later than the earlier of: (x) five calendar days after entering into the agreement to issue the securities; or (y) the date of the public announcement of the award required by Rule 5635(c)(4); or

(B) issuing securities that may potentially result in a change of control of the Company; or

(C) issuing any common stock or security convertible into common stock in connection with the acquisition of the stock or assets of another company, if any officer or director or Substantial Shareholder of the Company has a 5% or greater interest (or if such persons collectively have a 10% or greater interest) in the Company to be acquired or in the consideration to be paid; or

(D) issuing any common stock, or any security convertible into common stock in a transaction that may result in the potential issuance of common stock (or securities convertible into common stock) greater than 10% of either the total shares outstanding or the voting power outstanding on a pre-transaction basis.

The notifications required by this paragraph must be made on the Notification Form: Listing of Additional Shares and Nasdaq encourages Companies to file this form as

soon as practicable, even if all of the relevant terms are not yet known. Nasdaq reviews these forms to determine compliance with applicable Nasdaq rules, including the shareholder approval requirements. Therefore, if a Company fails to file timely the form required by this paragraph, Nasdaq may issue either a Public Reprimand Letter or a Delisting Determination (pursuant to the Rule 5800 Series).

(3) Record Keeping Change

(A) The Company shall file on a form designated by Nasdaq notification of any change to its name, the par value or title of its security, its symbol, or a similar change, no later than 10 days after the change. The Company shall also pay the appropriate Record-Keeping Fee as referenced in the Rule 5900 Series.

(B) The Company shall also notify Nasdaq promptly in writing, absent any fees, of any change in the general character or nature of its business and any change in the address of its principal executive offices.

(4) Substitution Listing

The Company shall notify Nasdaq of a Substitution Listing Event (other than a re-incorporation or a change to a Company's place of organization) no later than 15 calendar days prior to the implementation of such event by filing the appropriate form as designated by Nasdaq. For a re-incorporation or change to a Company's place of organization, a Company shall notify Nasdaq as soon as practicable after such event has been implemented by filing the appropriate form as designated by Nasdaq. The Company shall also pay the appropriate Substitution Listing Fee as referenced in the Rule 5900 Series. The Substitution Listing Fee shall not apply to securities that are listed on a national securities exchange other than Nasdaq and not designated by Nasdaq as Nasdaq national market system securities.

(5) Transfer Agent, Registrar, ADR Bank Changes

The issuer of any class of securities listed on Nasdaq, except for American Depositary Receipts, shall notify Nasdaq promptly in writing of any change in the Company's transfer agent or registrar.

(6) Dividend Action or Stock Distribution

In the case of any dividend action or action relating to a stock distribution of a listed stock the Company shall, no later than 10 calendar days prior to the record date of such action:

- (i)** notify Nasdaq by filing the appropriate form as designated by Nasdaq; and
- (ii)** provide public notice using a Regulation FD compliant method.

Notice to Nasdaq should be given as soon as possible after declaration and, in any event, no later than simultaneously with the public notice.

(f) Obligation to Pay Fees

The Company is required to pay all applicable fees as described in the Rule 5900 Series.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended Nov. 5, 2009 (SR-NASDAQ-2009-094), operative Dec. 7, 2009; amended Jan. 15, 2010 (SR-NASDAQ-2010-008); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended Mar. 26, 2010 (SR-NASDAQ-2010-041); amended May 14, 2010 (SR-NASDAQ-2010-060), operative June 13, 2010; amended Dec. 3, 2012 (SR-NASDAQ-2012-118); amended Mar. 5, 2013 (SR-NASDAQ-2013-033), operative Mar. 18, 2013; amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended July 1, 2016 (SR-NASDAQ-2016-013), operative Aug 1, 2016.

IM-5250-1. Disclosure of Material Information

Rule 5250(b)(1) requires that, except in unusual circumstances, Nasdaq Companies disclose promptly to the public through any Regulation FD compliant method (or combination of methods) of disclosure any material information that would reasonably be expected to affect the value of their securities or influence investors' decisions. Nasdaq Companies must notify Nasdaq at least ten minutes prior to the release to the public of material information that involves any of the events set forth below when the public release of the information is made between 7:00 a.m. to 8:00 pm. ET. If the public release of the material information is made outside of 7:00 a.m. to 8:00 p.m. Nasdaq Companies must notify MarketWatch of the material information prior to 6:50 a.m. ET. Under unusual circumstances Companies may not be required to make public disclosure of material events; for example, where it is possible to maintain confidentiality of those events and immediate public disclosure would prejudice the ability of the Company to pursue its legitimate corporate objectives. However, Nasdaq Companies remain obligated to disclose this information to Nasdaq upon request pursuant to Rule 5250(a).

Whenever unusual market activity takes place in a Nasdaq Company's securities, the Company normally should determine whether there is material information or news which should be disclosed. If rumors or unusual market activity indicate that information on impending developments has become known to the investing public, or if information from a source other than the Company becomes known to the investing public, a clear public announcement may be required as to the state of negotiations or development of Company plans. Such an announcement may be required, even though the Company may not have previously been advised of such information or the matter has not yet been presented to the Company's Board of Directors for consideration. In certain circumstances, it may also be appropriate to publicly deny false or inaccurate rumors, which are likely to have, or have had, an effect on the trading in its securities or would likely have an influence on investment decisions.

Notification to Nasdaq MarketWatch Department

Nasdaq Companies must notify Nasdaq's MarketWatch Department prior to the distribution of certain material news at least ten minutes prior to public announcement of the news when the public release of the information is made from 7:00 a.m. to 8:00 pm. ET. If the public release of the material information is made outside of 7:00 a.m. to 8:00 p.m, Nasdaq Companies must notify MarketWatch of the material information prior to 6:50 a.m. ET. Except in emergency situations, this notification must be made through Nasdaq's electronic disclosure submission system available at www.nasdaq.net. In emergency situations, Companies may instead provide notification by telephone or facsimile. Examples of an emergency situation include: lack of computer or internet access; technical problems on either the Company or Nasdaq system or an incompatibility between those systems; and a material development such that no draft disclosure document exists, but immediate notification to MarketWatch is important based on the material event.

If a Nasdaq Company repeatedly fails to either notify Nasdaq at least ten minutes prior to the distribution of material news from 7:00 a.m. to 8:00 p.m or prior to 6:50 a.m. ET for material news distributed outside of market hours, or repeatedly fails to use the electronic disclosure submission system when Nasdaq finds no emergency situation existed, Nasdaq may issue a Public Reprimand Letter (as defined in Rule 5805(j)) or, in extreme cases, a Staff Delisting Determination (as defined in Rule 5805(h)). In determining whether to issue a Public Reprimand Letter, Nasdaq will consider whether the Company has demonstrated a pattern of failures, whether the Company has been contacted concerning previous violations, and whether the Company has taken steps to assure that future violations will not occur.

Trading Halts

A trading halt benefits current and potential Shareholders by halting all trading in any Nasdaq securities until there has been an opportunity for the information to be disseminated to the public. This decreases the possibility of some investors acting on information known only to them. A trading halt provides the public with an opportunity to evaluate the information and consider it in making investment decisions. It also alerts the marketplace to the fact that news has been released.

Nasdaq's MarketWatch Department monitors real time trading in all Nasdaq securities during the trading day for price and volume activity. In the event of certain price and volume movements, the MarketWatch Department may contact a Company and its Market Makers in order to ascertain the cause of the unusual market activity. The MarketWatch Department treats the information provided by the Company and other sources in a highly confidential manner, and uses it to assess market activity and assist in maintaining fair and orderly markets. A Nasdaq listing includes an obligation to disclose to the MarketWatch Department information that the Company is not otherwise disclosing to the investing public or the financial community. On, occasion, changes in market activity prior to the Company's release of material information may indicate that the information has become known to the investing public. Changes in

market activity also may occur when there is a release of material information by a source other than the Company, such as when a Nasdaq Company is subject to an unsolicited take-over bid by another company. Depending on the nature of the event and the Company's views regarding the business advisability of disclosing the information, the MarketWatch Department may work with the Company to accomplish a timely release of the information. Furthermore, depending on the materiality of the information and the anticipated affect of the information on the price of the Company's securities, the MarketWatch Department may advise the Company that a temporary trading halt is appropriate to allow for full dissemination of the information and to maintain an orderly market. The institution of a temporary trading halt pending the release of information is not a reflection on the value of the securities halted. Such trading halts are instituted, among other reasons, to insure that material information is fairly and adequately disseminated to the investing public and the marketplace, and to provide investors with the opportunity to evaluate the information in making investment decisions. A trading halt normally lasts one half hour but may last longer if a determination is made that news has not been adequately disseminated or that the original or an additional basis under Rule 4120 exists for continuing the trading halt.

The MarketWatch Department is required to keep non-public information, confidential and to use such information only for regulatory purposes.

Companies are required to notify the MarketWatch Department of the release of material information included in the following list of events at least ten minutes prior to the release of such information to the public when the public release of the information is made from 7:00 a.m. to 8:00 pm. ET. If the public release of the material information is made outside of 7:00 a.m. to 8:00 p.m, Nasdaq Companies must notify MarketWatch of the material information prior to 6:50 a.m. ET. It should also be noted that every development that might be reported to Nasdaq in these areas would not necessarily be deemed to warrant a trading halt. In addition to the following list of events, Nasdaq encourages Companies to avail themselves of the opportunity for advance notification to the MarketWatch Department in situations where they believe, based upon their knowledge of the significance of the information, that a temporary trading halt may be necessary or appropriate.

(a) Financial-related disclosures, including quarterly or yearly earnings, earnings restatements, pre-announcements or "guidance."

(b) Corporate reorganizations and acquisitions, including mergers, tender offers, asset transactions and bankruptcies or receiverships.

(c) New products or discoveries, or developments regarding customers or suppliers (e.g., significant developments in clinical or customer trials, and receipt or cancellation of a material contract or order).

(d) Senior management changes of a material nature or a change in control.

(e) Resignation or termination of independent auditors, or withdrawal of a previously issued audit report.

(f) Events regarding the Company's securities — e.g., defaults on senior securities, calls of securities for redemption, repurchase plans, stock splits or changes in dividends, changes to the rights of security holders, or public or private sales of additional securities.

(g) Significant legal or regulatory developments. Regulation FD

(h) Any event requiring the filing of a Form 8-K.

Whenever Nasdaq halts trading in a security of a listed company for any of the reasons set forth above or implements any other regulatory trading halt, Nasdaq will also halt trading in any listed Equity Investment Tracking Stock that tracks the performance of such listed company.

Use of Regulation FD Compliant Methods in the Disclosure of Material Information

Regardless of the method of disclosure that a Company chooses to use, Companies are required to notify the MarketWatch Department of the release of material information that involves any of the events set forth above at least ten minutes prior to its release to the public when the public release of the information is made from 7:00 a.m. to 8:00 pm. ET. If the public release of the material information is made outside of 7:00 a.m. to 8:00 p.m, Nasdaq Companies must notify MarketWatch of the material information prior to 6:50 a.m. ET. When a Company chooses to utilize a Regulation FD compliant method for disclosure other than a press release or Form 8-K, the Company will be required to provide prior notice to the MarketWatch Department of: 1) the press release announcing the logistics of the future disclosure event; and 2) a descriptive summary of the material information to be announced during the disclosure event if the press release does not contain such a summary.

Depending on the materiality of the information and the anticipated effect of the information on the price of the Company's securities, the MarketWatch Department may advise the Company that a temporary trading halt is appropriate to allow for full dissemination of the information and to maintain an orderly market. The MarketWatch Department will assess with Companies using methods of disclosure other than a press release or Form 8-K the timing within the disclosure event when the Company will cover the material information so that the halt can be commenced accordingly. Companies will be responsible for promptly alerting the MarketWatch Department of any significant changes to the previously outlined disclosure timeline. Companies are reminded that the posting of information on the company's website may not by itself be considered a sufficient method of public disclosure under Regulation FD and SEC guidance and releases thereunder, and as a result, under Nasdaq rules.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Nov. 5, 2009 (SR-NASDAQ-2009-094), operative Dec. 7, 2009; amended Jan. 15, 2010 (SR-NASDAQ-2010-008); amended Mar. 5, 2013 (SR-NASDAQ-2013-033), operative Mar. 18, 2013; amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

IM-5250-2. Disclosure of Third Party Director and Nominee Compensation

Rule 5250(b)(3) requires listed companies to publicly disclose the material terms of all agreements and arrangements between any director or nominee and any person or entity (other than the Company) relating to compensation or other payment in connection with that person's candidacy or service as a director. The terms "compensation" and "other payment" as used in this rule are not limited to cash payments and are intended to be construed broadly.

Subject to exceptions provided in the rule, the disclosure must be made on or through the Company's website or in the proxy or information statement for the next shareholders' meeting at which directors are elected in order to provide shareholders with information and sufficient time to help them make meaningful voting decisions. A Company posting the requisite disclosure on or through its website must make it publicly available no later than the date on which the Company files a proxy or information statement in connection with such shareholders' meeting (or, if they do not file proxy or information statements, no later than when the Company files its next Form 10-K or Form 20-F). Disclosure made available on the Company's website or through it by hyperlinking to another website, must be continuously accessible. If the website hosting the disclosure subsequently becomes inaccessible or that hyperlink inoperable, the company must promptly restore it or make other disclosure in accordance with this rule.

Rule 5250(b)(3) does not separately require the initial disclosure of newly entered into agreements or arrangements, provided that disclosure is made pursuant to this rule for the next shareholders' meeting at which directors are elected. In addition, for publicly disclosed agreements and arrangements that existed prior to the nominee's candidacy and thus not required to be disclosed in accordance with Rule 5250(b)(3)(A)(ii) but where the director or nominee's remuneration is thereafter materially increased specifically in connection with such person's candidacy or service as a director of the Company, only the difference between the new and previous level of compensation or other payment obligation needs be disclosed.

All references in this rule to proxy or information statements are to the definitive versions thereof.

Adopted July 1, 2016 (SR-NASDAQ-2016-013), operative Aug. 1, 2016.

5255. Direct Registration Program

(a) Except as indicated in paragraph (c) below, all securities listed on Nasdaq (except securities which are book-entry only) must be eligible for a Direct Registration Program operated by a clearing agency registered under Section 17A of the Act.

(b) If a Company establishes or maintains a Direct Registration Program for its Shareholders, the Company shall, directly or through its transfer agent, participate in an electronic link with a clearing agency registered under Section 17A of the Act to facilitate the electronic transfer of securities held pursuant to such program.

(c) Exemption

A foreign issuer, as defined under Rule 3b-4 under the Act, including a Foreign Private Issuer, shall not be subject to this requirement if it submits to Nasdaq a written statement from an independent counsel in such Company's home country certifying that a law or regulation in the home country prohibits compliance.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended April 27, 2009 (SR-NASDAQ-2009-040); amended Nov. 7, 2012 (SR-NASDAQ-2012-128).

5300. The Nasdaq Global Select Market

5305. General Information for The Nasdaq Global Select Market

(a) A Company that applies for listing its securities on the Nasdaq Global Market and meets the requirements for initial listing contained in Rule 5315 shall be listed on the Nasdaq Global Select Market.

(b) An Equity Investment Tracking Stock may be listed on the Nasdaq Global Select Market, provided it must also meet the initial listing requirements set forth in Rule 5222.

(c) At any time, a Company may apply to transfer a security listed on the Nasdaq Global Market to the Nasdaq Global Select Market. Such an application will be approved and effected as soon as practicable if the security meets the requirements for initial listing contained in Rule 5315. A Company will not owe any application or entry fees in connection with such a transfer.

(d) At any time, a Company may apply to transfer a security listed on the Nasdaq Capital Market to the Nasdaq Global Select Market. Such an application will be approved and effected as soon as practicable if the security meets the requirements for initial listing contained in Rule 5315. A Company transferring from the Nasdaq Capital Market to the Nasdaq Global Select Market will be required to pay the applicable fees contained in Rule 5910.

(e) After initial inclusion on the Nasdaq Global Select Market, a Company will remain on the Nasdaq Global Select Market provided it continues to meet the applicable requirements of the Listing Rules, including the continued listing requirements contained in the Rule 5400 Series, the requirements of the Rule 5100 Series, and the qualitative requirements of Rule 5200 and 5600 Series. An Equity Investment Tracking Stock must also meet the continued listing and disclosure requirements set forth in Rule 5222(c) and (d).

(f) Notwithstanding any provision to the contrary, the securities of any Company that is non-compliant with a qualitative listing requirement that does not provide for a grace period, or where Nasdaq staff has raised a public interest concern, will not be permitted to transfer to the Global Select Market until the underlying deficiency is resolved. In addition, any security that is below a quantitative continued listing requirement for the Nasdaq Global Market, even if the Company has not been below the requirement for a sufficient period of time to be considered non-compliant, and any Company in a grace or compliance period with respect to a quantitative listing requirement, will not be allowed to transfer from the Nasdaq Global or Capital Markets to the Nasdaq Global Select Market until the underlying deficiency is resolved. A Company before a Hearings Panel will not be allowed to transfer to the Global Select Market until the underlying deficiency is resolved. A Company that is in a grace or compliance period with respect to a qualitative listing standard, such as the cure period for filling an audit committee vacancy, will be allowed to transfer to the Global Select Market, subject to the continuation of that grace period.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Aug. 22, 2014 (SR-NASDAQ-2014-067); amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

5310. Definitions and Computations

(a) For Global Select purposes, a Company is affiliated with another Company if that other Company, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of the Company. Control, for these purposes, means having the ability to exercise significant influence. Ability to exercise significant influence will be presumed to exist where the parent or affiliated Company directly or indirectly owns 20% or more of the other Company's voting securities, and also can be indicated by representation on the board of directors, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, or technological dependency.

(b) In computing Cash Flows for Global Select purposes, Nasdaq will rely on the net cash provided by operating activities, as reported in the Company's financial information as filed with the Commission in the Company's most recent periodic report and/or registration statement excluding changes in working capital or in operating assets and liabilities.

(c) In computing Income from Continuing Operations Before Income Taxes for Global Select purposes, Nasdaq will rely on a Company's financial information as filed with the Commission in the Company's most recent periodic report and/or registration statement.

(d) In computing the number of Publicly Held Shares for Global Select purposes, Nasdaq will not consider shares held by an officer, director or 10% or greater Shareholder of the Company.

(e) In the case of a Company listing in connection with its initial public offering, compliance with the market capitalization requirements of Rules 5315(f)(3)(B), (C) and (D) will be based on the Company's market capitalization at the time of listing.

(f) A period of less than three months shall not be considered a Fiscal Year, even if reported as a stub period in the Company's publicly reported financial statements.

(g) If a Company has less than three years of publicly reported financial data, it may qualify under Rule 5315(f)(3)(A) if it has (1) reported aggregate income from continuing operations before income taxes of at least \$11 million, and (2) positive income from continuing operations before income taxes in each of the reported fiscal years.

(h) If a Company has less than three years of publicly reported financial data, it may qualify under Rule 5315(f)(3)(C) if it has (1) reported aggregate cash flows of at least \$27.5 million, and (2) positive cash flows in each of the reported fiscal years.

(i) A Company whose business plan is to complete an initial public offering and engage in a merger or acquisition with one or more unidentified companies within a specific period of time, as described in IM-5101-2, is not eligible to list on the Nasdaq Global Select Market.

(j) In computing total assets and stockholders' equity for purposes of Rule 5315(f)(3)(D), Nasdaq will rely on a Company's most recent publicly reported financial statements subject to the adjustments described below:

(1) Application of Use of Proceeds - If a company is in registration with the SEC and is in the process of an equity offering, adjustments should be made to reflect the net proceeds of that offering, and the specified intended application(s) of such proceeds to:

(A) Pay off existing debt or other financial instruments: The adjustment will include elimination of the actual historical interest expense on debt or other financial instruments classified as liabilities under generally accepted accounting principles being retired with offering proceeds of all relevant periods or by conversion into common stock at the time of an initial public offering occurring in conjunction with the company's listing. If the event giving rise to the adjustment occurred during a time-period such that pro forma amounts are not set forth in the SEC registration statement (typically, the pro forma effect of repayment of debt will be provided in the current registration statement only with respect to the last fiscal year plus any interim period in accordance with SEC rules), the company must prepare the relevant adjusted financial data to reflect the adjustment to its historical financial data, and its outside audit firm must provide a report of having applied agreed-upon procedures with respect to such adjustments. Such report must be prepared in accordance with the standards established by the American Institute of Certified Public Accountants.

(B) Fund an acquisition:

- (i) The adjustments will include those applicable with respect to acquisition(s) to be funded with the proceeds. Adjustments will be made that are disclosed as such in accordance with Rule 3-05 "Financial Statements of Business Acquired or to be Acquired" and Article 11 of Regulation S-X. Adjustments will be made for all the relevant periods for those acquisitions for which historical financial information of the acquiree is required to be disclosed in the SEC registration statement; and
 - (ii) Adjustments applicable to any period for which pro forma numbers are not set forth in the registration statement shall be accompanied by the relevant adjusted financial data to combine the historical results of the acquiree (or relevant portion thereof) and acquiror, as disclosed in the company's SEC filing. Under SEC rules, the number of periods disclosed depends upon the significance level of the acquiree to the acquiror. The adjustments will include those necessary to reflect (a) the allocation of the purchase price, including adjusting assets and liabilities of the acquiree to fair value recognizing any intangibles (and associated amortization and depreciation), and (b) the effects of additional financing to complete the acquisition. The company must prepare the relevant adjusted financial data to reflect the adjustment to its historical financial data, and its outside audit firm must provide a report of having applied agreed-upon procedures with respect to such adjustments. Such report must be prepared in accordance with the standards established by the American Institute of Certified Public Accountants.
- (2) Acquisitions and Dispositions - In instances other than acquisitions (and related dispositions of part of the acquiree) funded with the use of proceeds, adjustments will be made for those acquisitions and dispositions that are disclosed as such in a company's financial statements in accordance with Rule 3-05 "Financial Statements of Business Acquired or to be Acquired" and Article 11 of Regulation S-X. If the disclosure does not specify pre-tax earnings from continuing operations, minority interest, and equity in the earnings or losses of investees, then such data must be prepared by the company's outside audit firm for the Exchange's consideration. In this regard, the audit firm would have to issue an independent accountant's report on applying agreed-upon procedures in accordance with the standards established by the American Institute of Certified Public Accountants.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 6, 2010 (SR-NASDAQ-2010-047), operative May 6, 2010; amended Apr. 1, 2011 (SR-NASDAQ-2011-050).

5315. Initial Listing Requirements for Primary Equity Securities

Rule 5310 provides guidance about computations made under this Rule 5315.

(a) For inclusion in the Global Select Market, a Company must meet all requirements in Rule 5315(e), all applicable requirements of Rules 5315(f)(1), 5315(f)(2) and 5315(f)(3) and all applicable requirements in the Listing Rules.

(b) However, if a Company is a closed end management investment company registered under the Investment Company Act of 1940, it must meet all requirements in Rule 5315(e), all applicable requirements in each of Rules 5315(f)(1) and 5315(f)(2), but not requirements of 5315(f)(3).

(c) A closed end management investment company that is listed concurrently with other closed end management investment companies that have a common investment adviser or whose investment advisers are "affiliated persons" as defined in the Investment Company Act of 1940 (a "Fund Family") shall be eligible if:

(1) the total Market Value of Publicly Held Shares in such Fund Family is at least \$220 million;

(2) the average Market Value of Publicly Held Shares for all funds in the Fund Family is \$50 million; and

(3) each fund in the Fund Family has a Market Value of Publicly Held Shares of at least \$35 million.

(d) A business development company as defined in Section 2 of the Investment Company Act of 1940 must meet all requirements in Rule 5315(e), and all applicable requirements in each of Rules 5315(f)(1) and 5315(f)(2), but not the requirements in 5315(f)(3). In lieu of meeting Rule 5315(f)(3), a business development company must have a Market Value of Listed Securities of at least \$80 million.

(e) The Primary Equity Security shall meet all of the following:

(1) If the Company is not listed on the NGM, a bid price of at least \$4 per share;

(2) At least 1,250,000 Publicly Held Shares; and

(3) Market Makers

A Company that meets the requirements of the NGM Income Standard (Rule 5405(b)(1)) or the NGM Equity Standard (Rule 5405(b)(2)) shall have at least three registered and active Market Makers. Otherwise, a Company shall have at least four registered and active Market Makers.

(f)

(1) Ownership Requirement

The Primary Equity Security shall meet no less than one of the following:

(A) At least 550 Total Holders and an average monthly trading volume over the prior 12 months of at least 1,100,000 shares per month; or

(B) At least 2,200 Total Holders; or

(C) A minimum of 450 Round Lot Holders.

(2) Market Value Requirement

The Publicly Held Shares shall meet one of the following:

(A) A Market Value of at least \$110 million; or

(B) A Market Value of at least \$100 million, if the Company has stockholders' equity of at least \$110 million; or

(C) A Market Value of at least \$45 million in the case of: (i) a Company listing in connection with its initial public offering; and (ii) a Company that is affiliated with, or a spin-off from, another Company listed on the Global Select Market; or

(D) A Market Value of at least \$70 million in the case of a closed end management investment company registered under the Investment Company Act of 1940.

(3) Valuation Requirement

A Company, other than a closed end management investment company, shall meet the requirements of sub-paragraph (A), (B), (C), or (D) below:

(A) (i) Aggregate income from continuing operations before income taxes of at least \$11 million over the prior three fiscal years, (ii) positive income from continuing operations before income taxes in each of the prior three fiscal years, and (iii) at least \$2.2 million income from continuing operations before income taxes in each of the two most recent fiscal years; or

(B) (i) Aggregate cash flows of at least \$27.5 million over the prior three fiscal years, (ii) positive cash flows in each of the prior three fiscal years, and (iii) average market capitalization of at least \$550 million over the prior 12 months and total revenue of at least \$110 million in the previous fiscal year; or

(C) (i) Average market capitalization of at least \$850 million over the prior 12 months, and (ii) total revenue of at least \$90 million in the previous fiscal year; or

(D) (i) Market capitalization of at least \$160 million, (ii) total assets of at least \$80 million, and (iii) stockholders' equity of at least \$55 million.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 6, 2010 (SR-NASDAQ-2010-047), operative May 6, 2010; amended Apr. 1, 2011 (SR-NASDAQ-2011-050).

5320. Other Classes of Securities

If the Primary Equity Security of a Company is included in the Global Select Market, any other security of that same Company, such as other classes of common or preferred stock, warrants and units, that qualify for listing on the Global Market shall also be included in the Global Select Market. However, exchange traded funds, index-linked securities, selected equity-linked debt securities, trust issued receipts, structured products and commodity-backed products will not be listed on the Global Select Market. See the Rule 5700 Series for rules relating to the listing of those securities and other securities not specified under the Global Select Market listing standards.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5400. The Nasdaq Global Market

5401. Preamble to The Nasdaq Global Market Listing Requirements

This section contains the initial and continued listing requirements and standards for listing a Company's Primary Equity Security on The Nasdaq Global Market. This section also contains the initial and continued listing requirements for Rights and Warrants, and Preferred and Secondary Classes of Common Stock on the Global Market. An Equity Investment Tracking Stock may be listed as a Primary Equity Security or as a Secondary Class of Common Stock, as applicable, provided it must also meet the initial and continued listing requirements, as applicable, set forth in Rule 5222.

In addition to meeting the quantitative requirements in this section, a Company must meet the requirements of the Rule 5100 Series, the disclosure obligations set forth in the Rule 5200 Series, the Corporate Governance requirements set forth in the Rule 5600 Series, and pay any applicable fees in the Rule 5900 Series. A Company's failure to meet any of the continued listing requirements will be processed in accordance with the provisions set forth in the Rule 5800 Series.

Companies that meet the requirements of the Rule 5500 Series, but are not listed on the Nasdaq Global Market, are listed on the Nasdaq Capital Market.

For the requirements relating to other securities listed on the Global Market, see the Rule 5700 Series.

Amended by SR-NASDAQ-2009-052 eff. June 16, 2009; amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

5405. Initial Listing Requirements and Standards for Primary Equity Securities

A Company applying to list its Primary Equity Security on the Global Market shall meet all of the requirements set forth in Rule 5405(a) and at least one of the Standards in Rule 5405(b).

(a) Initial Listing Requirements for Primary Equity Securities:

- (1) Minimum bid price of at least \$4 per share;
- (2) At least 1,100,000 Publicly Held Shares; and
- (3) At least 400 Round Lot Holders.

(b) Initial Listing Standards for Primary Equity Securities:

(1) Income Standard

(A) Annual income from continuing operations before income taxes of at least \$1,000,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years;

(B) Stockholders' equity of at least \$15 million;

(C) Market Value of Publicly Held Shares of at least \$8 million; and

(D) At least three registered and active Market Makers.

(2) Equity Standard

(A) Stockholders' equity of at least \$30 million;

(B) Two-year operating history;

(C) Market Value of Publicly Held Shares of at least \$18 million; and

(D) At least three registered and active Market Makers.

(3) Market Value Standard

A Company listed under this paragraph does not also need to be in compliance with the quantitative criteria for initial listing in the Rule 5500 series.

(A) Market Value of Listed Securities of \$75 million (current publicly traded Companies must meet this requirement and the \$4 bid price requirement for 90 consecutive trading days prior to applying for listing if qualifying to list only under the Market Value Standard);

(B) Market Value of Publicly Held Shares of at least \$20 million; and

(C) At least four registered and active Market Makers.

(4) Total Assets/Total Revenue Standard

A Company listed under this paragraph does not also need to be in compliance with the quantitative criteria for initial listing in the Rule 5500 series.

(A) Total assets and total revenue of \$75 million each for the most recently completed fiscal year or two of the three most recently completed fiscal years;

(B) Market Value of Publicly Held Shares of at least \$20 million; and

(C) At least four registered and active Market Makers.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended by SR-NASDAQ-2009-040 eff. April 27, 2009.

5410. Initial Listing Requirements for Rights and Warrants

For initial listing, the rights or warrants must meet all the requirements below:

(a) At least 450,000 rights or warrants issued;

(b) The underlying security must be listed on the Global Market or be a Covered Security;

(c) There must be at least three registered and active Market Makers; and

(d) In the case of warrants, there must be at least 400 Round Lot Holders (except that this requirement will not apply to the listing of warrants in connection with the initial firm commitment underwritten public offering of such warrants).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Feb. 19, 2010 (SR-NASDAQ-2010-024).

5415. Initial Listing Requirements for Preferred Stock and Secondary Classes of Common Stock

(a) When the Primary Equity Security of the Company is listed on the Global Market or is a Covered Security, the preferred stock or secondary class of common stock must meet all of the requirements set forth in (1) through (5) below.

(1) At least 200,000 Publicly Held Shares;

(2) A Market Value of Publicly Held Shares of at least \$4,000,000;

(3) Minimum bid price of at least \$4 per share;

(4) At least 100 Round Lot Holders; and

(5) At least three registered and active Market Makers .

(b) When the Company's Primary Equity Security is not listed on the Global Market or is not a Covered Security, the preferred stock and/or secondary class of common

stock may be listed on the Global Market so long as it satisfies the initial listing criteria for Primary Equity Securities set forth in Rule 5405.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended August 18, 2009 (SR-NASDAQ-2009-078).

5450. Continued Listing Requirements and Standards for Primary Equity Securities

A Company that has its Primary Equity Security listed on the Global Market must continue to substantially meet all of the requirements set forth in Rule 5450(a) and at least one of the Standards in Rule 5450(b). Failure to meet any of the continued listing requirements will be processed in accordance with the provisions set forth in the Rule 5800 Series. A security maintaining its listing under 5450(b)(3) need not also be in compliance with the quantitative maintenance criteria in the Rule 5500 series.

(a) Continued Listing Requirements for Primary Equity Securities:

- (1) Minimum bid price of \$1 per share; and
- (2) At least 400 Total Holders.

(b) Continued Listing Standards for Primary Equity Securities:

(1) Equity Standard

- (A) Stockholders' equity of at least \$10 million;
- (B) At least 750,000 Publicly Held Shares;
- (C) Market Value of Publicly Held Shares of at least \$5 million; and
- (D) At least two registered and active Market Makers.

(2) Market Value Standard

- (A) Market Value of Listed Securities of at least \$50 million;
- (B) At least 1,100,000 Publicly Held Shares;
- (C) Market Value of Publicly Held Shares of at least \$15 million; and
- (D) At least four registered and active Market Makers.

(3) Total Assets/Total Revenue Standard

- (A) Total assets and total revenue of at least \$50 million each for the most recently completed fiscal year or two of the three most recently completed fiscal years;
- (B) At least 1,100,000 Publicly Held Shares;

(C) Market Value of Publicly Held Shares of at least \$15 million; and

(D) At least four registered and active Market Makers.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5455. Continued Listing Requirements for Rights and Warrants

For continued listing, the rights or warrants must meet all the requirements below:

(a) The underlying security must continue to be listed on the Global Market or be a Covered Security; and

(b) There must be at least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5460. Continued Listing Requirements for Preferred Stock and Secondary Classes of Common Stock

(a) When the Company's Primary Equity Security of the Company is listed on the Global Market or is a Covered Security, the preferred stock or secondary class of common stock must meet all of the requirements set forth in (1) through (5) below.

(1) At least 100,000 Publicly Held Shares;

(2) A Market Value of Publicly Held Shares of at least \$1,000,000;

(3) Minimum bid price of at least \$1 per share;

(4) At least 100 Public Holders; and

(5) At least two registered and active Market Makers.

(b) When the Primary Equity Security of the Company is not listed on the Global Market or is not a Covered Security, the preferred stock and/or secondary class of common stock may continue to be listed on the Global Market so long as it satisfies the continued listing criteria for Primary Equity Securities set forth in Rule 5450.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended August 18, 2009 (SR-NASDAQ-2009-078).

5500. The Nasdaq Capital Market

5501. Preamble to The Nasdaq Capital Market Listing Requirements

This section contains the initial and continued listing requirements and standards for listing a Company's Primary Equity Security on The Nasdaq Capital Market. This section also contains the initial and continued listing requirements for Rights and

Warrants; Preferred and Secondary Classes of Common Stock; and Convertible Debt, Rights and Warrants on the Capital Market. An Equity Investment Tracking Stock may be listed as a Primary Equity Security or as a Secondary Class of Common Stock, as applicable, provided it must also meet the initial and continued listing requirements, as applicable, set forth in Rule 5222.

In addition to meeting the quantitative requirements in this section, a Company must meet the requirements of the Rule 5100 Series, the disclosure obligations set forth in the Rule 5200 Series, the Corporate Governance requirements set forth in the Rule 5600 Series, and pay any applicable fees in the Rule 5900 Series. A Company's failure to meet any of the continued listing requirements will be processed in accordance with the provisions set forth in the Rule 5800 Series.

Companies that meet these requirements, but are not listed on the Nasdaq Global Market, are listed on the Nasdaq Capital Market.

Amended by SR-NASDAQ-2009-052 eff. June 16, 2009; amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017.

5505. Initial Listing of Primary Equity Securities

A Company applying to list its Primary Equity Security on the Capital Market must meet all of the requirements set forth in Rule 5505(a) and at least one of the Standards in Rule 5505(b).

(a) Initial Listing Requirements for Primary Equity Securities:

- (1) (A) Minimum bid price of \$4 per share; or
- (B) Minimum closing price of \$3 per share, if the Company meets the requirements of the Equity or Net Income Standards under Rules 5505(b)(1) or (b)(3), or of \$2 per share, if the Company meets the requirements of the Market Value of Listed Securities Standard under Rule 5505(b)(2), provided that in either case the Company must also demonstrate that it has net tangible assets (i.e., total assets less intangible assets and liabilities) in excess of \$2 million, if the issuer has been in continuous operation for at least three years; or net tangible assets in excess of \$5 million, if the issuer has been in continuous operation for less than three years; or average revenue of at least \$6 million for the last three years. A security must meet the applicable closing price requirement for at least five consecutive business days prior to approval.

For purposes of this paragraph (B), net tangible assets or average revenues must be demonstrated on the Company's most recently filed audited financial statements filed with, and satisfying the requirements of, the Commission or Other Regulatory Authority, and which are dated less than 15 months prior to the date of listing.

- (2) At least 1,000,000 Publicly Held Shares;

- (3) At least 300 Round Lot Holders;
- (4) At least three registered and active Market Makers;
- (5) In the case of ADRs, at least 400,000 issued.

(b) Initial Listing Standards for Primary Equity Securities:

(1) Equity Standard

- (A) Stockholders' equity of at least \$5 million;
- (B) Market Value of Publicly Held Shares of at least \$15 million; and
- (C) Two year operating history.

(2) Market Value of Listed Securities Standard

- (A) Market Value of Listed Securities of at least \$50 million (current publicly traded Companies must meet this requirement and the price requirement for 90 consecutive trading days prior to applying for listing if qualifying to list only under the Market Value of Listed Securities Standard);
- (B) Stockholders' equity of at least \$4 million; and
- (C) Market Value of Publicly Held Shares of at least \$15 million.

(3) Net Income Standard

- (A) Net income from continuing operations of \$750,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years;
- (B) Stockholders' equity of at least \$4 million; and
- (C) Market Value of Publicly Held Shares of at least \$5 million.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended April 18, 2012 (SR-NASDAQ-2012-002).

IM-5505. Initial Listing for Securities below \$4

(a) Penny Stock Provisions. Rule 5505(a)(1)(B) provides an alternative initial listing requirement for certain companies with a minimum bid price below \$4. A company that qualifies for initial listing only under this alternative could become a "penny stock" if it later fails the net tangible assets and revenue tests after listing and does not satisfy any of the other exclusions from being a penny stock contained in Rule 3a51-1 under the Act. In order to assist brokers' and dealers' compliance with the requirements of the Penny Stock Rules, Nasdaq will monitor companies listed under

the alternative requirement and publish on its website on a daily basis a list of any company that initially listed under the alternative requirement, which no longer satisfies the net tangible assets or revenue test contained in Rule 5505(a)(1)(B), and which does not satisfy any of the other exclusions from being a penny stock contained in Rule 3a51-1 under the Act. If a company initially lists with a bid price below \$4 under the alternative requirement contained in Rule 5505(a)(1)(B), but subsequently achieves a \$4 closing price for at least five consecutive business days and, at the same time, satisfies all other initial listing criteria, it will no longer be considered as having listed under the alternative requirement and Nasdaq will notify the Company that it has qualified for listing under the price requirement contained in Rule 5505(a)(1)(A).

Brokers and dealers are reminded that the list published by Nasdaq is only an aid and that the Penny Stock Rules impose specific obligations on brokers and dealers with respect to transactions in penny stocks.

(b) Determination of closing price. For purposes of Rule 5505(a)(1)(B) and this IM-5505, the closing price will be the Nasdaq Official Closing Price, if there is one, or the consolidated closing price distributed under the applicable National Market System Plan if there is no Nasdaq Official Closing Price. Nasdaq will require that a security maintain the necessary closing price for five consecutive business days, but may extend this five day period, based on any fact or circumstance, including the margin of compliance, the trading volume, the Market Maker montage, the trend of the security's price, or information or concerns raised by other regulators concerning the trading of the security.

Adopted April 18, 2012 (SR-NASDAQ-2012-002).

5510. Initial Listing Requirements for Preferred Stock and Secondary Classes of Common Stock

(a) When the Primary Equity Security is listed on the Capital Market or is a Covered Security, a Company's preferred stock or secondary class of common stock must meet all of the requirements in Rules (1) through (5) below in order to be listed.

- (1)** Minimum bid price of at least \$4 per share;
- (2)** At least 100 Round Lot Holders;
- (3)** At least 200,000 Publicly Held Shares;
- (4)** Market Value of Publicly Held Shares of at least \$3.5 million; and
- (5)** At least three registered and active Market Makers.

(b) In the event the Company's Primary Equity Security is not listed on the Capital Market or is not a Covered Security, the preferred stock and/or secondary class of common stock may be listed on the Capital Market so long as it satisfies the initial listing criteria for Primary Equity Securities set forth in Rule 5505.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5515. Initial Listing Requirements for Rights, Warrants, and Convertible Debt

The following requirements apply to a Company listing convertible debt, rights or warrants on The Nasdaq Capital Market.

(a) For initial listing, rights, warrants and put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the Company's common stock, at a specified price until a specified period of time) must meet the following requirements:

- (1)** At least 400,000 issued;
- (2)** The underlying security must be listed on Nasdaq or be a Covered Security;
- (3)** At least three registered and active Market Makers; and
- (4)** In the case of warrants, at least 400 Round Lot Holders (except that this requirement will not apply to the listing of rights or warrants in connection with the initial firm commitment underwritten public offering of such warrants).

(b) For initial listing, a convertible debt security must meet the requirements in (1) through (3), and one of the conditions in (4) must be satisfied:

- (1)** Principal amount outstanding of at least \$10 million;
- (2)** Current last sale information must be available in the United States with respect to the underlying security into which the bond or debenture is convertible;
- (3)** At least three registered and active Market Makers; and

(4)

(A) the issuer of the debt must have an equity security that is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange;

(B) an issuer whose equity security is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange, directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security, or has guaranteed the debt security;

(C) a nationally recognized securities rating organization (an "NRSRO") has assigned a current rating to the debt security that is no lower than an S&P Corporation "B" rating or equivalent rating by another NRSRO; or

(D) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned:
(1) an investment grade rating to an immediately senior issue; or (2) a rating that is no

lower than an S&P Corporation "B" rating, or an equivalent rating by another NRSRO, to a pari passu or junior issue.

(c) In the case of Index Warrants, the requirements established in Rule 5725 for Nasdaq Global Market securities apply.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Feb. 19, 2010 (SR-NASDAQ-2010-024).

5550. Continued Listing of Primary Equity Securities

A Company that has its Primary Equity Security listed on the Capital Market must continue to meet all of the requirements set forth in Rule 5550(a) and at least one of the Standards set forth in Rule 5550(b). Failure to meet any of the continued listing requirements will be processed in accordance with the provisions set forth in the Rule 5800 Series.

(a) Continued Listing Requirements for Primary Equity Securities:

- (1) At least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid;
- (2) Minimum bid price of at least \$1 per share;
- (3) At least 300 Public Holders;
- (4) At least 500,000 Publicly Held Shares; and
- (5) Market Value of Publicly Held Shares of at least \$1 million.

(b) Continued Listing Standards for Primary Equity Securities:

- (1) Equity Standard: Stockholders' equity of at least \$2.5 million;
- (2) Market Value of Listed Securities Standard: Market Value of Listed Securities of at least \$35 million; or
- (3) Net Income Standard: Net income from continuing operations of \$500,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052).

5555. Continued Listing Requirements for Preferred Stock and Secondary Classes of Common Stock

(a) When the Primary Equity Security is listed on the Capital Market or is a Covered Security, a Company's preferred stock or secondary class of common stock must meet all of the requirements in (1) through (5) below in order to be listed. Failure to meet

any of the continued listing requirements will be processed in accordance with the provisions set forth in the Rule 5800 Series.

- (1) Minimum bid price of at least \$1 per share;
 - (2) At least 100 Public Holders;
 - (3) At least 100,000 Publicly Held Shares;
 - (4) Market Value of Publicly Held Shares of at least \$1 million; and
 - (5) At least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.
- (b) In the event the Company's Primary Equity Security is not listed on the Capital Market or is not a Covered Security, the preferred stock and/or secondary class of common stock may be listed on the Capital Market so long as the security satisfies the continued listing criteria for Primary Equity Securities set forth in Rule 5550.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5560. Continued Listing Requirements for Rights, Warrants, and Convertible Debt

- (a) For rights, warrants, and put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the Company's common stock, at a specified price until a specified period of time), the underlying security must remain listed on Nasdaq or be a Covered Security, and there must be at least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.
- (b) A convertible debt security must meet the following requirements for continued listing:
- (1) A principal amount outstanding of at least \$5 million;
 - (2) At least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid; and
 - (3) Current last sale information must be available in the United States with respect to the underlying security into which the bond or debenture is convertible.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5600. Corporate Governance Requirements

5601. Preamble to the Corporate Governance Requirements

In addition to meeting the quantitative requirements in the Rule 5200, 5300, 5400 and 5500 Series, Companies applying to list and listed on Nasdaq must meet the

qualitative requirements outlined in this Rule 5600 Series. These requirements include rules relating to a Company's board of directors, including audit committees and Independent Director oversight of executive compensation and the director nomination process; code of conduct; shareholder meetings, including proxy solicitation and quorum; review of related party transactions; and shareholder approval, including voting rights. Exemptions to these rules, including phase-in schedules, are set forth in Rule 5615.

Nasdaq maintains a website that provides guidance on the applicability of the corporate governance requirements by FAQs and published summaries of anonymous versions of previously issued staff interpretative letters. Companies are encouraged to contact Listing Qualifications to discuss any complex issues or transactions. Companies can also submit a request for a written interpretation pursuant to Rule 5602.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended June 16, 2009 (SR-NASDAQ-2009-052).

5602. Written Interpretations of Nasdaq Listing Rules

(a) A Company listed on the Nasdaq Capital Market or the Nasdaq Global Market may request from Nasdaq a written interpretation of the Rules contained in the Rule 5000 through 5900 Series. In connection with such a request, the Company must submit to Nasdaq a non-refundable fee of \$5,000. A response to such a request generally will be provided within four weeks from the date Nasdaq receives all information necessary to respond to the request.

(b) Notwithstanding paragraph (a), a Company may request a written interpretation of the Rules contained in the 5000 through 5900 Series by a specific date that is less than four weeks, but at least one week, after the date Nasdaq receives all information necessary to respond to the request. In connection with such a request for an expedited response, the Company must submit to Nasdaq a non-refundable fee of \$15,000.

(c) An applicant to Nasdaq that has submitted the applicable entry fee under Rule 5910(a) or Rule 5920(a) will not also be required to submit a fee in connection with a request for a written interpretation involving the applicant's initial listing on Nasdaq. A listed Company that is subject to the All-Inclusive Annual Listing Fee described in IM-5910-1 or IM-5920-1 is not required to submit a fee in connection with a request for a written interpretation. In addition, a Company is not required to submit a fee in connection with a request for an exception from the Nasdaq shareholder approval rules pursuant to the financial viability exception as described in Rule 5635(f).

(d) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the written interpretation fee prescribed herein.

(e) Nasdaq shall publish on its website a summary of each interpretation within 90 days from the date such interpretation is issued.

(f) A Company is eligible to request a written interpretation from Nasdaq pursuant to paragraphs (a) or (b), subject to payment of the appropriate fee, if it has a class of securities that has been suspended or delisted from the Nasdaq Capital Market or the Nasdaq Global Market, but the suspension or delisting decision is under review pursuant to the Rule 5800 Series.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Mar. 5, 2010 (SR-NASDAQ-2009-081); amended Jan. 13, 2012 (SR-NASDAQ-2012-012); amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015.

5605. Board of Directors and Committees

(a) Definitions

(1) "Executive Officer" means those officers covered in Rule 16a-1(f) under the Act.

(2) "Independent Director" means a person other than an Executive Officer or employee of the Company or any other individual having a relationship which, in the opinion of the Company's board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. For purposes of this rule, "Family Member" means a person's spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person's home. The following persons shall not be considered independent:

(A) a director who is, or at any time during the past three years was, employed by the Company;

(B) a director who accepted or who has a Family Member who accepted any compensation from the Company in excess of \$120,000 during any period of twelve consecutive months within the three years preceding the determination of independence, other than the following:

(i) compensation for board or board committee service;

(ii) compensation paid to a Family Member who is an employee (other than an Executive Officer) of the Company; or

(iii) benefits under a tax-qualified retirement plan, or non-discretionary compensation.

Provided, however, that in addition to the requirements contained in this paragraph (B), audit committee members are also subject to additional, more stringent requirements under Rule 5605(c)(2).

(C) a director who is a Family Member of an individual who is, or at any time during the past three years was, employed by the Company as an Executive Officer;

(D) a director who is, or has a Family Member who is, a partner in, or a controlling Shareholder or an Executive Officer of, any organization to which the Company made, or from which the Company received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than the following:

(i) payments arising solely from investments in the Company's securities; or

(ii) payments under non-discretionary charitable contribution matching programs.

(E) a director of the Company who is, or has a Family Member who is, employed as an Executive Officer of another entity where at any time during the past three years any of the Executive Officers of the Company serve on the compensation committee of such other entity; or

(F) a director who is, or has a Family Member who is, a current partner of the Company's outside auditor, or was a partner or employee of the Company's outside auditor who worked on the Company's audit at any time during any of the past three years.

(G) in the case of an investment company, in lieu of paragraphs (A)-(F), a director who is an "interested person" of the Company as defined in Section 2(a)(19) of the Investment Company Act of 1940, other than in his or her capacity as a member of the board of directors or any board committee.

IM-5605. Definition of Independence — Rule 5605(a)(2)

It is important for investors to have confidence that individuals serving as Independent Directors do not have a relationship with the listed Company that would impair their independence. The board has a responsibility to make an affirmative determination that no such relationships exist through the application of Rule 5605(a)(2). Rule 5605(a)(2) also provides a list of certain relationships that preclude a board finding of independence. These objective measures provide transparency to investors and Companies, facilitate uniform application of the rules, and ease administration. Because Nasdaq does not believe that ownership of Company stock by itself would preclude a board finding of independence, it is not included in the aforementioned objective factors. It should be noted that there are additional, more stringent requirements that apply to directors serving on audit committees, as specified in Rule 5605(c).

The Rule's reference to the "Company" includes any parent or subsidiary of the Company. The term "parent or subsidiary" is intended to cover entities the Company controls and consolidates with the Company's financial statements as filed with the Commission (but not if the Company reflects such entity solely as an investment in its financial statements). The reference to Executive Officer means those officers covered in Rule 16a-1(f) under the Act. In the context of the definition of Family Member under Rule 5605(a)(2), the reference to marriage is intended to capture relationships

specified in the Rule (parents, children and siblings) that arise as a result of marriage, such as "in-law" relationships.

The three year look-back periods referenced in paragraphs (A), (C), (E) and (F) of the Rule commence on the date the relationship ceases. For example, a director employed by the Company is not independent until three years after such employment terminates.

For purposes of paragraph (A) of the Rule, employment by a director as an Executive Officer on an interim basis shall not disqualify that director from being considered independent following such employment, provided the interim employment did not last longer than one year. A director would not be considered independent while serving as an interim officer. Similarly, for purposes of paragraph (B) of the Rule, compensation received by a director for former service as an interim Executive Officer need not be considered as compensation in determining independence after such service, provided such interim employment did not last longer than one year. Nonetheless, the Company's board of directors still must consider whether such former employment and any compensation received would interfere with the director's exercise of independent judgment in carrying out the responsibilities of a director. In addition, if the director participated in the preparation of the Company's financial statements while serving as an interim Executive Officer, Rule 5605(c)(2)(A)(iii) would preclude service on the audit committee for three years.

Paragraph (B) of the Rule is generally intended to capture situations where a compensation is made directly to (or for the benefit of) the director or a Family Member of the director. For example, consulting or personal service contracts with a director or Family Member of the director would be analyzed under paragraph (B) of the Rule. In addition, political contributions to the campaign of a director or a Family Member of the director would be considered indirect compensation under paragraph (B). Non-preferential payments made in the ordinary course of providing business services (such as payments of interest or proceeds related to banking services or loans by a Company that is a financial institution or payment of claims on a policy by a Company that is an insurance company), payments arising solely from investments in the Company's securities and loans permitted under Section 13(k) of the Act will not preclude a finding of director independence as long as the payments are non-compensatory in nature. Depending on the circumstances, a loan or payment could be compensatory if, for example, it is not on terms generally available to the public.

Paragraph (D) of the Rule is generally intended to capture payments to an entity with which the director or Family Member of the director is affiliated by serving as a partner, controlling Shareholder or Executive Officer of such entity. Under exceptional circumstances, such as where a director has direct, significant business holdings, it may be appropriate to apply the corporate measurements in paragraph (D), rather than the individual measurements of paragraph (B). Issuers should contact Nasdaq if they wish to apply the Rule in this manner. The reference to a partner in paragraph (D) is not intended to include limited partners. It should be noted that the

independence requirements of paragraph (D) of the Rule are broader than Rule 10A-3(e)(8) under the Act.

Under paragraph (D), a director who is, or who has a Family Member who is, an Executive Officer of a charitable organization may not be considered independent if the Company makes payments to the charity in excess of the greater of 5% of the charity's revenues or \$200,000. However, Nasdaq encourages Companies to consider other situations where a director or their Family Member and the Company each have a relationship with the same charity when assessing director independence.

For purposes of determining whether a lawyer is eligible to serve on an audit committee, Rule 10A-3 under the Act generally provides that any partner in a law firm that receives payments from the issuer is ineligible to serve on that issuer's audit committee. In determining whether a director may be considered independent for purposes other than the audit committee, payments to a law firm would generally be considered under Rule 5605(a)(2), which looks to whether the payment exceeds the greater of 5% of the recipient's gross revenues or \$200,000; however, if the firm is a sole proprietorship, Rule 5605(a)(2)(B), which looks to whether the payment exceeds \$120,000, applies.

Paragraph (G) of the Rule provides a different measurement for independence for investment companies in order to harmonize with the Investment Company Act of 1940. In particular, in lieu of paragraphs (A)-(F), a director who is an "interested person" of the Company as defined in Section 2(a)(19) of the Investment Company Act of 1940, other than in his or her capacity as a member of the board of directors or any board committee, shall not be considered independent.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Jan. 11, 2013 (SR-NASDAQ-2012-109).

(b) Independent Directors

(1) Majority Independent Board

A majority of the board of directors must be comprised of Independent Directors as defined in Rule 5605(a)(2). The Company, other than a Foreign Private Issuer, must comply with the disclosure requirements set forth in Item 407(a) of Regulation S-K. A Foreign Private Issuer must disclose in its next annual report (e.g., Form 20-F or 40-F) those directors that the board of directors has determined to be independent under Rule 5605(a)(2).

(A) Cure Period for Majority Independent Board

If a Company fails to comply with this requirement due to one vacancy, or one director ceases to be independent due to circumstances beyond their reasonable control, the Company shall regain compliance with the requirement by the earlier of its next annual shareholders meeting or one year from the occurrence of the event that

caused the failure to comply with this requirement; provided, however, that if the annual shareholders meeting occurs no later than 180 days following the event that caused the failure to comply with this requirement, the Company shall instead have 180 days from such event to regain compliance. A Company relying on this provision shall provide notice to Nasdaq immediately upon learning of the event or circumstance that caused the noncompliance.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

IM-5605-1. Majority Independent Board

Majority Independent Board. Independent Directors (as defined in Rule 5605(a)(2)) play an important role in assuring investor confidence. Through the exercise of independent judgment, they act on behalf of investors to maximize shareholder value in the Companies they oversee and guard against conflicts of interest. Requiring that the board be comprised of a majority of Independent Directors empowers such directors to carry out more effectively these responsibilities.

(2) Executive Sessions

Independent Directors must have regularly scheduled meetings at which only Independent Directors are present ("executive sessions").

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

IM-5605-2. Executive Sessions of Independent Directors

Regularly scheduled executive sessions encourage and enhance communication among Independent Directors. It is contemplated that executive sessions will occur at least twice a year, and perhaps more frequently, in conjunction with regularly scheduled board meetings.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(c) Audit Committee Requirements

(1) Audit Committee Charter

Each Company must certify that it has adopted a formal written audit committee charter and that the audit committee will review and reassess the adequacy of the formal written charter on an annual basis. The charter must specify:

(A) the scope of the audit committee's responsibilities, and how it carries out those responsibilities, including structure, processes and membership requirements;

(B) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the Company, actively engaging in a dialogue with the auditor with respect to any

disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to oversee the independence of the outside auditor;

(C) the committee's purpose of overseeing the accounting and financial reporting processes of the Company and the audits of the financial statements of the Company; and

(D) the specific audit committee responsibilities and authority set forth in Rule 5605(c)(3).

IM-5605-3. Audit Committee Charter

Each Company is required to adopt a formal written charter that specifies the scope of its responsibilities and the means by which it carries out those responsibilities; the outside auditor's accountability to the audit committee; and the audit committee's responsibility to ensure the independence of the outside auditor. Consistent with this, the charter must specify all audit committee responsibilities set forth in Rule 10A-3(b)(2), (3), (4) and (5) under the Act. Rule 10A-3(b)(3)(ii) under the Act requires that each audit committee must establish procedures for the confidential, anonymous submission by employees of the listed Company of concerns regarding questionable accounting or auditing matters. The rights and responsibilities as articulated in the audit committee charter empower the audit committee and enhance its effectiveness in carrying out its responsibilities.

Rule 5605(c)(3) imposes additional requirements for investment company audit committees that must also be set forth in audit committee charters for these Companies.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(2) Audit Committee Composition

(A) Each Company must have, and certify that it has and will continue to have, an audit committee of at least three members, each of whom must: (i) be an Independent Director as defined under Rule 5605(a)(2); (ii) meet the criteria for independence set forth in Rule 10A-3(b)(1) under the Act (subject to the exemptions provided in Rule 10A-3(c) under the Act); (iii) not have participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three years; and (iv) be able to read and understand fundamental financial statements, including a Company's balance sheet, income statement, and cash flow statement. Additionally, each Company must certify that it has, and will continue to have, at least one member of the audit committee who has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive

officer, chief financial officer or other senior officer with financial oversight responsibilities.

(B) Non-Independent Director for Exceptional and Limited Circumstances

Notwithstanding paragraph (2)(A)(i), one director who: (i) is not an Independent Director as defined in Rule 5605(a)(2); (ii) meets the criteria set forth in Section 10A(m)(3) under the Act and the rules thereunder; and (iii) is not currently an Executive Officer or employee or a Family Member of an Executive Officer, may be appointed to the audit committee, if the board, under exceptional and limited circumstances, determines that membership on the committee by the individual is required by the best interests of the Company and its Shareholders. A Company, other than a Foreign Private Issuer, that relies on this exception must comply with the disclosure requirements set forth in Item 407(d)(2) of Regulation S-K. A Foreign Private Issuer that relies on this exception must disclose in its next annual report (e.g., Form 20-F or 40-F) the nature of the relationship that makes the individual not independent and the reasons for the board's determination. A member appointed under this exception may not serve longer than two years and may not chair the audit committee.

Amended July 22, 2010 (SR-NASDAQ-2008-014); amended Jan. 11, 2013 (SR-NASDAQ-2012-109).

IM-5605-4. Audit Committee Composition

Audit committees are required to have a minimum of three members and be comprised only of Independent Directors. In addition to satisfying the Independent Director requirements under Rule 5605(a)(2), audit committee members must meet the criteria for independence set forth in Rule 10A-3(b)(1) under the Act (subject to the exemptions provided in Rule 10A-3(c) under the Act): they must not accept any consulting, advisory, or other compensatory fee from the Company other than for board service, and they must not be an affiliated person of the Company. As described in Rule 10A-3(d)(1) and (2), a Company must disclose reliance on certain exceptions from Rule 10A-3 and disclose an assessment of whether, and if so, how, such reliance would materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of Rule 10A-3. It is recommended also that a Company disclose in its annual proxy (or, if the Company does not file a proxy, in its Form 10-K or 20-F) if any director is deemed eligible to serve on the audit committee but falls outside the safe harbor provisions of Rule 10A-3(e)(1)(ii) under the Act. A director who qualifies as an audit committee financial expert under Item 407(d)(5)(ii) and (iii) of Regulation S-K is presumed to qualify as a financially sophisticated audit committee member under Rule 5605(c)(2)(A).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended May 20, 2009 (SR-NASDAQ-2009-049); amended July 22, 2010 (SR-NASDAQ-2008-014).

(3) Audit Committee Responsibilities and Authority

The audit committee must have the specific audit committee responsibilities and authority necessary to comply with Rule 10A-3(b)(2), (3), (4) and (5) under the Act (subject to the exemptions provided in Rule 10A-3(c) under the Act), concerning responsibilities relating to: (i) registered public accounting firms, (ii) complaints relating to accounting, internal accounting controls or auditing matters, (iii) authority to engage advisers, and (iv) funding as determined by the audit committee. Audit committees for investment companies must also establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or auditing matters by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company.

IM-5605-5. The Audit Committee Responsibilities and Authority

Audit committees must have the specific audit committee responsibilities and authority necessary to comply with Rule 10A-3(b)(2), (3), (4) and (5) under the Act (subject to the exemptions provided in Rule 10A-3(c) under the Act), concerning responsibilities relating to registered public accounting firms; complaints relating to accounting; internal accounting controls or auditing matters; authority to engage advisers; and funding. Audit committees for investment companies must also establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or auditing matters by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 11, 2013 (SR-NASDAQ-2012-109).

(4) Cure Periods for Audit Committee

(A) If a Company fails to comply with the audit committee composition requirement under Rule 10A-3(b)(1) under the Act and Rule 5605(c)(2)(A) because an audit committee member ceases to be independent for reasons outside the member's reasonable control, the audit committee member may remain on the audit committee until the earlier of its next annual shareholders meeting or one year from the occurrence of the event that caused the failure to comply with this requirement. A Company relying on this provision must provide notice to Nasdaq immediately upon learning of the event or circumstance that caused the noncompliance.

(B) If a Company fails to comply with the audit committee composition requirement under Rule 5605(c)(2)(A) due to one vacancy on the audit committee, and the cure period in paragraph (A) is not otherwise being relied upon for another member, the Company will have until the earlier of the next annual shareholders meeting or one year from the occurrence of the event that caused the failure to comply with this requirement; provided, however, that if the annual shareholders meeting occurs no later than 180 days following the event that caused the vacancy, the Company shall

instead have 180 days from such event to regain compliance. A Company relying on this provision must provide notice to Nasdaq immediately upon learning of the event or circumstance that caused the noncompliance.

(5) Exception

At any time when a Company has a class of common equity securities (or similar securities') that is listed on another national securities exchange or national securities association subject to the requirements of Rule 10A-3 under the Act, the listing of classes of securities of a direct or indirect consolidated subsidiary or an at least 50% beneficially owned subsidiary of the Company (except classes of equity securities, other than non-convertible, non-participating preferred securities, of such subsidiary) shall not be subject to the requirements of Rule 5605(c).

(d) Compensation Committee Requirements

(1) Compensation Committee Charter

Each Company must certify that it has adopted a formal written compensation committee charter and that the compensation committee will review and reassess the adequacy of the formal written charter on an annual basis. The charter must specify:

(A) the scope of the compensation committee's responsibilities, and how it carries out those responsibilities, including structure, processes and membership requirements;

(B) the compensation committee's responsibility for determining, or recommending to the board for determination, the compensation of the chief executive officer and all other Executive Officers of the Company;

(C) that the chief executive officer may not be present during voting or deliberations on his or her compensation; and

(D) the specific compensation committee responsibilities and authority set forth in Rule 5605(d)(3).

(2) Compensation Committee Composition

(A) Each Company must have, and certify that it has and will continue to have, a compensation committee of at least two members. Each committee member must be an Independent Director as defined under Rule 5605(a)(2). In addition, in affirmatively determining the independence of any director who will serve on the compensation committee of a board of directors, the board of directors must consider all factors specifically relevant to determining whether a director has a relationship to the Company which is material to that director's ability to be independent from management in connection with the duties of a compensation committee member, including, but not limited to:

(i) the source of compensation of such director, including any consulting, advisory or other compensatory fee paid by the Company to such director; and

(ii) whether such director is affiliated with the Company, a subsidiary of the Company or an affiliate of a subsidiary of the Company.

(B) Non-Independent Committee Member under Exceptional and Limited Circumstances

Notwithstanding paragraph 5605(d)(2)(A) above, if the compensation committee is comprised of at least three members, one director who does not meet the requirements of paragraph 5605(d)(2)(A) and is not currently an Executive Officer or employee or a Family Member of an Executive Officer, may be appointed to the compensation committee if the board, under exceptional and limited circumstances, determines that such individual's membership on the committee is required by the best interests of the Company and its Shareholders. A Company that relies on this exception must disclose either on or through the Company's website or in the proxy statement for the next annual meeting subsequent to such determination (or, if the Company does not file a proxy, in its Form 10-K or 20-F), the nature of the relationship and the reasons for the determination. In addition, the Company must provide any disclosure required by Instruction 1 to Item 407(a) of Regulation S-K regarding its reliance on this exception. A member appointed under this exception may not serve longer than two years.

(3) Compensation Committee Responsibilities and Authority

As required by Rule 10C-1(b)(2), (3) and (4)(i)-(vi) under the Act, the compensation committee must have the following specific responsibilities and authority.

- (A) The compensation committee may, in its sole discretion, retain or obtain the advice of a compensation consultant, legal counsel or other adviser.
- (B) The compensation committee shall be directly responsible for the appointment, compensation and oversight of the work of any compensation consultant, legal counsel and other adviser retained by the compensation committee.
- (C) The Company must provide for appropriate funding, as determined by the compensation committee, for payment of reasonable compensation to a compensation consultant, legal counsel or any other adviser retained by the compensation committee.
- (D) The compensation committee may select, or receive advice from, a compensation consultant, legal counsel or other adviser to the compensation committee, other than in-house legal counsel, only after taking into consideration the following factors:
 - (i) the provision of other services to the Company by the person that employs the compensation consultant, legal counsel or other adviser;

- (ii) the amount of fees received from the Company by the person that employs the compensation consultant, legal counsel or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel or other adviser;
- (iii) the policies and procedures of the person that employs the compensation consultant, legal counsel or other adviser that are designed to prevent conflicts of interest;
- (iv) any business or personal relationship of the compensation consultant, legal counsel or other adviser with a member of the compensation committee;
- (v) any stock of the Company owned by the compensation consultant, legal counsel or other adviser; and
- (vi) any business or personal relationship of the compensation consultant, legal counsel, other adviser or the person employing the adviser with an Executive Officer of the Company.

Nothing in this Rule shall be construed: (i) to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant, legal counsel or other adviser to the compensation committee; or (ii) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

The compensation committee is required to conduct the independence assessment outlined in this Rule with respect to any compensation consultant, legal counsel or other adviser that provides advice to the compensation committee, other than in-house legal counsel. However, nothing in this Rule requires a compensation consultant, legal counsel or other compensation adviser to be independent, only that the compensation committee consider the enumerated independence factors before selecting, or receiving advice from, a compensation adviser. Compensation committees may select, or receive advice from, any compensation adviser they prefer, including ones that are not independent, after considering the six independence factors outlined above.

For purposes of this Rule, the compensation committee is not required to conduct an independence assessment for a compensation adviser that acts in a role limited to the following activities for which no disclosure is required under Item 407(e)(3)(iii) of Regulation S-K: (a) consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of Executive Officers or directors of the Company, and that is available generally to all salaried employees; and/or (b) providing information that either is not customized for a particular issuer or that is customized based on parameters that are not developed by the adviser, and about which the adviser does not provide advice.

(4) Cure Period for Compensation Committee

If a Company fails to comply with the compensation committee composition requirement under Rule 5605(d)(2)(A) due to one vacancy, or one compensation committee member ceases to be independent due to circumstances beyond the member's reasonable control, the Company shall regain compliance with the requirement by the earlier of its next annual shareholders meeting or one year from the occurrence of the event that caused the failure to comply with this requirement; provided, however, that if the annual shareholders meeting occurs no later than 180 days following the event that caused the failure to comply with this requirement, the Company shall instead have 180 days from such event to regain compliance. A Company relying on this provision shall provide notice to Nasdaq immediately upon learning of the event or circumstance that caused the noncompliance.

(5) Smaller Reporting Companies

A Smaller Reporting Company, as defined in Rule 12b-2 under the Act, is not subject to the requirements of Rule 5605(d), except that a Smaller Reporting Company must have, and certify that it has and will continue to have, a compensation committee of at least two members, each of whom must be an Independent Director as defined under Rule 5605(a)(2). A Smaller Reporting Company may rely on the exception in Rule 5605(d)(2)(B) and the cure period in Rule 5605(d)(4). In addition, a Smaller Reporting Company must certify that it has adopted a formal written compensation committee charter or board resolution that specifies the content set forth in Rule 5605(d)(1)(A)-(C). A Smaller Reporting Company does not need to include in its formal written compensation committee charter or board resolution the specific compensation committee responsibilities and authority set forth in Rule 5605(d)(3).

Amended July 22, 2010 (SR-NASDAQ-2008-014); amended Jan. 11, 2013 (SR-NASDAQ-2012-109); amended Nov. 26, 2013 (SR-NASDAQ-2013-147), operative Dec. 26, 2013; amended Dec. 27, 2017 (SR-NASDAQ-2017-133), operative Jan. 26, 2018.

IM-5605-6. Independent Director Oversight of Executive Compensation

Independent oversight of executive officer compensation helps assure that appropriate incentives are in place, consistent with the board's responsibility to act in the best interests of the corporation. Compensation committees are required to have a minimum of two members and be comprised only of Independent Directors as defined under Rule 5605(a)(2).

In addition, Rule 5605(d)(2)(A) includes an additional independence test for compensation committee members. When considering the sources of a director's compensation for this purpose, the board should consider whether the director receives compensation from any person or entity that would impair the director's ability to make independent judgments about the Company's executive compensation. Similarly, when considering any affiliate relationship a director has with the Company, a subsidiary of the Company, or an affiliate of a subsidiary of the Company, in determining independence for purposes of compensation committee service, the board

should consider whether the affiliate relationship places the director under the direct or indirect control of the Company or its senior management, or creates a direct relationship between the director and members of senior management, in each case of a nature that would impair the director's ability to make independent judgments about the Company's executive compensation. In that regard, while a board may conclude differently with respect to individual facts and circumstances, Nasdaq does not believe that ownership of Company stock by itself, or possession of a controlling interest through ownership of Company stock by itself, precludes a board finding that it is appropriate for a director to serve on the compensation committee. In fact, it may be appropriate for certain affiliates, such as representatives of significant stockholders, to serve on compensation committees since their interests are likely aligned with those of other stockholders in seeking an appropriate executive compensation program.

For purposes of the additional independence test for compensation committee members described in Rule 5605(d)(2)(A), any reference to the "Company" includes any parent or subsidiary of the Company. The term "parent or subsidiary" is intended to cover entities the Company controls and consolidates with the Company's financial statements as filed with the Commission (but not if the Company reflects such entity solely as an investment in its financial statements).

A Smaller Reporting Company must have a compensation committee with a minimum of two members. Each compensation committee member must be an Independent Director as defined under Rule 5605(a)(2). In addition, each Smaller Reporting Company must have a formal written compensation committee charter or board resolution that specifies the committee's responsibilities and authority set forth in Rule 5605(d)(1)(A)-(C). However, in recognition of the fact that Smaller Reporting Companies may have fewer resources than larger Companies, Smaller Reporting Companies are not required to adhere to the additional compensation committee eligibility requirements in Rule 5605(d)(2)(A), or to incorporate into their formal written compensation committee charter or board resolution the specific compensation committee responsibilities and authority set forth in Rule 5605(d)(3).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 11, 2013 (SR-NASDAQ-2012-109); amended Nov. 26, 2013 (SR-NASDAQ-2013-147), operative Dec. 26, 2013.

(e) Independent Director Oversight of Director Nominations

(1) Director nominees must either be selected, or recommended for the Board's selection, either by:

(A) Independent Directors constituting a majority of the Board's Independent Directors in a vote in which only Independent Directors participate, or

(B) a nominations committee comprised solely of Independent Directors.

(2) Each Company must certify that it has adopted a formal written charter or board resolution, as applicable, addressing the nominations process and such related matters as may be required under the federal securities laws.

(3) Non-Independent Committee Member under Exceptional and Limited Circumstances

Notwithstanding paragraph 5605(e)(1)(B) above, if the nominations committee is comprised of at least three members, one director, who is not an Independent Director as defined in Rule 5605(a)(2) and is not currently an Executive Officer or employee or a Family Member of an Executive Officer, may be appointed to the nominations committee if the board, under exceptional and limited circumstances, determines that such individual's membership on the committee is required by the best interests of the Company and its Shareholders. A Company that relies on this exception must disclose either on or through the Company's website or in the proxy statement for next annual meeting subsequent to such determination (or, if the Company does not file a proxy, in its Form 10-K or 20-F), the nature of the relationship and the reasons for the determination. In addition, the Company must provide any disclosure required by Instruction 1 to Item 407(a) of Regulation S-K regarding its reliance on this exception. A member appointed under this exception may not serve longer than two years.

(4) Independent Director oversight of director nominations shall not apply in cases where the right to nominate a director legally belongs to a third party. However, this does not relieve a Company's obligation to comply with the committee composition requirements under Rules 5605(c), (d) and (e).

(5) This Rule 5605(e) is not applicable to a Company if the Company is subject to a binding obligation that requires a director nomination structure inconsistent with this rule and such obligation pre-dates the approval date of this rule.

Amended July 22, 2010 (SR-NASDAQ-2008-014); amended Jan. 11, 2013 (SR-NASDAQ-2012-109).

IM-5605-7. Independent Director Oversight of Director Nominations

Independent Director oversight of nominations enhances investor confidence in the selection of well-qualified director nominees, as well as independent nominees as required by the rules. This rule is also intended to provide flexibility for a Company to choose an appropriate board structure and reduce resource burdens, while ensuring that Independent Directors approve all nominations.

This rule does not apply in cases where the right to nominate a director legally belongs to a third party. For example, investors may negotiate the right to nominate directors in connection with an investment in the Company, holders of preferred stock may be permitted to nominate or appoint directors upon certain defaults, or the Company may be a party to a shareholder's agreement that allocates the right to nominate some directors. Because the right to nominate directors in these cases does

not reside with the Company, Independent Director approval would not be required. This rule is not applicable if the Company is subject to a binding obligation that requires a director nomination structure inconsistent with the rule and such obligation pre-dates the approval date of this rule.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Mar. 15, 2010 (SR-NASDAQ-2010-037), operative Apr. 14, 2010; amended June 9, 2011 (SR-NASDAQ-2011-082), operative July 9, 2011; amended July 19, 2012 (SR-NASDAQ-2012-062).

5610. Code of Conduct

Each Company shall adopt a code of conduct applicable to all directors, officers and employees, which shall be publicly available. A code of conduct satisfying this rule must comply with the definition of a "code of ethics" set out in Section 406(c) of the Sarbanes-Oxley Act of 2002 ("the Sarbanes-Oxley Act") and any regulations promulgated thereunder by the Commission. See 17 C.F.R. 228.406 and 17 C.F.R. 229.406. In addition, the code must provide for an enforcement mechanism. Any waivers of the code for directors or Executive Officers must be approved by the Board. Companies, other than Foreign Private Issuers, shall disclose such waivers within four business days by filing a current report on Form 8-K with the Commission or, in cases where a Form 8-K is not required, by distributing a press release. Foreign Private Issuers shall disclose such waivers either by distributing a press release or including disclosure in a Form 6-K or in the next Form 20-F or 40-F. Alternatively, a Company, including a Foreign Private Issuer, may disclose waivers on the Company's website in a manner that satisfies the requirements of Item 5.05(c) of Form 8-K.

IM-5610. Code of Conduct

Ethical behavior is required and expected of every corporate director, officer and employee whether or not a formal code of conduct exists. The requirement of a publicly available code of conduct applicable to all directors, officers and employees of a Company is intended to demonstrate to investors that the board and management of Nasdaq Companies have carefully considered the requirement of ethical dealing and have put in place a system to ensure that they become aware of and take prompt action against any questionable behavior. For Company personnel, a code of conduct with enforcement provisions provides assurance that reporting of questionable behavior is protected and encouraged, and fosters an atmosphere of self-awareness and prudent conduct.

Rule 5610 requires Companies to adopt a code of conduct complying with the definition of a "code of ethics" under Section 406(c) of the Sarbanes-Oxley Act of 2002 ("the Sarbanes-Oxley Act") and any regulations promulgated thereunder by the Commission. See 17 C.F.R. 228.406 and 17 C.F.R. 229.406. Thus, the code must include such standards as are reasonably necessary to promote the ethical handling of conflicts of interest, full and fair disclosure, and compliance with laws, rules and regulations, as specified by the Sarbanes-Oxley Act. However, the code of conduct required by Rule 5610 must apply to all directors, officers, and employees.

Companies can satisfy this obligation by adopting one or more codes of conduct, such that all directors, officers and employees are subject to a code that satisfies the definition of a "code of ethics."

As the Sarbanes-Oxley Act recognizes, investors are harmed when the real or perceived private interest of a director, officer or employee is in conflict with the interests of the Company, as when the individual receives improper personal benefits as a result of his or her position with the Company, or when the individual has other duties, responsibilities or obligations that run counter to his or her duty to the Company. Also, the disclosures a Company makes to the Commission are the essential source of information about the Company for regulators and investors — there can be no question about the duty to make them fairly, accurately and timely. Finally, illegal action must be dealt with swiftly and the violators reported to the appropriate authorities. Each code of conduct must require that any waiver of the code for Executive Officers or directors may be made only by the board and must be disclosed to Shareholders, along with the reasons for the waiver. All Companies, other than Foreign Private Issuers, must disclose such waivers within four business days by filing a current report on Form 8-K with the Commission, providing website disclosure that satisfies the requirements of Item 5.05(c) of Form 8-K, or, in cases where a Form 8-K is not required, by distributing a press release. Foreign Private Issuers must disclose such waivers either by providing website disclosure that satisfies the requirements of Item 5.05(c) of Form 8-K, by including disclosure in a Form 6-K or in the next Form 20-F or 40-F or by distributing a press release. This disclosure requirement provides investors the comfort that waivers are not granted except where they are truly necessary and warranted, and that they are limited and qualified so as to protect the Company and its Shareholders to the greatest extent possible.

Each code of conduct must also contain an enforcement mechanism that ensures prompt and consistent enforcement of the code, protection for persons reporting questionable behavior, clear and objective standards for compliance, and a fair process by which to determine violations.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended July 22, 2010 (SR-NASDAQ-2008-014).

5615. Exemptions from Certain Corporate Governance Requirements

This rule provides the exemptions from the corporate governance rules afforded to certain types of Companies, and sets forth the phase-in schedules for initial public offerings, Companies emerging from bankruptcy, Companies transferring from other markets and Companies ceasing to be Smaller Reporting Companies. This rule also describes the applicability of the corporate governance rules to Controlled Companies and sets forth the phase-in schedule afforded to Companies ceasing to be Controlled Companies.

(a) Exemptions to the Corporate Governance Requirements

(1) Asset-backed Issuers and Other Passive Issuers

The following are exempt from the requirements relating to Majority Independent Board (Rule 5605(b)), Audit Committee (Rule 5605(c)), Compensation Committee (Rule 5605(d)), Director Nominations (Rule 5605(e)), the Controlled Company Exemption (Rule 5615(c)(2)), and Code of Conduct (Rule 5610):

(A) asset-backed issuers; and

(B) issuers, such as unit investment trusts, including Portfolio Depository Receipts, which are organized as trusts or other unincorporated associations that do not have a board of directors or persons acting in a similar capacity and whose activities are limited to passively owning or holding (as well as administering and distributing amounts in respect of) securities, rights, collateral or other assets on behalf of or for the benefit of the holders of the listed securities.

IM-5615-1. Asset-backed Issuers and Other Passive Issuers

Because of their unique attributes, Rules 5605(b), 5605(c), 5605(d), 5605(e) and 5610 do not apply to asset-backed issuers and issuers, such as unit investment trusts, that are organized as trusts or other unincorporated associations that do not have a board of directors or persons acting in a similar capacity and whose activities are limited to passively owning or holding (as well as administering and distributing amounts in respect of) securities, rights, collateral or other assets on behalf of or for the benefit of the holders of the listed securities. This is consistent with Nasdaq's traditional approach to such issuers.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(2) Cooperatives

Cooperative entities, such as agricultural cooperatives, that are structured to comply with relevant state law and federal tax law and that do not have a publicly traded class of common stock are exempt from Rules 5605(b), (d), (e), and 5615(c)(2). However, such entities must comply with all federal securities laws, including without limitation those rules required by Section 10A(m) of the Act and Rule 10A-3 thereunder.

IM-5615-2. Cooperatives

Certain member-owned cooperatives that list their preferred stock are required to have their common stock owned by their members. Because of their unique structure and the fact that they do not have a publicly traded class of common stock, such entities are exempt from Rule 5605(b), (d), and (e). This is consistent with Nasdaq's traditional approach to such Companies.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040).

(3) Foreign Private Issuers

(A) A Foreign Private Issuer may follow its home country practice in lieu of the requirements of the Rule 5600 Series, the requirement to disclose third party director and nominee compensation set forth in Rule 5250(b)(3), and the requirement to distribute annual and interim reports set forth in Rule 5250(d), provided, however, that such a Company shall: comply with the Notification of Noncompliance requirement (Rule 5625), the Voting Rights requirement (Rule 5640), have an audit committee that satisfies Rule 5605(c)(3), and ensure that such audit committee's members meet the independence requirement in Rule 5605(c)(2)(A)(ii). Except as provided in this paragraph, a Foreign Private Issuer must comply with the requirements of the Rule 5000 Series.

(B) Disclosure Requirements

(i) A Foreign Private Issuer that follows a home country practice in lieu of one or more of the Listing Rules shall disclose in its annual reports filed with the Commission each requirement that it does not follow and describe the home country practice followed by the Company in lieu of such requirements. Alternatively, a Foreign Private Issuer that is not required to file its annual report with the Commission on Form 20-F may make this disclosure only on its website. A Foreign Private Issuer that follows a home country practice in lieu of the requirement in Rule 5605(d)(2) to have an independent compensation committee must disclose in its annual reports filed with the Commission the reasons why it does not have such an independent committee.

(ii) A Foreign Private Issuer making its initial public offering or first U.S. listing on Nasdaq shall disclose in its registration statement or on its website each requirement that it does not follow and describe the home country practice followed by the Company in lieu of such requirements.

IM-5615-3. Foreign Private Issuers

A Foreign Private Issuer (as defined in Rule 5005) listed on Nasdaq may follow the practice in such Company's home country (as defined in General Instruction F of Form 20-F) in lieu of the provisions of the Rule 5600 Series, Rule 5250(b)(3), and Rule 5250(d), subject to several important exceptions. First, such an issuer shall comply with Rule 5625 (Notification of Noncompliance). Second, such a Company shall have an audit committee that satisfies Rule 5605(c)(3). Third, members of such audit committee shall meet the criteria for independence referenced in Rule 5605(c)(2)(A)(ii) (the criteria set forth in Rule 10A-3(b)(1) under the Act, subject to the exemptions provided in Rule 10A-3(c) under the Act). Finally, a Foreign Private Issuer that elects to follow home country practice in lieu of a requirement of Rules 5600, 5250(b)(3), or 5250(d) shall submit to Nasdaq a written statement from an independent counsel in such Company's home country certifying that the Company's practices are not prohibited by the home country's laws. In the case of new listings, this certification is required at the time of listing. For existing Companies, the

certification is required at the time the Company seeks to adopt its first noncompliant practice. In the interest of transparency, the rule requires a Foreign Private Issuer to make appropriate disclosures in the Company's annual filings with the Commission (typically Form 20-F or 40-F), and at the time of the Company's original listing in the United States, if that listing is on Nasdaq, in its registration statement (typically Form F-1, 20-F, or 40-F); alternatively, a Company that is not required to file an annual report on Form 20-F may provide these disclosures in English on its website in addition to, or instead of, providing these disclosures on its registration statement or annual report. The Company shall disclose each requirement that it does not follow and include a brief statement of the home country practice the Company follows in lieu of these corporate governance requirement(s). If the disclosure is only available on the website, the annual report and registration statement should so state and provide the web address at which the information may be obtained. Companies that must file annual reports on Form 20-F are encouraged to provide these disclosures on their websites, in addition to the required Form 20-F disclosures, to provide maximum transparency about their practices.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended May 20, 2009 (SR-NASDAQ-2009-049); amended June 16, 2009 (SR-NASDAQ-2009-052); amended May 14, 2010 (SR-NASDAQ-2010-060), operative June 13, 2010; amended Nov. 7, 2012 (SR-NASDAQ-2012-128); amended July 1, 2016 (SR-NASDAQ-2016-013), operative Aug 1, 2016.

(4) Limited Partnerships

A limited partnership is not subject to the requirements of the Rule 5600 Series, except as provided in this Rule 5615(a)(4). A limited partnership may request a written interpretation pursuant to Rule 5602.

(A) No provision of this Rule shall be construed to require any foreign Company that is a partnership to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such Company or that is contrary to generally accepted business practices in the Company's country of domicile. Nasdaq shall have the ability to provide exemptions from applicability of these provisions as may be necessary or appropriate to carry out this intent.

(B) Corporate General Partner

Each Company that is a limited partnership shall maintain a corporate general partner or co-general partner, which shall have the authority to manage the day-to-day affairs of the partnership.

(C) Independent Directors/Audit Committee

The corporate general partner or co-general partner shall maintain a sufficient number of Independent Directors on its board to satisfy the audit committee requirements set forth in Rule 5605(c).

(D) Partner Meetings

A Company that is a limited partnership shall not be required to hold an annual meeting of limited partners unless required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement.

(E) Quorum

In the event that a meeting of limited partners is required pursuant to paragraph (D), the quorum for such meeting shall be not less than 33-1/3 percent of the limited partnership interests outstanding.

(F) Solicitation of Proxies

In the event that a meeting of limited partners is required pursuant to paragraph (D), the Company shall provide all limited partners with proxy or information statements and if a vote is required, shall solicit proxies thereon.

(G) Review of Related Party Transactions

Each Company that is a limited partnership shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilize the Audit Committee or a comparable body of the Board of Directors for the review of potential material conflict of interest situations where appropriate.

(H) Shareholder Approval

Each Company that is a limited partnership must obtain shareholder approval when a stock option or purchase plan is to be established or materially amended or other equity compensation arrangement made or materially amended, pursuant to which stock may be acquired by officers, directors, employees, or consultants, as would be required under Rule 5635(c) and IM-5635-1.

(I) Auditor Registration

Each Company that is a limited partnership must be audited by an independent public accountant that is registered as a public accounting firm with the Public Company Accounting Oversight Board, as provided for in Section 102 of the Sarbanes-Oxley Act of 2002 [15 U.S.C. 7212].

(J) Notification of Noncompliance.

Each Company that is a limited partnership must provide Nasdaq with prompt notification after an Executive Officer of the Company, or a person performing an equivalent role, becomes aware of any noncompliance by the Company with the requirements of this Rule 5600 Series.

(5) Management Investment Companies

Management investment companies (including business development companies) are subject to all the requirements of the Rule 5600 Series, except that management investment companies registered under the Investment Company Act of 1940 are exempt from the Independent Directors requirement, the Compensation Committee requirement, the Independent Director Oversight of Director Nominations requirement, and the Code of Conduct requirement, set forth in Rules 5605(b), (d) and (e) and 5610, respectively. In addition, management investment companies that issue Index Fund Shares, Managed Fund Shares, and NextShares, as defined in Rules 5705(b), 5735, and 5745 are exempt from the Audit Committee requirements set forth in Rule 5605(c), except for the applicable requirements of SEC Rule 10A-3.

IM-5615-4. Management Investment Companies

Management investment companies registered under the Investment Company Act of 1940 are already subject to a pervasive system of federal regulation in certain areas of corporate governance covered by 5600. In light of this, Nasdaq exempts from Rules 5605(b), (d), (e) and 5610 management investment companies registered under the Investment Company Act of 1940. Business development companies, which are a type of closed-end management investment company defined in Section 2(a)(48) of the Investment Company Act of 1940 that are not registered under that Act, are required to comply with all of the provisions of the Rule 5600 Series. Management investment companies that issue Index Fund Shares, Managed Fund Shares, and NextShares, are exempt from the Audit Committee requirements set forth in Rule 5605(c), except for the applicable requirements of SEC Rule 10A-3.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Aug. 18, 2009 (SR-NASDAQ-2009-078); amended Mar. 11, 2010 (SR-NASDAQ-2010-036); amended Nov. 7, 2014 (SR-NASDAQ-2014-020); amended Oct. 13, 2015 (SR-NASDAQ-2015-121).

(b) Phase-In Schedules

(1) Initial Public Offerings

A Company listing in connection with its initial public offering shall be permitted to phase in its compliance with the independent committee requirements set forth in Rules 5605(d)(2) and (e)(1)(B) on the same schedule as it is permitted to phase in its compliance with the independent audit committee requirement pursuant to Rule 10A-3(b)(1)(iv)(A) under the Act. Accordingly, a Company listing in connection with its initial public offering shall be permitted to phase in its compliance with the committee composition requirements set forth in Rule 5605(d)(2) and (e)(1)(B) as follows: (1) one member must satisfy the requirement at the time of listing; (2) a majority of members must satisfy the requirement within 90 days of listing; and (3) all members must satisfy the requirement within one year of listing. Furthermore, a Company listing in connection with its initial public offering shall have twelve months from the

date of listing to comply with the majority independent board requirement in Rule 5605(b). It should be noted, however, that pursuant to Rule 10A-3(b)(1)(iii) under the Act investment companies are not afforded the exemptions under Rule 10A-3(b)(1)(iv) under the Act. Companies may choose not to adopt a nomination committee and may instead rely upon a majority of the Independent Directors to discharge responsibilities under Rule 5605(b). For purposes of the Rule 5600 Series other than Rules 5605(c)(2)(A)(ii) and 5625, a Company shall be considered to be listing in conjunction with an initial public offering if, immediately prior to listing, it does not have a class of common stock registered under the Act. For purposes of Rule 5605(c)(2)(A)(ii) and Rule 5625, a Company shall be considered to be listing in conjunction with an initial public offering only if it meets the conditions in Rule 10A-3(b)(1)(iv)(A) under the Act, namely, that the Company was not, immediately prior to the effective date of a registration statement, required to file reports with the Commission pursuant to Section 13(a) or 15(d) of the Act.

(2) Companies Emerging from Bankruptcy

Companies that are emerging from bankruptcy shall be permitted to phase-in independent nomination and compensation committees and majority independent boards on the same schedule as Companies listing in conjunction with their initial public offering.

(3) Transfers from other Markets

Companies transferring from other markets with a substantially similar requirement shall be afforded the balance of any grace period afforded by the other market. Companies transferring from other listed markets that do not have a substantially similar requirement shall be afforded one year from the date of listing on Nasdaq. This transition period is not intended to supplant any applicable requirements of Rule 10A-3 under the Act.

(4) Phase-In Schedule for a Company Ceasing to be a Smaller Reporting Company

Pursuant to Rule 12b-2 under the Act, a Company tests its status as a Smaller Reporting Company on an annual basis as of the last business day of its most recently completed second fiscal quarter (for purposes of this Rule, the "Determination Date"). A Company with a public float of \$75 million or more as of the Determination Date will cease to be a Smaller Reporting Company as of the beginning of the fiscal year following the Determination Date (the "Start Date").

By six months from the Start Date, a Company must comply with Rule 5605(d)(3) and certify to Nasdaq that: (i) it has complied with the requirement in Rule 5605(d)(1) to adopt a formal written compensation committee charter including the content specified in Rule 5605(d)(1)(A)-(D); and (ii) it has complied, or within the applicable phase-in schedule will comply, with the additional requirements in Rule 5605(d)(2)(A) regarding compensation committee composition.

A Company shall be permitted to phase in its compliance with the additional compensation committee eligibility requirements of Rule 5605(d)(2)(A) relating to compensatory fees and affiliation as follows: (i) one member must satisfy the requirements by six months from the Start Date; (ii) a majority of members must satisfy the requirements by nine months from the Start Date; and (iii) all members must satisfy the requirements by one year from the Start Date.

Since a Smaller Reporting Company is required to have a compensation committee comprised of at least two Independent Directors, a Company that has ceased to be a Smaller Reporting Company may not use the phase-in schedule for the requirements of Rule 5605(d)(2)(A) relating to minimum committee size or that the committee consist only of Independent Directors as defined under Rule 5605(a)(2).

During this phase-in schedule, a Company that has ceased to be a Smaller Reporting Company must continue to comply with Rule 5605(d)(5).

(c) How the Rules Apply to a Controlled Company

(1) Definition

A Controlled Company is a Company of which more than 50% of the voting power for the election of directors is held by an individual, a group or another company.

(2) Exemptions Afforded to a Controlled Company

A Controlled Company is exempt from the requirements of Rules 5605(b), (d) and (e), except for the requirements of subsection (b)(2) which pertain to executive sessions of Independent Directors. A Controlled Company, other than a Foreign Private Issuer, relying upon this exemption must comply with the disclosure requirements set forth in Instruction 1 to Item 407(a) of Regulation S-K. A Foreign Private Issuer must disclose in its next annual report (e.g., Form 20-F or 40-F) that it is a Controlled Company and the basis for that determination.

(3) Phase-In Schedule for a Company Ceasing to be a Controlled Company

A Company that has ceased to be a Controlled Company within the meaning of Rule 5615(c)(1) shall be permitted to phase-in its independent nomination and compensation committees and majority independent board on the same schedule as Companies listing in conjunction with their initial public offering. It should be noted, however, that a Company that has ceased to be a Controlled Company within the meaning of Rule 5615(c)(1) must comply with the audit committee requirements of Rule 5605(c) as of the date it ceased to be a Controlled Company. Furthermore, the executive sessions requirement of Rule 5605(b)(2) applies to Controlled Companies as of the date of listing and continues to apply after it ceases to be controlled.

This exemption recognizes that majority Shareholders, including parent companies, have the right to select directors and control certain key decisions, such as executive officer compensation, by virtue of their ownership rights. In order for a group to exist for purposes of this rule, the Shareholders must have publicly filed a notice that they are acting as a group (e.g., a Schedule 13D). A Controlled Company not relying upon this exemption need not provide any special disclosures about its controlled status. It should be emphasized that this controlled company exemption does not extend to the audit committee requirements under Rule 5605(c) or the requirement for executive sessions of Independent Directors under Rule 5605(b)(2).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended May 20, 2009 (SR-NASDAQ-2009-049); amended Aug. 18, 2009 (SR-NASDAQ-2009-78); amended Mar. 11, 2010 (SR-NASDAQ-2010-036); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended May 14, 2010 (SR-NASDAQ-2010-060), operative June 13, 2010; amended June 9, 2011 (SR-NASDAQ-2011-082), operative July 9, 2011; amended Nov. 7, 2012 (SR-NASDAQ-2012-128); amended Jan. 11, 2013 (SR-NASDAQ-2012-109); amended Nov. 7, 2014 (SR-NASDAQ-2014-020); amended Oct. 13, 2015 (SR-NASDAQ-2015-121); amended July 1, 2016 (SR-NASDAQ-2016-013), operative Aug 1, 2016; amended Dec. 27, 2017 (SR-NASDAQ-2017-133), operative Jan. 26, 2018.

5620. Meetings of Shareholders

(a) Each Company listing common stock or voting preferred stock, and their equivalents, shall hold an annual meeting of Shareholders no later than one year after the end of the Company's fiscal year-end, unless such Company is a limited partnership that meets the requirements of Rule 5615(a)(4)(D).

IM-5620. Meetings of Shareholders or Partners

Rule 5620 requires that each Company listing common stock or voting preferred stock, and their equivalents, hold an annual meeting of Shareholders within one year of the end of each fiscal year. At each such meeting, Shareholders must be afforded the opportunity to discuss Company affairs with management and, if required by the Company's governing documents, to elect directors. A new listing that was not previously subject to a requirement to hold an annual meeting is required to hold its first meeting within one-year after its first fiscal year-end following listing. Of course, Nasdaq's meeting requirement does not supplant any applicable state or federal securities laws concerning annual meetings.

This requirement is not applicable as a result of a Company listing the following types of securities: securities listed pursuant to Rule 5730(a) (such as Trust Preferred Securities and Contingent Value Rights), unless the listed security is a common stock or voting preferred stock equivalent (e.g., a callable common stock); Portfolio Depository Receipts and Index Fund Shares listed pursuant to Rules 5705(a) and (b);

and Trust Issued Receipts listed pursuant to Rule 5720. Notwithstanding, if the Company also lists common stock or voting preferred stock, or their equivalent, the Company must still hold an annual meeting for the holders of that common stock or voting preferred stock, or their equivalent.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(b) Proxy Solicitation

Each Company that is not a limited partnership shall solicit proxies and provide proxy statements for all meetings of Shareholders and shall provide copies of such proxy solicitation to Nasdaq. Limited partnerships that are required to hold an annual meeting of partners are subject to the requirements of Rule 5615(a)(4)(F).

(c) Quorum

Each Company that is not a limited partnership shall provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33 1/3 % of the outstanding shares of the Company's common voting stock. Limited partnerships that are required to hold an annual meeting of partners are subject to the requirements of Rule 5615(a)(4)(E).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

5625. Notification of Noncompliance

A Company must provide Nasdaq with prompt notification after an Executive Officer of the Company becomes aware of any noncompliance by the Company with the requirements of this Rule 5600 Series.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended May 14, 2010 (SR-NASDAQ-2010-060), operative June 13, 2010.

5630. Review of Related Party Transactions

(a) Each Company that is not a limited partnership shall conduct an appropriate review and oversight of all related party transactions for potential conflict of interest situations on an ongoing basis by the Company's audit committee or another independent body of the board of directors. For purposes of this rule, the term "related party transaction" shall refer to transactions required to be disclosed pursuant to Item 404 of Regulation S-K under the Act. However, in the case of non-U.S. issuers, the term "related party transactions" shall refer to transactions required to be disclosed pursuant to Form 20-F, Item 7.B.

(b) Limited partnerships shall comply with the requirements of Rule 5615(a)(4)(G).

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended May 20, 2009 (SR-NASDAQ-2009-049); amended June 16, 2009 (SR-NASDAQ-2009-052).

5635. Shareholder Approval

This Rule sets forth the circumstances under which shareholder approval is required prior to an issuance of securities in connection with: (i) the acquisition 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) private placements. General provisions relating to shareholder approval are set forth in Rule 5635(e), and the financial viability exception to the shareholder approval requirement is set forth in Rule 5635(f). Nasdaq-listed Companies and their representatives are encouraged to use the interpretative letter process described in Rule 5602.

(a) Acquisition of Stock or Assets of Another Company

Shareholder approval is required prior to the issuance of securities in connection with the acquisition of the stock or assets of another company if:

(1) where, due to the present or potential issuance of common stock, including shares issued pursuant to an earn-out provision or similar type of provision, or securities convertible into or exercisable for common stock, other than a public offering for cash:

(A) the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of stock or securities convertible into or exercisable for common stock; or

(B) the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the stock or securities; or

(2) any director, officer or Substantial Shareholder (as defined by Rule 5635(e)(3)) of the Company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the Company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more; or

(b) Change of Control

Shareholder approval is required prior to the issuance of securities when the issuance or potential issuance will result in a change of control of the Company.

(c) Equity Compensation

Shareholder approval is required prior to the issuance of securities when a stock option or purchase plan is to be established or materially amended or other equity

compensation arrangement made or materially amended, pursuant to which stock may be acquired by officers, directors, employees, or consultants, except for:

(1) warrants or rights issued generally to all security holders of the Company or stock purchase plans available on equal terms to all security holders of the Company (such as a typical dividend reinvestment plan);

(2) tax qualified, non-discriminatory employee benefit plans (e.g., plans that meet the requirements of Section 401(a) or 423 of the Internal Revenue Code) or parallel nonqualified plans, provided such plans are approved by the Company's independent compensation committee or a majority of the Company's Independent Directors; or plans that merely provide a convenient way to purchase shares on the open market or from the Company at Market Value;

(3) plans or arrangements relating to an acquisition or merger as permitted under IM-5635-1; or

(4) issuances to a person not previously an employee or director of the Company, or following a bona fide period of non-employment, as an inducement material to the individual's entering into employment with the Company, provided such issuances are approved by either the Company's independent compensation committee or a majority of the Company's Independent Directors. Promptly following an issuance of any employment inducement grant in reliance on this exception, a Company must disclose in a press release the material terms of the grant, including the recipient(s) of the grant and the number of shares involved.

Amended June 16, 2009 (SR-NASDAQ-2009-052).

IM-5635-1. Shareholder Approval for Stock Option Plans or Other Equity Compensation Arrangements

Employee ownership of Company stock can be an effective tool to align employee interests with those of other Shareholders. Stock option plans or other equity compensation arrangements can also assist in the recruitment and retention of employees, which is especially critical to young, growing Companies, or Companies with insufficient cash resources to attract and retain highly qualified employees. However, these plans can potentially dilute shareholder interests. Rule 5635(c) ensures that Shareholders have a voice in these situations, given this potential for dilution.

Rule 5635(c) requires shareholder approval when a plan or other equity compensation arrangement is established or materially amended. For these purposes, a material amendment would include, but not be limited to, the following:

(1) any material increase in the number of shares to be issued under the plan (other than to reflect a reorganization, stock split, merger, spinoff or similar transaction);

(2) any material increase in benefits to participants, including any material change to:
(i) permit a repricing (or decrease in exercise price) of outstanding options, (ii) reduce

the price at which shares or options to purchase shares may be offered, or (iii) extend the duration of a plan;

(3) any material expansion of the class of participants eligible to participate in the plan; and

(4) any expansion in the types of options or awards provided under the plan.

While general authority to amend a plan would not obviate the need for shareholder approval, if a plan permits a specific action without further shareholder approval, then no such approval would generally be required. However, if a plan contains a formula for automatic increases in the shares available (sometimes called an "evergreen formula"), or for automatic grants pursuant to a dollar-based formula (such as annual grants based on a certain dollar value, or matching contributions based upon the amount of compensation the participant elects to defer), such plans cannot have a term in excess of ten years unless shareholder approval is obtained every ten years. However, plans that do not contain a formula and do not impose a limit on the number of shares available for grant would require shareholder approval of each grant under the plan. A requirement that grants be made out of treasury shares or repurchased shares will not alleviate these additional shareholder approval requirements.

As a general matter, when preparing plans and presenting them for shareholder approval, Companies should strive to make plan terms easy to understand. In that regard, it is recommended that plans meant to permit repricing use explicit terminology to make this clear.

Rule 5635(c) provides an exception to the requirement for shareholder approval for warrants or rights offered generally to all Shareholders. In addition, an exception is provided for tax qualified, non-discriminatory employee benefit plans as well as parallel nonqualified plans as these plans are regulated under the Internal Revenue Code and Treasury Department regulations. An equity compensation plan that provides non-U.S. employees with substantially the same benefits as a comparable tax qualified, non-discriminatory employee benefit plan or parallel nonqualified plan that the Company provides to its U.S. employees, but for features necessary to comply with applicable foreign tax law, is also exempt from shareholder approval under this section.

Further, the rule provides an exception for inducement grants to new employees because in these cases a Company has an arm's length relationship with the new employees. Inducement grants for these purposes include grants of options or stock to new employees in connection with a merger or acquisition. The rule requires that such issuances be approved by the Company's independent compensation committee or a majority of the Company's Independent Directors. The rule further requires that promptly following an issuance of any employment inducement grant in reliance on this exception, a Company must disclose in a press release the material terms of the grant, including the recipient(s) of the grant and the number of shares involved.

In addition, plans or arrangements involving a merger or acquisition do not require shareholder approval in two situations. First, shareholder approval will not be required to convert, replace or adjust outstanding options or other equity compensation awards to reflect the transaction. Second, shares available under certain plans acquired in acquisitions and mergers may be used for certain post-transaction grants without further shareholder approval. This exception applies to situations where the party which is not a listed company following the transaction has shares available for grant under pre-existing plans that meet the requirements of this Rule 5635(c). These shares may be used for post-transaction grants of options and other equity awards by the listed Company (after appropriate adjustment of the number of shares to reflect the transaction), either under the pre-existing plan or arrangement or another plan or arrangement, without further shareholder approval, provided: (1) the time during which those shares are available for grants is not extended beyond the period when they would have been available under the pre-existing plan, absent the transaction, and (2) such options and other awards are not granted to individuals who were employed by the granting company or its subsidiaries at the time the merger or acquisition was consummated. Nasdaq would view a plan or arrangement adopted in contemplation of the merger or acquisition transaction as not pre-existing for purposes of this exception. This exception is appropriate because it will not result in any increase in the aggregate potential dilution of the combined enterprise. In this regard, any additional shares available for issuance under a plan or arrangement acquired in connection with a merger or acquisition would be counted by Nasdaq in determining whether the transaction involved the issuance of 20% or more of the Company's outstanding common stock, thus triggering the shareholder approval requirements under Rule 5635(a).

Inducement grants, tax qualified non-discriminatory benefit plans, and parallel nonqualified plans are subject to approval by either the Company's independent compensation committee or a majority of the Company's Independent Directors. It should also be noted that a Company would not be permitted to use repurchased shares to fund option plans or grants without prior shareholder approval.

For purposes of Rule 5635(c) and IM-5635-1, the term "parallel nonqualified plan" means a plan that is a "pension plan" within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §1002 (1999), that is designed to work in parallel with a plan intended to be qualified under Internal Revenue Code Section 401(a), to provide benefits that exceed the limits set forth in Internal Revenue Code Section 402(g) (the section that limits an employee's annual pre-tax contributions to a 401(k) plan), Internal Revenue Code Section 401(a)(17) (the section that limits the amount of an employee's compensation that can be taken into account for plan purposes) and/or Internal Revenue Code Section 415 (the section that limits the contributions and benefits under qualified plans) and/or any successor or similar limitations that may thereafter be enacted. However, a plan will not be considered a parallel nonqualified plan unless: (i) it covers all or substantially all employees of an employer who are participants in the related qualified plan whose annual compensation is in excess of the limit of Code Section 401(a)(17) (or any successor or similar limitation that may hereafter be enacted); (ii) its terms are substantially the

same as the qualified plan that it parallels except for the elimination of the limitations described in the preceding sentence; and, (iii) no participant receives employer equity contributions under the plan in excess of 25% of the participant's cash compensation.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(d) Private Placements

Shareholder approval is required prior to the issuance of securities in connection with a transaction other than a public offering involving:

(1) the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or Substantial Shareholders of the Company equals 20% or more of common stock or 20% or more of the voting power outstanding before the issuance; or

(2) the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock.

IM-5635-2. Interpretative Material Regarding the Use of Share Caps to Comply with Rule 5635

Rule 5635 limits the number of shares or voting power that can be issued or granted without shareholder approval prior to the issuance of certain securities. (An exception to this rule is available to Companies when the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise as set forth in Rule 5635(f). However, a share cap is not permissible in conjunction with the financial viability exception provided in Rule 5635(f), because the application to Nasdaq and the notice to Shareholders required in the rule must occur prior to the issuance of any common stock or securities convertible into or exercisable for common stock.) Generally, this limitation applies to issuances of 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance. (While Nasdaq's experience is that this issue is generally implicated with respect to these situations, it may also arise with respect to the 5% threshold set forth in Rule 5635(a)(2).) Companies sometimes comply with the 20% limitation in this rule by placing a "cap" on the number of shares that can be issued in the transaction, such that there cannot, under any circumstances, be an issuance of 20% or more of the common stock or voting power previously outstanding without prior shareholder approval. If a Company determines to defer a shareholder vote in this manner, shares that are issuable under the cap (in the first part of the transaction) must not be entitled to vote to approve the remainder of the transaction. In addition, a cap must apply for the life of the transaction, unless shareholder approval is obtained. For example, caps that no longer apply if a Company is not listed on Nasdaq are not permissible under the Rule. Of course, if shareholder approval is not obtained, then the investor will not be able to acquire 20% or more of the common stock or voting power outstanding before the

transaction and would continue to hold the balance of the original security in its unconverted form.

Nasdaq has observed situations where Companies have attempted to cap the issuance of shares at below 20% but have also provided an alternative outcome based upon whether shareholder approval is obtained, including, but not limited to a "penalty" or a "sweetener." Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no common shares may be issued prior to the approval of the Shareholders. Companies that engage in transactions with defective caps may be subject to delisting. For example, a Company issues a convertible preferred stock or debt instrument that provides for conversions of up to 20% of the total shares outstanding with any further conversions subject to shareholder approval. However, the terms of the instrument provide that if Shareholders reject the transaction, the coupon or conversion ratio will increase or the Company will be penalized by a specified monetary payment, including a rescission of the transaction. Likewise, a transaction may provide for improved terms if shareholder approval is obtained. Nasdaq believes that in such situations the cap is defective because the presence of the alternative outcome has a coercive effect on the shareholder vote, and thus may deprive Shareholders of their ability to freely exercise their vote. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations.

Companies having questions regarding this policy are encouraged to contact the Nasdaq Listing Qualifications Department at (301) 978-8008, which will provide a written interpretation of the application of Nasdaq Rules to a specific transaction, upon prior written request of the Company.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

IM-5635-3. Definition of a Public Offering

Rule 5635(d) provides that shareholder approval is required for the issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20 percent or more of the common stock or 20 percent or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock. Under this rule, however, shareholder approval is not required for a "public offering."

Companies are encouraged to consult with Nasdaq staff in order to determine if a particular offering is a "public offering" for purposes of the shareholder approval rules. Generally, a firm commitment underwritten securities offering registered with the Securities and Exchange Commission will be considered a public offering for these purposes. Likewise, any other securities offering which is registered with the Securities and Exchange Commission and which is publicly disclosed and distributed in the same general manner and extent as a firm commitment underwritten securities offering will be considered a public offering for purposes of the shareholder approval rules. However, Nasdaq staff will not treat an offering as a "public offering" for

purposes of the shareholder approval rules merely because they are registered with the Commission prior to the closing of the transaction.

When determining whether an offering is a "public offering" for purposes of these rules, Nasdaq staff will consider all relevant factors, including but not limited to:

(i) the type of offering (including whether the offering is conducted by an underwriter on a firm commitment basis, or an underwriter or placement agent on a best-efforts basis, or whether the offering is self-directed by the Company);

(ii) the manner in which the offering is marketed (including the number of investors offered securities, how those investors were chosen, and the breadth of the marketing effort);

(iii) the extent of the offering's distribution (including the number and identity of the investors who participate in the offering and whether any prior relationship existed between the Company and those investors);

(iv) the offering price (including the extent of any discount to the market price of the securities offered); and

(v) the extent to which the Company controls the offering and its distribution.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

(e) Definitions and Computations Relating to the Shareholder Approval Requirements

(1) For purposes of making any computation in this paragraph, when determining the number of shares issuable in a transaction, all shares that could be issued are included, regardless of whether they are currently treasury shares. When determining the number of shares outstanding, only shares issued and outstanding are considered. Treasury shares, shares held by a subsidiary, and unissued shares reserved for issuance upon conversion of securities or upon exercise of options or warrants are not considered outstanding.

(2) Voting power outstanding as used in this Rule refers to the aggregate number of votes which may be cast by holders of those securities outstanding which entitle the holders thereof to vote generally on all matters submitted to the Company's security holders for a vote.

(3) An interest consisting of less than either 5% of the number of shares of common stock or 5% of the voting power outstanding of a Company or party shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a "Substantial Shareholder."

(4) Where shareholder approval is required, the minimum vote that will constitute shareholder approval shall be a majority of the total votes cast on the proposal. These

votes may be cast in person, by proxy at a meeting of Shareholders or by written consent in lieu of a special meeting to the extent permitted by applicable state and federal law and rules (including interpretations thereof), including, without limitation, Regulations 14A and 14C under the Act. Nothing contained in this Rule 5635(e)(4) shall affect a Company's obligation to hold an annual meeting of Shareholders as required by Rule 5620(a).

(5) Shareholder approval shall not be required for any share issuance if such issuance is part of a court-approved reorganization under the federal bankruptcy laws or comparable foreign laws.

(f) Financial Viability Exception

An exception applicable to a specified issuance of securities may be made upon prior written application to Nasdaq's Listing Qualifications Department when:

(1) the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise; and

(2) reliance by the Company on this exception is expressly approved by the audit committee or a comparable body of the board of directors comprised solely of independent, disinterested directors. The Listing Qualifications Department shall respond to each application for such an exception in writing.

A Company that receives such an exception must mail to all Shareholders not later than ten days before issuance of the securities a letter alerting them to its omission to seek the shareholder approval that would otherwise be required. Such notification shall disclose the terms of the transaction (including the number of shares of common stock that could be issued and the consideration received), the fact that the Company is relying on a financial viability exception to the stockholder approval rules, and that the audit committee or a comparable body of the board of directors comprised solely of independent, disinterested directors has expressly approved reliance on the exception. The Company shall also make a public announcement by filing a Form 8-K, where required by SEC rules, or by issuing a press release disclosing the same information as promptly as possible, but no later than ten days before the issuance of the securities.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended Sep. 10, 2013 (SR-NASDAQ-2013-118).

IM-5635-4. Interpretive Material Regarding Future Priced Securities and Other Securities with Variable Conversion Terms

Summary

Provisions of this IM-5635-4 would apply to any security with variable conversion terms. For example, Future Priced Securities are private financing instruments which

were created as an alternative means of quickly raising capital for Companies. The security is generally structured in the form of a convertible security and is often issued via a private placement. Companies will typically receive all capital proceeds at the closing. The conversion price of the Future Priced Security is generally linked to a percentage discount to the market price of the underlying common stock at the time of conversion and accordingly the conversion rate for Future Priced Securities floats with the market price of the common stock. As such, the lower the price of the Company's common stock at the time of conversion, the more shares into which the Future Priced Security is convertible. The delay in setting the conversion price is appealing to Companies who believe that their stock will achieve greater value after the financing is received. However, the issuance of Future Priced Securities may be followed by a decline in the common stock price, creating additional dilution to the existing holders of the common stock. Such a price decline allows holders to convert the Future Priced Security into large amounts of the Company's common stock. As these shares are issued upon conversion of the Future Priced Security, the common stock price may tend to decline further.

For example, a Company may issue \$10 million of convertible preferred stock (the Future Priced Security), which is convertible by the holder or holders into \$10 million of common stock based on a conversion price of 80% of the closing price of the common stock on the date of conversion. If the closing price is \$5 on the date of conversion, the Future Priced Security holders would receive 2,500,000 shares of common stock. If, on the other hand, the closing price is \$1 on the date of conversion, the Future Priced Security holders would receive 12,500,000 shares of common stock.

Unless the Company carefully considers the terms of the securities in connection with several Nasdaq Rules, the issuance of Future Priced Securities could result in a failure to comply with Nasdaq listing standards and the concomitant delisting of the Company's securities from Nasdaq. Nasdaq's experience has been that Companies do not always appreciate this potential consequence. Nasdaq Rules that bear upon the continued listing qualification of a Company and that must be considered when issuing Future Priced Securities include:

1. the shareholder approval rules {see Rule 5635}
2. the voting rights rules {see Rule 5640}
3. the bid price requirement {see Rules 5450(a)(1) and 5555(b)(1)}
4. the listing of additional shares rules {see Rule 5250(e)(2)}
5. the change in control rules {see Rule 5635(b) and 5110(a)}
6. Nasdaq's discretionary authority rules {see the Rule 5100 Series}

It is important for Companies to clearly understand that failure to comply with any of these rules could result in the delisting of the Company's securities.

This notice is intended to be of assistance to Companies considering financings involving Future Priced Securities. By adhering to the above requirements, Companies can avoid unintended listing qualifications problems. Companies having any questions about this notice should contact the Nasdaq Office of General Counsel at (301) 978-8400 or Listing Qualifications Department at (301) 978-8008. Nasdaq will provide a Company with a written interpretation of the application of Nasdaq Rules to a specific transaction, upon request of the Company.

How the Rules Apply

Shareholder Approval

Rule 5635(d) provides, in part:

Each Company shall require shareholder approval prior to the issuance of securities in connection with a transaction other than a public offering involving the sale, issuance or potential issuance by the issuer of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or Substantial Shareholders of the Company equals 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance.

(Nasdaq may make exceptions to this requirement when the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise and reliance by the Company on this exception is expressly approved by the Audit Committee or a comparable body of the Board of Directors.)

When Nasdaq staff is unable to determine the number of shares to be issued in a transaction, it looks to the maximum potential issuance of shares to determine whether there will be an issuance of 20 percent or more of the common stock outstanding. In the case of Future Priced Securities, the actual conversion price is dependent on the market price at the time of conversion and so the number of shares that will be issued is uncertain until the conversion occurs. Accordingly, staff will look to the maximum potential issuance of common shares at the time the Future Priced Security is issued. Typically, with a Future Priced Security, the maximum potential issuance will exceed 20 percent of the common stock outstanding because the Future Priced Security could, potentially, be converted into common stock based on a share price of one cent per share, or less. Further, for purposes of this calculation, the lowest possible conversion price is below the book or market value of the stock at the time of issuance of the Future Priced Security. Therefore, shareholder approval must be obtained *prior* to the issuance of the Future Priced Security. Companies should also be cautioned that obtaining shareholder ratification of the transaction after the issuance of a Future Priced Security does not satisfy the shareholder approval requirements.

Some Future Priced Securities may contain features to obviate the need for shareholder approval by: (1) placing a cap on the number of shares that can be issued upon conversion, such that the holders of the Future Priced Security cannot, without

prior shareholder approval, convert the security into 20% or more of the common stock or voting power outstanding before the issuance of the Future Priced Security (See IM-5635-2, Interpretative Material Regarding the Use of Share Caps to Comply with Rule 5635), or (2) placing a floor on the conversion price, such that the conversion price will always be at least as high as the greater of book or market value of the common stock prior to the issuance of the Future Priced Securities. Even when a Future Priced Security contains these features, however, shareholder approval is still required under Rule 5635(b) if the issuance will result in a change of control. Additionally, discounted issuances of common stock to officers, directors, employees or consultants require shareholder approval pursuant to 5635(c).

Voting Rights

Rule 5640 provides:

Voting rights of existing Shareholders of publicly traded common stock registered under Section 12 of the Act cannot be disparately reduced or restricted through any corporate action or issuance.

IM-5640 also provides rules relating to voting rights of Nasdaq Companies.

Under the voting rights rules, a Company cannot create a new class of security that votes at a higher rate than an existing class of securities or take any other action that has the effect of restricting or reducing the voting rights of an existing class of securities. The voting rights rules are typically implicated when the holders of the Future Priced Security are entitled to vote on an as-converted basis or when the holders of the Future Priced Security are entitled to representation on the Board of Directors. The percentage of the overall vote attributable to the Future Priced Security holders and the Future Priced Security holders' representation on the board of directors must not exceed their relative contribution to the Company based on the Company's overall book or market value at the time of the issuance of the Future Priced Security. Staff will consider whether a voting rights violation exists by comparing the Future Priced Security holders' voting rights to their relative contribution to the Company based on the Company's overall book or market value at the time of the issuance of the Future Priced Security. If the voting power or the board percentage exceeds that percentage interest, a violation exists because a new class of securities has been created that votes at a higher rate than an already existing class. Future Priced Securities that vote on an as-converted basis also raise voting rights concerns because of the possibility that, due to a decline in the price of the underlying common stock, the Future Priced Security holder will have voting rights disproportionate to its investment in the Company.

It is important to note that compliance with the shareholder approval rules prior to the issuance of a Future Priced Security does not affect whether the transaction is in violation of the voting rights rule. Furthermore, Shareholders can not otherwise agree to permit a voting rights violation by the Company. Because a violation of the voting

rights requirement can result in delisting of the Company's securities from Nasdaq, careful attention must be given to this issue to prevent a violation of the rule.

The Bid Price Requirement

The bid price requirement establishes a minimum bid price for issues listed on Nasdaq. The Nasdaq Rules provide that, for an issue to be eligible for continued listing on Nasdaq, the minimum bid price per share shall be \$1. An issue is subject to delisting from Nasdaq, as described in the Rule 5800 Series if its bid price falls below \$1.

The bid price rules must be thoroughly considered because the characteristics of Future Priced Securities often exert downward pressure on the bid price of the Company's common stock. Specifically, dilution from the discounted conversion of the Future Priced Security may result in a significant decline in the price of the common stock. Furthermore, there appear to be instances where short selling has contributed to a substantial price decline, which, in turn, could lead to a failure to comply with the bid price requirement. (If used to manipulate the price of the stock, short selling by the holders of the Future Priced Security is prohibited by the antifraud provisions of the securities laws and by Nasdaq Rules and may be prohibited by the terms of the placement.)

Listing of Additional Shares

Rule 5250(e)(2) provides:

The Company shall be required to notify Nasdaq on the appropriate form no later than 15 calendar days prior to: establishing or materially amending a stock option plan, purchase plan or other equity compensation arrangement pursuant to which stock may be acquired by officers, directors, employees, or consultants without shareholder approval; issuing securities that may potentially result in a change of control of the Company; issuing any common stock or security convertible into common stock in connection with the acquisition of the stock or assets of another company, if any officer or director or Substantial Shareholder of the Company has a 5% or greater interest (or if such persons collectively have a 10% or greater interest) in the Company to be acquired or in the consideration to be paid; or entering into a transaction that may result in the potential issuance of common stock (or securities convertible into common stock) greater than 10% of either the total shares outstanding or the voting power outstanding on a pre-transaction basis.

Companies should be cognizant that under this rule notification is required at least 15 days *prior* to issuing any security (including a Future Priced Security) convertible into shares of a class of securities already listed on Nasdaq. Failure to provide such notice can result in a Company's removal from Nasdaq.

Public Interest Concerns

Rule 5101 provides:

Nasdaq is entrusted with the authority to preserve and strengthen the quality of and public confidence in its market. Nasdaq stands for integrity and ethical business practices in order to enhance investor confidence, thereby contributing to the financial health of the economy and supporting the capital formation process. Nasdaq Companies, from new public Companies to Companies of international stature, are publicly recognized as sharing these important objectives.

Nasdaq, therefore, in addition to applying the enumerated criteria set forth in the Listing Rules, has broad discretionary authority over the initial and continued listing of securities in Nasdaq in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Nasdaq may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

The returns on Future Priced Securities may become excessive compared with those of public investors in the Company's common securities. In egregious situations, the use of a Future Priced Security may raise public interest concerns under the Rule 5100 Series. In addition to the demonstrable business purpose of the transaction, other factors that Nasdaq staff will consider in determining whether a transaction raises public interest concerns include: (1) the amount raised in the transaction relative to the Company's existing capital structure; (2) the dilutive effect of the transaction on the existing holders of common stock; (3) the risk undertaken by the Future Priced Security investor; (4) the relationship between the Future Priced Security investor and the Company; (5) whether the transaction was preceded by other similar transactions; and (6) whether the transaction is consistent with the just and equitable principles of trade.

Some Future Priced Securities may contain features that address the public interest concerns. These features tend to provide incentives to the investor to hold the security for a longer time period and limit the number of shares into which the Future Priced Security may be converted. Such features may limit the dilutive effect of the transaction and increase the risk undertaken by the Future Priced Security investor in relationship to the reward available.

Business Combinations with non-Nasdaq Entities Resulting in a Change of Control

Rule 5110(a) provides:

A Company must apply for initial listing in connection with a transaction whereby the Company combines with a non-Nasdaq entity, resulting in a change of control of the Company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq Listing.

In determining whether a change of control has occurred, Nasdaq shall consider all relevant factors including, but not limited to, changes in the management, board of directors, voting power, ownership, and financial structure of the Company. Nasdaq shall also consider the nature of the businesses and the relative size of the Nasdaq Company and non-Nasdaq entity. The Company must submit an application for the post-transaction entity with sufficient time to allow Nasdaq to complete its review before the transaction is completed. If the Company's application for initial listing has not been approved prior to consummation of the transaction, Nasdaq will issue a Staff Determination Letter as set forth in Rule 5810 and begin delisting proceedings pursuant to the Rule 5800 Series.

This provision, which applies regardless of whether the Company obtains shareholder approval for the transaction, requires Companies to qualify under the initial listing standards in connection with a combination that results in a change of control. It is important for Companies to realize that in certain instances, the conversion of a Future Priced Security may implicate this provision. For example, if there is no limit on the number of common shares issuable upon conversion, or if the limit is set high enough, the exercise of conversion rights under a Future Priced Security could result in the holders of the Future Priced Securities obtaining control of the listed Company. In such event, a Company may be required to re-apply for initial listing and satisfy all initial listing requirements.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052).

5640. Voting Rights

Voting rights of existing Shareholders of publicly traded common stock registered under Section 12 of the Act cannot be disparately reduced or restricted through any corporate action or issuance. Examples of such corporate action or issuance include, but are not limited to, the adoption of time-phased voting plans, the adoption of capped voting rights plans, the issuance of super-voting stock, or the issuance of stock with voting rights less than the per share voting rights of the existing common stock through an exchange offer.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

IM-5640. Voting Rights Policy

The following Voting Rights Policy is based upon, but more flexible than, former Rule 19c-4 under the Act. Accordingly, Nasdaq will permit corporate actions or issuances by Nasdaq Companies that would have been permitted under former Rule 19c-4, as well as other actions or issuances that are not inconsistent with this policy. In evaluating such other actions or issuances, Nasdaq will consider, among other things, the economics of such actions or issuances and the voting rights being granted. Nasdaq's interpretations under the policy will be flexible, recognizing that both the capital markets and the circumstances and needs of Nasdaq Companies change over time. The text of the Nasdaq Voting Rights Policy is as follows:

Companies with Dual Class Structures

The restriction against the issuance of super voting stock is primarily intended to apply to the issuance of a new class of stock, and Companies with existing dual class capital structures would generally be permitted to issue additional shares of the existing super voting stock without conflict with this policy.

Consultation with Nasdaq

Violation of the Nasdaq Voting Rights Policy could result in the loss of a Company's Nasdaq or public trading market. The policy can apply to a variety of corporate actions and securities issuances, not just super voting or so-called "time phase" voting common stock. While the policy will continue to permit actions previously permitted under former Rule 19c-4, it is extremely important that Nasdaq Companies communicate their intentions to their Nasdaq representatives as early as possible before taking any action or committing to take any action that may be inconsistent with the policy. Nasdaq urges Companies listed on Nasdaq not to assume, without first discussing the matter with the Nasdaq staff, that a particular issuance of common or preferred stock or the taking of some other corporate action will necessarily be consistent with the policy. It is suggested that copies of preliminary proxy or other material concerning matters subject to the policy be furnished to Nasdaq for review prior to formal filing.

Review of Past Voting Rights Activities

In reviewing an application for initial qualification for listing of a security in Nasdaq, Nasdaq will review the Company's past corporate actions to determine whether another self-regulatory organization (SRO) has found any of the Company's actions to have been a violation or evasion of the SRO's voting rights policy. Based on such review, Nasdaq may take any appropriate action, including the denial of the application or the placing of restrictions on such listing. Nasdaq will also review whether a Company seeking initial listing of a security in Nasdaq has requested a ruling or interpretation from another SRO regarding the application of that SRO's voting rights policy with respect to a proposed transaction. If so, Nasdaq will consider that fact in determining its response to any ruling or interpretation that the Company may request on the same or similar transaction.

Non-U.S. Companies

Nasdaq will accept any action or issuance relating to the voting rights structure of a non-U.S. Company that is in compliance with Nasdaq's requirements for domestic Companies or that is not prohibited by the Company's home country law.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018).

5700. Other Securities

5701. Preamble to the Listing Requirements for Other Securities

(a) This section contains the requirements for listing other securities on The Nasdaq Global Market. In the event that a Company's Primary Security is listed on the Nasdaq Global Select Market, the other securities may be listed on the Nasdaq Global Select Market.

(b) The replacement of, or any significant modification to, the index, portfolio, or Reference Asset underlying a security listed under this Rule 5700 Series (including, but not limited to, a significant modification to the index methodology, a change in the index provider, or a change in control of the index provider) is considered a Substitution Listing Event. The Company must notify Nasdaq at least fifteen calendar days in advance of the effective date of any Substitution Listing Event. Companies should note that these types of changes may affect the Company's compliance with the listing requirements and may require Nasdaq to file a new rule filing pursuant to Section 19(b)(1) of the Act and for such rule filing to be approved by the SEC or otherwise take effect (as applicable), before the product subject to the Substitution Listing Event can be listed or traded. Nasdaq has sole discretion as to whether it chooses to submit a rule filing designed to permit the continued listing of the security and, if submitted, whether to withdraw such rule filing. As such, Companies are encouraged to consult with Nasdaq staff sufficiently in advance of such changes to allow review and preparation of a rule filing and SEC approval, if necessary.

(c) If a Company effectuates any change, including a Substitution Listing Event, which requires the filing of a proposed rule change pursuant to Section 19(b)(1) of the Act and such rule filing has not yet been approved by the SEC or has not yet taken effect (as applicable), then Nasdaq will immediately halt trading in the applicable security until such rule filing is approved or takes effect. If a rule filing is required but Nasdaq determines not to submit one or withdraws the rule filing after it is submitted, or the SEC disapproves the rule filing, Nasdaq will immediately commence delisting procedures with respect to such security.

(d) A Company with securities listed under this Rule 5700 Series must provide Nasdaq with prompt notification after the Company becomes aware of any noncompliance by the Company with the requirements of the Rule 5700 Series.

Amended by SR-NASDAQ-2009-052 eff. June 16, 2009; amended Apr. 20, 2016 (SR-NASDAQ-2016-059); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5705. Exchange Traded Funds: Portfolio Depository Receipts and Index Fund Shares

(a) Portfolio Depository Receipts

(1) Definitions. The following terms shall, unless the context otherwise requires, have the meanings herein specified:

(A) Portfolio Depository Receipt. The term "Portfolio Depository Receipt" means a security:

(i) that is based on a unit investment trust ("Trust") which holds the securities which comprise an index or portfolio underlying a series of Portfolio Depository Receipts;

(ii) that is issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock and/or a cash amount, a specified portfolio of fixed income securities and/or a cash amount and/or a combination of the above;

(iii) that, when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and/or cash, fixed income securities and/or cash and/or a combination thereof then comprising the "Portfolio Deposit"; and

(iv) that pays holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the securities index or portfolio of securities underlying the Portfolio Depository Receipts, less certain expenses and other charges as set forth in the Trust prospectus.

(B) Reporting Authority. The term "Reporting Authority" in respect to a particular series of Portfolio Depository Receipts means Nasdaq, a wholly-owned subsidiary of Nasdaq, an institution (including the Trustee for a series of Portfolio Depository Receipts), or a reporting service designated by Nasdaq or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Trust in connection with issuance of Portfolio Depository Receipts; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depository Receipts, net asset value, and other information relating to the creation, redemption or trading of Portfolio Depository Receipts.

Nothing in this paragraph shall imply that an institution or reporting service that is the source for calculating and reporting information relating to Portfolio Depository Receipts must be designated by Nasdaq; the term "Reporting Authority" shall not refer to an institution or reporting service not so designated.

(C) U.S. Component Stock. The term "U.S. Component Stock" shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depository Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

(D) Non-U.S. Component Stock. The term "Non-U.S. Component Stock" shall mean an equity security that (a) is not registered under Sections 12(b) or 12(g) of the Act, (b) is issued by an entity that is not organized, domiciled or incorporated in the United States, and (c) is issued by an entity that is an operating company (including Real Estate Investment Trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

(2) Nasdaq requires that Members provide to all purchasers of a series of Portfolio Depository Receipts a written description of the terms and characteristics of such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, Members shall include such a written description with any sales material relating to a series of Portfolio Depository Receipts that is provided to customers or the public. Any other written materials provided by a Member to customers or the public making specific reference to a series of Portfolio Depository Receipts as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Portfolio Depository Receipts] has been prepared by [Trust name] and is available from your broker or Nasdaq. It is recommended that you obtain and review such circular before purchasing [the series of Portfolio Depository Receipts]. In addition, upon request you may obtain from your broker a prospectus for [the series of Portfolio Depository Receipts]."

A Member carrying an omnibus account for a non-Member broker-dealer is required to inform such non-Member that execution of an order to purchase a series of Portfolio Depository Receipts for such omnibus account will be deemed to constitute agreement by the non-Member to make such written description available to its customers on the same terms as are directly applicable to Members and member organizations under this rule.

Upon request of a customer, a Member shall also provide a prospectus for the particular series of Portfolio Depository Receipts.

(3) Equity. Nasdaq may approve a series of Portfolio Depository Receipts for listing and trading pursuant to Rule 19b-4(e) under the Act, provided each of the following criteria is satisfied:

(A) Eligibility Criteria for Index Components.

(i) U.S. Index or Portfolio. Component stocks of an index or portfolio of U.S. Component Stocks underlying such series of Portfolio Depository Receipts listed pursuant to Rule 19b-4(e) under the Act shall meet the following criteria on an initial and continued listing basis:

a. Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least \$75 million;

b. Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares;

c. The most heavily weighted component stock shall not exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks shall not exceed 65% of the weight of the index or portfolio;

d. The index or portfolio shall include a minimum of 13 component stocks; and

e. All securities in the index or portfolio shall be U.S. Component Stocks listed on Nasdaq (including The Nasdaq Capital Market) or another national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act.

(ii) International or global index or portfolio. Components of an index or portfolio underlying a series of Portfolio Depository Receipts listed pursuant to Rule 19b-4(e) under the Act that consist of either only Non-U.S. Component Stocks or both U.S. Component Stocks and Non-U.S. Component Stocks shall meet the following criteria on an initial and continued listing basis:

a. Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least \$100 million;

b. Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares;

c. The most heavily weighted component stock shall not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks shall not exceed 60% of the weight of the index or portfolio;

d. The index or portfolio shall include a minimum of 20 component stocks; and

e. Each U.S. Component Stock shall be listed on a national securities exchange and shall be an NMS Stock as defined in Rule 600 of Regulation NMS under the Act, and each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

(iii) Index or portfolio approved in connection with derivative securities. For the initial and continued listing of a series of Portfolio Depository Receipts pursuant to Rule 19b-4(e) under the Act, the index or portfolio underlying a series of Portfolio Depository Receipts shall have been reviewed and approved for trading of options, Portfolio Depository Receipts, Index Fund Shares, index-linked exchangeable notes, or index-linked securities by the Commission under Section 19(b) of the Act and rules thereunder, and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements with respect to Non-U.S. Component Stocks and the requirements regarding dissemination of information, must continue to be satisfied. On an initial and continued listing basis, each component stock of the index or portfolio shall be either

a. a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act; or

b. a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting.

(B) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current index value for Portfolio Depository Receipts listed pursuant to:

a. Rule 5705(a)(3)(A)(i) will be widely disseminated by one or more major market data vendors at least every 15 seconds during Nasdaq's regular market session.

b. Rule 5705(a)(3)(A)(ii) will be widely disseminated by one or more major market data vendors at least every 60 seconds during Nasdaq's regular market session; or

c. Rule 5705(a)(3)(A)(iii) will be widely disseminated by one or more major market data vendors at least every 15 seconds with respect to indexes containing only U.S. Component Stocks and at least every 60 seconds with respect to indexes containing Non-U.S. Component Stocks, during Nasdaq's regular market session.

If the index value does not change during some or all of the period when trading is occurring on Nasdaq (for example, for indexes of Non-U.S. Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last official calculated index value must remain available throughout Nasdaq's trading hours; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(C) Disseminated Information. The Reporting Authority will disseminate for each series of Portfolio Depository Receipts an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value") during Nasdaq's regular market session. The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during Nasdaq's regular market session to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on Nasdaq, then the last official calculated Intraday Indicative

Value must remain available throughout Nasdaq's trading hours. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(D) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Portfolio Depository Receipts is required to be outstanding at start-up of trading.

(E) Surveillance Procedures. FINRA will implement written and maintain surveillance procedures for Portfolio Depository Receipts.

(F) Creation and redemption. For Portfolio Depository Receipts listed pursuant to Rule 5705(a)(3)(A)(ii) or (iii) above, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Portfolio Depository Receipts must state that the Trust must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

(4) Fixed Income. Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or subdivision thereof. Nasdaq may approve a series of Portfolio Depository Receipts based on Fixed Income Securities for listing and trading pursuant to Rule 19b-4(e) under the Act provided such portfolio or index: (i) has been reviewed and approved for the trading of options, Portfolio Depository Receipts, Index Fund Shares, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Act and the rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or (ii) the following criteria are satisfied:

(A) Eligibility Criteria for Index Components. Components of an index or portfolio that underlies a series of Portfolio Depository Receipts listed pursuant to Rule 19b-4(e) under the Act shall meet the following criteria on an initial and continued listing basis:

(i) The index or portfolio must consist of Fixed Income Securities;

(ii) Components that in aggregate account for at least 75% of the weight of the index or portfolio must have a minimum principal amount outstanding of \$100 million or more;

(iii) A component may be a convertible security, however, once the convertible security component converts to an underlying equity security, the component is removed from the index or portfolio;

(iv) No component fixed-income security (excluding Treasury Securities) will represent more than 30% of the weight of the index or portfolio, and the five highest

weighted component fixed-income securities do not in the aggregate account for more than 65% of the weight of the index or portfolio;

(v) An underlying index or portfolio (excluding exempted securities) must include securities from a minimum of 13 non-affiliated issuers; and

(vi) Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

(B) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current index value will be widely disseminated by one or more major market data vendors at least once per day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(5) Nasdaq may approve a series of Portfolio Depositary Receipts based on a combination of indexes or an index or portfolio of component securities representing the U.S. equity market, the international equity market, and the fixed income market for listing and trading pursuant to Rule 19b-4(e) under the Act provided: (i) each index has been reviewed and approved for the trading of options, Portfolio Depositary Receipts, Index Fund Shares, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or (ii) each index or portfolio of equity and fixed income component securities separately meets either the criteria set forth in Rule 5705(a)(3) or (4) above. After Nasdaq approves a series for listing and trading pursuant to this paragraph (5), such series of Portfolio Depositary Receipts shall continue to meet the requirements of sections (i) and (ii) in this paragraph (5), as applicable, on a continued listing basis.

(A) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If an index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current composite index value will be widely disseminated by one or more major market data vendors at least once every 15 seconds during the regular market session, provided however, that (a) with respect to the Non-U.S. Component Stocks of the combination index, the impact on the index is only required to be updated at least every 60 seconds during the regular market session, and (b) with respect to the fixed income components of the combination index the impact on the index is only required to be updated at least once each day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(6) The following provisions shall apply to all series of Portfolio Depositary Receipts listed pursuant to Rules 5705(a)(4) and (5) above:

(A) Disseminated Information. The Reporting Authority will disseminate for each series of Portfolio Depositary Receipts an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value may be calculated by Nasdaq or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(B) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Portfolio Depositary Receipts is required to be outstanding at start-up of trading.

(C) Surveillance Procedures. FINRA will implement and maintain written surveillance procedures for Portfolio Depositary Receipts.

(7) Regular market session trading will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series of Portfolio Depositary Receipts, as specified by Nasdaq. In addition, Nasdaq may designate each series of Portfolio Depositary Receipts for trading during a pre-market session beginning at 4:00 a.m. and/or a post-market session ending at 8:00 p.m.

(8) Nasdaq may list and trade Portfolio Depository Receipts based on one or more indexes or portfolios. The Portfolio Depository Receipts based on each particular index or portfolio, or combination thereof, shall be designated as a separate series and shall be identified by a unique symbol. The components of an index or portfolio on which Portfolio Depository Receipts are based shall be selected by Nasdaq or its agent, a wholly-owned subsidiary of Nasdaq, or by such other person as shall have a proprietary interest in and authorized use of such index or portfolio, and may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(9) A Trust upon which a series of Portfolio Depository Receipts is based will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing —

(i) for each Trust, Nasdaq will establish a minimum number of Portfolio Depository Receipts required to be outstanding at the time of commencement of trading on Nasdaq.

(ii) Nasdaq will obtain a representation from the issuer of each series of Portfolio Depository Receipts that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

(B) Continued Listing —

(i) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a Trust upon which a series of Portfolio Depository Receipts is based under any of the following circumstances:

a. if any of the requirements set forth in this rule are not continuously maintained; or

b. if Nasdaq files separate proposals under Section 19(b) of the Act, any of the statements or representations regarding the index composition, the description of the portfolio, limitations on portfolio holdings or reference assets, dissemination and availability of the index or intraday indicative values, or the applicability of Nasdaq listing rules specified in such proposals are not continuously maintained as referenced in subsection 10 of this rule;

c. if, following the initial twelve month period after the formation of a Trust and commencement of trading on Nasdaq, the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Portfolio Depository Receipts;

d. if the value of the index or portfolio of securities on which the Trust is based is no longer calculated or available or an interruption to the dissemination of the value of the index or portfolio of securities persists past the trading day in which it occurred or the index or portfolio on which the Trust is based is replaced with a new index or

portfolio, unless the new index or portfolio meets the requirements of this Rule 5705(a) for listing either pursuant to Rule 19b-4(e) under the Act (including the filing of a Form 19b-4(e) with the Commission) or by Commission approval of a filing pursuant to Section 19(b) of the Act;

e. if the Intraday Indicative Value is no longer disseminated at least every 15 seconds during Nasdaq's regular market session and the interruption to the dissemination persists past the trading day in which it occurred; or

f. if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Portfolio Depository Receipts issued in connection with such Trust be removed from listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(C) Term — the stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Voting — voting rights shall be as set forth in the Trust prospectus. The Trustee of a Trust may have the right to vote all of the voting securities of such Trust.

(10) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Portfolio Depository Receipts that do not otherwise meet the standards set forth in this rule. Any of the statements or representations regarding the index composition, the description of the portfolio, limitations on portfolio holdings or reference assets, dissemination and availability of the index or intraday indicative values, or the applicability of Nasdaq listing rules specified in such proposals constitute continued listing standards.

(11) Neither Nasdaq, the Reporting Authority nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the Trust; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depository Receipts; net asset value; or other information relating to the creation, redemption or trading of Portfolio Depository Receipts, resulting from any negligent act or omission by Nasdaq, the Reporting Authority, or any agent of Nasdaq or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more underlying securities.

(b) Index Fund Shares

(1) Definitions. The following terms shall, unless the context otherwise requires, have the meanings herein specified:

(A) Index Fund Share. The term "Index Fund Share" means a security:

(i) that is issued by an open-end management investment company based on a portfolio of stocks or fixed income securities or a combination thereof, that seeks to provide investment results that correspond generally to the price and yield performance or total return performance of a specified foreign or domestic stock index, fixed income securities index or combination thereof;

(ii) that is issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified numbers of shares of stock and/or a cash amount, a specified portfolio of fixed income securities and/or a cash amount and/or a combination of the above, with a value equal to the next determined net asset value; and

(iii) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end investment company which will pay to the redeeming holder the stock and/or cash, fixed income securities and/or cash and/or a combination thereof, with a value equal to the next determined net asset value.

(B)

(i) The term "Index Fund Share" includes a security issued by an open-end management investment company that seeks to provide investment results that either exceed the performance of a specified domestic equity, international or global equity, or fixed income index or a combination thereof by a specified multiple or that correspond to the inverse (opposite) of the performance of a specified domestic equity, international or global equity, or fixed income index or a combination thereof by a specified multiple. Such a security is issued in a specified aggregate number in return for a deposit of a specified number of shares of stock, a specified portfolio of fixed income securities or a combination of the above and/or cash as defined in subparagraph (1)(B)(ii) of this rule with a value equal to the next determined net asset value. When aggregated in the same specified minimum number, Index Fund Shares may be redeemed at a holder's request by such open-end investment company which will pay to the redeeming holder the stock, fixed income securities or a combination thereof and/or cash with a value equal to the next determined net asset value.

(ii) In order to achieve the investment result that it seeks to provide, such an investment company may hold a combination of financial instruments, including, but not limited to, stock index futures contracts; options on futures contracts; options on securities and indices; equity caps, collars and floors; swap agreements; forward contracts; repurchase agreements and reverse repurchase agreements (the "Financial

Instruments"), but only to the extent and in the amounts or percentages as set forth in the registration statement for such Index Fund Shares.

(iii) Any open-end management investment company which issues Index Fund Shares referenced in this subparagraph (1)(B) that seeks to provide investment results, before fees and expenses, in an amount that exceeds -300% of the percentage performance on a given day of a particular domestic equity, international or global equity or fixed income securities index or a combination thereof shall not be approved by the Exchange for listing and trading pursuant to Rule 19b-4(e) under the Act.

(iv) For the initial and continued listing of a series of Index Fund Shares referenced in the provisions of this subparagraph (1)(B) of this rule, the following requirements must be adhered to:

Daily public website disclosure of portfolio holdings that will form the basis for the calculation of the net asset value by the issuer of such series, including, as applicable, the following instruments:

- a.** The identity and number of shares held of each specific equity security;
- b.** The identity and amount held for each specific fixed income security;
- c.** The specific types of Financial Instruments and characteristics of such Financial Instruments; and
- d.** Cash equivalents and the amount of cash held in the portfolio.

If the Exchange becomes aware that the net asset value related to an Index Fund Shares included in the provisions of this subparagraph (1)(B)(ii) of this rule, is not being disseminated to all market participants at the same time or the daily public website disclosure of portfolio holdings does not occur, the Exchange shall halt trading in such series of Index Fund Share, as appropriate. The Exchange may resume trading in such Index Fund Shares only when the net asset value is disseminated to all market participants at the same time or the daily public website disclosure of portfolio holdings occurs, as appropriate.

(C) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Index Fund Shares means Nasdaq, a wholly-owned subsidiary of Nasdaq, or an institution or reporting service designated by Nasdaq or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Index Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Index Fund Shares, net asset value, and other information relating to the issuance, redemption or trading of Index Fund Shares.

Nothing in this paragraph shall imply that an institution or reporting service that is the source for calculating and reporting information relating to Index Fund Shares must be designated by Nasdaq; the term "Reporting Authority" shall not refer to an institution or reporting service not so designated.

(D) U.S. Component Stock. The term "U.S. Component Stock" shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

(E) Non-U.S. Component Stock. The term "Non-U.S. Component Stock" shall mean an equity security that (a) is not registered under Sections 12(b) or 12(g) of the Act, (b) is issued by an entity that is not organized, domiciled or incorporated in the United States, and (c) is issued by an entity that is an operating company (including Real Estate Investment Trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

(2) Nasdaq requires that Members provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, Members shall include such a written description with any sales material relating to a series of Index Fund Shares that is provided to customers or the public. Any other written materials provided by a Member to customers or the public making specific reference to a series of Index Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Index Fund Shares] has been prepared by the [open-end management investment company name] and is available from your broker or Nasdaq. It is recommended that you obtain and review such circular before purchasing [the series of Index Fund Shares]. In addition, upon request you may obtain from your broker a prospectus for [the series of Index Fund Shares]."

A Member carrying an omnibus account for a non-Member broker-dealer is required to inform such non-Member that execution of an order to purchase a series of Index Fund Shares for such omnibus account will be deemed to constitute agreement by the non-Member to make such written description available to its customers on the same terms as are directly applicable to Members and member organizations under this rule.

Upon request of a customer, a Member shall also provide a prospectus for the particular series of Index Fund Shares.

(3) Equity. Nasdaq may approve a series of Index Fund Shares for listing and trading pursuant to Rule 19b-4(e) under the Act provided each of the following criteria is satisfied, on an initial and, except for paragraph (D) below, continued listing basis:

(A) Eligibility Criteria for Index Components.

(i) U.S. Index or Portfolio. Component stocks of an index or portfolio of U.S. Component Stocks underlying a series of Index Fund Shares listed pursuant to Rule 19b-4(e) under the Act shall meet the following criteria on an initial and continued listing basis:

a. Component stocks (excluding "Derivative Securities Products" as defined in this subsection a.) that in the aggregate account for at least 90% of the weight of the U.S. Component Stocks portion of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum market value of at least \$75 million;

"Derivative Securities Products" include the following: Exchange Traded Funds consisting of Portfolio Depository Receipts and Index Fund Shares (Rule 5705); Trust Issued Receipts (Rule 5720); Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, (Rule 5711); and Managed Fund Shares (Rule 5735).

b. Component stocks (excluding Derivative Securities Products) that in the aggregate account for at least 70% of the U.S. Component Stocks portion of the weight of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum monthly trading volume of 250,000 shares or minimum notional volume traded per month of \$25,000,000, averaged over the last six months;

c. The most heavily weighted component stock (excluding Derivative Securities Products) shall not exceed 30% of the U.S. Component Stocks portion of the weight of the index or portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products) shall not exceed 65% of the U.S. Component Stocks portion of the weight of the index or portfolio;

d. The index or portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if either one or more series of Index Fund Shares or Portfolio Depository Receipts constitute, at least in part, components underlying a series of Index Fund Shares, or one or more series of Derivative Securities Products account for 100% of the U.S. Component Stocks portion of the weight of the index or portfolio; and

e. All securities in the index or portfolio shall be U.S. Component Stocks listed on Nasdaq (including The Nasdaq Capital Market) or another national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act.

(ii) International or global index or portfolio. Components of an index or portfolio underlying a series of Index Fund Shares listed pursuant to Rule 19b-4(e) that consist of either only Non-U.S. Component Stocks or both U.S. Component Stocks and Non-U.S. Component Stocks shall meet the following criteria on an initial and continued listing basis:

a. Component stocks (excluding Derivative Securities Products) that in the aggregate account for at least 90% of the weight of the U.S. and Non-U.S. Component Stocks portions of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum market value of at least \$100 million;

b. Component stocks (excluding Derivative Securities Products) that in the aggregate account for at least 70% of the U.S. and Non-U.S. Component Stocks portions of the weight of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum worldwide monthly trading volume of at least 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months;

c. The most heavily weighted component stock (excluding Derivative Securities Products) shall not exceed 25% of the combined U.S. and Non-U.S. Component Stocks portions of the weight of the index or portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products) shall not exceed 60% of the combined U.S. and Non-U.S. Component Stocks portions of the weight of the index or portfolio;

d. The index or portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if either one or more series of Index Fund Shares or Portfolio Depositary Receipts constitute, at least in part, components underlying a series of Index Fund Shares, or one or more series of Derivative Securities Products account for 100% of the weight of the combined U.S. and Non-U.S. Component Stocks portions of the index or portfolio; and

e. Each U.S. Component Stock shall be listed on a national securities exchange and shall be an NMS Stock as defined in Rule 600 of Regulation NMS under the Act, and each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

(iii) Index or portfolio approved in connection with derivative securities. For the initial and continued listing of a series of Index Fund Shares pursuant to Rule 19b-4(e) under the Act, the index or portfolio underlying a series of Index Fund Shares shall have been reviewed and approved for trading of options, Portfolio Depositary Receipts, Index Fund Shares, index-linked exchangeable notes, or index-linked securities by the Commission under Section 19(b) of the Act and rules thereunder, and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements with respect to Non-U.S. Component Stocks and the requirements regarding dissemination of information, must continue to be satisfied. On an initial and continued listing basis, each component stock of the index or portfolio shall be either

a. a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act, or

b. a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting.

(B) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current index value for Index Fund Shares listed pursuant to:

a. Rule 5705(b)(3)(A)(i) will be widely disseminated by one or more major market data vendors at least every 15 seconds during Nasdaq's regular market session;

b. Rule 5705(b)(3)(A)(ii) will be widely disseminated by one or more major market data vendors at least every 60 seconds during Nasdaq's regular market session; or

c. Rule 5705(b)(3)(A)(iii) will be widely disseminated by one or more major market data vendors at least every 15 seconds with respect to indexes containing only U.S. Component Stocks and at least every 60 seconds with respect to indexes containing Non-U.S. Component Stocks, during Nasdaq's regular market session

If the index value does not change during some or all of the period when trading is occurring on Nasdaq (for example, for indexes of Non-U.S. Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last official calculated index value must remain available throughout Nasdaq's trading hours; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(C) Disseminated Information. The Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value") during Nasdaq's regular market session. The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during Nasdaq's regular market session; to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on Nasdaq, then the last official calculated Intraday Indicative Value must remain

available throughout Nasdaq's trading hours. All requirements set forth in this paragraph must be satisfied on an initial and continued listing basis.

(D) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Index Fund Shares is required to be outstanding at start-up of trading.

(E) Surveillance Procedures. FINRA will implement and maintain written surveillance procedures for Index Fund Shares.

(F) Creation and redemption. For Index Fund Shares listed pursuant to Rule 5705(b)(3)(A)(ii) or (iii) above, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Index Fund Shares must state that the series of Index Fund Shares must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

(4) Fixed Income. Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or subdivision thereof. Nasdaq may approve a series of Index Fund Shares based on Fixed Income Securities for listing and trading pursuant to Rule 19b-4(e) under the Act provided such portfolio or index: (i) has been reviewed and approved for the trading of options, Portfolio Depository Receipts, Index Fund Shares, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Act and the rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or (ii) the following criteria are satisfied:

(A) Eligibility Criteria for Index Components. Components of an index or portfolio that underlies a series of Index Fund Shares listed pursuant to Rule 19b-4(e) under the Act shall meet the following criteria on an initial and continued listing basis:

(i) The index or portfolio must consist of (a) only Fixed Income Securities or (b) Fixed Income Securities and cash;

(ii) Fixed Income Security components that in aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each must have a minimum principal amount outstanding of \$100 million or more;

(iii) A component may be a convertible security, however, once the convertible security component converts to an underlying equity security, the component is removed from the index or portfolio;

(iv) No component fixed-income security (excluding Treasury Securities) will represent more than 30% of the Fixed Income Securities portion of the weight of the index or portfolio, and the five highest weighted component fixed-income securities do not in the aggregate account for more than 65% of the Fixed Income Securities portion of the weight of the index or portfolio;

(v) An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include securities from a minimum of 13 non-affiliated issuers; and

(vi) Component securities that in aggregate account for at least 90% of the Fixed Income Securities portion of the weight of the index or portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

(B) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current index value will be widely disseminated by one or more major market data vendors at least once per day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(5) Nasdaq may approve a series of Index Fund Shares based on a combination of indexes or an index or portfolio of component securities representing the U.S. equity market, the international equity market, and the fixed income market for listing and trading pursuant to Rule 19b-4(e) under the Act provided: (i) such portfolio or combination of indexes has been reviewed and approved for the trading of options, Portfolio Depository Receipts, Index Fund Shares, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or (ii) each index or portfolio of equity and fixed income component securities separately meets either the criteria set forth in Rule 5705(b)(3) or (4) above. After Nasdaq approves a series for listing and trading pursuant to this

paragraph (5), such series of Index Fund Shares shall continue to meet the requirements of sections (i) and (ii) in this paragraph (5), as applicable, on a continued listing basis.

(A) Index Methodology and Calculation. All requirements set forth in this paragraph must be satisfied on both an initial and continued listing basis.

(i) If an index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor;

(ii) The current composite index value will be widely disseminated by one or more major market data vendors at least once every 15 seconds during regular market session, provided however, that (a) with respect to the Non-U.S. Component Stocks of the combination index, the impact on the index is only required to be updated at least every 60 seconds during the regular market session, and (b) with respect to the fixed income components of the combination index the impact on the index is only required to be updated at least once each day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(6) The following provisions shall apply to all series of Index Fund Shares listed pursuant Rules 5705(b)(4) and (5) above on an initial and, except for paragraph (B) below, continued listing basis:

(A) Disseminated Information. The Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value may be calculated by Nasdaq or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services.

(B) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Index Fund Shares is required to be outstanding at start-up of trading.

(C) Surveillance Procedures. FINRA will implement and maintain written surveillance procedures for Index Fund Shares.

(7) Regular market session trading will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series of Index Fund Shares, as specified by Nasdaq. In addition, Nasdaq may designate each series of Index Fund Shares for trading during a pre-market session beginning at 4:00 a.m. and/or a post-market session ending at 8:00 p.m.

(8) Nasdaq may list and trade Index Fund Shares based on one or more foreign or domestic indexes or portfolios. Each issue of Index Fund Shares based on each particular index or portfolio, or combination thereof, shall be designated as a separate series and shall be identified by a unique symbol. The components that are included in an index or portfolio on which a series of Index Fund Shares are based shall be selected by such person, which may be Nasdaq or an agent or wholly-owned subsidiary thereof, as shall have authorized use of such index or portfolio. Such index or portfolio may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(9) Each series of Index Fund Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing —

(i) for each series, Nasdaq will establish a minimum number of Index Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(ii) Nasdaq will obtain a representation from the issuer of each series of Index Fund Shares that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

(B) Continued Listing —

(i) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Index Fund Shares under any of the following circumstances:

a. if any of the requirements set forth in this rule are not continuously maintained;

b. if Nasdaq files separate proposals under Section 19(b) of the Act, any of the statements or representations regarding (a) the index composition; (b) the description of the portfolio; (c) limitations on portfolio holdings or reference assets; (d) dissemination and availability of the index or intraday indicative values; or (e) the applicability of Nasdaq listing rules specified in such proposals are not continuously maintained as referenced in subsection 10 of this rule;

c. if, following the initial twelve month period after commencement of trading on Nasdaq of a series of Index Fund Shares, there are fewer than 50 beneficial holders of the series of Index Fund Shares;

d. if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available or an interruption to the

dissemination persists past the trading day in which it occurred or the index or portfolio on which the series of Index Fund Shares is based is replaced with a new index or portfolio, unless the new index or portfolio meets the requirements of this Rule 5705(b) for listing either pursuant to Rule 19b-4(e) under the Act (including the filing of a Form 19b-4(e) with the Commission) or by Commission approval of a filing pursuant to Section 19(b) of the Act;

e. if the Intraday Indicative Value is no longer disseminated at least every 15 seconds during Nasdaq's regular market session and the interruption to the dissemination persists past the trading day in which it occurred; or

f. if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of an open-end management investment company, Nasdaq requires that Index Fund Shares issued in connection with such entity be removed from listing.

(C) Voting — voting rights shall be as set forth in the applicable open-end management investment company prospectus.

(10) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Index Fund Shares that do not otherwise meet the standards set forth in this rule. Any of the statements or representations regarding (a) the index composition; (b) the description of the portfolio; (c) limitations on portfolio holdings or reference assets; (d) dissemination and availability of the index or intraday indicative values; or (e) the applicability of Nasdaq listing rules specified in such proposals constitute continued listing standards.

(11) Neither Nasdaq, the Reporting Authority, nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Index Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Index Fund Shares; net asset value; or other information relating to the purchase, redemption or trading of Index Fund Shares, resulting from any negligent act or omission by Nasdaq, the Reporting Authority or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more underlying securities.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Jan. 6, 2011 (SR-NASDAQ-2011-009); amended Mar. 5, 2013 (SR-NASDAQ-2013-033), operative Mar. 18, 2013; amended June 27,

2013 (SR-NASDAQ-2013-094); amended Nov. 18, 2014 (SR-NASDAQ-2014-038); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended Feb. 28, 2017 (SR-NASDAQ-2017-023); amended May 3, 2017 (SR-NASDAQ-2017-040), operative Jan. 1, 2018; amended June 30, 2017 (SR-NASDAQ-2017-062); amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended Apr. 2, 2018 (SR-NASDAQ-2018-026); amended Apr. 13, 2018 (SR-NASDAQ-2018-012).

5710. Securities Linked to the Performance of Indexes and Commodities (Including Currencies)

Nasdaq will consider for listing and trading equity index-linked securities ("Equity Index-Linked Securities") and commodity-linked securities ("Commodity-Linked Securities"), fixed income index-linked securities ("Fixed Income Index-Linked Securities"), futures-linked securities ("Futures-Linked Securities") and multifactor index-linked securities ("Multifactor Index-Linked Securities" and, together with Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities and Futures-Linked Securities, "Linked Securities") that in each case meet the applicable criteria of this Rule.

Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying equity index or indexes (an "Equity Reference Asset").

The payment at maturity with respect to Commodity-Linked Securities is based on one or more physical Commodities or Commodity futures, options or other Commodity derivatives, Commodity-Related Securities, or a basket or index of any of the foregoing (any such basis for payment is referred to below as the "Commodity Reference Asset"). The terms "Commodity" and "Commodity-Related Security" are defined in Rule 4630.

The payment at maturity with respect to Fixed Income Index-Linked Securities is based on the performance of one or more indexes or portfolios of notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing (a "Fixed Income Reference Asset").

The payment at maturity with respect to Futures-Linked Securities is based on the performance of an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b); or (c) CBOE Volatility Index (VIX) Futures (a "Futures Reference Asset").

The payment at maturity with respect to Multifactor Index-Linked Securities is based on the performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Fixed Income Reference Assets or Futures Reference

Assets (a "Multifactor Reference Asset", and together with Equity Reference Asset, Commodity Reference Asset, Fixed Income Reference Asset and Futures Reference Asset, "Reference Assets"). A Multifactor Reference Asset may include as a component a notional investment in cash or a cash equivalent based on a widely accepted overnight loan interest rate, LIBOR, Prime Rate, or an implied interest rate based on observed market spot and foreign currency forward rates.

Linked Securities may or may not provide for the repayment of the original principal investment amount. Nasdaq will consider Linked Securities for listing and trading pursuant to Rule 19b-4(e) under the Act, provided:

(a) Both the issue and the issuer of such security initially meet and continuously maintain the criteria for other securities set forth in Rule 5730(a), except that if the security is traded in \$1,000 denominations or is redeemable at the option of holders thereof on at least a weekly basis, then no minimum number of holders and no minimum public distribution of trading units shall be required..

(b) The issue has a term of not less than one (1) year and not greater than thirty (30) years.

(c) The issue must, on an initial and continued listing basis, be the non-convertible debt of the Company.

(d) On an initial and continued listing basis, the payment at maturity may or may not provide for a multiple of the direct or inverse performance of an underlying index, indexes or Reference Asset; however, in no event will a loss (negative payment) at maturity be accelerated by a multiple that exceeds three times the performance of an underlying index, indexes or Reference Asset.

(e) On an initial and continued listing basis, the Company will be expected to have a minimum tangible net worth in excess of \$250,000,000 (if the Linked Securities are fully and unconditionally guaranteed by an affiliate of the Company, Nasdaq will rely on such affiliate's tangible net worth for purposes of this requirement). In the alternative, the Company will be expected to have a minimum tangible net worth of \$150,000,000 and the original issue price of the Linked Securities, combined with all of the Company's other Linked Securities listed on a national securities exchange or otherwise publicly traded in the United States, must not be greater than 25 percent of the Company's tangible net worth at the time of issuance (if the Linked Securities are fully and unconditionally guaranteed by an affiliate of the Company, Nasdaq will apply the provisions of this paragraph to such affiliate instead of the Company and will include in its calculation all Linked Securities that are fully and unconditionally guaranteed by such affiliate). Government issuers and supranational entities will be evaluated on a case-by-case basis.

(f) On an initial and continued listing basis, the Company is in compliance with Rule 10A-3 under the Act..

(g) Maintenance and Dissemination—(i) If the index is maintained by a broker-dealer, the broker-dealer shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (ii) Unless the Commission order applicable under paragraph (k) or (l) hereof provides otherwise, the current value of the index or the Reference Asset (as applicable) will be widely disseminated at least every 15 seconds during Nasdaq's regular market session, except as provided in the next clause (iii). (iii) The values of the following indexes need not be calculated and widely disseminated at least every 15 seconds if, after the close of trading, the indicative value of the Equity Index-Linked Security based on one or more of such indexes is calculated and disseminated to provide an updated value: CBOE S&P 500 BuyWrite Index(sm), CBOE DJIA Buy Write Index(sm), CBOE Nasdaq-100 BuyWrite Index(sm). (iv) If the value of a Linked Security is based on more than one index, then the dissemination requirement of this paragraph (g) applies to the composite value of such indexes. (v) In the case of a Commodity-Linked Security that is periodically redeemable, the indicative value of the subject Commodity-Linked Security must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during Nasdaq's regular market session. The provisions of sections (ii), (iii) and (v) of this paragraph shall be satisfied on an initial and continued listing basis.

(h) Trading Halts. In the case of Linked Securities, if the indicative value (if required to be disseminated) or the Reference Asset value is not being disseminated as required, or if the value of the index is not being disseminated as required, Nasdaq may halt trading during the day on which such interruption occurs. Nasdaq will halt trading no later than the beginning of trading following the trading day when the interruption commenced if such interruption persists at this time.

(i) Surveillance Procedures. FINRA will implement and maintain on behalf of Nasdaq written surveillance procedures for Linked Securities. Nasdaq will enter into adequate comprehensive surveillance sharing agreements for non-U.S. securities, as applicable.

(j) Linked Securities will be treated as equity instruments. Furthermore, for the purpose of fee determination, Linked Securities shall be deemed and treated as Other Securities.

(k) Linked Securities

(i) Equity Index-Linked Securities Criteria

(A) In the case of an Equity Index-Linked Security, each underlying index is required to have at least ten (10) component securities. In addition, the index or indexes to which the security is linked shall either:

(1) have been reviewed and approved for the trading of options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order,

including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or

(2) the index or indexes meet the following criteria:

- (a) Each component security has a minimum market value of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market value can be at least \$50 million;
- (b) Each component security shall have trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the trading volume shall be at least 500,000 shares in each of the last six months;
- (c) Indexes based upon the equal-dollar or modified equal-dollar weighting method will be rebalanced at least semiannually;
- (d) In the case of a capitalization-weighted or modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of component securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;
- (e) No underlying component security will represent more than 25% of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than 50% of the weight of the index (60% for an index consisting of fewer than 25 component securities);
- (f) 90% of the index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading on a national securities exchange or a national securities association, provided, however, that an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components; and
- (g) All component securities shall be either (A) securities (other than securities of a foreign issuer and American Depositary Receipts ("ADRs")) that are (i) issued by a 1934 Act reporting company or by an investment company registered under the Investment Company Act of 1940 that, in each case, has securities listed on a national securities exchange and (ii) an "NMS stock" (as defined in Rule 600 of Regulation NMS under the Act), or (B) securities of a foreign issuer or ADRs, provided that securities of a

foreign issuer (including when they underlie ADRs) whose primary trading market outside the United States is not a member of the Intermarket Surveillance Group ("ISG") or a party to a comprehensive surveillance sharing agreement with Nasdaq will not in the aggregate represent more than 20% of the dollar weight of the index.

(B) Continued Listing Criteria

- (1) Nasdaq will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject Equity Index-Linked Security), if any of the standards set forth above in paragraph A are not continuously maintained, except that:
 - (a) the criteria that no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced; and
 - (b) Component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of \$12,500,000, averaged over the last six months.
- (2) In connection with an Equity Index-Linked Security that is listed pursuant to paragraph (i)(A)(1) above, Nasdaq will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject Equity Index-Linked Security) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the Act approving the index or indexes for the trading of options or other derivatives.
- (3) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series (unless the Commission has approved the continued trading of the subject Equity Index-Linked Security), under any of the following circumstances:
 - (a) if the aggregate market value or the principal amount of the Equity Index-Linked Securities publicly held is less than \$400,000;
 - (b) if an interruption to the dissemination of the value of the index or composite value of the indexes persists past the trading day in which it occurred or is no longer calculated or widely disseminated on at least a 15-second basis with respect to indexes containing only securities listed on a national securities exchange, or on at least a 60-second basis with respect to indexes containing foreign country securities, provided, however, that, if

the official index value does not change during some or all of the period when trading is occurring on Nasdaq (for example, for indexes of foreign country securities, because of time zone differences or holidays in the countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout Nasdaq trading hours; or

(c) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(4) Equity-Linked Index Rebalancing. Equity-Linked Indexes will be rebalanced at least annually.

(ii) Reference Asset Criteria for Commodity-Linked Securities

(A) In the case of a Commodity-Linked Security, the Reference Asset shall meet the criteria in either subparagraph (1) or subparagraph (2) below:

(1) The Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Commodity-Related Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(2) The pricing information for each component of a Reference Asset other than a Currency must be derived from a market which is an ISG member or affiliate or with which Nasdaq has a comprehensive surveillance sharing agreement. Notwithstanding the previous sentence, pricing information for gold and silver may be derived from the London Bullion Market Association. The pricing information for each component of a Reference Asset that is a Currency must be either: (1) the generally accepted spot price for the currency exchange rate in question; or (2) derived from a market of which (a) is an ISG member or affiliate or with which Nasdaq has a comprehensive surveillance sharing agreement and (b) is the pricing source for a currency component of a Reference Asset that has previously been approved by the Commission. A Reference Asset may include components representing not more than 10% of the dollar weight of such Reference Asset for which the pricing information is derived from markets that do not meet the requirements of this subparagraph (2), provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Reference Asset. The term "Currency," as used in this subparagraph, shall mean one or more currencies, or currency options, futures, or other currency derivatives, Commodity-Related Securities if their underlying Commodities are currencies or currency derivatives, or a basket or index of any of the foregoing.

(B) The issue must meet the following continued listing criteria:

- (1) Nasdaq will commence delisting or removal proceedings if any of the initial listing criteria described above are not continuously maintained.
- (2) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series under any of the following circumstances:
 - (a) If the aggregate market value or the principal amount of the Commodity-Linked Securities publicly held is less than \$400,000;
 - (b) An interruption to the dissemination of the value of the Commodity Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Commodity Reference Asset is substituted, unless the new Commodity Reference Asset meets the requirements of this rule; or
 - (c) If such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(iii) Fixed Income Index-Linked Securities Listing Standards

(A) The issue must meet one of the criteria set forth in either (1) or (2) below.

- (1) The Fixed Income Reference Asset to which the security is linked shall have been reviewed and approved for the trading of options, Index Fund Shares, or other derivatives by the Commission under Section 19(b)(2) of the Securities Exchange Act of 1934 and rules thereunder and the conditions set forth in the Commission's approval order, continue to be satisfied.
- (2) The issue must meet the following initial listing criteria:
 - (a) Components of the Fixed Income Reference Asset that in the aggregate account for at least 75% of the weight of the Fixed Income Reference Asset must each have a minimum original principal amount outstanding of \$100 million or more;
 - (b) A component of the Fixed Income Reference Asset may be a convertible security, however, once the convertible security component converts to the underlying equity security, the component is removed from the Fixed Income Reference Asset;
 - (c) No component of the Fixed Income Reference Asset (excluding Treasury Securities and GSE Securities) will represent more than 30% of the dollar weight of the Fixed Income Reference Asset, and the five highest dollar weighted components in the Fixed Income Reference Asset will not in the

aggregate account for more than 65% of the dollar weight of the Fixed Income Reference Asset;

(d) An underlying Fixed Income Reference Asset (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

(e) Component securities that in the aggregate account for at least 90% of the dollar weight of the Fixed Income Reference Asset must be from one of the following: (a) issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; or (b) issuers that have a worldwide market value of outstanding common equity held by non-affiliates of \$700 million or more; or (c) issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; or (d) exempted securities as defined in Section 3(a)(12) of the Act, or (e) issuers that are a government of a foreign country or a political subdivision of a foreign country.

(B) In addition, the value of the Fixed Income Reference Asset must be widely disseminated to the public by one or more major market vendors at least once per business day.

(C) The issue must meet the following continued listing criteria:

(1) Nasdaq will commence delisting or removal proceedings if any of the initial listing criteria described above are not continuously maintained.

(2) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series:

(a) if the aggregate market value or the principal amount of the Fixed Income Index-Linked Securities publicly held is less than \$400,000;

(b) An interruption to the dissemination of the value of the Fixed Income Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Fixed Income Reference Asset is substituted, unless the new Fixed Income Reference Asset meets the requirements of this Rule 5710(k); or

(c) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings inadvisable.

(iv) Futures-Linked Securities Listing Standards

(A) The issue must meet the initial listing standard set forth in either (1) or (2) below:

- (1) The Futures Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Futures-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied, or
- (2) the pricing information for components of a Futures Reference Asset must be derived from a market which is an ISG member or affiliate or with which Nasdaq has a comprehensive surveillance sharing agreement. A Futures Reference Asset may include components representing not more than 10% of the dollar weight of such Futures Reference Asset for which the pricing information is derived from markets that do not meet the requirements of this subparagraph (2); provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Futures Reference Asset.

(B) In addition, the issue must meet both of the following initial listing criteria:

- (1) the value of the Futures Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Regular Market Session (as defined in Rule 4120); and
- (2) in the case of Futures-Linked Securities that are periodically redeemable, the value of a share of each series (the "Intraday Indicative Value") of the subject Futures-Linked Securities must be calculated and widely disseminated by Nasdaq or one or more major market data vendors on at least a 15-second basis during the Regular Market Session (as defined in Rule 4120).

(C) The issue must meet the following continued listing criteria:

- (1) Nasdaq will commence delisting or removal proceedings if any of the initial listing criteria described above are not continuously maintained.
- (2) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series under any of the following circumstances:
 - (a) if the aggregate market value or the principal amount of the Futures-Linked Securities publicly held is less than \$400,000;
 - (b) An interruption to the dissemination of the value of the Futures Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Futures Reference Asset is substituted,

unless the new Futures Reference Asset meets the requirements of this Rule 5710(k); or

(c) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(v) Multifactor Index-Linked Securities Listing Standards

(A) The issue must meet the following initial listing standards set forth in either (1) or (2) below:

(1) each component of the Multifactor Reference Asset to which the security is linked shall have been reviewed and approved for the trading of either options, Index Fund Shares, or other derivatives under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied, or

(2) each Reference Asset included in the Multifactor Reference Asset must meet the applicable initial and continued listing criteria set forth in the relevant subsection of this Rule 5710(k).

(B) In addition, the issue must meet both of the following initial listing criteria:

(1) the value of the Multifactor Reference Asset must be calculated and widely disseminated to the public on at least a 15-second basis during the time the Multifactor Index-Linked Security trades on Nasdaq; and

(2) in the case of Multifactor Index-Linked Securities that are periodically redeemable, the indicative value of the Multifactor Index- Linked Securities must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the time the Multifactor Index-Linked Securities trade on Nasdaq.

(C) Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series:

(1) if any of the initial listing criteria described above are not continuously maintained;

(2) if the aggregate market value or the principal amount of the Multifactor Index-Linked Securities publicly held is less than \$400,000;

(3) An interruption to the dissemination of the the value of the Multifactor Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Multifactor Reference Asset is substituted, unless the new Multifactor Reference Asset meets the requirements of this Rule 5710(k); or

(4) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(I) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Linked Securities that do not otherwise meet the standards set forth in this rule. Any of the statements or representations regarding (a) the index composition or reference asset description and limitations; (b) dissemination and availability of the index, reference asset, or intraday indicative values; or (c) the applicability of Nasdaq listing rules specified in such proposals constitute continued listing standards. If a series of Linked Securities does not satisfy these requirements, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

• • • *Commentary* -----

.01 (a) The registered Market Maker in Linked Securities must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading in the Reference Asset components, the commodities, currencies or futures underlying the Reference Asset components, or any derivative instruments based on the Reference Asset or based on any Reference Asset component or any physical commodity, currency or futures underlying a Reference Asset component, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in Linked Securities shall trade in the Reference Asset components, the commodities, currencies or futures underlying the Reference Asset components, or any derivative instruments based on the Reference Asset or based on any Reference Asset component or any physical commodity, or futures currency underlying a Reference Asset component, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

(b) In addition to the existing obligations under Nasdaq rules regarding the production of books and records (e.g., Rule 4625), the registered Market Maker in Linked Securities shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or nonregistered employee affiliated with such entity for its or their own accounts in the Reference Asset components, the commodities, currencies or futures underlying the Reference Asset components, or any derivative instruments based on the Reference Asset or based on any Reference Asset component or any physical commodity, currency or futures underlying a Reference Asset component, as may be requested by Nasdaq.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Aug. 5, 2011 (SR-NASDAQ-2011-113); amended Mar. 23, 2012 (SR-NASDAQ-2012-013); amended Jan. 10, 2013 (SR-NASDAQ-2013-008); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended Mar. 22, 2017 (SR-NASDAQ-2017-032); amended May 3, 2017 (SR-

NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5711. Trading of Certain Derivative Securities

(a) Index-Linked Exchangeable Notes

Index-Linked Exchangeable Notes which are exchangeable debt securities that are exchangeable at the option of the holder (subject to the requirement that the holder in most circumstances exchange a specified minimum amount of notes), on call by the issuer or at maturity for a cash amount (the "Cash Value Amount") based on the reported market prices of the underlying stocks of an underlying index will be considered for listing and trading by Nasdaq pursuant to Rule 19b-4(e) under the Act, provided:

(i) Both the issue and the issuer of such security initially meet and continuously maintain the requirements of Rule 5730, Listing Requirements for Securities Not Specified Above (Other Securities), except that the minimum public distribution shall be 150,000 notes with a minimum of 400 public note-holders, except, if traded in thousand dollar denominations or redeemable at the option of the holders thereof on at least a weekly basis, then no minimum public distribution and no minimum number of holders.

(ii) The issue has a minimum term of one year.

(iii) On an initial and continued listing basis, the issuer will be expected to have a minimum tangible net worth in excess of \$250,000,000, and to otherwise substantially exceed the earnings requirements set forth in Rule 5405(b). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of \$150,000,000 and to otherwise substantially exceed the earnings requirements set forth in Rule 5405(b); and (B) not to have issued Index-Linked Exchangeable Notes where the original issue price of all the issuer's other index-linked exchangeable note offerings (combined with other index-linked exchangeable note offerings of the issuer's affiliates) listed on a national securities exchange exceeds 25% of the issuer's net worth.

(iv) The index to which an exchangeable-note is linked shall either be (A) indices that have been created by a third party and been reviewed and have been approved for the trading of options or other derivatives securities (each, a "Third-Party Index") either by the Commission under Section 19(b) of the Act and rules thereunder or by Nasdaq under rules adopted pursuant to Rule 19b-4(e); or (B) indices which the issuer has created and for which Nasdaq will have obtained approval from either the Commission pursuant to Section 19(b) and rules thereunder or from Nasdaq under rules adopted pursuant to Rule 19b-4(e) (each an "Issuer Index"). The Issuer Indices and their underlying securities must meet one of the following on an initial and continued listing basis:

(A) the procedures and criteria set forth in NOM Rules, Chapter XIV, Section 6(b) and (c), or

(B) the criteria set forth in Rules 5715(b)(3) and (4), the index concentration limits set forth in NOM Rule Chapter XIV, Section 6, and NOM Rule Chapter XIV, Section 6(b)(12) insofar as it relates to NOM Rule Chapter XIV, Section 6(b)(6).

(v) Index-Linked Exchangeable Notes will be treated as equity instruments.

(vi) This section contains the continued listing requirements for Index-Linked Exchangeable Notes. If a series of Index-Linked Exchangeable Notes does not satisfy these requirements, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

a. The Intraday Indicative Value of the subject Index-Linked Exchangeable Notes must be calculated and widely disseminated by Nasdaq or one or more major market data vendors on at least a 15- second basis during the Regular Market Session (as defined in Rule 4120). For purposes of this Rule, the term "Intraday Indicative Value" means an estimate of the value of a note or a share of the series of Index-Linked Exchangeable Notes. If an interruption to the dissemination persists past the trading day in which it occurred, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

b. The value of the underlying index must be publicly available to investors, on a real time basis, every 15 seconds. If an interruption to the dissemination persists past the trading day in which it occurred, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

c. Beginning twelve months after the initial issuance of a series of index-linked exchangeable notes, Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, that series of Index-Linked Exchangeable Notes under any of the following circumstances:

(A) if the series has fewer than 50,000 notes issued and outstanding;

(B) if the market value of all Index-Linked Exchangeable Notes of that series issued and outstanding is less than \$1,000,000;

d. If Nasdaq submits a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Index-Linked Exchangeable Notes that do not otherwise meet the standards set forth in this rule and any of the statements or representations regarding (a) the index composition; (b) the index or intraday indicative value; or (c) the applicability of Nasdaq listing rules specified in such proposals are not continuously maintained;

e. if any of the requirements set forth in this rule are not continuously maintained; or

f. if such other event shall occur or such other condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(b) Equity Gold Shares

(i) The provisions of this sub-paragraph (b) apply only to Equity Gold Shares that represent units of fractional undivided beneficial interest in and ownership of the Equity Gold Trust. While Equity Gold Shares are not technically Index Fund Shares and thus are not covered by Nasdaq Rule 5705, all other rules that reference "Index Fund Shares" shall also apply to Equity Gold Shares.

(ii) Except to the extent that specific provisions in this rule govern, or unless the context otherwise requires, the provisions of all other Nasdaq Rules and policies shall be applicable to the trading of Equity Gold Shares on Nasdaq.

(iii) The provisions set forth in Rule 5711(d) shall also apply to Equity Gold Shares.

(c) Trust Certificates

Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, certificates ("Trust Certificates") representing an interest in a special purpose trust (the "Trust") created pursuant to a trust agreement. The Trust will only issue Trust Certificates. Trust Certificates may or may not provide for the repayment of the original principal investment amount.

(i) Trust Certificates pay an amount at maturity which is based upon the performance of specified assets as set forth below:

(A) an underlying index or indexes of equity securities (an "Equity Reference Asset");

(B) instruments that are direct obligations of the issuing company, either exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style), entitling the holder to a cash settlement in U.S. dollars to the extent that the foreign or domestic index has declined below (for a put warrant) or increased above (for a call warrant) the pre-stated cash settlement value of the index ("Index Warrants"); or

(C) a combination of two or more Equity Reference Assets or Index Warrants.

(ii) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading Trust Certificates. Any of the statements or representations regarding (a) the description of the index, reference assets, or trust holdings; (b) limitations on index composition, reference assets, or trust holdings; (c) dissemination and availability of the index, reference asset, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

Commentary:

.01 Continued Listing. Nasdaq will commence delisting proceedings under the Rule 5800 Series with respect to an issue of Trust Certificates (unless the Commission has approved the continued trading of such issue), under any of the following circumstances:

(a) if the aggregate market value or the principal amount of the securities publicly held is less than \$400,000;

(b) if an interruption to the dissemination of the value of the index or composite value of the indexes persists past the trading day in which it occurred or is no longer calculated or widely disseminated on at least a 15-second basis with respect to indexes containing only securities listed on a national securities exchange, or on at least a 60-second basis with respect to indexes containing foreign country securities, provided, however, that, if the official index value does not change during some or all of the period when trading is occurring on Nasdaq (for example, for indexes of foreign country securities, because of time zone differences or holidays in the countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout Nasdaq trading hours;

(c) if the series of Trust Certificates is not in compliance with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the index, reference assets, or trust holdings; (b) limitations on index composition, reference assets, or trust holdings; (c) dissemination and availability of the index, reference asset, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(d) if any of the requirements set forth in this rule are not continuously maintained; or

(e) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

.02 Term - The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

.03 Trustee - The following requirements apply on an initial and continued listing basis:

(a) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(b) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

.04 Voting—Voting rights shall be as set forth in the applicable Trust prospectus.

.05 Surveillance Procedures. Nasdaq will implement and maintain written surveillance procedures for Trust Certificates.

.06 Equity Trading Rules. The Trust Certificates will be subject to Nasdaq's equity trading rules.

.07 Information Circular. Prior to the commencement of trading of a particular Trust Certificate listing pursuant to this Rule, Nasdaq will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to Members providing guidance regarding compliance responsibilities (including suitability recommendations and account approval) when handling transactions in Trust Certificates.

.08 Trust Certificates may be exchangeable at the option of the holder into securities that participate in the return of the applicable underlying asset. In the event that the Trust Certificates are exchangeable at the option of the holder and contain an Index Warrant, then a Member must ensure that the Member's account is approved for options trading in accordance with Nasdaq Options Market Rules in order to exercise such rights.

.09 Trust Certificates may pass-through periodic payments of interest and principle of the underlying securities.

.10 Trust Insurance. The Trust payments may be guaranteed pursuant to a financial guaranty insurance policy which may include swap agreements.

.11 Early Termination. The Trust Certificates may be subject to early termination or call features.

(d) Commodity-Based Trust Shares

(i) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares that meet the criteria of this Rule.

(ii) Applicability. This Rule is applicable only to Commodity-Based Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. Commodity-Based Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of Nasdaq.

(iii) Nasdaq will file separate proposals under Section 19(b) of the Act before listing Commodity-Based Trust Shares. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on the reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday

indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(iv) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meaning herein specified:

(A) Commodity-Based Trust Shares. The term "Commodity-Based Trust Shares" means a security (1) that is issued by a trust ("Trust") that holds a specified commodity deposited with the Trust; (2) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (3) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity.

(B) Commodity. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(v) Designation of an Underlying Commodity. Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares based on an underlying commodity. Each issue of a Commodity-Based Trust Share shall be designated as a separate series and shall be identified by a unique symbol.

(vi) Initial and Continued Listing. Commodity-Based Trust Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—Nasdaq will establish a minimum number of Commodity-Based Trust Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing—Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, such series under any of the following circumstances:

(1) if following the initial 12 month period following commencement of trading on Nasdaq:

a. the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Commodity-Based Trust Shares;

b. if the Trust has fewer than 50,000 receipts issued and outstanding; or

c. if the market value of all receipts issued and outstanding is less than \$1,000,000;

(2) if an interruption to the dissemination of the value of the underlying commodity persists past the trading day in which it occurred or is no longer calculated or available on at least a 15-second delayed basis by Nasdaq or one or more major market data vendors during the Regular Market Session (as defined in Nasdaq Rule 4120).

(3) if an interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer made available on at least a 15-second delayed basis; or

(4) if a series of Commodity-Based Trust Shares is not in compliance with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on the reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(5) if any of the requirements set forth in this rule are not continuously maintained; or

(6) if such other event shall occur or condition exists which, in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Commodity-Based Trust Shares issued in connection with such entity Trust be removed from Nasdaq listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(C) Term - The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Trustee - The following requirements apply on an initial and continued listing basis:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting—Voting rights shall be as set forth in the applicable Trust prospectus.

(vii) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by Nasdaq, or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment

or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity.

(viii) Market Maker Accounts. A registered Market Maker in Commodity-Based Trust Shares must file with Nasdaq in a manner prescribed by Nasdaq and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

In addition to the existing obligations under Nasdaq rules regarding the production of books and records (see, e.g., Rule 4625), the registered Market Maker in Commodity-Based Trust Shares shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by Nasdaq.

Commentary:

.01 A Commodity-Based Trust Share is a Trust Issued Receipt that holds a specified commodity deposited with the Trust.

.02 Nasdaq requires that Members provide all purchasers of newly issued Commodity-Based Trust Shares a prospectus for the series of Commodity-Based Trust Shares.

.03 Transactions in Commodity-Based Trust Shares will occur during the trading hours specified in Rule 4120.

(e) Currency Trust Shares

(i) Nasdaq will consider for listing and trading Currency Trust Shares that meet the criteria of this Rule.

(ii) Applicability. This Rule is applicable only to Currency Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. Currency Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of Nasdaq.

(iii) Currency Trust Shares. The term "Currency Trust Shares" as used in these Rules shall, unless the context otherwise requires, mean a security that (A) is issued by a trust ("Trust") that holds a specified non-U.S. currency or currencies deposited with the Trust; (B) when aggregated in some specified minimum number may be surrendered to the Trust by an Authorized Participant (as defined in the Trust's prospectus) to receive the specified non-U.S. currency or currencies; and (C) pays beneficial owners interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the Trust.

(iv) Designation of Non-U.S. Currency. Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Currency Trust Shares that hold a specified non-U.S. currency or currencies. Each issue of Currency Trust Shares shall be designated as a separate series and shall be identified by a unique symbol.

(v) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Currency Trust Shares that do not otherwise meet the standards set forth below. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on the reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(vi) Initial and Continued Listing. Currency Trust Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing — Nasdaq will establish a minimum number of Currency Trust Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing Nasdaq will consider the suspension of trading in and will initiate delisting proceedings under the Rule 5800 Series of, such series under any of the following circumstances

(1) if following the initial 12 month period following commencement of trading on Nasdaq:

a. the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Currency Trust Shares;

b. if the Trust has fewer than 50,000 Currency Trust Shares issued and outstanding; or

c. if the market value of all Currency Trust Shares issued and outstanding is less than \$1,000,000;

(2) if an interruption to the dissemination of the value of the applicable non-U.S. currency persists past the trading day in which it occurred or is no longer calculated or available on at least a 15-second delayed basis by Nasdaq or one or more major

market data vendors during the Regular Market Session (as defined in Nasdaq Rule 4120);

(3) if an interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer made available on at least a 15-second delayed basis;

(4) If Nasdaq files separate proposals under Section 19(b) of the Act, any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals are not satisfied on a continued listing basis;

(5) if any of the requirements set forth in this rule are not continuously maintained; or

(6) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Currency Trust Shares issued in connection with such entity Trust be removed from Nasdaq listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(C) Term —The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Trustee —The following requirements apply on an initial and continued listing basis:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting —Voting rights shall be as set forth in the applicable Trust prospectus.

(vii) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable non-U.S. currency value; the current value of the applicable non-U.S. currency required to be deposited to the Trust in connection with issuance of Currency Trust Shares; net asset value; or any other information relating to the purchase, redemption, or trading of the Currency Trust Shares, resulting from any negligent act or omission by Nasdaq, or any agent of

Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an applicable non-U.S. currency.

(viii) Market Maker Accounts. A registered Market Maker in Currency Trust Shares must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading in the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule .

In addition to the existing obligations under Nasdaq rules regarding the production of books and records (see e.g., Rule 4625), a registered Market Maker in Currency Trust Shares shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, as may be requested by Nasdaq.

Commentary:

.01 A Currency Trust Share is a Trust Issued Receipt that holds a specified non-U.S. currency or currencies deposited with the Trust.

.02 Nasdaq requires that Members provide all purchasers of newly issued Currency Trust Shares a prospectus for the series of Currency Trust Shares.

.03 Transactions in Currency Trust Shares will occur during the trading hours specified in Nasdaq Rule 4120.

.04 Nasdaq may approve an issue of Currency Trust Shares for listing and/or trading pursuant to Rule 19b-4(e) under the Act. Such issue shall satisfy the criteria set forth in this rule on an initial and, except for paragraph (a) below, continued listing basis, provided that, for issues approved for trading pursuant to unlisted trading privileges, only paragraphs (b), (c), and (d) below are required to be satisfied. If an interruption to the dissemination required by paragraphs (b) or (c) persists past the trading day in which it occurred or paragraph (d) is not maintained, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

(a) a minimum of 100,000 shares of a series of Currency Trust Shares is required to be outstanding at commencement of trading;

(b) the value of the applicable non-U.S. currency, currencies or currency index must be disseminated by one or more major market data vendors on at least a 15-second delayed basis;

(c) the Intraday Indicative Value must be calculated and widely disseminated by Nasdaq or one or more major market data vendors on at least a 15-second basis during the Regular Market Session (as defined in Nasdaq Rule 4120); and

(d) Nasdaq will implement and maintain written surveillance procedures applicable to Currency Trust Shares.

.05 If the value of a Currency Trust Share is based in whole or in part on an index that is maintained by a broker-dealer, the broker-dealer shall erect and maintain a "fire wall" around the personnel responsible for the maintenance of such index or who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who is not a broker-dealer.

Any advisory committee, supervisory board or similar entity that advises an index licensor or administrator or that makes decisions regarding the index or portfolio composition, methodology and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, nonpublic information regarding the applicable index or portfolio.

.06 Equity Trading Rules

Currency Trust Shares will be subject to Nasdaq's equity trading rules.

.07 Trading Halts

If the Intraday Indicative Value, or the value of the non-U.S. currency or currencies or the currency index applicable to a series of Currency Trust Shares is not being disseminated as required, Nasdaq may halt trading during the day on which such interruption first occurs. If such interruption persists past the trading day in which it occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption. If Nasdaq becomes aware that the net asset value applicable to a series of Currency Trust Shares is not being disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value is available to all market participants.

(f) Commodity Index Trust Shares

(i) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity Index Trust Shares that meet the criteria of this Rule.

(ii) **Applicability.** This Rule is applicable only to Commodity Index Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq

of such securities. Commodity Index Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of Nasdaq.

(iii) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading Commodity Index Trust Shares. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the index, reference assets, or trust holdings; (b) limitations on index composition, reference assets, or trust holdings; (c) dissemination and availability of the reference asset, index, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(iv) Commodity Index Trust Shares. The term "Commodity Index Trust Shares" as used in the Rules shall, unless the context otherwise requires, mean a security that: (A) is issued by a trust ("Trust") that: (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) that holds long positions in futures contracts on a specified commodity index, or interests in a commodity pool which, in turn, holds such long positions; and (B) when aggregated in some specified minimum number may be surrendered to the Trust by the beneficial owner to receive positions in futures contracts on a specified index and cash or short term securities. The term "futures contract" is commonly known as a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act.

(v) Designation. Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Commodity Index Trust Shares based on one or more securities. The Commodity Index Trust Shares based on particular securities shall be designated as a separate series and shall be identified by a unique symbol.

(vi) Initial and Continued Listing. Commodity Index Trust Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—Nasdaq will establish a minimum number of Commodity Index Trust Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing—Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Commodity Index Trust Shares under any of the following circumstances:

(1) following the initial twelve-month period beginning upon the commencement of trading of the Commodity Index Trust Shares, there are fewer than 50 record and/or beneficial holders of Commodity Index Trust Shares;

(2) if an interruption to the dissemination of the value of the applicable underlying index persists past the trading day in which it occurred or is no longer calculated or

available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, the Trust or the trustee of the Trust;

(3) if the net asset value for the trust is no longer disseminated to all market participants at the same time;

(4) if an interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer made available on at least a 15-second delayed basis;

(5) if the Commodity Index Trust Shares do not comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the index, reference assets, or trust holdings; (b) limitations on index composition, reference assets, or trust holdings; (c) dissemination and availability of the reference asset, index, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(6) if any of the requirements set forth in this rule are not continuously maintained; or

(7) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Commodity Index Trust Shares issued in connection with such entity Trust be removed from Nasdaq listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(C) Term—The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Trustee—The following requirements apply on an initial and continued listing basis:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting—Voting rights shall be as set forth in the applicable Trust prospectus.

(vii) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable underlying index value; the current value of the applicable positions or interests required to be

deposited to the Trust in connection with issuance of Commodity Index Trust Shares; net asset value; or any other information relating to the purchase, redemption, or trading of the Commodity Index Trust Shares, resulting from any negligent act or omission by Nasdaq, or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the applicable positions or interests.

(viii) Market Maker Accounts. A registered Market Maker in Commodity Index Trust Shares must file with Nasdaq in a manner prescribed by Nasdaq and keep current a list identifying all accounts for trading in the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

In addition to the existing obligations under Nasdaq rules regarding the production of books and records, (see e.g., Rule 4625), a registered Market Maker in Commodity Index Trust Shares shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, as may be requested by Nasdaq.

Commentary:

.01 A Commodity Index Trust Share is a Trust Issued Receipt that holds long positions in futures contracts on a specified commodity index, or interests in a commodity pool which, in turn, holds such long positions, deposited with the Trust.

.02 Nasdaq requires that Members provide all purchasers of newly issued Commodity Index Trust Shares a prospectus for the series of Commodity Index Trust Shares.

.03 Transactions in Commodity Index Trust Shares will occur during the trading hours specified in Rule 4120.

(g) Commodity Futures Trust Shares

(i) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity Futures Trust Shares that meet the criteria of this Rule.

(ii) **Applicability.** This Rule is applicable only to Commodity Futures Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. Commodity Futures Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of Nasdaq.

(iii) **Commodity Futures Trust Shares.** The term "Commodity Futures Trust Shares" as used in the Rules shall, unless the context otherwise requires, mean a security that (A) is issued by a trust ("Trust") that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds positions in futures contracts that track the performance of a specified commodity, or interests in a commodity pool which, in turn, holds such positions; and (B) is issued and redeemed daily in specified aggregate amounts at net asset value. The term "futures contract" is a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(iv) **Designation of an Underlying Commodity Futures Contract.** Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Commodity Futures Trust Shares based on an underlying commodity futures contract. Each issue of Commodity Futures Trust Shares shall be designated as a separate series and shall be identified by a unique symbol.

(v) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Commodity Futures Trust Shares designated on different underlying futures contracts. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on reference assets, or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(vi) **Initial and Continued Listing .** Commodity Futures Trust Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) **Initial Listing—**Nasdaq will establish a minimum number of Commodity Futures Trust Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) **Continued Listing—**Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Commodity Futures Trust Shares under any of the following circumstances:

(1) if, following the initial twelve-month period beginning upon the commencement of trading of the Commodity Futures Trust Shares: (a) the Trust has fewer than 50,000 Commodity Futures Trust Shares issued and outstanding; or (b) the market value of all Commodity Futures Trust Shares issued and outstanding is less than \$1,000,000; or (c) there are fewer than 50 record and/or beneficial holders of Commodity Futures Trust Shares;

(2) if an interruption to the dissemination of the value of the underlying futures contracts persists past the trading day in which it occurred or is no longer calculated or available on at least a 15-second delayed basis during Nasdaq's Regular Market Session (as defined in Nasdaq Rule 4120) from a source unaffiliated with the sponsor, the Trust or the trustee of the Trust;

(3) if the net asset value for the Trust is no longer disseminated to all market participants at the same time;

(4) if an interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer disseminated on at least a 15-second delayed basis during Nasdaq's Regular Market Session (as defined in Nasdaq Rule 4120);

(5) if the Commodity Futures Trust Shares do not comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(6) if any of the requirements set forth in this rule are not continuously maintained; or

(7) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Commodity Futures Trust Shares issued in connection with such trust be removed from Nasdaq listing. A Trust will terminate in accordance with the provisions of the Trust prospectus.

(C) Term —The stated term of the Trust shall be as stated in the prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Trustee —The following requirements apply on an initial and continued listing basis:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate

trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting—Voting rights shall be as set forth in the applicable Trust prospectus.

(vii) Market Maker Accounts.

(A) A registered Market Maker in Commodity Futures Trust Shares must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Commodity Futures Trust Shares shall trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

(B) In addition to the existing obligations under Nasdaq rules regarding the production of books and records (see, e.g., Rule 4625), the registered Market Maker in Commodity Futures Trust Shares shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or nonregistered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by Nasdaq.

(viii) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying futures contract value; the current value of positions or interests if required to be deposited to the Trust in connection with issuance of Commodity Futures Trust Shares; net asset value; or other information relating to the purchase, redemption or trading of Commodity Futures Trust Shares, resulting from any negligent act or omission by Nasdaq, or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in an underlying futures contract.

Commentary:

.01 Members trading in Commodity Futures Trust Shares shall provide all purchasers of newly issued Commodity Futures Trust Shares a prospectus for the series of Commodity Futures Trust Shares.

.02 Transactions in Commodity Futures Trust Shares will occur during the trading hours specified in Rule 4120.

.03 If the Intraday Indicative Value or the value of the underlying futures contract is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the value of the underlying futures contract occurs. If the interruption to the dissemination of the Intraday Indicative Value or the value of the underlying futures contract persists past the trading day in which it occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption.

In addition, if Nasdaq becomes aware that the net asset value with respect to a series of Commodity Futures Trust Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value is available to all market participants.

.04 Nasdaq's rules governing the trading of equity securities apply.

.05 Nasdaq will implement and maintain written surveillance procedures for Commodity Futures Trust Shares.

(h) Partnership Units

(i) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Partnership Units that meet the criteria of this Rule.

(ii) Definitions. The following terms as used in the Rule shall, unless the context otherwise requires, have the meanings herein specified:

(A) Commodity. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(B) Partnership Units. The term "Partnership Units" for purposes of this Rule means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

(iii) Designation . Nasdaq may list and trade Partnership Units based on an underlying asset, commodity or security. Each issue of a Partnership Unit shall be designated as a separate series and shall be identified by a unique symbol.

(iv) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Partnership Units designated on different underlying

investments, commodities and/or assets. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(v) Initial and Continued Listing. Partnership Units will be listed and/or traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—Nasdaq will establish a minimum number of Partnership Units required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing— Nasdaq will consider the suspension of trading in and will initiate delisting proceedings under the Rule 5800 Series of Partnership Units under any of the following circumstances:

(1) if following the initial twelve month period following the commencement of trading of Partnership Units, (a) the partnership has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Partnership Units; (b) the partnership has fewer than 50,000 Partnership Units issued and outstanding; or (c) the market value of all Partnership Units issued and outstanding is less than \$1,000,000;

(2) if an interruption to the dissemination of the value of the underlying benchmark investment, commodity or asset persists past the trading day in which it occurred or is no longer calculated or available on at least a 15-second delayed basis by Nasdaq or one or more major market data vendors during the Regular Market Session (as defined in Nasdaq Rule 4120);

(3) if an interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer made available on at least a 15-second delayed basis;

(4) if the Partnership Units do not comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(5) if any of the requirements set forth in this rule are not continuously maintained; or

(6) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

Upon termination of a partnership, Nasdaq requires that Partnership Units issued in connection with such partnership be removed from Nasdaq listing. A partnership will terminate in accordance with the provisions of the partnership prospectus.

(C) Term—The stated term of the partnership shall be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the Partnership prospectus.

(D) General Partner—The following requirements apply on an initial and continued listing basis:

(1) The general partner of a partnership must be an entity having substantial capital and surplus and the experience and facilities for handling partnership business. In cases where, for any reason, an individual has been appointed as general partner, a qualified entity must also be appointed as general partner.

(2) No change is to be made in the general partner of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting—Voting rights shall be as set forth in the applicable partnership prospectus.

(vi) Market Maker Accounts.

(A) A registered Market Maker in Partnership Units must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading the underlying asset or commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Partnership Units shall trade in the underlying asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

(B) In addition to the existing obligations under Nasdaq rules regarding the production of books and records (see, e.g., Rule 4625), a registered Market Maker in Partnership Units shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying asset or commodity, related futures or options on futures, or any other related derivatives, as may be requested by Nasdaq.

(vii) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or

commodity value, the current value of the underlying asset or commodity if required to be deposited to the partnership in connection with issuance of Partnership Units; net asset value; or other information relating to the purchase, redemption or trading of Partnership Units, resulting from any negligent act or omission by Nasdaq or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

Commentary:

.01 Nasdaq requires that Members provide to all purchasers of newly issued Partnership Units a prospectus for the series of Partnership Units.

(i) Trust Units

(i) Applicability. The provisions in this Rule are applicable only to Trust Units. In addition, except to the extent inconsistent with this Rule, or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. Trust Units are included within the definition of "security," "securities," and "derivative securities products" as such terms are used in the Rules of Nasdaq.

(ii) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Trust Units designated on different underlying investments, commodities, assets and/or portfolios. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(iii) Definitions. The following terms as used in this Rule shall, unless the context otherwise requires, have the meanings herein specified:

(A) Commodity. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(B) Trust Units. The term "Trust Units" for purposes of this Rule means a security that is issued by a trust or other similar entity that is constituted as a commodity pool that holds investments comprising or otherwise based on any combination of futures contracts, options on futures contracts, forward contracts, swap contracts, commodities and/or securities.

(iv) Designation. Nasdaq may list and trade Trust Units based on an underlying asset, commodity, security or portfolio. Each issue of a Trust Unit shall be designated as a separate series and shall be identified by a unique symbol.

(v) Initial and Continued Listing. Trust Units will be listed and/or traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing.

(1) Nasdaq will establish a minimum number of Trust Units required to be outstanding at the time of commencement of trading on Nasdaq.

(2) Nasdaq will obtain a representation from the issuer of each series of Trust Units that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

(B) Continued Listing.

(1) Nasdaq will consider the suspension of trading in and will initiate delisting proceedings under the Rule 5800 Series of Trust Units under any of the following circumstances:

(a) if following the initial twelve month period following the commencement of trading of Trust Units, (i) the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Units; (ii) the trust has fewer than 50,000 Trust Units issued and outstanding; or (iii) the market value of all Trust Units issued and outstanding is less than \$1,000,000; or

(b) if the Trust Units do not comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets or trust holdings; (b) limitations on reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(c) if any of the requirements set forth in this rule are not continuously maintained; or

(d) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(2) Nasdaq will halt trading in a series of Trust Units if the circuit breaker parameters in Rule 4120(a)(11) have been reached. In exercising its discretion to halt or suspend trading in a series of Trust Units, Nasdaq may consider any relevant factors. In particular, if the portfolio and net asset value per share are not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the portfolio holdings or net asset value per share occurs. If the interruption to the dissemination of the portfolio holdings or net asset value per share

persists past the trading day in which it occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption.

Upon termination of a trust, Nasdaq requires that Trust Units issued in connection with such trust be removed from Nasdaq listing. A trust will terminate in accordance with the provisions of the prospectus.

(C) Term — The stated term of the trust shall be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the prospectus.

(D) Trustee — The following requirements apply on an initial and continued listing basis:

(1) The trustee of a trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting — Voting rights shall be as set forth in the prospectus.

(vi) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying portfolio value; net asset value; or other information relating to the purchase, redemption or trading of Trust Units, resulting from any negligent act or omission by Nasdaq or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the Trust Units.

(vii) Market Maker Accounts. A registered Market Maker in Trust Units must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

In addition to the existing obligations under Nasdaq rules regarding the production of books and records (see e.g., Rule 4625), a registered Market Maker in Trust Units shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by Nasdaq .

Commentary:

.01 Nasdaq requires that Members provide to all purchasers of newly issued Trust Units a prospectus for the series of Trust Units.

.02 Transactions in Trust Units will occur during the trading hours specified in Nasdaq Rule 4120.

(j) Managed Trust Securities

(i) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Managed Trust Securities that meet the criteria of this Rule.

(ii) **Applicability.** This Rule is applicable only to Managed Trust Securities. Managed Trust Securities are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of Nasdaq.

(iii) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Managed Trust Securities. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(iv) **Definitions.** The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(A) **Managed Trust Securities.** The term "Managed Trust Securities" as used in the Rules shall, unless the context otherwise requires, mean a security that is registered under the Securities Act of 1933, as amended, (1) is issued by a trust ("Trust") that (a) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (b) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts selected by the Trust's advisor consistent with the Trust's investment objectives, which will only include exchange-traded futures contracts involving commodities, currencies, stock indices, fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies,

each as disclosed in the Trust's prospectus as such may be amended from time to time; and (2) is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value.

(B) Disclosed Portfolio. The term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Trust that will form the basis for the Trust's calculation of net asset value at the end of the business day.

(C) Intraday Indicative Value. The term "Intraday Indicative Value" is the estimated indicative value of a Managed Trust Security based on current information regarding the value of the securities and other assets in the Disclosed Portfolio.

(D) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Managed Trust Securities means Nasdaq, an institution, or a reporting or information service designated by Nasdaq or by the Trust or the exchange that lists a particular series of Managed Trust Securities (if Nasdaq is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, the Intraday Indicative Value, the Disclosed Portfolio, the amount of any cash distribution to holders of Managed Trust Securities, net asset value, or other information relating to the issuance, redemption or trading of Managed Trust Securities. A series of Managed Trust Securities may have more than one Reporting Authority, each having different functions.

(v) Designation. Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Managed Trust Securities based on the underlying portfolio of exchange-traded futures and/or certain currency forward contracts described in the related prospectus. Each issue of Managed Trust Securities shall be designated as a separate trust or series and shall be identified by a unique symbol.

(vi) Initial and Continued Listing. Managed Trust Securities will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—Each series of Managed Trust Securities will be listed and traded on Nasdaq subject to application of the following initial listing criteria:

(1) Nasdaq will establish a minimum number of Managed Trust Securities required to be outstanding at the time of commencement of trading on Nasdaq.

(2) Nasdaq will obtain a representation from the issuer of each series of Managed Trust Securities that the net asset value per share for the series will be calculated daily and that the net asset value and the Disclosed Portfolio will be made available to all market participants at the same time.

(B) Continued Listing—Each series of Managed Trust Securities will be listed and traded on Nasdaq subject to application of the following continued listing criteria:

(1) Intraday Indicative Value. The Intraday Indicative Value for Managed Trust Securities will be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Trust Securities trade on Nasdaq.

(2) Disclosed Portfolio.

(a) The Disclosed Portfolio must be disseminated at least once daily and will be made available to all market participants at the same time.

(b) The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

(3) Rule Proposal Representations. Managed Trust Securities must continue to comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals.

(4) Suspension of trading or removal. Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Managed Trust Securities under any of the following circumstances:

(a) if, following the initial twelve-month period beginning upon the commencement of trading of the Managed Trust Securities: (A) the Trust has fewer than 50,000 Managed Trust Securities issued and outstanding; (B) the market value of all Managed Trust Securities issued and outstanding is less than \$1,000,000; or (C) there are fewer than 50 record and/or beneficial holders of Managed Trust Securities;

(b) if an interruption to the dissemination of the Intraday Indicative Value for the Trust persists past the trading day in which it occurred or is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time;

(c) if the Trust issuing the Managed Trust Securities has failed to file any filings required by the Securities and Exchange Commission or if Nasdaq is aware that the Trust is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Trust with respect to the series of Managed Trust Securities;

(d) if the series of Managed Trust Securities fails to comply with any of the requirements in paragraph (B) above; or

(e) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(5) **Trading Halts.** If the Intraday Indicative Value of a series of Managed Trust Securities is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value occurs. If the interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption. If a series of Managed Trust Securities is trading on Nasdaq pursuant to unlisted trading privileges, Nasdaq will halt trading in that series as specified in Rule 4120(a) or (b), as applicable. In addition, if Nasdaq becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

(6) Upon termination of a Trust, Nasdaq requires that Managed Trust Securities issued in connection with such Trust be removed from Nasdaq listing. A Trust will terminate in accordance with the provisions of the Trust prospectus.

(C) **Term** —The stated term of the Trust shall be as stated in the prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) **Trustee** —The following requirements apply on an initial and continued listing basis:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) **Voting**—Voting rights shall be as set forth in the applicable Trust prospectus.

(vii) **Market Maker Accounts.**

(A) A registered Market Maker in Managed Trust Securities must file with Nasdaq, in a manner prescribed by Nasdaq, and keep current a list identifying all accounts for trading the underlying commodity or applicable currency, related futures or options on futures, or any other related derivatives, which a registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Managed Trust Securities shall trade in the underlying commodity or applicable currency, related futures or options on futures, or any other related

derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

(B) In addition to the existing obligations under Nasdaq rules regarding the production of books and records, (see, e.g., Rule 4625) a registered Market Maker in Managed Trust Securities shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity or applicable currency, related futures or options on futures, or any other related derivatives, as may be requested by Nasdaq.

(viii) Limitation of Nasdaq Liability. Neither Nasdaq, the Reporting Authority nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying futures contract value; the current value of positions or interests if required to be deposited to the Trust in connection with issuance of Managed Trust Securities; net asset value; or other information relating to the purchase, redemption or trading of Managed Trust Securities, resulting from any negligent act or omission by Nasdaq, or the Reporting Authority, or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, or the Reporting Authority, including, but not limited to, fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in an underlying futures contract.

Commentary:

.01 Nasdaq requires that Members provide all purchasers of newly issued Managed Trust Securities a prospectus for the series of Managed Trust Securities.

.02 Transactions in Managed Trust Securities will occur during the trading hours specified in Rule 4120.

.03 Nasdaq's rules governing the trading of equity securities apply.

.04 Nasdaq will implement and maintain written surveillance procedures for Managed Trust Securities.

.05 If the Trust's advisor is affiliated with a broker-dealer, the broker-dealer shall erect and maintain a "fire wall" around the personnel who have access to information concerning changes and adjustments to the Disclosed Portfolio. Personnel who make decisions on the Trust's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Trust portfolio.

(k) Listing of Currency Warrants

(i) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Currency Warrants. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets; (b) limitations on the reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(ii) Each series of Currency Warrants will be listed and traded on Nasdaq subject to application of the following initial listing criteria:

(A) Term—One to five years from date of issuance.

(B) Cash Settlement—The warrants will be cash settled in U.S. dollars.

(C) Automatic Exercise—All currency warrants must include in their terms provisions specifying: (1) the time by which all exercise notices must be submitted, and (2) that all unexercised warrants that are in the money will be automatically exercised on their expiration date or on or promptly following the date on which such warrants are delisted by Nasdaq (if such warrant issue has not been listed on another organized securities market in the United States).

(iii) Each series of Currency Warrants shall meet the following criteria on an initial and continued listing basis. If a series of Currency Warrants does not satisfy these requirements, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

(A) Size and Earnings of Warrant Issuer—The warrant issuer will be expected to have a minimum tangible net worth in excess of \$250,000,000 and otherwise to exceed substantially the earnings requirements set forth in Rule 5405(b). In the alternative, the warrant issuer will be expected: (1) to have a minimum tangible net worth of \$150,000,000 and otherwise to exceed substantially the earnings requirements set forth in Rule 5405(b), and (2) not to have issued warrants where the original issue price of all the issuer's currency warrant offerings (combined with currency warrant offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the warrant issuer's net worth.

(B) Distribution/Market Value—(i) Minimum public distribution of 1,000,000 warrants together with a minimum of 400 public holders, and an aggregate market value of \$4,000,000; or (ii) Minimum public distribution of 2,000,000 warrants together with a minimum number of public warrant holders determined on a case by case basis, an aggregate market value of \$12,000,000 and an initial warrant price of \$6.

(iv) Suspension of trading or removal. Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Currency Warrants under any of the following circumstances:

(A) if a series of Currency Warrants is not in compliance with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets; (b) limitations on the reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(B) if any of the requirements set forth in this rule are not continuously maintained; or

(C) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(v) Regulatory Matters

(A) No Member shall accept an order from a customer to purchase or sell a Currency Warrant unless the customer's account has been approved for options trading pursuant to Chapter XI, Section 7 of the rules of The Nasdaq Options Market ("NOM").

(B) Suitability. The provisions of NOM Rules Chapter XI, Section 9 shall apply to recommendations in Currency Warrants and the term "option" as used therein shall be deemed for purposes of this Rule to include such warrants.

(C) Discretionary Accounts. Any account in which a Member exercises discretion to trade in Currency Warrants shall be subject to the provisions of NOM Rules, Chapter XI, Section 10 with respect to such trading. For purposes of this Rule, the terms, "option" and "options contract" as used in Chapter XI, Section 10 shall be deemed to include Currency Warrants.

(D) Supervision of Accounts. NOM Rules, Chapter XI, Section 8 shall apply to all customer accounts of a Member in which transactions in Currency Warrants are effected. The term "option" as used in Chapter XI, Section 8 shall be deemed to include Currency Warrants.

(E) Public Customer Complaints. NOM Rules, Chapter XI, Section 24 shall apply to all public customer complaints received by a Member regarding Currency Warrants. The term "option" as used in Chapter XI, Section 24 shall be deemed to include such warrants.

(F) Communications with Public Customers. Members participating in Currency Warrants shall be bound to comply with the Communications and Disclosures rule of FINRA, as applicable, as though such rule were part of these Rules.

(vi) Trading Halts or Suspensions. Trading on Nasdaq in any Currency Warrant shall be halted whenever Nasdaq deems such action appropriate in the interests of a fair and orderly market or to protect investors. Trading in Currency Warrants that have been

the subject of a halt or suspension by Nasdaq may resume if Nasdaq determines that the conditions which led to the halt or suspension are no longer present, or that the interests of a fair and orderly market are best served by a resumption of trading.

(vii) Reporting of Warrant Positions

(A) Each Member shall file with Nasdaq a report with respect to each account in which the Member has an interest, each account of a partner, officer, director, or employee of such Member, and each customer account that has established an aggregate position (whether long or short) of 100,000 warrants covering the same underlying currency combining for purposes of this Rule: (1) long positions in put warrants and short positions in call warrants, and (2) short positions in put warrants with long positions in call warrants. The report shall be in such form as may be prescribed by Nasdaq and shall be filed no later than the close of business on the next day following the day on which the transaction or transactions requiring the filing of such report occurred.

(B) Whenever a report shall be required to be filed with respect to an account pursuant to this Rule, the Member filing the same shall file with Nasdaq such additional periodic reports with respect to such account as Nasdaq may from time to time require.

(C) All reports required by this Rule shall be filed with Nasdaq in such manner and form as prescribed by Nasdaq.

Adopted Mar. 23, 2012 (SR-NASDAQ-2012-013); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

5712. Alpha Index-Linked Securities

Equity Index-Linked Securities are Linked Securities, as defined in Exchange Rule 5710, that provide for the payment at maturity of a cash amount based on the performance of an underlying equity index or indexes (an "Equity Reference Asset"). Nasdaq will consider for listing and trading Equity Index-Linked Securities with respect to which the Equity Reference Asset is one of the following indexes (the "Alpha Indexes"): GOOG vs. SPY (GOOSY) and AAPL vs. SPY (AVSPY). Each such Equity Index-Linked Security is referred to herein as an Alpha Index-Linked Security.

The Alpha Indexes are proprietary relative performance based indexes owned and maintained by Nasdaq, Inc. Each Alpha Index consists of two components. The Alpha Indexes that underlie Alpha Index-Linked Securities measure relative total returns of one stock versus SPY, a non-leveraged ETF share (each such combination of two components is referred to as an "Alpha Pair"). The first component identified in an Alpha Pair (the "Target Component") is measured against the second component identified in the Alpha Pair (the "Benchmark Component").

- (a) Nasdaq will file separate proposals under Section 19(b) of the Act before listing and trading separate and distinct Alpha Index-Linked Securities that are not linked to previously approved Alpha Indexes. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets; (b) limitations on the reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.
- (b) **Initial Listing.** Nasdaq will consider Alpha-Index Linked Securities for listing and trading provided that:
- (i) the requirements set forth for Equity Index-Linked Securities in Exchange Rule 5710(a)-(j) are met; and
 - (ii) each Alpha Index underlying an Alpha Index-Linked Security meets the following criteria. The initial listing criteria set forth in Rule 5710(k)(i)(A) do not apply to Alpha Index-Linked Securities. Instead, at initial listing of the Alpha Index-Linked Security, options on both the Target Component and the Benchmark Component of the Alpha Index must also be listed and traded on The Nasdaq Options Market and must meet the requirements of Chapter IV, Section 3, Criteria for Underlying Securities, of The Nasdaq Options Market rules. Additionally, both the Target Component's and the Benchmark Component's trading volume (in all markets in which the Target Component and the Benchmark Component are traded) must have averaged at least 2,250,000 shares per day in the preceding twelve months. No Alpha Index-Linked Security will be listed unless and until options overlying each of the Target Component and the Benchmark Component have been listed and traded on a national securities exchange with an average daily options trading volume during the three previous months of at least 10,000 contracts. Finally, values of Alpha Indexes underlying Alpha Index-Linked Securities must be disseminated at least once every second over the Nasdaq Global Index Data Service ("GIDS").
- (c) **Continued Listing.** The continued listing criteria set forth in Rule 5710(k)(i)(B) do not apply to Alpha Index-Linked Securities. Instead, following the initial listing of the Alpha Index-Linked Security, options on both the Target Component and the Benchmark Component of the Alpha Index must continue to meet the continued listing standards set forth by Chapter IV, Section 4, Withdrawal of Approval of Underlying Securities, of The Nasdaq Options Market rules. Additionally, both the Target Component's and the Benchmark Component's trading volume (in all markets in which the Target Component and Benchmark Component are traded) must have averaged at least 2,000,000 shares per day in the preceding twelve months. Following the listing of an Alpha Index-Linked Security, options on each of the Target Component and Benchmark Component of the Alpha Index must continue to meet the options average daily volume standard set forth in Section (a)(ii) above.

(d) **Delisting or Removal Proceedings.** Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series (unless the Commission has approved the continued trading) with respect to any Alpha Index-Linked Security if the standards set forth in Rule 5712(c) with respect to the underlying Alpha Index or any of the requirements below are not continuously maintained.

(i) if the aggregate market value or principal amount of the Alpha Index-Linked Securities publicly held is less than \$400,000;

(ii) if an interruption to the dissemination of the value of the underlying Alpha Index persists past the trading day in which it occurred or is no longer calculated or widely disseminated on at least a one second basis, provided, however, that if the official index value does not change during some or all of the period when trading is occurring on Nasdaq then the last calculated official index value must remain available throughout Nasdaq trading hours;

(iii) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable;

(iv) if the Alpha-Index Linked Securities no longer comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the reference assets; (b) limitations on the reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals; or

(v) if any of the requirements set forth in this rule are not continuously maintained.

(vi) if an underlying Alpha Index fails to satisfy the maintenance standards or conditions for such index as set forth by the Commission in its order under Section 19(b) of the Act approving the index for the trading of options or other derivatives.

Adopted Aug. 8, 2012 (SR-NASDAQ-2012-058); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

5713. Paired Class Shares

(a) Nasdaq will consider for trading, whether by listing or pursuant to unlisted trading privileges, Paired Class Shares that meet the criteria of this Rule.

(b) **Applicability.** This Rule is applicable only to Paired Class Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the By-laws and all other rules and procedures of the Board of Directors shall be applicable to

the trading on Nasdaq of such securities. Paired Class Shares are included within the definition of "security" or "securities" as such terms are used in the By-laws and Rules of Nasdaq.

(c) Nasdaq will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 ("Act") before listing and trading Paired Class Shares. In addition, prior to a substitute or replacement Underlying Benchmark being selected for the Fund, Nasdaq must file a related proposed rule change pursuant to Rule 19b-4 under the Act to continue listing and trading the Paired Class Shares. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(d) Paired Class Shares. The term "Paired Class Share" means a security: (1) that is issued by a trust (the "Trust") on behalf of a segregated series (the "Fund") as part of a pair of shares of opposing classes whose respective underlying values move in opposite directions as the value of the Fund's Underlying Benchmark (defined in Rule 5713(f)) varies from its starting level, where one constituent of the pair is positively linked to the Fund's Underlying Benchmark ("Up Shares") and the other constituent is inversely linked to the Fund's Underlying Benchmark ("Down Shares"); (2) that is issued in exchange for cash; (3) the issuance proceeds of which are invested and reinvested in highly rated short-term financial instruments that mature within 90 calendar days and that serve the functions of (i) covering the Fund's expenses, (ii) providing income distributions to investors, based on income (after expenses) from the financial instruments held by the Fund, (iii) providing cash proceeds for regular and special distributions to be made in cash in lieu of Paired Class Shares, and (iv) providing cash proceeds to be paid upon the redemption of Paired Class Shares; (4) that represents a beneficial interest in the Fund; (5) the value of which is determined by the underlying value of the Fund that is attributable to the class of which such security is a part, which security underlying value will either (i) increase as a result of an increase in the Underlying Benchmark and decrease as a result of a decrease in the Underlying Benchmark (in the case of an Up Share) or (ii) increase as a result of a decrease in the Underlying Benchmark and decrease as the result of an increase in the Underlying Benchmark (in the case of a Down Share); (6) that, when timely aggregated in a specified minimum number or amount of securities, along with an equal number or amount of the securities of the opposite class that constitute the other part of the pair, may be redeemed for a distribution of cash on specified dates by authorized parties; and (7) that may be subject to mandatory redemption of all Paired Class Shares under specified circumstances.

(e) Distributions. A Fund may engage in scheduled regular distributions, special distributions that are automatically triggered upon the Underlying Benchmark exceeding a fixed rate of change since the prior distribution, and corrective distributions that are automatically triggered when the trading price of a Paired Class

Share deviates by a specified amount from its underlying value for a specified period of time.

(f) Designation. Nasdaq may trade, either by listing or pursuant to unlisted trading privileges, Paired Class Shares whose values are based on an index or other numerical variable ("Underlying Benchmark") whose value reflects the value of assets, prices, price volatility or other economic interests ("Reference Asset"). Each issue of Up Shares or Down Shares of a Fund shall be designated as a separate series and shall be identified by a unique symbol.

(g) Initial and Continued Listing. Paired Class Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(i) Initial Listing

(A) Nasdaq will establish a minimum number of Paired Class Shares for each Fund required to be outstanding at the time of commencement of trading on Nasdaq;

(B) Nasdaq will obtain a representation from the Trust on behalf of each Fund that the underlying value per share of each Up Share and Down Share will be calculated daily and that these underlying values and information about the assets of the Fund will be made available to all market participants at the same time; and

(C) If the Underlying Benchmark is maintained by a broker-dealer or investment advisor, the broker-dealer or investment advisor shall erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.

(ii) Continued Listing—Nasdaq will consider the suspension of trading in and will initiate delisting proceedings under the Rule 5800 Series of a Fund's Paired Class Shares under any of the following circumstances:

(A) if, following the initial twelve-month period beginning upon the commencement of trading of the Paired Class Shares: (i) there are fewer than 50 record and/or beneficial holders of the Fund's Up Shares or Down Shares; (ii) the Fund has fewer than 50,000 Up Shares or 50,000 Down Shares issued and outstanding; or (iii) the combined market value of all shares of a Fund issued and outstanding is less than \$1,000,000;

(B) if an interruption to the dissemination of the intraday level of the Underlying Benchmark persists past the trading day in which it occurred, or a substitute or replacement Underlying Benchmark based on the same Reference Asset, is no longer calculated or available on at least a 15-second delayed basis during the Regular Market Session from a source unaffiliated with the sponsor, the

custodian, the trustee of the Trust, the Fund or Nasdaq that is a major market data vendor (e.g., Reuters or Bloomberg);

(C) if the underlying value per share of each Up Share and Down Share of a Fund is no longer made available on a daily basis to all market participants at the same time;

(D) if an interruption to the dissemination of the estimate of the value of a share of the series of Paired Class Shares (the "Intraday Indicative Value") of the underlying value of each listed Up Share and Down Share of the Fund persists past the trading day in which it occurred or is no longer made available on at least a 15-second delayed basis by a major market vendor during the Regular Market Session;

(E) if the "fire wall" erected around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark is no longer in place;

(F) if Paired Class Shares no longer comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(G) if any of the requirements set forth in this rule are not continuously maintained; or

(H) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(iii) Term - The stated term of a Fund shall be as stated in the Fund prospectus. However, a Fund may be terminated under such earlier circumstances as may be specified in the Fund prospectus.

(iv) Trustee - The following requirements apply on an initial and continued listing basis:

(A) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee; and

(B) No change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(v) Voting - Voting rights, if any, shall be as set forth in the applicable Fund prospectus.

(h) Limitation of Nasdaq Liability. Neither Nasdaq nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable Underlying Benchmark value; the underlying value of the Fund and its Paired Class Shares; distribution values or any other information relating to the purchase, redemption, or trading of the Paired Class Shares, resulting from any negligent act or omission by Nasdaq, or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the applicable positions or interests.

(i) Market Maker Accounts.

(i) A registered Market Maker in Paired Class Shares must file with Nasdaq in a manner prescribed by Nasdaq and keep current a list identifying all accounts for trading in the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to Nasdaq as required by this Rule.

(ii) In addition to the existing obligations under Nasdaq rules regarding the production of books and records, (see e.g., Rule 4625), a registered Market Maker in Paired Class Shares shall make available to Nasdaq such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, as may be requested by Nasdaq.

••• *Commentary* -----

.01 Nasdaq requires that Members provide all purchasers of newly issued Paired Class Shares a prospectus for the Fund.

.02 Transactions in Paired Class Shares will occur during the trading hours specified in Rule 4120.

.03 Nasdaq will implement and maintain written surveillance procedures for trading the Paired Class Shares.

Adopted Feb. 18, 2015 (SR-NASDAQ-2014-065); amended Apr. 27, 2016 (SR-NASDAQ-2016-034); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5715. Selected Equity-linked Debt Securities ("SEEDS")

(a) Definition

(1) SEEDS are limited-term, non-convertible debt securities of a Company where the value of the debt is based, at least in part, on the value of up to thirty (30) other issuers' common stock or non-convertible preferred stock (or sponsored American Depositary Receipts (ADRs) overlying such equity securities).

(2) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of SEEDS that do not otherwise meet the standards set forth in this rule. Any of the statements or representations regarding the index composition or reference asset, the description of the index or reference asset, limitations on the index or reference assets, dissemination and availability of the index, reference asset, or intraday indicative values, or the applicability of Nasdaq listing rules specified in such proposals, constitute continued listing standards.

(b) Listing Requirements - SEEDS shall meet the following criteria on both an initial and continued listing basis. If a series of SEEDS does not satisfy these requirements, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

Nasdaq will consider listing on the Nasdaq Global Market or Nasdaq Global Select Market Selected Equity-linked Debt Securities (SEEDS), pursuant to Rule 19b-4(e) under the Act, that meet the criteria of paragraph (b) of this rule.

(1) Issuer Listing Standards - An issuer of SEEDS shall meet the following criteria on both an initial and continued listing basis. If an issuer of SEEDS does not satisfy these requirements, Nasdaq may halt trading in the SEEDS and will initiate delisting proceedings pursuant to the Rule 5800 Series.

(A) The issuer of a SEEDS must be an entity that:

(i) is listed on the Nasdaq Global Market, Nasdaq Global Select or the New York Stock Exchange (NYSE) or is an affiliate of a Company listed on the Nasdaq Global Market, Nasdaq Global Select or the NYSE; provided, however, that the provisions of Rule 5730(b) will be applied to sovereign issuers of SEEDS on a case-by-case basis; and

(ii) has a minimum net worth of \$150 million.

(B) In addition, the market value of a SEEDS offering, when combined with the market value of all other SEEDS offerings previously completed by the Company and traded on the Nasdaq Global, Nasdaq Global Select Market or another national securities exchange, may not be greater than 25 percent of the Company's net worth at the time of issuance.

(2) Issue Listing Standards- SEEDS shall meet the following criteria on both an initial and continued listing basis. If a series of SEEDS does not satisfy these requirements, Nasdaq may halt trading in the securities and will initiate delisting proceedings pursuant to the Rule 5800 Series.

(A) Equity-Linked Debt Security Listing Standards

The issue must have:

(i) a minimum public distribution of one million SEEDS;

(ii) a minimum of 400 holders of the SEEDS, provided, however, that if the SEEDS is traded in \$1,000 denominations or is redeemable at the option of holders thereof on at least a weekly basis, there is no minimum number of holders and no minimum public distribution;

(iii) a minimum market value of \$4 million; and

(iv) a minimum term of one year.

(B) Minimum Standards Applicable to the Linked Security

An equity security on which the value of the SEEDS is based must:

(i)(a.) have a market value of listed securities of at least \$3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS;

(b.) have a market value of listed securities of at least \$1.5 billion and a trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the SEEDS; or

(c) have a market value of listed securities of at least \$500 million and a trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the SEEDS.

(ii) be issued by a Company that has a continuous reporting obligation under the Act, and the security must be listed on the Nasdaq Global Market, Nasdaq Global Select or another national securities exchange and be subject to last sale reporting; and

(iii) be issued by:

(a.) a U.S. company; or

(b.) a non-U.S. company (including a Company that is traded in the United States through sponsored ADRs) (for purposes of this paragraph, a non-U.S. company is any company formed or incorporated outside of the United States) if:

1. Nasdaq or its subsidiaries has a comprehensive surveillance sharing agreement in place with the primary exchange in the country where the security is primarily traded (in the case of an ADR, the primary exchange on which the security underlying the ADR is traded);

2. the combined trading volume of the non-U.S. security (a security issued by a non-U.S. company) and other related non-U.S. securities occurring in the U.S. market and in markets with which Nasdaq or its subsidiaries has in place a comprehensive surveillance sharing agreement represents (on a share equivalent basis for any ADRs) at least 50% of the combined world-wide trading volume in the non-U.S. security, other related non-U.S. securities, and other classes of common stock related to the non-U.S. security over the six month period preceding the date of listing; or

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a. the combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and in other related non-U.S. securities over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing.

b. the average daily trading volume for the non-U.S. security in the U.S. markets over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing is 100,000 or more shares; and

c. the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing.

(iv) If the underlying security to which the SEEDS is to be linked is the stock of a non-U.S. company which is traded in the U.S. market as a sponsored ADR, ordinary

shares or otherwise, then the minimum number of holders of the underlying linked security shall be 2,000.

(C) Limits on the Number of SEEDS Linked to a Particular Security

(i) The issuance of SEEDS relating to any underlying U.S. security may not exceed five percent of the total outstanding shares of such underlying security. The issuance of SEEDS relating to any underlying non-U.S. security or sponsored ADR may not exceed:

(a.) two percent of the total shares outstanding worldwide if at least 30 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing (The two percent limit, based on 20 percent of the worldwide trading volume in the non-U.S. security or sponsored ADR, applies only if there is a comprehensive surveillance sharing agreement in place with the primary exchange in the country where the security is primarily traded, or, in the case of an ADR, the primary exchange on which the security underlying the ADR is traded. If there is no such agreement, subparagraph (B) above requires that the combined trading volume of such security and other related securities occurring in the U.S. market represents (on a share equivalent basis for any ADRs) at least 50% of the combined worldwide trading volume in such security, other related securities, and other classes of common stock related to such security over the six month period preceding the date of listing.);

(b.) three percent of the total shares outstanding worldwide if at least 50 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing; or

(c.) five percent of the total shares outstanding worldwide if at least 70 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing.

(ii) If a Company proposes to issue SEEDS that relate to more than the allowable percentages of the underlying security specified above, then Nasdaq, with the concurrence of the staff of the Division of Market Regulation of the Commission, will evaluate the maximum percentage of SEEDS that may be issued on a case-by-case basis.

(D) Prior to the commencement of trading of a particular SEEDS listed pursuant to this subsection, Nasdaq or its subsidiaries will distribute a circular to the membership providing guidance regarding Nasdaq member firm compliance responsibilities (including suitability recommendations and account approval) when handling transactions in SEEDS.

(3) Prior to the commencement of trading of a particular SEEDS listed pursuant to this subsection, Nasdaq or its subsidiaries will distribute a circular to the membership providing guidance regarding Nasdaq member firm compliance responsibilities

(including suitability recommendations and account approval) when handling transactions in SEEDS.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Aug. 17, 2009 (SR-NASDAQ-2009-075); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5720. Trust Issued Receipts

(a) Definitions

(1) The term "Trust Issued Receipt" means a security (a) that is issued by a trust ("Trust") which holds specified securities deposited with the Trust; (b) that, when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

(b) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Trust Issued Receipts that do not otherwise meet the standards set forth below. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; or (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(c) Listing Requirements

(1) Nasdaq requires that Members provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts.

(2) The eligibility requirements for component securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either:

(A) distributed by a Company already included as a component security in the series of Trust Issued Receipts; or

(B) received in exchange for the securities of a Company previously included as a component security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) the component security must be listed on Nasdaq or another national securities exchange;

(ii) the component security must be registered under Section 12 of the Act; and

(iii) the component security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by the component securities included in the Trust Issued Receipt at the time of the distribution or exchange.

(3) Transactions in Trust Issued Receipts may be effected until 4:00 p.m. ET each business day.

(4) Nasdaq may list and trade Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities shall be designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts shall be selected by Nasdaq or its agent, a wholly-owned subsidiary of Nasdaq, or by such other person as shall have a proprietary interest in such Trust Issued Receipts.

(5) Trust Issued Receipts will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing — for each Trust, Nasdaq will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of the commencement of trading on Nasdaq.

(B) Continued Listing — Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances:

(i) following the initial twelve month period following formation of a Trust and commencement of trading on Nasdaq, if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts;

(ii) following the initial twelve month period following formation of a Trust and commencement of trading on Nasdaq, if the Trust has fewer than 50,000 receipts issued and outstanding;

(iii) following the initial twelve month period following formation of a Trust and commencement of trading on Nasdaq, if the market value of all receipts issued and outstanding is less than \$1 million;

(iv) if the Trust Issued Receipts do not comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(v) if any of the requirements set forth in this rule are not continuously maintained;

(vi) if the series of Trust Issued Receipts was listed pursuant to Rule 19b4-(e) under the Act, any component security does not meet any of the requirements of paragraph (7) below; or

(vii) if such other event shall occur or condition exists which, in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Trust Issued Receipts issued in connection with such Trust be removed from listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(C) Term — the stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Trustee — the following requirements apply on an initial and continued listing basis:

(i) the trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) no change is to be made in the trustee of a listed issue without prior notice to and approval of Nasdaq.

(E) Voting — voting rights shall be as set forth in the Trust prospectus.

(6) Unit of Trading — transactions in Trust Issued Receipts may only be made in round lots of 100 receipts or round lot multiples.

(7) Nasdaq may approve a series of Trust Issued Receipts for listing and trading on Nasdaq pursuant to Rule 19b-4(e) under the Act, provided each of the component securities satisfies the following criteria on an initial and continued listing basis:

(A) each component security must be registered under Section 12 of the Act;

(B) each component security must have a minimum public float of at least \$150 million;

(C) each component security must be listed on Nasdaq or another national securities exchange;

(D) each component security must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;

(E) each component security must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least \$1 million; and

(F) the most heavily weighted component security may not initially represent more than 20% of the overall value of the Trust Issued Receipt.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5725. Index Warrants

(a) Definitions

(1) "Index Warrants" means instruments that are direct obligations of the issuing company, either exercisable throughout their life (i.e., American style) or exercisable only on their expiration (i.e., European style), entitling the holder to a cash settlement in U.S. dollars to the extent that the index has declined below (for a put warrant) or increased above (for a call warrant) the pre-stated cash settlement value of the index. Index Warrants may be based on either foreign or domestic indexes.

(2) Nasdaq may submit a rule filing pursuant to Section 19(b) of the Act to permit the listing and trading of Index Warrants that do not otherwise meet the standards set forth in this rule. Any of the statements or representations regarding (a) the index composition or reference assets; (b) limitations on the index or reference assets; (c) dissemination and availability of the index, reference asset, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals constitute continued listing standards.

(b) Listing Requirements. Index Warrants listed pursuant to this rule shall meet the following criteria on an initial and continued listing basis. If any of these criteria are not continuously maintained, Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, the series of Index Warrants.

(1) An Index Warrant may be listed on the Global Market if it substantially meets the following criteria:

(A) The minimum public distribution shall be at least 1 million warrants.

(B) The minimum number of Public Holders shall be at least 400.

(C) The Market Value of the outstanding Index Warrants shall be at least \$4 million.

(D) The issuer of the Index Warrants must have a minimum tangible net worth in excess of \$150 million.

(E) The term of the Index Warrant shall be for a period from one to five years.

(F) Limitations on Issuance — Where a Company has a minimum tangible net worth in excess of \$150 million but less than \$250 million, Nasdaq will not list stock Index Warrants of the Company if the value of such warrants plus the aggregate value, based upon the original issuing price, of all outstanding stock index, currency index and currency warrants of the Company and its affiliates combined that are listed for trading on Nasdaq or another national securities exchange exceeds 25% of the Company's net worth.

(G) A.M. Settlement — The terms of stock Index Warrants for which 25% or more of the value of the underlying index is represented by securities that are traded primarily in the United States must provide that the opening prices of the stocks comprising the index will be used to determine (i) the final settlement value (i.e., the settlement value for warrants that are exercised at expiration) and (ii) the settlement value for such warrants that are valued on either of the two business days preceding the day on which the final settlement value is to be determined.

(H) Automatic Exercise — All stock Index Warrants and any other cash-settled warrants must include in their terms provisions specifying (i) the time by which all exercise notices must be submitted and (ii) that all unexercised warrants that are in the money (or that are in the money by a stated amount) will be automatically exercised on their expiration date or on or promptly following the date on which such warrants are delisted by Nasdaq (if such warrant issue has not been listed on another national securities exchange).

(I) Foreign Country Securities — In instances where the stock index underlying a warrant is comprised in whole or in part with securities traded outside the United States, the foreign country securities or American Depositary Receipts ("ADRs") thereon that (i) are not subject to a comprehensive surveillance agreement, and (ii) have less than 50% of their global trading volume in dollar value within the United States, shall not, in the aggregate represent more than 20% of the weight of the index, unless such index is otherwise approved for warrant or option trading.

(J) Changes in Number of Warrants Outstanding — Issuers of stock Index Warrants either will make arrangements with warrant transfer agents to advise Nasdaq immediately of any change in the number of warrants outstanding due to the early exercise of such warrants or will provide this information themselves. With respect to stock Index Warrants for which 25% or more of the value of the underlying index is represented by securities traded primarily in the United States, such notice shall be filed with Nasdaq no later than 4:30 p.m. Eastern Time, on the date when the settlement value for such warrants is determined. Such notice shall be filed in such form and manner as may be prescribed by Nasdaq from time to time.

(K) Only eligible broad-based indexes can underlie Index Warrants. For purposes of this subparagraph, eligible broad-based indexes shall include those indexes approved

by the Commission to underlie Index Warrants or index options traded on Nasdaq or another national securities exchange.

(L) Rule Proposal Representations. Index Warrants must continue to comply with any statements or representations included in the applicable rule proposal under Section 19(b) regarding (a) the index composition or reference asset; (b) the description of the index or reference asset; (c) limitations on the index or reference assets; (c) dissemination and availability of the index, reference asset, or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals.

Any Index Warrant listed pursuant to this paragraph shall not be required to meet the requirements of Rule 5210(h), 5210(a), or 5450. Nasdaq may apply additional or more stringent criteria as necessary to protect investors and the public interest.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended Sep. 27, 2017 (SR-NASDAQ-2017-101).

5730. Listing Requirements for Securities Not Otherwise Specified (Other Securities)

(a) Initial Listing Requirements

(1) Nasdaq will consider listing on the Global Market any security not otherwise covered by the criteria in the Rule 5400 or 5700 Series, provided the instrument is otherwise suited to trade through the facilities of Nasdaq. Such securities will be evaluated for listing against the following criteria:

(A) The Company shall have assets in excess of \$100 million and stockholders' equity of at least \$10 million. In the case of a Company which is unable to satisfy the income criteria set forth in Rule 5405 (b)(1)(A), Nasdaq generally will require the Company to have the following:

(i) assets in excess of \$200 million and stockholders' equity of at least \$10 million; or

(ii) assets in excess of \$100 million and stockholders' equity of at least \$20 million.

(B) For equity securities, there must be:

(i) a minimum of 400 holders of the security; and

(ii) a minimum public distribution of 1,000,000 trading units.

However, if the instrument is redeemable at the option of the holders thereof on at least a weekly basis, these requirements shall not apply.

(C) The aggregate market value/principal amount of the security shall be at least \$4 million.

(2) Issuers of securities listed pursuant to this Rule 5730 must be listed on the Nasdaq Global Market, Nasdaq Global Select Market or the New York Stock Exchange (NYSE) or be an affiliate of a Company listed on the Nasdaq Global Market, Nasdaq Global Select Market or the NYSE; provided, however, that the provisions of Rule 5450 will be applied to sovereign issuers of "other" securities on a case-by-case basis.

(3) Prior to the commencement of trading of securities listed pursuant to this paragraph, Nasdaq will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the membership providing guidance regarding Nasdaq member firm compliance responsibilities and requirements when handling transactions in such securities.

(b) Continued Listing Requirements

Except as otherwise provided in these rules, the aggregate market value or principal amount of publicly-held units must be at least \$1 million.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Feb. 19, 2010 (SR-NASDAQ-2010-024); amended Jan. 11, 2012 (SR-NASDAQ-2012-008); amended Mar. 23, 2012 (SR-NASDAQ-2012-013); amended Nov. 16, 2012 (SR-NASDAQ-2012-131).

5735. Managed Fund Shares

(a) Nasdaq will consider listing Managed Fund Shares that meet the criteria of Rule 5735.

(b) **Applicability.** Rule 5735 is applicable only to Managed Fund Shares. Except to the extent inconsistent with Rule 5735, or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. Managed Fund Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of Nasdaq.

(1) Nasdaq may approve Managed Fund Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934. Components of a series of Managed Fund Shares listed pursuant to Rule 19b-4(e) shall satisfy the criteria set forth in this Rule 5735 upon initial listing and on a continual basis. Nasdaq will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of a series of Managed Fund Shares with components that do not satisfy the criteria set forth in this Rule 5735(b)(1) or components other than those specified below. Any of the statements or representations regarding (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.

(A) Equity - Equity securities include the following: U.S. Component Stocks (as defined in Rule 5705); Non-U.S. Component Stocks (as defined in Rule 5705); Exchange Traded Derivative Securities (as defined in Rule 5735(c)(6)); and Linked Securities (as defined in Rule 5710). For Exchange Traded Derivative Securities and Linked Securities, no more than 25% of the equity weight of the portfolio shall consist of leveraged and/or inverse leveraged Exchange Traded Derivative Securities or Linked Securities. The securities defined in Rules 5705, 5710, and 5735(c)(6), as referenced above, shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules. To the extent that a portfolio includes convertible securities, the equity security into which such security is converted shall meet the criteria of this Rule 5735(b)(1)(A) after converting.

(i) U.S. Component Stocks. The component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(a) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum market value of at least \$75 million;

(b) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months;

(c) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 65% of the equity weight of the portfolio;

(d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares;

- (e) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934; and
 - (f) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.
- (ii) Non-U.S. Component Stocks. The component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:
- (a) Non-U.S. Component Stocks each shall have a minimum market value of at least \$100 million;
 - (b) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months;
 - (c) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio;
 - (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and
 - (e) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.
- (B) Fixed Income - Fixed income securities are debt securities that are notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper. To the extent that a portfolio includes convertible securities, the fixed income security into which such security is converted shall meet the criteria of this Rule 5735(b)(1)(B) after converting. The

components of the fixed income portion of a portfolio shall meet the following criteria initially and on a continuing basis:

- (i) Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum principal amount outstanding of \$100 million or more;
 - (ii) No component fixed-income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the fixed income weight of the portfolio, and the five most heavily weighted component fixed income securities in the portfolio (excluding Treasury Securities and GSE Securities) shall not in the aggregate account for more than 65% of the fixed income weight of the portfolio;
 - (iii) An underlying portfolio (excluding exempted securities) that includes fixed income securities shall include a minimum of 13 non-affiliated issuers, provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in Rule 5735(b)(1)(A) above;
 - (iv) Component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Securities Exchange Act of 1934; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and
 - (v) Non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.
- (C) Cash and Cash Equivalents. Cash equivalents shall include short-term instruments with maturities of less than 3 months (as described herein). In addition, a portfolio may hold cash.
- (i) There shall be no limitation to the percentage of the portfolio invested in such holdings.
 - (ii) Short-term instruments shall include the following:
 - (a) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities;

- (b) certificates of deposit issued against funds deposited in a bank or savings and loan association;
- (c) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions;
- (d) repurchase agreements and reverse repurchase agreements;
- (e) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest;
- (f) commercial paper, which are short-term unsecured promissory notes; and
- (g) money market funds.

(D) Listed Derivatives. The portfolio may hold listed derivatives, including futures, options and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing. There shall be no limitation to the percentage of the portfolio invested in such holdings, subject to the following requirements:

- (i) in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group ("ISG"), from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. (For purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.); and
- (ii) the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).

(E) Over-the-Counter ("OTC") Derivatives. The portfolio may hold OTC derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

(F) To the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

(2) Transactions in Managed Fund Shares will occur throughout Nasdaq's trading hours.

(3) Reserved

(4) Surveillance Procedures. Nasdaq will implement and maintain written surveillance procedures for Managed Fund Shares.

(5) Creation and Redemption. For Managed Fund Shares based on an international or global portfolio, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Managed Fund Shares must state that such series must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

(c) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(1) Managed Fund Share. The term "Managed Fund Share" means a security that (a) represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value.

(2) Disclosed Portfolio. The term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. The website for each series of Managed Fund Shares shall disclose the following information regarding the Disclosed Portfolio, to the extent applicable:

(A) ticker symbol;

- (B) CUSIP or other identifier;
- (C) description of the holding;
- (D) with respect to holdings in derivatives, the identity of the security, commodity, index or other asset upon which the derivative is based;
- (E) the strike price for any options;
- (F) the quantity of each security or other asset held as measured by;
 - (i) par value,
 - (ii) notional value,
 - (iii) number of shares,
 - (iv) number of contracts, and
 - (v) number of units;
- (G) maturity date;
- (H) coupon rate;
- (I) effective date;
- (J) market value; and
- (K) percentage weighting of the holding in the portfolio.

(3) Intraday Indicative Value. The term "Intraday Indicative Value" is the estimated indicative value of a Managed Fund Share based on current information regarding the value of the securities and other assets in the Disclosed Portfolio.

(4) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Managed Fund Shares means Nasdaq, an institution, or a reporting service designated by Nasdaq or by the exchange that lists a particular series of Managed Fund Shares (if Nasdaq is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, the Intraday Indicative Value; the Disclosed Portfolio; the amount of any cash distribution to holders of Managed Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Managed Fund Shares. A series of Managed Fund Shares may have more than one Reporting Authority, each having different functions.

(5) Normal Market Conditions. The term "normal market conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets

generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as a natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

(6) Exchange Traded Derivative Securities. The term "Exchange Traded Derivative Securities" means the securities described in Nasdaq Rules 5705(a) (Portfolio Depository Receipts); 5705(b) (Index Fund Shares); 5720 (Trust Issued Receipts); 5711(d) (Commodity-Based Trust Shares); 5711(e) (Currency Trust Shares); 5711(f) (Commodity Index Trust Shares); 5711(g) (Commodity Futures Trust Shares); 5711(h) (Partnership Units); 5711(i) (Trust Units); 5735 (Managed Fund Shares); and 5711(j) (Managed Trust Securities).

(d) Initial and Continued Listing — Managed Fund Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(1) Initial Listing — Each series of Managed Fund Shares will be listed and traded on Nasdaq subject to application of the following initial listing criteria:

(A) For each series, Nasdaq will establish a minimum number of Managed Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Nasdaq will obtain a representation from the issuer of each series of Managed Fund Shares that the net asset value per share for the series will be calculated daily and that the net asset value and the Disclosed Portfolio will be made available to all market participants at the same time.

(C) All Managed Fund Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

(2) Continued Listing — Each series of Managed Fund Shares will be listed and traded on Nasdaq subject to application of the following continued listing criteria:

(A) Intraday Indicative Value. The Intraday Indicative Value for Managed Fund Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session (as defined in Nasdaq Rule 4120(b)).

(B) Disclosed Portfolio.

(i) The Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

(ii) The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

(C) Suspension of trading or removal. Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of Managed Fund Shares under any of the following circumstances:

(i) if, following the initial twelve-month period after commencement of trading on Nasdaq of a series of Managed Fund Shares, there are fewer than 50 beneficial holders of the series of Managed Fund Shares;

(ii) if there is an interruption to the dissemination of value of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time;

(iii) if the Investment Company issuing the Managed Fund Shares has failed to file any filings required by the Commission or if Nasdaq is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Managed Fund Shares;

(iv) if the series of Managed Fund Shares is not in compliance with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;

(v) if any of the requirements set forth in this rule are not continuously maintained; or

(vi) if such other event shall occur or condition exists which, in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

(D) Trading Halt. If the Intraday Indicative Value of a series of Managed Fund Shares is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value occurs. If the interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption. In addition, if Nasdaq becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

(E) Termination. Upon termination of an Investment Company, Nasdaq requires that Managed Fund Shares issued in connection with such entity be removed from listing on Nasdaq.

(F) Voting. Voting rights shall be as set forth in the applicable Investment Company prospectus.

(e) Limitation of Liability. Neither Nasdaq, the Reporting Authority, nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Managed Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Managed Fund Shares; net asset value; or other information relating to the purchase, redemption, or trading of Managed Fund Shares, resulting from any negligent act or omission by Nasdaq, the Reporting Authority or any agent of Nasdaq, or any act, condition, or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

(f) Disclosures. The provisions of this subparagraph apply only to series of Managed Fund Shares that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. Nasdaq will inform its members regarding application of these provisions of this subparagraph to a particular series of Managed Fund Shares by means of an information circular prior to commencement of trading in such series.

Nasdaq requires that members provide to all purchasers of a series of Managed Fund Shares a written description of the terms and characteristics of those securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Managed Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Managed Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Managed Fund Shares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Managed Fund Shares)."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Managed Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of Managed Fund Shares.

(g) If the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 26, 2013 (SR-NASDAQ-2013-036); amended July 8, 2013 (SR-NASDAQ-2013-079); amended Oct. 9, 2013 (SR-NASDAQ-2013-107); amended Nov. 7, 2013 (SR-NASDAQ-2013-121); amended Nov. 7, 2013 (SR-NASDAQ-2013-122); amended Feb. 11, 2014 (SR-NASDAQ-2013-155); amended Apr. 9, 2014 (SR-NASDAQ-2014-019); amended May 9, 2014 (SR-NASDAQ-2014-009); amended May 23, 2014 (SR-NASDAQ-2014-027); amended June 12, 2014 (SR-NASDAQ-2014-041); amended June 17, 2014 (SR-NASDAQ-2014-040); amended June 18, 2014 (SR-NASDAQ-2014-035); amended July 1, 2014 (SR-NASDAQ-2014-050); amended July 15, 2014 (SR-NASDAQ-2014-057); amended July 31, 2014 (SR-NASDAQ-2014-059); amended Aug. 11, 2014 (SR-NASDAQ-2014-063); amended Sep. 18, 2014 (SR-NASDAQ-2014-073); amended Sep. 26, 2014 (SR-NASDAQ-2014-053); amended Oct. 30, 2014 (SR-NASDAQ-2014-080); amended Oct. 31, 2014 (SR-NASDAQ-2014-090); amended Feb. 19, 2015 (SR-NASDAQ-2014-127); amended Apr. 15, 2015 (SR-NASDAQ-2015-013); amended Apr. 16, 2015 (SR-NASDAQ-2015-011); amended Apr. 22, 2015 (SR-NASDAQ-2015-012); amended Apr. 24, 2015 (SR-NASDAQ-2015-044); amended Apr. 24, 2015 (SR-NASDAQ-2015-045); amended May 21, 2015 (SR-NASDAQ-2015-023); amended July 1, 2015 (SR-NASDAQ-2015-049); amended Aug. 5, 2015 (SR-NASDAQ-2015-059); amended Sep. 17, 2015 (SR-NASDAQ-2015-085); amended Sep. 24, 2015 (SR-NASDAQ-2015-089); amended Oct. 5, 2015 (SR-NASDAQ-2015-075); amended Oct. 9, 2015 (SR-NASDAQ-2015-095); amended Dec. 2, 2015 (SR-NASDAQ-2015-124); amended Apr. 6, 2016 (SR-NASDAQ-2015-161); amended Apr. 14, 2016 (SR-NASDAQ-2016-021); amended Apr. 22, 2016 (SR-NASDAQ-2016-030); amended Apr. 26, 2016 (SR-NASDAQ-2016-028); amended June 15, 2016 (SR-NASDAQ-2016-082), operative July 15, 2016; amended July 28, 2016 (SR-NASDAQ-2016-056); amended July 29, 2016 (SR-NASDAQ-2016-064); amended Aug. 10, 2016 (SR-NASDAQ-2016-086); amended Aug. 16, 2016 (SR-NASDAQ-2016-061); amended Aug. 22, 2016 (SR-NASDAQ-2016-072); amended Aug. 23, 2016 (SR-NASDAQ-2016-071); amended Aug. 11, 2016 (SR-NASDAQ-2016-117), operative Sept. 10, 2016; amended Sept. 23, 2016 (SR-NASDAQ-2016-002); amended Sept. 23, 2016 (SR-NASDAQ-2016-104); amended Dec. 16, 2016 (SR-NASDAQ-2016-180), operative Jan. 15, 2017; amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended Feb. 28, 2017 (SR-NASDAQ-2017-023); amended May 3, 2017 (SR-NASDAQ-2017-040), operative October 1, 2017; amended May 23, 2017 (SR-NASDAQ-2017-033);

amended May 24, 2017 (SR-NASDAQ-2017-052), operative January 1, 2018; amended June 15, 2017 (SR-NASDAQ-2017-039); amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended July 31, 2017 (SR-NASDAQ-2017-038), operative Oct. 26, 2017; amended Jan. 23, 2018 (SR-NASDAQ-2018-006).

5740. Derivative Securities Traded under Unlisted Trading Privileges

Nasdaq may extend unlisted trading privileges to any security that is an NMS Stock (as defined in Rule 600 of Regulation NMS under the Act) that is listed on another national securities exchange. Any such security will be subject to all Nasdaq trading rules applicable to NMS Stocks, unless otherwise noted, including provisions of Rules 4120, 4630, the Rule 5400 Series, and the Rule 5700 Series.

(a) Any security that is a "new derivative securities product" as defined in Rule 19b-4(e) under the Act (a "UTP Derivative Security") and traded under unlisted trading privileges pursuant to Rule 19b-4(e) under the Act shall be subject to the additional following rules:

(1) Form 19b-4(e). Nasdaq shall file with the Commission a Form 19b-4(e) with respect to each UTP Derivative Security.

(2) Information Circular. Nasdaq shall distribute an information circular prior to the commencement of trading in each such UTP Derivative Security that generally includes the same information as contained in the information circular provided by the listing exchange, including: (a) the special risks of trading the new derivative securities product; (b) the Rules of Nasdaq that will apply to the new derivative securities product, including Rule 2310; (c) information about the dissemination of the value of the underlying assets or indexes; and (d) the applicable trading hours for the UTP Derivative Security and the risks of trading during the period from 8:00 a.m. to 9:30 a.m. and from 4:00 p.m. to 7:00 p.m. due to the lack of calculation or dissemination of the underlying index value, the Intra-Day Indicative Value (as defined in Rule 5705(a)(3)(C)) or a similar value.

(3) Product Description.

Members are subject to the prospectus delivery requirements under the Securities Act of 1933, unless the UTP Derivative Security is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and the product is not otherwise subject to prospectus delivery requirements under the Securities Act of 1933.

Nasdaq shall inform Members of the application of the provisions of this subparagraph to UTP Derivative Securities by means of an information circular. Nasdaq requires that Members provide all purchasers of UTP Derivative Securities a written description of the terms and characteristics of those securities, in a form approved by Nasdaq or prepared by the open-ended management company issuing

such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, Members shall include a written description with any sales material relating to UTP Derivative Securities that is provided to customers or the public. Any other written materials provided by a Member to customers or the public making specific reference to the

UTP Derivative Securities as an investment vehicle must include a statement substantially in the following form:

"A circular describing the terms and characteristics of [the UTP Derivative Securities] has been prepared by the [open-ended management investment company name] and is available from your broker. It is recommended that you obtain and review such circular before purchasing [the UTP Derivative Securities]."

A Member carrying an omnibus account for a non-Member is required to inform such non-Member that execution of an order to purchase UTP Derivative Securities for such omnibus account will be deemed to constitute an agreement by the non-Member to make such written description available to its customers on the same terms as are directly applicable to the Member under this Rule.

Upon request of a customer, a Member shall also provide a prospectus for the particular UTP Derivative Securities.

(4) Trading Halts. Trading halts of UTP Derivative Securities shall be governed by Rule 4120.

(5) Limitations on Market Makers. Market makers in a UTP Derivative Security that is a Commodity-Related Security (as defined in Rule 4630) shall comply with Rule 4630.

(6) Surveillance. Nasdaq shall enter into a comprehensive surveillance sharing agreement with markets trading components of the index or portfolio on which the UTP Derivative Security is based to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended by SR-NASDAQ-2009-040 eff. April 27, 2009.

5745. Exchange-Traded Managed Fund Shares ("NextShares")

(a) Nasdaq will consider listing NextShares that meet the criteria of Rule 5745.

(b) **Applicability.** Rule 5745 is applicable only to NextShares. Except to the extent inconsistent with Rule 5745, or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on Nasdaq of such securities. NextShares are included within the definition of "security" or "securities" as such terms are used in the Rules of Nasdaq.

- (1) Nasdaq will file separate proposals under Section 19(b) of the Act before the listing of NextShares. Any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals shall constitute continued listing standards.
- (2) Transactions in NextShares will occur during the Regular Market Session through 4:00 p.m.
- (3) NAV-Based Trading. NextShares will trade on Nasdaq at market-determined premiums or discounts to the NextShares Fund's next-determined net asset value per share. All bids, offers and execution prices will be expressed as a premium/discount (which may be zero) to the next-determined net asset value per share ("NAV-Based Trading"). The minimum price variation for quoting and entry of orders in NextShares is \$0.01. Trade executions will be binding at the time that orders are matched, with the transaction price contingent upon the next-determined net asset value per share. After the Reporting Authority calculates the net asset value, Nasdaq will price each transaction at the agreed premium or discount to net asset value and deliver the trading data for clearance and settlement.
- (4) Surveillance Procedures. Nasdaq will implement and maintain written surveillance procedures for NextShares.
- (5) Creation and Redemption. For NextShares based on an international or global portfolio, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of NextShares must state that such series must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.
- (6) The Order Attributes, as described in rule 4703, are applicable to NextShares with the following exceptions;
 - (A) Any Order received with a routing instruction, as described in Rule 4758, which is received prior to the opening of a NextShares, will be automatically canceled and returned.
 - (B) The following Time-in-Force Order Attributes, as defined in Rule 4703, are not applicable for NextShares: GTC, MGTC, and SGTC Orders (as defined in Rule 4703(a)(3)).

(c) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

- (1) NextShares. The term "NextShare" means a security that (a) represents an interest in a registered investment company ("NextShares Fund") organized as an open-end management investment company that invests in a portfolio of securities and other assets selected and managed by the NextShares Fund's investment adviser consistent with the NextShares Fund's investment objectives and policies; (b) is issued in a specified aggregate unit quantity in return for a deposit of a specified portfolio of securities and/or a cash amount with a value per NextShare equal to the NextShares Fund's net asset value; (c) when aggregated in the same specified unit quantity, may be redeemed for a specified portfolio of securities and/or cash with a value per NextShare equal to the NextShares Fund's net asset value; and (d) is traded on Nasdaq or another national securities exchange using NAV-Based Trading, including pursuant to unlisted trading privileges.
- (2) Intraday Indicative Value. The term "Intraday Indicative Value" is the estimated indicative value of a NextShare based on current information regarding the value of the securities and other assets held by the NextShares Fund.
- (3) Composition File. The term "Composition File" means the specified portfolio of securities and/or cash that a NextShares Fund will accept as a deposit in issuing NextShares, and the specified portfolio of securities and/or cash that a NextShares Fund will deliver in a redemption of NextShares. The Composition File will be disseminated through the National Securities Clearing Corporation once each business day before the open of trading in NextShares on Nasdaq on such day. To maintain the confidentiality of current portfolio trading, a NextShares Fund's Composition File generally will not be a pro rata reflection of the NextShares Fund's securities positions. Each security included in the Composition File will be a current holding of the NextShares Fund, but the Composition File generally will not include all of the securities in the NextShares Fund's portfolio or match the weightings of the included securities in the portfolio. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the NextShares Fund's portfolio.
- (4) Reporting Authority. The term "Reporting Authority" in respect of a particular series of NextShares means Nasdaq, an institution, or a reporting service designated by Nasdaq as the official source for calculating and reporting information relating to such series of NextShares, including, but not limited to, the Intraday Indicative Value, the amount of any cash distribution to holders of NextShares, net asset value per share, and the Composition File or other information relating to the issuance, redemption or trading of NextShares. A series of NextShares may have more than one Reporting Authority, each having different functions.

(d) Initial and Continued Listing — NextShares will be listed and traded on Nasdaq subject to application of the following criteria:

(1) Initial Listing — Each series of NextShares will be listed and traded on Nasdaq subject to application of the following initial listing criteria:

(A) For each series, Nasdaq will establish a minimum number of NextShares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Nasdaq will obtain a representation from the issuer of each series of NextShares that the net asset value per share for the series will be calculated on each business day that the New York Stock Exchange is open for trading and that the net asset value per share will be made available to all market participants at the same time.

(C) The Reporting Authority that provides the Composition File must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the NextShares Fund's portfolio positions and changes in the positions.

(2) Continued Listing — Each series of NextShares will be listed and traded on Nasdaq subject to application of the following continued listing criteria:

(A) Intraday Indicative Value. The Intraday Indicative Value for the NextShares will be widely disseminated by one or more major market data vendors at intervals of not more than 15 minutes during the Regular Market Session when the NextShares trade on Nasdaq.

(B) If the investment adviser to a NextShares Fund issuing NextShares is a registered broker-dealer or is affiliated with a broker-dealer, such investment adviser shall erect and maintain a "fire wall" between the investment adviser and the broker-dealer personnel or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such NextShares Fund's portfolio holdings. Personnel who make decisions on the NextShares Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable NextShares Fund portfolio.

(C) Suspension of trading or removal. Nasdaq will consider the suspension of trading in, and will initiate delisting proceedings under the Rule 5800 Series of, a series of NextShares under any of the following circumstances:

(i) if, following the initial twelve-month period after commencement of trading on Nasdaq of a series of NextShares, there are fewer than 50 beneficial holders of the series of NextShares;

- (ii) if an interruption to the dissemination of the value of the Intraday Indicative Value persists past the trading day in which it occurred or the net asset value is no longer calculated, or if the Intraday Indicative Value, net asset value or Composition File is no longer available to all market participants at the same time;
 - (iii) if the NextShares Fund issuing the NextShares has failed to file any filings required by the Commission or the NextShares Fund is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission with respect to the series of NextShares;
 - (iv) if the series of NextShares is not in compliance with any statements or representations included in the applicable rule proposal under Section 19(b) regarding: (a) the description of the portfolio or reference assets; (b) limitations on portfolio holdings or reference assets; (c) dissemination and availability of the reference asset or intraday indicative values; or (d) the applicability of Nasdaq listing rules specified in such proposals;
 - (v) if any of the requirements set forth in this rule are not continuously maintained; or
 - (vi) if such other event shall occur or condition exists which, in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.
- (D) Trading Halt. If the Intraday Indicative Value of a series of NextShares is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value occurs. If the interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it first occurred, Nasdaq will halt trading no later than the beginning of the trading day following the interruption. In addition, if Nasdaq becomes aware that the net asset value per share with respect to a series of NextShares is not calculated on each business day that the Nasdaq Stock Market is open for trading and disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value per share is available to all market participants. In addition, if Nasdaq becomes aware that the Composition File with respect to a series of NextShares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the Composition File is available to all market participants.
- (E) Termination. Upon termination of a NextShares Fund, Nasdaq requires that NextShares issued in connection with such entity be removed from listing on Nasdaq.
- (F) Voting. Voting rights shall be as set forth in the applicable NextShares Fund prospectus.

(e) Limitation of Liability. Neither Nasdaq, the Reporting Authority, nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any current portfolio value; the current value of the securities and other assets required to be deposited in connection with issuance of NextShares; the amount of any dividend equivalent payment or cash distribution to holders of NextShares; net asset value per share; the Composition File; or other information relating to the purchase, redemption or trading of NextShares, resulting from any negligent act or omission by Nasdaq, the Reporting Authority or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent or the Reporting Authority, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, equipment or software malfunction, or any error, omission, or delay in the reports of transactions in one or more underlying securities.

(f) Disclosures. The provisions of this subparagraph apply only to series of NextShares that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. Nasdaq will inform its members regarding application of the provisions of this subparagraph to a particular series of NextShares by means of an information circular prior to commencement of trading in such series.

Nasdaq requires that members provide to all purchasers of a series of NextShares a written description of the terms and characteristics of those securities, in a form prepared by the openend management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of NextShares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of NextShares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of NextShares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of NextShares)."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of NextShares for such omnibus account will be deemed to constitute agreement by the non-member to make such a written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of NextShares.

(g) Proxy Price Protection. Every NextShares order is subject to the Proxy Price Protection threshold of plus/minus \$1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds \$101.00 or falls below \$99.00, the established thresholds. This threshold is applied to the proxy price amount of \$100.00, which is the proxy price that reflects the NAV of a NextShares Fund.

Adopted Nov. 7, 2014 (SR-NASDAQ-2014-020); amended July 21, 2015 (SR-NASDAQ-2015-036); amended Aug. 31, 2015 (SR-NASDAQ-2015-103); Oct. 13, 2015 (SR-NASDAQ-2015-121); amended Feb. 17, 2016 (SR-NASDAQ-2016-026); amended Mar. 18, 2016 (SR-NASDAQ-2016-041); amended July 27, 2016 (SR-NASDAQ-2016-105); amended Aug. 31, 2016 (SR-NASDAQ-2016-103); amended Nov. 22, 2016 (SR-NASDAQ-2016-134); amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended Jan. 9, 2017 (SR-NASDAQ-2017-003); amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended May 4, 2017 (SR-NASDAQ-2017-025); amended May 5, 2017 (SR-NASDAQ-2017-029); amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended Oct. 27, 2017 (SR-NASDAQ-2017-090); amended Oct. 31, 2017 (SR-NASDAQ-2017-091); amended Jan. 18, 2018 (SR-NASDAQ-2017-124); amended Jan. 22, 2018 (SR-NASDAQ-2017-123); amended Feb. 16, 2018 (SR-NASDAQ-2017-131); amended Apr. 18, 2018 (SR-NASDAQ-2018-032).

5800. Failure to Meet Listing Standards

5801. Preamble to the Rules and Procedures Applicable When a Company Fails to Meet a Listing Standard

Securities of a Company that does not meet the listing standards set forth in the Rule 5000 Series are subject to delisting from, or denial of initial listing on The Nasdaq Stock Market. This Section sets forth procedures for the independent review, suspension, and delisting of Companies that fail to satisfy one or more standards for initial or continued listing, and thus are "deficient" with respect to the listing standards.

The Listings Qualifications Department is responsible for identifying deficiencies that may lead to delisting or denial of a listing application; notifying the Company of the deficiency or denial; and issuing Staff Delisting Determinations and Public Reprimand Letters. Rule 5810 contains provisions regarding the Listing Qualifications Department's process for notifying Companies of different types of deficiencies and their corresponding consequences.

The Hearings Panel, upon timely request by a Company, will review a Staff Delisting Determination, denial of a listing application, or Public Reprimand Letter at an oral or written hearing, and issue a Decision that may, among other things, grant an "exception" to Nasdaq's listing standards or affirm a delisting. Rule 5815 contains provisions relating to the hearings process.

The Nasdaq Listing and Hearings Review Council, upon timely appeal by a Company or on its own initiative, may review the Decisions of the Hearings Panel. Rule 5820 contains provisions relating to the Listing Council appeal process.

Finally, the Nasdaq Board of Directors may exercise discretion to call for review a Listing Council Decision. Rule 5825 contains provisions related to that process.

Procedures related to SEC notification of Nasdaq's final Delisting Determinations are discussed in Rule 5830. Rules applicable to Adjudicators and Advisors are provided in Rule 5835 and general information relating to the adjudicatory process is provided in Rule 5840.

A Company's failure to maintain compliance with the applicable provisions of the Rule 5000 Series will result in the termination of the listing unless an exception is granted to the Company, as described below. The termination of the Company's listing will become effective in accordance with the procedures set forth herein, including Rule 5830.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended by June 16, 2009 (SR-NASDAQ-2009-052); amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

5805. Definitions

(a) "Adjudicatory Body" or "Adjudicator" means the Hearings Panel, the Listing Council, or the Nasdaq Board, or a member thereof.

(b) "Advisor" means an individual employed by Nasdaq who is advising an Adjudicatory Body with respect to a proceeding under this section.

(c) "Hearings Department" means the Hearings Department of the Nasdaq Office of General Counsel.

(d) The "Hearings Panel" is an independent panel made up of at least two persons who are not employees or otherwise affiliated with Nasdaq or its affiliates, and who have been authorized by the Nasdaq Board of Directors.

(e) "Listing Council" means the Nasdaq Listing and Hearing Review Council.

(f) The "Listing Qualifications Department" is the department of Nasdaq responsible for evaluating Company compliance with quantitative and qualitative listing standards and determining eligibility for initial and continued listing of a Company's securities.

(g) "Staff" refers to employees of the Listing Qualifications Department.

(h) "Staff Delisting Determination" or "Delisting Determination" is a written determination by the Listing Qualifications Department to delist a listed Company's securities for failure to meet a continued listing standard.

(i) "Decision" means a written decision of an Adjudicatory Body.

(j) "Public Reprimand Letter" means a letter issued by Staff or a Decision of an Adjudicatory Body in cases where the Company has violated a Nasdaq corporate governance or notification listing standard (other than one required by Rule 10A-3 of the Act) and Staff or the Adjudicatory Body determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, Staff or the Adjudicatory Body will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations.

(k) "Office of Appeals and Review" means the Office of Appeals and Review of the Nasdaq Office of General Counsel.

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5810. Notification of Deficiency by the Listing Qualifications Department

When the Listing Qualifications Department determines that a Company does not meet a listing standard set forth in the Rule 5000 Series, it will immediately notify the Company of the deficiency. As explained in more detail below, deficiency notifications are of four types:

(1) Staff Delisting Determinations, which are notifications of deficiencies that, unless appealed, subject the Company to immediate suspension and delisting;

(2) notifications of deficiencies for which a Company may submit a plan of compliance for staff review;

(3) notifications of deficiencies for which a Company is entitled to an automatic cure or compliance period; and

(4) Public Reprimand Letters, except such notification type is not available for unresolved deficiencies from the standards of Rules 5250(c){Obligation to File Periodic Financial Reports}, 5615(a)(4)(D) {Partner Meetings of Limited Partnerships} and 5620(a) {Meetings of Shareholders}.

Notifications of deficiencies that allow for submission of a compliance plan or an automatic cure or compliance period may result, after review of the compliance plan or expiration of the cure or compliance period, in issuance of a Staff Delisting Determination or a Public Reprimand Letter.

(a) Information Contained in Deficiency Notification and Delisting Determination

Deficiency notifications and Delisting Determinations will:

(1) inform the Company of the factual bases for Staff's determination of deficiency or delisting, and the quantitative or qualitative standard the Company has failed to satisfy;

(2) provide the Company with instructions regarding its obligations to disclose the deficiency under Nasdaq Listing Rules; and

(3) inform the Company:

(A) in the case of a Staff Delisting Determination, that the Company's securities will be suspended as of a date certain; the Company has a right to request review of the Delisting Determination by a Hearings Panel; and that a request for review within seven days (as set forth in Rule 5815(a)(1)) will stay the suspension;

(B) in the case of a deficiency for which the Company may submit a plan of compliance for review by Staff, the deadline by which a plan must be submitted;

(C) in the case of a deficiency for which the Company is entitled to an automatic cure or compliance period, the expiration date of the cure or compliance period; and

(D) in the case of a Public Reprimand Letter, an explanation of why Staff concluded the letter is appropriate and the Company's right to request review of the Letter by a Hearings Panel.

(b) Company Disclosure Obligations

A Company that receives a notification of deficiency, Staff Delisting Determination, or Public Reprimand Letter is required to make a public announcement disclosing receipt of the notification and the Rule(s) upon which the deficiency is based, and describing each specific basis and concern identified by Nasdaq in reaching its determination that the Company does not meet the listing standard. If the deficiency or Staff Delisting Determination relates to the requirement to file a periodic report contained in Rule 5250(c)(1) or (2), the Company is required to make the public announcement by issuing a press release, in addition to filing any Form 8-K required by SEC rules. In all other cases, the Company may make the public announcement either by filing a Form 8-K, where required by SEC rules, or by issuing a press release. Additional information about this disclosure obligation is provided in IM-5810-1.

As described in Rule 5250(b)(1) and IM-5250-1, the Company must notify Nasdaq's MarketWatch Department about the announcement through the electronic disclosure submission system available at www.nasdaq.net, except in emergency situations when notification may instead be provided by telephone or facsimile. If the public announcement is made during Nasdaq market hours, the Company must notify MarketWatch at least ten minutes prior to the announcement. If the public announcement is made outside of Nasdaq market hours, the Company must notify MarketWatch of the announcement prior to 6:50 a.m. ET. The Company should make the public announcement as promptly as possible but not more than four business days following receipt of the notification.

IM-5810-1. Disclosure of Written Notice of Staff Determination

Rule 5810(b) requires that a Company make a public announcement by filing a Form 8-K, where required by SEC rules, or by issuing a press release disclosing the receipt of (i) a notice that the Company does not meet a listing standard set forth in the Rule 5000 Series, (ii) a Staff Delisting Determination to limit or prohibit continued listing of the Company's securities under Rule 5810 as a result of the Company's failure to comply with the continued listing requirements, or (iii) a Public Reprimand Letter; provided, however, that if the notification relates to a failure to meet the requirements of Rules 5250(c)(1) or (2), the Company must make the public announcement by issuing a press release. Such public announcement shall be made as promptly as possible, but not more than four business days following the receipt of the notification, Staff Delisting Determination, or Public Reprimand Letter, as applicable. In addition to containing all disclosure required by Form 8-K, if applicable, the public announcement must describe each specific basis and concern identified by Nasdaq in its determination that the Company does not meet the listing standard and identify the Rules upon which the deficiency is based. For example, if the Listing Qualifications Department determines to delist a Company based on its discretionary authority under Rule 5101, the Company must include in its public announcement the specific concerns cited in the Staff Delisting Determination. In addition, a Company may provide its own analysis of the issues raised in the Staff Delisting Determination.

If the public announcement is not made by the Company within the time allotted or does not include all of the required information, trading of its securities shall be halted (if not already halted), even if the Company appeals the Staff Delisting Determination or Public Reprimand Letter as set forth in Rule 5815, and Nasdaq may make a public announcement with the required information. If the company's failure to make this public announcement is the only basis for a trading halt, Nasdaq would ordinarily resume trading if Nasdaq makes the public announcement. If the Company fails to make the public announcement by the time that the Hearings Panel issues its Decision, that Decision will also determine whether to delist the Company's securities for failure to make the public announcement.

Rule 5810(b) does not relieve a Company of its disclosure obligation under the federal securities laws, nor should it be construed as providing a safe harbor under the federal securities laws. It is suggested that the Company consult with corporate/securities counsel in assessing its disclosure obligations under the federal securities laws.

Adopted by SR-NASDAQ-2009-018 eff. March 12, 2009; amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended Dec. 3, 2012 (SR-NASDAQ-2012-118).

(c) Types of Deficiencies and Notifications

The type of deficiency at issue determines whether the Company will be immediately suspended and delisted, or whether it may submit a compliance plan for review or is entitled to an automatic cure or compliance period before a Staff Delisting

Determination is issued. In the case of a deficiency not specified below, Staff will issue the Company a Staff Delisting Determination or a Public Reprimand Letter.

(1) Deficiencies that Immediately Result in a Staff Delisting Determination

Staff's notice will inform the Company that its securities are immediately subject to suspension and delisting when:

- a Company fails to timely solicit proxies;
- an Equity Investment Tracking Stock fails to comply with the additional continued listing requirements in Rule 5222(c) or a Staff Delisting Determination has been issued with respect to the security such Equity Investment Tracking Stock tracks;
- the common stock of the REIT in a Paired Share Unit listed under Rule 5226 becomes separately tradable from the common stock of the Parent; or
- Staff has determined, under its discretionary authority in the Rule 5100 Series, that the Company's continued listing raises a public interest concern.

(2) Deficiencies for which a Company may Submit a Plan of Compliance for Staff Review

(A) Unless the Company is currently under review by an Adjudicatory Body for a Staff Delisting Determination, the Listing Qualifications Department may accept and review a plan to regain compliance when a Company is deficient with respect to one of the standards listed in subsections (i) through (vi) below. In accordance with Rule 5810(c)(2)(C), plans provided pursuant to subsections (i) through (iv) and (vi) below must be provided generally within 45 calendar days, and in accordance with Rule 5810(c)(2)(F), plans provided pursuant to subsection (v) must be provided generally within 60 calendar days. If a Company that is not subject to the All-Inclusive Annual Listing Fee described in IM-5910-1 or IM-5920-1 submits a plan of compliance under subsections (i), (iii), (iv) or (v) it must also pay a compliance plan review fee of \$5,000. If a Company's plan consists of transferring from the Nasdaq Global or Global Select Market to the Nasdaq Capital Market, the Company should submit its application and the applicable application fee at the same time as its plan to regain compliance, but does not need to also pay the compliance plan review fee.

(i) all quantitative deficiencies from standards that do not provide a compliance period;

(ii) deficiencies from the standards of Rules 5605 {Board of Directors and Committees} or 5615(a)(4)(C) {Independent Directors/Audit Committee of Limited Partnerships} where the cure period of the Rule is not applicable;

(iii) deficiencies from the standards of Rules 5620(a) {Meetings of Shareholders}, 5620(c) {Quorum}, 5630 {Review of Related Party Transactions}, 5635 {Shareholder Approval}, 5250(c)(3) {Auditor Registration}, 5255(a) {Direct Registration Program}, 5610 {Code of Conduct}, 5615(a)(4)(D) {Partner Meetings of Limited Partnerships},

5615(a)(4)(E) {Quorum of Limited Partnerships}, 5615(a)(4)(G) {Related Party Transactions of Limited Partnerships}, or 5640 {Voting Rights}; or

(iv) failure to make the disclosure required by Rule 5250(b)(3).

(v) failure to file periodic reports as required by Rules 5250(c)(1) or (2).

(vi) failure to meet a continued listing requirement contained in the Rule 5700 Series.

IM-5810-2. Staff Review of Deficiencies

As provided in Rule 5810(c)(2)(A)(i), the Staff may accept a plan to regain compliance with respect to quantitative deficiencies from standards that do not themselves provide a compliance period. Such standards include:

Rules 5550(b)(1) {Stockholders' Equity} and 5550(b)(3) {Net Income from Continuing Operations}

Rule 5550(a)(3) {Public Holders}

Rule 5550(a)(4) {Publicly Held Shares}

Rules 5350(b)(1)(B) {Publicly Held Shares}, 5450(b)(1)(A) {Stockholders' Equity}, and 5450(a)(2) {Total Holders}

Rules 5450(b)(3)(A) {Total Assets/Total Revenue}, 5450(b)(2)(B) {Publicly Held Shares}, and 5450(a)(2) {Total Holders}, and

Rules 5460(a)(1) {Publicly Held Shares} and 5460(a)(4) {Public Holders}.

Adopted by SR-NASDAQ-2009-018 eff. March 12, 2009.

(B) Staff Alternatives Upon Review of Plan

Staff may request such additional information from the Company as is necessary to make a determination, as described below. In cases other than filing delinquencies and annual meeting deficiencies, which are governed by Rules 5810(c)(2)(F) and 5810(c)(2)(G), respectively, upon review of a plan of compliance, Staff may either:

(i) grant an extension of time to regain compliance not greater than 180 calendar days from the date of Staff's initial notification, unless the Company is currently under review by an Adjudicatory Body for a Staff Delisting Determination. If Staff grants an extension, it will inform the Company in writing of the basis for granting the extension and the terms of the extension;

(ii) issue a Staff Delisting Determination letter that includes a description of the basis for denying the extension; or

(iii) issue a Public Reprimand Letter, as defined in Rule 5805(j).

(C) Timeline for Submission of Compliance Plans

Except for deficiencies from the standards of Rule 5250(c)(1) or (2), Staff's notification of deficiencies that allow for compliance plan review will inform the Company that it has 45 calendar days to submit a plan to regain compliance with Nasdaq's listing standard(s). Staff may extend this deadline for up to an additional 5 calendar days upon good cause shown and may request such additional information from the Company as is necessary to make a determination regarding whether to grant such an extension.

(D) Restrictions on Compliance Plans for Certain Deficiencies

Staff will not accept a plan to achieve compliance with deficiencies in net income from continuing operations or total assets and total revenue, since compliance requires stated levels of net income or assets and revenues during completed fiscal years and therefore can only be demonstrated through audited financial statements. Similarly, a Company may not submit a plan relying on partial-year performance to demonstrate compliance with these standards. A Company may, however, submit a plan that demonstrates current or near-term compliance with the listing requirement relating to stockholders' equity or Market Value of Listed Securities.

(E) Failure to Meet the Terms of a Staff Extension

If the Company does not regain compliance within the time period provided by all applicable Staff extensions, Staff will immediately issue a Staff Delisting Determination indicating the date on which the Company's securities will be suspended unless it requests review by a Hearings Panel.

(F) Filing Delinquencies

In the case of deficiencies from the standards of Rule 5250(c)(1) or (2):

(i) Staff's notice shall provide the Company with 60 calendar days to submit a plan to regain compliance with the listing standard; provided, however, that the Company shall not be provided with an opportunity to submit such a plan if review under the Rule 5800 Series of a prior Staff Delisting Determination with respect to the Company is already pending. Staff may extend this deadline for up to an additional 15 calendar days upon good cause shown and may request such additional information from the Company as is necessary to make a determination regarding whether to grant such an extension.

(ii) The maximum additional time provided by all exceptions granted by Staff for a deficiency described in paragraph (i) above is 180 calendar days from the due date of the first late periodic report (as extended by Rule 12b-25 under the Act, if applicable). In determining whether to grant an exception, and the length of any such exception,

Staff will consider, and the Company should address in its plan of compliance, the Company's specific circumstances, including the likelihood that the filing can be made within the exception period, the Company's past compliance history, the reasons for the late filing, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. This review will be based on information provided by a variety of sources, which may include the Company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.

(G) Annual Meeting

In the case of deficiencies from the standards of Rules 5620(a) and 5615(a)(4)(D):

(i) Staff's notice shall provide the Company with 45 calendar days to submit a plan to regain compliance with the listing standard; provided, however, that the Company shall not be provided with an opportunity to submit such a plan if review under the Rule 5800 Series of a prior Staff Delisting Determination with respect to the Company is already pending. Staff may extend this deadline for up to an additional 15 calendar days upon good cause shown and may request such additional information from the Company as is necessary to make a determination regarding whether to grant such an extension.

(ii) The maximum additional time provided by all exceptions granted by Staff is 180 calendar days from the deadline to hold the annual meeting (one year after the end of the Company's fiscal year). In determining whether to grant an exception, and the length of any such exception, Staff will consider, and the Company should address in its plan of compliance, the Company's specific circumstances, including the likelihood that the Company would be able to hold an annual meeting within the exception period, the Company's past compliance history, the reasons for the failure to hold the annual meeting timely, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. This review will be based on information provided by a variety of sources, which may include the Company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.

(3) Deficiencies for which the Rules Provide a Specified Cure or Compliance Period

With respect to deficiencies related to the standards listed in (A) - (E) below, Staff's notification will inform the Company of the applicable cure or compliance period provided by these Rules and discussed below. If the Company does not regain compliance within the specified cure or compliance period, the Listing Qualifications Department will immediately issue a Staff Delisting Determination letter.

(A) Bid Price

A failure to meet the continued listing requirement for minimum bid price shall be determined to exist only if the deficiency continues for a period of 30 consecutive business days. Upon such failure, the Company shall be notified promptly and shall have a period of 180 calendar days from such notification to achieve compliance. Compliance can be achieved during any compliance period by meeting the applicable standard for a minimum of 10 consecutive business days during the applicable compliance period, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(F).

(i) Global Select Market and Global Market

If a Company listed on The Nasdaq Global Market has not been deemed in compliance prior to the expiration of the 180 day compliance period, it may transfer to The Nasdaq Capital Market, provided that it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable requirements for initial listing on the Capital Market (except for the bid price requirement) based on the Company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. Following a transfer to The Nasdaq Capital Market, the Company will be afforded the remainder of the applicable compliance period set forth in Rule 5810(c)(3)(A)(ii), unless it does not appear to Nasdaq that it is possible for the Company to cure the deficiency. The Company may also request a hearing to remain on The Nasdaq Global Market pursuant to the Rule 5800 Series. Any time spent in the hearing process will not extend the length of the remaining applicable compliance periods on The Nasdaq Capital Market afforded by this rule.

(ii) Capital Market

If a Company listed on the Capital Market is not deemed in compliance before the expiration of the 180 day compliance period, it will be afforded an additional 180 day compliance period, provided that on the 180th day of the first compliance period it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable standards for initial listing on the Capital Market (except the bid price requirement) based on the Company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. If a Company does not indicate its intent to cure the deficiency, or if it does not appear to Nasdaq that it is possible for the Company to cure the deficiency, the Company will not be eligible for the second grace period. If the Company has publicly announced information (e.g., in an earnings release) indicating that it no longer satisfies the applicable listing criteria, it shall not be eligible for the additional compliance period under this rule.

(B) Market Makers

A failure to meet the continued listing requirement for a number of Market Makers shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure, the Company shall be notified promptly

and shall have a period of 30 calendar days from such notification to achieve compliance. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 30 day compliance period.

(C) Market Value of Listed Securities

A failure to meet the continued listing requirements for Market Value of Listed Securities shall be determined to exist only if the deficiency continues for a period of 30 consecutive business days. Upon such failure, the Company shall be notified promptly and shall have a period of 180 calendar days from such notification to achieve compliance. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 180 day compliance period, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(F).

(D) Market Value of Publicly Held Shares

A failure to meet the continued listing requirement for Market Value of Publicly Held Shares shall be determined to exist only if the deficiency continues for a period of 30 consecutive business days. Upon such failure, the Company shall be notified promptly and shall have a period of 180 calendar days from such notification to achieve compliance. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 180 day compliance period, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(F).

(E) Independent Director and Audit Committee Rules

If a Company fails to meet the majority board independence requirement in Rule 5605(b)(1) due to one vacancy, or because one director ceases to be independent for reasons beyond his/her reasonable control, the Listing Qualifications Department will promptly notify the Company and inform it has until the earlier of its next annual shareholders meeting or one year from the event that caused the deficiency to cure the deficiency. However, if the Company's next annual shareholders' meeting is held sooner than 180 days after the event that caused the deficiency, then the Company has 180 days from the event that caused the deficiency to cure it.

If a Company fails to meet the audit committee composition requirements in Rule 5605(c)(2) because an audit committee member ceases to be independent for reasons outside his/her control, the Listing Qualifications Department will promptly notify the Company and inform it that has until the earlier of its next annual shareholders meeting or one year from the occurrence of the event that caused the failure, to cure the deficiency. If the Company fails to meet the audit committee composition requirement due to one vacancy on the audit committee, and the Company is not relying upon a cure period for another member, the Listing Qualifications Department will promptly notify the Company and inform it that it has until the earlier of its next annual shareholders meeting or one year from the event that caused the failure to cure

the deficiency. However, if the Company's next annual shareholders' meeting is held sooner than 180 days after the event that caused the deficiency, then the Company has 180 days from the event that caused the deficiency to cure it.

(F) Staff Discretion Relating to the Price-based Requirements

If a Company fails to meet the Market Value of Listed Securities, Market Value of Publicly Held Shares, or Bid Price requirements, each of which is related to the Company's security price and collectively called the "Price-based Requirements," compliance is generally achieved by meeting the requirement for a minimum of ten consecutive business days. However, Staff may, in its discretion, require a Company to satisfy the applicable Price-based Requirement for a period in excess of ten consecutive business days, but generally no more than 20 consecutive business days, before determining that the Company has demonstrated an ability to maintain long-term compliance. In determining whether to require a Company to meet the applicable Price-based-requirement beyond ten business days, Staff may consider all relevant facts and circumstances, including without limitation:

(i) the margin of compliance (the amount by which a Company exceeds the applicable Price-based Requirement);

(ii) the trading volume (a lack of trading volume may indicate a lack of bona fide market interest in the security at the posted bid price);

(iii) the Market Maker montage (the number of Market Makers quoting at or above \$1.00 or the minimum price necessary to satisfy another Price-based Requirement; and the size of their quotes); and

(iv) the trend of the stock price (is it up or down).

(4) Public Reprimand Letter

Staff's notification may be in the form of a Public Reprimand Letter in cases where the Company has violated a Nasdaq corporate governance or notification listing standard (other than one required by Rule 10A-3 of the Act) and Staff determines that delisting is an inappropriate sanction. In determining whether to issue a public reprimand letter, the Listing Qualifications Department will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations.

(d) Additional Deficiencies

The Listing Qualifications Department continues to evaluate the compliance of Companies while they are under review by Adjudicatory Bodies and may identify additional deficiencies. Upon identification of an additional deficiency, Staff will

issue an additional notification of deficiency to the Company and send a copy to the appropriate Adjudicatory Body.

(1) Staff's notification of the additional deficiency will conform to the requirements set forth in Rule 5810(a) if:

(A) the matter under review by an Adjudicatory Body is a Public Reprimand Letter; or

(B) the additional deficiency identified is one that has an automatic cure or compliance period.

(2) If the additional deficiency is one that would in the normal course result in immediate suspension and delisting, or one for which the Company may submit a compliance plan to Staff for review, Staff's notification will instruct the Company to address the issue to the Hearings Panel at its hearing, unless the hearing for the original deficiency has already taken place. If the hearing has already taken place, Staff's notification will instruct the Company to provide in writing, within a specified time period, a submission that addresses the deficiency to the Adjudicatory Body before which its matter is pending.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Jan. 29, 2010 (SR-NASDAQ-2009-077); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended Mar. 26, 2010 (SR-NASDAQ-2010-041); amended Oct. 14, 2010 (SR-NASDAQ-2010-107); amended Dec. 3, 2012 (SR-NASDAQ-2012-118); amended Sep. 26, 2013 (SR-NASDAQ-2013-128), operative Oct. 26, 2013; amended Oct. 2, 2013 (SR-NASDAQ-2013-130); amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended Feb. 12, 2016 (SR-NASDAQ-2015-144); amended July 1, 2016 (SR-NASDAQ-2016-013), operative Aug 1, 2016; amended Jan. 12, 2017 (SR-NASDAQ-2016-135), operative Jan. 1, 2018; amended May 3, 2017 (SR-NASDAQ-2017-040), operative January 1, 2018; amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017; amended Sep. 27, 2017 (SR-NASDAQ-2017-101); amended May 30, 2018 (SR-NASDAQ-2018-041).

5815. Review of Staff Determinations by Hearings Panel

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 in writing that the Hearings Panel review the matter in a written or an oral hearing. This section sets forth the procedures for requesting a hearing before a Hearings Panel, describes the Hearings Panel and the possible outcomes of a hearing, and sets forth Hearings Panel procedures.

(a) Procedures for Requesting and Preparing for a Hearing

(1) Timely Request Stays Delisting

(A) A Company may, within seven calendar days of the date of the Staff Delisting Determination notification, Public Reprimand Letter, or written denial of a listing application, request a written or oral hearing before a Hearings Panel to review the Staff Delisting Determination, Public Reprimand Letter, or written denial of a listing application. Subject to the limitation in paragraph (B) below, a timely request for a hearing will stay the suspension and delisting action pending the issuance of a written Panel Decision. Requests for hearings should be submitted in writing to the Hearings Department.

(B) A request for a hearing shall ordinarily stay the delisting action pending the issuance of a Panel Decision. However, if the Staff Delisting Determination relates to deficiencies from the standards of Rule 5250(c)(1) or (2), which require a Company to timely file its periodic reports with the Commission, the delisting action will only be stayed for 15 calendar days from the deadline to request a hearing unless the Company specifically requests and the Hearings Panel grants a further stay. A request for a further stay must include an explanation of why such a stay would be appropriate and should be included in the Company's request for a hearing. Based on that submission and any recommendation provided by Staff, the Hearings Panel will determine whether to grant the Company a further stay. In determining whether to grant the stay, the Hearings Panel will consider the Company's specific circumstances, including the likelihood that the filing can be made within any exception period that could subsequently be granted, the Company's past compliance history, the reasons for the late filing, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. The Hearings Panel will notify the Company of its conclusion as soon as is practicable, but in no event more than 15 calendar days following the deadline to request the hearing. In the event the Hearings Panel determines not to grant the Company a stay, the Company's securities will be immediately suspended and will remain suspended unless the Panel Decision issued after the hearing determines to reinstate the securities.

(2) Failure to Request Results in Immediate Delisting

If a Company fails to request in writing a hearing within seven calendar days, it waives its right to request review of a Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application. In the case of a Company's failure to timely request a hearing to review a Delisting Determination, the Hearings Department will take action to suspend trading of the securities and follow procedures to delist the securities.

(3) Fees

Within 15 calendar days of the date of the Staff Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application, the Company must submit a hearing fee of \$10,000.

(4) Scheduling of Hearings

The Hearings Department will schedule hearings to take place, to the extent practicable, within 45 days of the request for a hearing, at a location determined by the Hearings Department. The Hearings Department will send written acknowledgment of the Company's hearing request and inform the Company of the date, time, and location of the hearing, and deadlines for written submissions to the Hearings Panel. The Company will be provided at least ten calendar days notice of the hearing unless the Company waives such notice.

(5) Submissions from Company

The Company may submit to the Hearings Department a written plan of compliance and request that the Hearings Panel grant an exception to the listing standards for a limited time period, as permitted by Rule 5815(c)(1)(A) or may set forth specific grounds for the Company's contention that the issuance of a Staff Delisting Determination, Public Reprimand Letter, or denial of a listing application, was in error, and may also submit public documents or other written material in support of its position, including any information not available at the time of the Staff Determination. The Hearings Panel will review the written record, as described in Rule 5840(a), before the hearing.

(6) Presentation at Hearing

At an oral hearing, the Company may make such presentation as it deems appropriate, including the appearance by its officers, directors, accountants, counsel, investment bankers, or other persons, and the Hearings Panel may question any representative appearing at the hearing. Hearings are generally scheduled to last one hour, but the Hearings Panel may extend the time. The Hearings Department will arrange for and keep on file a transcript of oral hearings.

(b) Composition of the Hearings Panel

Each Hearing is presided over by at least two Hearings Panel members, except as provided in Rule 5815(d)(3).

(c) Scope of the Hearings Panel's Discretion

(1) When the Hearings Panel review is of a deficiency related to continued listing standards, the Hearings Panel may, where it deems appropriate:

(A) grant an exception to the continued listing standards for a period not to exceed 180 days from the date of the Staff Delisting Determination with respect to the deficiency for which the exception is granted;

(B) Reserved;

(C) suspend and delist the Company's securities;

(D) issue a Decision that serves as a Public Reprimand Letter in cases where the Company has violated a Nasdaq corporate governance or notification listing standard (other than one required by Rule 10A-3 of the Act) and the Hearings Panel determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, the Hearings Panel will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations;

(E) find the Company in compliance with all applicable listing standards; or

(F) In the case of a Company that fails to file a periodic report (e.g., Form 10-K, 10-Q, 20-F, 40-F, or N-CSR), the Hearings Panel may grant an exception for a period not to exceed 360 days from the due date of the first such late periodic report. The Company can regain compliance with the requirement by filing that periodic report and any other delinquent reports with due dates falling before the end of the exception period. In determining whether to grant an exception, and the length of any such exception, the Hearings Panel will consider the Company's specific circumstances, including the likelihood that the filing can be made within the exception period, the Company's past compliance history, the reasons for the late filing, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. This review will be based on information provided by a variety of sources, which may include the Company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.

(G) In the case of a Company that fails to hold an annual meeting, the Hearings Panel may grant an exception for a period not to exceed 360 days from the deadline to hold the annual meeting (one year after the end of the Company's fiscal year).

(2) When the Hearings Panel's review is of a Staff denial of an initial listing application, the Hearings Panel may, where it deems appropriate:

(A) affirm Staff's denial of the application;

(B) conditionally approve initial listing subject to an exception to the listing standards not to exceed 180 calendar days from the date of the Staff Delisting Determination with respect to the deficiency for which the exception is granted; or

(C) approve initial listing on a finding that the Company meets all initial listing requirements

(3) A Hearings Panel may consider any failure to meet any quantitative or qualitative standard for initial or continued listing, including failures previously not considered by Staff. The Company will be given written notice of such consideration and an opportunity to respond.

(4) Under the authority described in the Rule 5100 Series, the Hearings Panel may subject the Company to additional or more stringent criteria for the initial or continued listing of particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities inadvisable or unwarranted in its opinion, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

(d) Hearings Panel Procedures

(1) Panel Decision

After the hearing, the Hearings Department, on behalf of the Hearings Panel, will issue a Panel Decision that meets the requirements of Rule 5840(c) and has been approved by each member of the Hearings Panel. The Panel Decision shall be promptly provided to the Company, and is effective immediately upon issuance, unless it specifies to the contrary. The Panel Decision will provide notice that the Company may appeal the Panel Decision to the Listing Council within 15 calendar days of the date of the Decision and that the Decision may be called for review by the Listing Council within 45 calendar days from the date of the Decision.

(2) Form 25 Notification of Delisting

If the Panel issues a Decision to delist the Company's securities, the Hearings Department will immediately take action to suspend trading of the securities, unless the Decision specifies to the contrary. If the Company does not appeal a Decision to delist and the Listing Council does not call the matter for review, or withdraws its call for review, Nasdaq will follow the procedures described in Rule 5830 to submit an application on Form 25 to the SEC to strike the security from listing.

(3) Hearings Panel Deadlock

If, following the hearing, the Hearings Panel cannot reach a unanimous decision, the Hearings Department will notify the Company of this circumstance. The Company will be provided an additional hearing before a Hearings Panel composed of three members who did not participate in the previous hearing. The Company may decide whether the hearing will be written or oral, in person or by telephone. The Company may submit any documents or other written material in support of its request for review, including information not available at the time of the initial hearing. There will be no fee for the new hearing. After review by a Hearings Panel convened pursuant to this paragraph, the Hearings Department on behalf of the Hearings Panel will issue a Decision that meets the requirements of Rule 5840(c) and that has been approved by at least a majority of the Hearings Panel.

(4) Procedures Applicable for Recurring Deficiencies

(A) Hearings Panel Monitor

A Hearings Panel may, after a Company regains compliance with all applicable listing standards, monitor the Company's continued compliance for up to one year after the compliance date, if the Hearings Panel concludes that there is a likelihood that the issuer will fail to maintain compliance with one or more listing standards during that period. If the Hearings Panel or the Listing Qualifications Department determines that a Company under Hearings Panel monitor fails any listing standard during the monitor period, the Staff will issue a Staff Delisting Determination and the Hearings Department will promptly schedule a new hearing, with the initial Hearings Panel or a newly convened Hearings Panel if the initial Hearings Panel is unavailable. The hearing may be oral or written, at the Company's election. Notwithstanding Rule 5810(c)(2), the Company will not be permitted to provide the Listing Qualifications Department with a plan of compliance with respect to any deficiency that arises during the monitor period, and the Listing Qualifications Department will not be permitted to grant additional time for the Company to regain compliance with respect to any deficiency. The Hearings Panel will consider the Company's compliance history when rendering its Decision.

(B) No Hearings Panel Monitor

If a Hearings Panel has not opted to monitor a Company that has regained compliance with the listing standards requiring the Company to maintain certain levels of stockholders' equity or to timely file periodic reports, and within one year of the date the Company regained compliance with such listing standard, the Listing Qualifications Department finds the Company again out of compliance with the requirement that was the subject of the exception, then, notwithstanding Rule 5810(c)(2), the Listing Qualifications Department will not allow the Company to provide it with a plan of compliance or grant additional time for the Company to regain compliance. Rather, the Listing Qualifications Department will promptly issue a Staff Delisting Determination, and the Company may request review by a Hearings Panel. The Hearings Panel will consider the Company's compliance history when rendering its Decision.

(5) Request for Hearings Panel Reconsideration

A Company may request, in writing, that the Hearings Panel reconsider a Panel Decision only upon the basis that a mistake of material fact existed at the time of the Panel Decision. The Company's request for reconsideration shall be made within seven calendar days of the date of issuance of the Panel Decision. A Company's request for reconsideration will not stay a delisting determination or suspension of trading of the Company's securities, unless the Hearings Panel, before the scheduled date for suspension, issues a written determination staying the suspension and/or reversing the determination to delist. A Company's request for reconsideration will not extend the time for the Company to initiate the Listing Council's review of the Panel Decision.

If the Hearings Panel grants a Company's reconsideration request, it will issue a modified Decision meeting the requirements of Rule 5840(c) within 15 calendar days

of the date of the original Panel Decision, or lose jurisdiction over the matter. If the Listing Council calls a Panel Decision for review on the same issue that the Company has requested reconsideration by the Hearings Panel, the Listing Council may assert jurisdiction over the initial Panel Decision or permit the Hearings Panel to proceed with the reconsideration and issue a new Decision.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Jan. 2, 2013 (SR-NASDAQ-2013-004); amended Jan. 25, 2013 (SR-NASDAQ-2013-017); amended Feb. 12, 2016 (SR-NASDAQ-2015-144).

5820. Appeal to the Nasdaq Listing and Hearing Review Council

A Company may appeal a Panel Decision to the Listing Council. The Listing Council may also call for review a Panel Decision on its own initiative. This Rule 5820 describes the procedures applicable to appeals and calls for review.

(a) Procedure for Requesting Appeal

A Company may appeal any Panel Decision to the Listing Council by submitting a written request for appeal and a fee of \$10,000 to the Nasdaq Office of Appeals and Review within 15 calendar days of the date of the Panel Decision. An appeal will not operate as a stay of the Panel Decision. Upon receipt of the appeal request and the applicable fee, the Nasdaq Office of Appeals and Review will acknowledge the Company's request and provide deadlines for the Company to provide written submissions.

(b) Procedures for Initiating Call for Review

The Listing Council may also call for review any Panel Decision upon the request of one or more members of the Listing Council within 45 calendar days of the date of the Panel Decision. The Office of Appeals and Review will promptly inform the Company of the reasons for the review and provide a deadline for written submissions. A call for review by the Listing Council will not operate as a stay of the Panel Decision, unless the call for review specifies to the contrary. The Listing Council may withdraw the call for review of a Panel Decision at any time.

(c) Composition of Listing Council

The Listing Council is a committee appointed by the Nasdaq Board of Directors pursuant to the Nasdaq By-Laws whose responsibilities include the review of Panel Decisions by a Hearings Panel.

(d) Scope of Listing Council's Discretion

(1) The Listing Council may, where it deems appropriate, affirm, modify, or reverse the Panel Decision, or remand the matter to the Listing Qualifications Department or to the Hearings Panel for further consideration. The Listing Council may grant an

exception for a period not longer than 360 calendar days from the date of the Staff Delisting Determination with respect to the deficiency for which the exception is granted. The Listing Council also may issue a Decision that serves as a Public Reprimand Letter in cases where the Company has violated a Nasdaq corporate governance or notification listing standard (other than one required by Rule 10A-3 of the Act) and the Listing Council determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, the Listing Council will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations.

(2) The Listing Council may consider any failure to meet any quantitative standard or qualitative consideration for initial or continued listing, including failures previously not considered by the Hearings Panel. The Listing Council may also consider any action taken by a Company during the review process that would have constituted a violation of Nasdaq's corporate governance requirements had the Company's securities been trading on Nasdaq at the time. The Company will be afforded written notice of such consideration and an opportunity to respond.

(3) Under the authority described in the Rule 5100 Series, the Listing Council may subject the Company to additional or more stringent criteria for the initial or continued listing of particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities inadvisable or unwarranted in its opinion, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

(4) In the case of a Company that fails to file a periodic report (e.g., Form 10-K, 10-Q, 20-F, 40-F, or N-CSR), the Listing Council may grant an exception for a period not to exceed 360 days from the due date of the first such late periodic report. The Company can regain compliance with the requirement by filing that periodic report and any other delinquent reports with due dates falling before the end of the exception period. In determining whether to grant an exception, and the length of any such exception, the Listing Council will consider the Company's specific circumstances, including the likelihood that the filing can be made within the exception period, the Company's past compliance history, the reasons for the late filing, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. This review will be based on information provided by a variety of sources, which may include the Company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.

(5) In the case of a Company that fails to hold an annual meeting, the Listing Council may grant an exception for a period not to exceed 360 days from the deadline to hold the annual meeting (one year after the end of the Company's fiscal year).

(6) The Listing Council may also recommend that the Nasdaq Board consider the matter.

(e) Listing Council Review Process

(1) Review Generally on Written Record

For each matter before the Listing Council, whether on appeal for call for review, a subcommittee consisting of at least two members of the Listing Council will review the written record, as described in Rule 5840(a). Members of the Listing Council who are not on a subcommittee will be provided with a written summary of the record prepared by an Advisor, and may, but will not be required to, review the written record. The Listing Council shall consider the written record and, at its discretion, may request additional written materials and/or hold additional hearings. If an oral hearing is scheduled, it will take place, to the extent practicable, within 45 days of the date the appeal was submitted or the call for review was initiated.

(2) Record of Proceedings Maintained

A record of the documents considered by the Listing Council will be kept by the Nasdaq Office of Appeals and Review.

(3) Written Decision Issued

A written Listing Council Decision meeting the requirements of Rule 5840(c) will be issued after approval by at least a majority of the Listing Council. The Listing Council Decision will be promptly provided to the Company and will take immediate effect unless it specifies to the contrary. If the Listing Council determines to delist the Company, the securities of the Company will be immediately suspended, unless the Listing Council Decision specifies to the contrary.

(4) Reconsideration of a Listing Council Decision

A Company may request, in writing, that the Listing Council reconsider a Listing Council Decision only upon the basis that a mistake of material fact existed at the time of the Listing Council Decision. The Company's request must be made within seven calendar days of the date of the Listing Council Decision. A Company's request for reconsideration will not stay a Listing Council Decision unless the Listing Council issues a written determination staying the Decision. If the Listing Council grants a Company's reconsideration request, the Listing Council will issue a modified Decision meeting the requirements of Rule 5840(c) within 15 calendar days of the date of the original Listing Council Decision, or lose jurisdiction over the matter.

(5) Notice of Board Right to Call

The Listing Council Decision will provide notice that the Nasdaq Board may call the Listing Council Decision for review pursuant to provisions in Rule 5825.

(6) Form 25 Notification of Delisting

If the Listing Council determines to delist the Company and the Nasdaq Board does not call the matter for review or withdraws its call for review, Nasdaq will follow the procedures described in Rule 5830 to submit an application on Form 25 to the Securities and Exchange Commission to delist the security.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Jan. 2, 2013 (SR-NASDAQ-2013-004); amended Jan. 25, 2013 (SR-NASDAQ-2013-017); amended Feb. 12, 2016 (SR-NASDAQ-2015-144).

5825. Discretionary Review by Nasdaq Board

(a) Review at Discretion of Board

A Panel Decision, in a matter where the Hearings Panel has granted the maximum exception period and the Listing Council is precluded from granting additional time under Rules 5815(c)(1)(F) and 5820(d)(4), or a Listing Council Decision may be called for review by the Board of Directors of Nasdaq (the "Nasdaq Board") solely upon the request of one or more Board members not later than the next Nasdaq Board meeting that is 15 calendar days or more following the date of the Panel or Listing Council Decision. This review will be undertaken solely at the discretion of the Nasdaq Board and will not operate as a stay of the Panel or Listing Council Decision, unless the Board's call for review specifies to the contrary. At the sole discretion of the Nasdaq Board, it may withdraw its call for review of a Panel or Listing Council Decision at any time before issuance of a Decision.

(b) Scope of Discretion of Board

The Board may consider any failure to meet any quantitative standard or qualitative consideration for initial or continued listing, including failures previously not considered by the Listing Council. It may also consider any action taken by a Company during the review process that would have constituted a violation of Nasdaq's corporate governance requirements had the Company's securities been trading on Nasdaq at the time. The Company will be afforded written notice of such consideration and an opportunity to respond. Pursuant to the Rule 5100 Series, the Board may subject the Company to additional or more stringent criteria for the initial or continued listing of particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities inadvisable or unwarranted in its opinion, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

(c) Review on Written Record

If the Nasdaq Board conducts a discretionary review, the review generally will be based on the written record considered by the Hearings Panel or Listing Council. However, the Nasdaq Board may, at its discretion, request and consider additional information from the Company and/or from Staff. If the Board considers additional

information, a record of the documents reviewed by the Nasdaq Board will be kept by the Nasdaq Office of Appeals and Review.

(d) Board Decision

If the Nasdaq Board conducts a discretionary review, the Company will be provided a written Decision that meets the requirements of Rule 5840(c). The Nasdaq Board may affirm, modify or reverse the Panel or Listing Council Decision and may remand the matter to the Listing Council, Hearings Panel, or staff of the Listing Qualifications Department with appropriate instructions. The Nasdaq Board also may issue a Decision that serves as a Public Reprimand Letter in cases where the Company has violated a Nasdaq corporate governance or notification listing standard (other than one required by Rule 10A-3 of the Act) and the Nasdaq Board determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, the Nasdaq Board will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations. The Decision of the Nasdaq Board will take immediate effect, unless it specifies to the contrary, and represents the final action of Nasdaq. If the Nasdaq Board determines to delist the Company, the securities of the Company will be immediately suspended, unless the Nasdaq Board specifies to the contrary, and Nasdaq will follow the procedures contained in Rule 5830 and submit an application on Form 25 to the Commission to strike the security from listing.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended by SR-NASDAQ-2009-052 eff. June 16, 2009.

5830. Finality of Delisting Determination

When Nasdaq has made a final determination to delist a Company's securities, it will follow procedures consistent with the Act to strike the security from listing. Nasdaq's determination to delist a Company's securities is final when, after a Delisting Determination has been issued, all available review and appeal procedures and periods available under these Rules have expired.

Nasdaq will issue a press release and post a notice on its website announcing its final determination to remove a security from listing, consistent with Rule 12d2-2 under the Act. Under Rule 12d2-2, Nasdaq must disseminate this public notice not less than 10 days before the delisting becomes effective and maintain the website notice until the delisting is effective. Following the public notification, Nasdaq will file an application on Form 25 with the Commission to delist the security, and will promptly provide a copy of that Form 25 to the Company. The delisting of the security becomes effective 10 days after the Form 25 is filed pursuant to Rule 12d2-2(d)(1) under the Act, unless the Commission postpones the delisting pursuant to Rule 12d2-2(d)(3).

Adopted March 12, 2009 (SR-NASDAQ-2009-018).

5835. Rules Applicable to Adjudicators and Advisors

(a) Ex Parte Communications

(1) No Ex parte Communications

No member of the staff of the Listing Qualifications Department or its counsel, and no Company representative will make or knowingly cause to be made an ex parte communication relevant to the merits of a proceeding under this Section to an Adjudicator or any Advisor.

Similarly, no Adjudicator who is participating in a Decision with respect to a proceeding under this Section, and no Advisor with respect to such a proceeding, will make or knowingly cause to be made an ex parte communication relevant to the merits of that proceeding to a Company representative, a member of the staff of the Listing Qualifications Department or its counsel.

(2) An Adjudicator or Advisor who is participating in or advising with respect to a proceeding who receives, makes, or knowingly causes to be made an ex parte communication relevant to the merits of a proceeding will place a copy of it, or its substance if it is an oral communication, in the record of the proceeding. Staff of the Listing Qualifications Department or the Company, as applicable, will be permitted to respond to the ex parte communication, and any response will be placed in the record of the proceeding.

(b) No Communications Between Adjudicatory Bodies

(1) Members of a Hearings Panel and their Advisors who are participating in a proceeding under this Section are prohibited from making communications relevant to the merits of such proceeding to members of the Listing Council or the Nasdaq Board or their respective Advisors.

(2) Members of the Listing Council and their Advisors are prohibited from making communications relevant to the merits of a proceeding under this Rule 5800 Series to members of a Hearings Panel who are participating in such proceeding or their Advisors, or members of the Nasdaq Board or their Advisors.

(3) Members of the Nasdaq Board and their Advisors are prohibited from making communications relevant to the merits of a proceeding under this Rule 5800 Series to members of a Hearings Panel who are participating in such proceeding or their Advisors, or members of the Listing Council or their Advisors.

(4) An Adjudicator or Advisor who is participating in or advising with respect to a proceeding who receives, makes, or knowingly causes to be made a communication prohibited by paragraphs (1) - (3) above will place a copy of it, or its substance if it is an oral communication, in the record of the proceeding. Staff of the Listing Qualifications Department and the Company will be permitted to respond to the communication, and any such response will be placed in the record of the proceeding.

(c) Recusal or Disqualification

No person will serve as a member of a Hearings Panel, or participate as a member of the Listing Council, the Nasdaq Board, the staff of the Listing Qualifications Department or Advisor to an Adjudicator, in a matter as to which he or she has a conflict of interest or bias, or circumstances otherwise exist where his or her fairness might reasonably be questioned. In any such case, the person will recuse himself or herself, or will be disqualified.

(1) Exchange of Biographical Information

To facilitate the process for recusal and disqualification, at least five days before any proceeding under this Section, the Company will provide the Hearings Department or the Advisor to the Listing Council or the Nasdaq Board, as applicable, with names and biographical information of each person who will appear on behalf of the Company at the proceeding, and the Hearings Department or Advisor, as applicable, will provide the Company and the Staff with names and biographical information of the Adjudicators for the proceeding; provided, however, that with respect to proceedings before the Listing Council or the Nasdaq Board, the Advisor to the respective Adjudicatory Body may post names and biographical information of each Adjudicator on a publicly available website in lieu of providing them directly to the Company.

(2) Disqualification Procedures

A Company or the Staff of the Listing Qualifications Department may file a request to disqualify an Adjudicator. A request to disqualify will be based upon a reasonable, good faith belief that a conflict of interest or bias exists or circumstances otherwise exist where the Adjudicator's fairness might reasonably be questioned, and will be accompanied by a statement setting forth in detail the facts alleged to constitute grounds for disqualification, and the dates on which the party learned of those facts. A request to disqualify must be filed (A) not later than two business days after the party was provided with the name and biographical information of the Adjudicator, or (B) if the name and biographical information of the Adjudicator was posted on a website, not later than two business days after the Company requested Listing Council review or received notice of discretionary review by the Listing Council or the Nasdaq Board. A request for disqualification of an Adjudicator will be decided by the party with authority to order disqualification of such Adjudicator, as detailed below, who will promptly investigate whether disqualification is required and issue a written response to the request.

(A) Nasdaq Board

The Chair of the Nasdaq Board will have authority to order the disqualification of a Director, and a majority of the Nasdaq Board excluding the Chair of the Nasdaq Board will have authority to order the disqualification of the Chair.

(B) Listing Council

A Chair of the Listing Council will have authority to order the disqualification of a member of the Listing Council, and a majority of the Listing Council excluding any Chairs of the Listing Council will have authority to order the disqualification of a Chair of the Listing Council.

(C) Staff of Listing Qualifications Department; Panelist of Hearings Panel

The General Counsel of Nasdaq will have authority to order the disqualification of (i) a member of the staff of the Listing Qualifications Department reviewing the qualifications of a Company, (ii) a member of a Hearings Panel, or (iii) an Advisor to an Adjudicatory Body.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended by SR-NASDAQ-2009-052 eff. June 16, 2009.

5840. Adjudicatory Process: General Information

(a) Record on Review

At each level of a proceeding under this Section, the written record may consist of the following items, as applicable: correspondence between Nasdaq and the Company; the Company's public filings; information released to the public by the Company; written submissions, exhibits, or requests submitted by either the Company or the Listing Qualifications Department and responses thereto; and any additional information considered by the Adjudicatory Body as part of the review process. The written record will be supplemented by the transcript of any hearings held during the review process and all Decisions issued.

At each level of review under this Section, the Company will be informed of the contents of the written record. The Company will be provided a copy of any documents in the record that were not provided by the Company or are not publicly available, at least three calendar days before the deadline for Company submissions, unless the Company waives this production.

If additional issues arising under the Rule 5000 Series are considered, as permitted by the 5800 Series, the notice of such consideration and any response to such notice shall be made a part of the record.

(b) Additional Information Requested or Considered

At each level of a proceeding under this Section, the Adjudicatory Body, as part of its review:

(1) may request additional information from the Company or the Listing Qualifications Department; and

(2) may consider additional information available from other sources it deems relevant. The Company and the Listing Qualifications Department will be afforded written notice and an opportunity to address the significance of any information requested or considered, and the notice, responses to the notice, and the information considered will be made part of the record.

(c) Contents of Decisions

Each Adjudicatory Body's written Decision will include:

(1) a statement describing the procedural history of the proceeding, including investigations or reviews undertaken by the Listing Qualifications Department;

(2) the quantitative or qualitative standard that the Company is alleged to have failed to satisfy;

(3) a statement setting forth the findings of fact with respect to the Company;

(4) the conclusions of the Adjudicatory Body as to whether the Company has failed to satisfy the quantitative or qualitative standards for initial or continued listing; and

(5) a statement of the Adjudicatory Body in support of its disposition of the matter, and, if applicable, the rationale for any exception to the initial or continued listing requirements granted.

(d) Correction of Clerical Errors

The Hearings Panel and the Listing Council may correct clerical or other non-substantive errors in their respective Decisions either on their own motion or at the request of a Company. A copy of any such corrected Decision will be provided to the Company.

(e) Computation and Adjustment of Time

(1) Except as described in paragraph (2) below, in counting any time under this Section, the day of the act, event, or default from which the period of time begins to run, is not to be included. The last day of the period is included, unless it is a Saturday, Sunday, federal holiday, or Nasdaq holiday in which case the period runs until the end of the next day that is not a Saturday, Sunday, federal holiday or Nasdaq holiday.

(2) When Staff determines whether a deficiency has occurred with respect to the Bid Price, Market Value of Listed Securities, or Market Value of Publicly Held Shares requirements, the first trading day that the Bid Price or Market Value is below required standards is included in computing the total number of consecutive trading days of default. Similarly, when Staff determines whether a Company has regained compliance with the Bid Price, Market Value of Listed Securities, or Market Value of Publicly Held Shares requirements, the first trading day that the Bid Price or Market

Value is at or above required standards is included in computing the total number of consecutive trading days.

(3) If the Office of General Counsel determines that notice required to be provided under this Section was not properly given or that other extenuating circumstances exist, the Hearings Department may adjust the periods of time provided by the rules for the filing of written submissions, the scheduling of hearings, or the performance of other procedural actions by the Company or an Adjudicator, as applicable, to allow the Company or the Adjudicator the time contemplated by these rules.

(4) A Company may waive any notice period specified in this Section.

(f) Delivery of Documents

Delivery of any document under this Section may be made by electronic delivery, hand delivery, facsimile, regular mail or overnight courier. Delivery will be considered timely if the electronic delivery, hand delivery, fax, or overnight courier is received on or before the relevant deadline. If a Company has not specified a facsimile number, e-mail address, or street address, delivery will be made to the last known facsimile number, e-mail address, and street address. If a Company is represented by counsel or a representative, delivery may be made to the counsel or representative.

(g) Document Retention Procedures

Any document submitted to Nasdaq in connection with a proceeding under this Section will be retained in accordance with applicable record retention policies.

(h) Documentation of Decisions

The Listing Qualifications Department or the Advisor to an Adjudicatory Body, as applicable, shall document the date on which a Decision with respect to a Company is implemented.

(i) Re-Listing of a Company

A Company that has been the subject of a Decision by an Adjudicatory Body to delist such Company shall be required, prior to re-listing, to comply with the requirements for initial listing. A Company that has been suspended but that has not been the subject of such a Decision shall be required, prior to re-listing, to comply with requirements for continued listing.

(j) Voluntary Delisting

(1) A Company may voluntarily terminate its listing upon compliance with all requirements of Rule 12d2-2(c) under the Act. In part, Rule 12d2-2(c) requires that the Company may delist by filing an application on Form 25 with the Commission, provided that the Company: (i) complies with all applicable laws in effect in the state

in which it is incorporated and with the applicable Nasdaq Rules; (ii) provides notice to Nasdaq no fewer than 10 days before the Company files the Form 25 with the Commission, including a statement of the material facts relating to the reasons for delisting; and (iii) contemporaneous with providing notice to Nasdaq, publishes notice of its intent to delist, along with its reasons therefore, via a press release and on its web site, if it has one. Any notice provided on the Company's web site pursuant to Rule 12d2-2(c) must remain available until the delisting has become effective. The Company must also provide a copy of the Form 25 to Nasdaq simultaneously with its filing with the Commission. Nasdaq will provide notice on its web site of the Company's intent to delist as required by Rule 12d2-2(c)(3).

(2) A Company that seeks to voluntarily delist a class of securities pursuant to Rule 5840(j)(1) that has received notice from Nasdaq, pursuant to the Rule 5800 Series or otherwise, that it fails to comply with one or more requirements for continued listing, or that is aware that it is below such continued listing requirements notwithstanding that it has not received such notice from Nasdaq, must disclose this fact (including the specific continued listing requirement that it is below) in: (i) its statement of all material facts relating to the reasons for withdrawal from listing provided to Nasdaq along with written notice of its determination to withdraw from listing required by Rule 12d2-2(c)(2)(ii) under the Act; and (ii) its press release and web site notice required by Rule 12d2-2(c)(2)(iii) under the Act.

(k) Disclosure of Public Reprimand Letter

A Company that receives an Adjudicatory Body Decision that serves as a Public Reprimand Letter must make a public announcement by filing a Form 8-K, where required by SEC rules, or by issuing a press release disclosing the receipt of the Decision, including the Rule(s) upon which the Decision was based. As described in Rule 5250(b)(1) and IM-5250-1, the Company must notify Nasdaq's MarketWatch Department about the announcement through the electronic disclosure submission system available at www.nasdaq.net, except in emergency situations when notification may instead be provided by telephone or facsimile. If the public announcement is made during Nasdaq market hours, the Company must notify MarketWatch at least ten minutes prior to the announcement. If the public announcement is made outside of Nasdaq market hours, the Company must notify MarketWatch of the announcement prior to 6:50 a.m. ET. The Company should make the public announcement as promptly as possible but not more than four business days following receipt of the Decision.

(l) Disclosure by Nasdaq

In order to maintain the quality of and public confidence in its market and to protect investors and the public interest, Nasdaq may, at any level of a proceeding under this Rule 5800 Series, make a public announcement, including by press release, describing a notification, Public Reprimand Letter, Staff Delisting Determination, Adjudicatory Body Decision, or other event involving a Company's listing or trading on Nasdaq.

Adopted March 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 29, 2010 (SR-NASDAQ-2009-077); amended Mar. 15, 2010 (SR-NASDAQ-2010-006); amended Mar. 26, 2010 (SR-NASDAQ-2010-041); amended Dec. 3, 2012 (SR-NASDAQ-2012-118).

5900. Company Listing Fees

5901. Preamble to Company Listing Fees

This section sets forth the required fees for Companies both seeking listing and currently listed on Nasdaq. Rule 5930 describes fees for Linked Securities, SEEDS, and Other Securities qualified for listing under Rule 5710, 5715 or 5730. Rule 5940 describes fees for other Exchange Listed Products. The fees for all other Companies are described in Rule 5910 (for the Global and Global Select Markets) and Rule 5920 (for the Capital Market). With certain exceptions, these Companies must pay a nonrefundable application fee, and an entry fee, which is based on the number of shares being listed. Starting January 1, 2015, Nasdaq will offer Companies that pay fees under Rules 5910 or 5920 an All-Inclusive Annual Listing Fee described in IM-5910-1 and IM-5920-1. Any Company not subject to the All-Inclusive Annual Listing Fee must pay applicable standard annual fees, listing of additional shares fees, record keeping fees and substitution listing fees as described in Rules 5910 and 5920.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Apr. 27, 2009 (SR-NASDAQ-2009-040); amended June 16, 2009 (SR-NASDAQ-2009-052); amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015.

5910. The Nasdaq Global Market (including the Nasdaq Global Select Market)

(a) Entry Fee

(1) A Company that submits an application to list any class of its securities (not otherwise identified in this Rule 5900 Series) on the Nasdaq Global Market, shall pay to Nasdaq a fee calculated on total shares outstanding, according to the following schedule. This fee will be assessed on the date of listing on the Nasdaq Global Market, except for the application fees described in paragraph (a)(11), below.

Up to 30 million shares \$125,000

30+ to 50 million shares \$150,000

50+ to 100 million shares \$200,000

Over 100 million shares \$225,000

(2) Total shares outstanding means the aggregate of all classes of equity securities to be listed on the Nasdaq Global Market as shown in the Company's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the Company's

appropriate regulatory authority. In the case of foreign companies, total shares outstanding shall include only those shares issued and outstanding in the United States.

(3) A closed-end management investment company regulated under the Investment Company Act of 1940, as amended (a "Closed-End Fund"), that submits an application for listing on the Nasdaq Global Market shall pay to Nasdaq an entry fee of \$5,000 (of which \$1,000 represents a non-refundable application fee).

(4) A Company that submits an application to list any class of rights on the Nasdaq Global Market, shall pay, at the time of its application, a non-refundable application fee of \$1,000 to Nasdaq.

(5) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

(6) If the application is withdrawn or is not approved, the entry fee (less the non-refundable application fee) shall be refunded.

(7) The fees described in this Rule 5910(a) shall not be applicable with respect to any securities that:

(i) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities transfers their listing exclusively to the Nasdaq Global Market;

(ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated as national market securities under Rule 5220;

(iii) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Global Market; or

(iv) are listed on Nasdaq by a newly formed Company resulting from a transaction between two or more Nasdaq-listed Companies (or involving assets from such Companies), where at least one of the Nasdaq-listed Companies ceases to be separately listed.

(8) The fees described in this Rule 5910(a) shall not be applicable to a Company

(i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are approved for listing on Nasdaq; and

(ii) that maintains such listing and designation after it lists such securities on Nasdaq.

(9) A Company that transfers its listing from the Nasdaq Capital Market to the Nasdaq Global Market shall not be required to pay the entry fee described in this Rule 5910(a), provided that:

(i) the Company listed on the Nasdaq Capital Market prior to January 1, 2007; or

(ii) the Company listed on the Nasdaq Capital Market on or after January 1, 2007 and did not qualify for the Nasdaq Global Market at the time of its initial listing on the Nasdaq Capital Market. Any other Company that transfers its listing from the Nasdaq Capital Market to the Nasdaq Global Market shall not be required to pay the application fee, but shall pay the entry fee described in this Rule 5910(a) less the entry fee that was previously paid by the Company to Nasdaq in connection with listing on The Nasdaq Capital Market.

(10) A Company that submits an application for listing on The Nasdaq Capital Market, but prior to listing revises its application to seek listing on The Nasdaq Global Market, is not required to pay the application fee described in this Rule 5910(a) in connection with the revised application.

(11) A Company subject to the Entry Fee described in paragraph (a)(1) of this Rule must submit a non-refundable \$25,000 initial application fee with its application. If the Company does not list within 12 months of submitting its application (or by October 15, 2014, if later), it will be assessed an additional non-refundable \$5,000 application fee each 12 months thereafter to keep its application open. If a Company does not timely pay such additional application fee, its application will be closed and it will be required to submit a new application and initial application fee if it subsequently reapplies. Nasdaq will credit all application fees paid by the Company in connection with an application that has not been closed towards the Entry Fee payable upon listing.

(b) Additional Shares

(1) Each Company, other than a Company that is a Foreign Private Issuer described in paragraph (b)(2), shall pay to Nasdaq a fee in connection with the issuance of additional shares in the amount of \$5,000 or \$.01 per additional share, whichever is higher, up to an annual maximum of \$65,000 per Company. There shall be no fee, however, for issuances of up to 49,999 additional shares per quarter.

(2) Each Company that is a Foreign Private issuer at the beginning of a fiscal year shall pay to Nasdaq an annual fee of \$7,500 in connection with the issuance of additional shares, or in the case of ADRs, the issuance of additional shares underlying the ADRs, during the fiscal period. There shall be no fee, however, for issuances of up to 49,999 additional shares per year.

(3) The fee will be calculated and assessed quarterly (annually in the case of a Foreign Private Issuer) based on the Company's total shares outstanding as reported on its periodic reports filed with the SEC. In the event that a Company does not timely file a

required periodic report with the SEC, the Company must instead provide Nasdaq with the change in its total shares outstanding and the fee will be calculated based on that change. When the Company files its delinquent periodic report, Nasdaq will reconcile the change in shares reported on the periodic report with the number previously provided to Nasdaq and, if necessary, adjust the Company's bill.

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the additional shares fee prescribed herein.

(5) The fees described in this Rule 5910(b) shall not be applicable to a Company

(i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are approved for listing on Nasdaq, and

(ii) that maintains such listing and designation after it lists such securities on Nasdaq.

(6) The maximum fee charged to an issuer that is a Closed-End Fund in any quarter is \$25,000 per Company.

(c) Standard Annual Fee — Domestic and Foreign Issues

(1) The issuer of each class of securities (not otherwise identified in this Rule 5900 Series) that is a domestic or foreign issue listed on the Nasdaq Global Market shall pay to Nasdaq an annual fee calculated on total shares outstanding according to the following schedule:

Up to 50 million shares \$40,000

50+ to 75 million shares \$46,500

75+ to 100 million shares \$69,000

100+ to 125 million shares \$93,000

Over 125 million shares \$125,000

(2) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

(3) Assessment of Annual Fee

(A) In the first calendar year of listing, a Company's annual fee will be based on the total shares outstanding as of the date of listing and will be prorated based on the month of listing. For example, a Company that lists on any day in March will owe 10/12 of the applicable annual fee; if it lists on any day in April, it will owe 9/12 of the applicable annual fee.

(B) After the first calendar year of listing, a Company's annual fee will be assessed on January 1st for the upcoming calendar year based on the total shares outstanding as of December 31st of the prior year. If a Company is listed on January 1st, the Company will owe the annual fee for the entire year, even if the Company delists or is removed before the Company is billed or pays the fee for that year.

(C) **Transfers from Capital Market.** If a Company transfers its listing from the Capital Market to the Global or Global Select Market, the annual fee will be prorated based on the month of the transfer. Such a Company will owe the annual fee for the new market tier starting in the month of transfer and the annual fee for the Capital Market for all earlier months in the calendar year.

For example, a Company with 8 million total shares outstanding is listed on the Capital Market and transfers to the Global Market on October 20th. Its new annual fee for the Global Market is \$40,000, which is prorated from October to December, resulting in an annual fee due of \$10,000 for its first calendar year of listing on the Global Market. Since this Company already paid an annual fee of \$32,000 on the Capital Market, it will be credited \$8,000, which represents the portion of the annual fee already paid for listing on the Capital Market for the remainder of the year. The Company, therefore, has a balance due to Nasdaq of \$2,000.

(D) No portion of the annual fee paid is refundable if a class of securities is delisted or otherwise removed from The Nasdaq Stock Market. No portion of the annual fee that is due and payable when a class of securities is delisted or otherwise removed from The Nasdaq Stock Market will be waived upon delisting or removal.

(E) **Relisting.** A Company that was suspended, delisted, or removed from Nasdaq for any reason, whether regulatory or voluntary, is not required to pay a second annual fee if it relists in the same calendar year.

(4) Total shares outstanding means the aggregate of all classes of equity securities listed on Nasdaq, including equity securities listed on the Nasdaq Capital Market, as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. In the case of foreign companies, total shares outstanding shall include only those shares issued and outstanding in the United States.

(5) In lieu of the fees described in Rules 5910(c)(1), 5910(d)(1), and 5910(d)(3), the annual fee shall be \$15,000 for each Company:

(i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are approved for listing on Nasdaq; and

(ii) that maintains such listing and designation after it lists such securities on Nasdaq. Such annual fee shall be assessed on the first anniversary of the Company's listing on Nasdaq. If an issuer of such securities ceases to maintain such listing and designation and the securities are instead designated under the Rule 5400 Series, that portion of the fee described in this section attributable to the months following the date of removal shall not be refunded, except such fee shall be applied to The Nasdaq Global Market fees due for the calendar year of the transfer.

(d) Standard Annual Fee — American Depositary Receipts (ADRs) and Closed-End Funds

(1) The issuer of each class of securities that is an ADR listed on The Nasdaq Global Market shall pay to Nasdaq an annual fee calculated on ADRs outstanding according to the following schedule:

Up to 50 million ADRs \$40,000

50+ to 75 million ADRs \$46,500

Over 75 million ADRs \$69,000

(2) ADRs outstanding means the aggregate of all classes of ADRs listed on the Nasdaq Global Market as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq.

(3) A Closed-End Fund listed on the Nasdaq Global Market shall pay to Nasdaq an annual fee calculated based on total shares outstanding according to the following schedule:

Up to 50 million shares \$22,500

50+ to 100 million shares \$35,000

100+ to 250 million shares \$55,000

Over 250 million shares \$80,000

(4) For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed \$80,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(5) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

(6) Assessment of Annual Fee

(A) In the first calendar year of listing, a Company's annual fee will be based on the total shares outstanding as of the date of listing and will be prorated based on the month of listing. For example, a Company that lists on any day in March will owe 10/12 of the applicable annual fee; if it lists on any day in April, it will owe 9/12 of the applicable annual fee.

(B) After the first calendar year of listing, a Company's annual fee will be assessed on January 1st for the upcoming calendar year based on the total shares outstanding as of December 31st of the prior year. If a Company is listed on January 1st, the Company will owe the annual fee for the entire year, even if the Company delists or is removed before the Company is billed or pays the fee for that year.

(C) **Transfers from Capital Market.** If a Company transfers its listing from the Capital Market to the Global or Global Select Market, the annual fee will be prorated based on the month of the transfer. Such a Company will owe the annual fee for the new market tier starting in the month of transfer and the annual fee for the Capital Market for all earlier months in the calendar year.

For example, a Company with 8 million total ADRs outstanding is listed on the Capital Market and transfers to the Global Market on October 20th. Its new annual fee for the Global Market is \$40,000, which is prorated from October to December, resulting in an annual fee due of \$10,000 for its first calendar year of listing on the Global Market. Since this Company already paid an annual fee of \$32,000 on the Capital Market, it will be credited \$8,000, which represents the portion of the annual fee already paid for listing on the Capital Market for the remainder of the year. The Company, therefore, has a balance due to Nasdaq of \$2,000.

(D) No portion of the annual fee paid is refundable if a class of securities is delisted or otherwise removed from The Nasdaq Stock Market. No portion of the annual fee that is due and payable when a class of securities is delisted or otherwise removed from The Nasdaq Stock Market will be waived upon delisting or removal.

(E) **Relisting.** A Company that was suspended, delisted, or removed from Nasdaq for any reason, whether regulatory or voluntary, is not required to pay a second annual fee if it relists in the same calendar year.

(e) Record-Keeping Fee

A Company that makes a change such as a change to its name, the par value or title of its security, or its symbol shall pay a fee of \$7,500 to Nasdaq and submit the appropriate form as designated by Nasdaq.

(f) Substitution Listing Fee

A Company that implements a Substitution Listing Event shall pay a fee of \$15,000 to Nasdaq and submit the appropriate form as designated by Nasdaq. Notwithstanding the foregoing, this substitution listing fee shall not apply to securities that are listed on a national securities exchange other than Nasdaq and not designated by Nasdaq as Nasdaq national market system securities.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Mar. 5, 2010 (SR-NASDAQ-2009-081), 5910(c) & (d) operative Jan. 1, 2010; amended Jan. 6, 2011 (SR-NASDAQ-2011-007); amended July 26, 2011 (SR-NASDAQ-2011-100), operative Aug. 25, 2011; amended Jan. 2, 2013 (SR-NASDAQ-2013-003); amended Oct. 2, 2013 (SR-NASDAQ-2013-130); amended Oct. 11, 2013 (SR-NASDAQ-2013-134), operative Jan. 1, 2014; amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended May 12, 2016 (SR-NASDAQ-2016-057); amended Sept. 26, 2017 (SR-NASDAQ-2017-096).

IM-5910-1. All-Inclusive Annual Listing Fee

(a) Nasdaq offers an All-Inclusive Annual Listing Fee. Companies that list on Nasdaq after January 1, 2015, are subject to this fee schedule. Other Companies were permitted to make an irrevocable election to be subject to the All-Inclusive Annual Listing Fee. All Companies will be subject to this fee schedule beginning January 1, 2018.

(b) Transition

(1) Nasdaq offered the following incentives to a Company listed before January 1, 2015, which, prior to December 31, 2014, made an irrevocable election to be subject to the All-Inclusive Annual Listing Fee:

(A) Until December 31, 2017, the Company will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of December 31, 2014. As such, regardless of any increase in shares outstanding, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee will not increase until at least January 1, 2018.

(B) The Company was not billed for the listing of additional shares after it submitted the opt-in form to Nasdaq, regardless of when the shares were issued. As such, fees for shares issued in the final period of 2014, which otherwise could be billed during 2015, were forgiven.

- (2) In addition, until December 31, 2017, any Company that applied to list on Nasdaq prior to January 1, 2015, and lists after that date, and any Company described in Rule 5910(a)(7), will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of the date of listing. As such, regardless of any increase in shares outstanding, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee will not increase, until at least January 1, 2018.
- (3) Nasdaq offered the following incentives to a Company listed before January 1, 2015, which did not elect to be subject to the All-Inclusive Annual Listing Fee for 2015 but, between July 22 and December 31, 2015, made an irrevocable election to be subject to the All-Inclusive Annual Listing Fee:
- (A) Until December 31, 2017, the Company will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of December 31, 2015 (including any additional shares reflected in such information that were issued after the Company opted-in, even if such shares were not subject to the listing of additional shares fee pursuant to paragraph (3)(B) below). As such, regardless of any increase in shares outstanding, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee will not increase until at least January 1, 2018.
- (B) The Company was not billed for the listing of additional shares after it submitted the opt-in form to Nasdaq, regardless of when the shares were issued. Share issuances already billed at the time the Company submitted the opt-in form were not forgiven.
- (4) A Company listed before January 1, 2015, which did not elect to be subject to the All-Inclusive Annual Listing Fee before 2016, may make an irrevocable election to be subject to the All-Inclusive Annual Listing Fee for 2017 between June 15 and December 31, 2016. The Company will not be billed for the first \$30,000 in fees for the listing of additional shares otherwise payable after the Company submits the opt-in form. Share issuances already billed at the time the Company submits the opt-in form will not be forgiven.
- (c) The All-Inclusive Annual Listing Fee eliminates all fees described in Rules 5910(b) - (f) for standard annual fees, additional shares fees, record-keeping fees, and substitution listing event fees. In addition, Companies that pay the All-Inclusive Annual Listing Fee are not subject to the fees described in Rule 5602 (for a written interpretation of the listing rules) and Rule 5810(c) (for review by Nasdaq Staff of a compliance plan). For the avoidance of doubt, Companies that pay the All-Inclusive Annual Listing Fee must still pay the fees described in Rules 5815(a)(3) and 5820(a) (for review by a Hearings Panel or the Nasdaq Listing and Hearing Review Council, respectively, of a Staff Delisting Determination or Public Reprimand Letter). These

Companies must also pay fees described in Rule 5910(a) relating to the listing of an additional class of securities of the Company.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) All domestic and foreign Companies listing equity securities, except as described below:

Up to 10 million shares \$45,000

10+ to 50 million shares \$55,000

50+ to 75 million shares \$75,000

75+ to 100 million shares \$100,000

100+ to 125 million shares \$125,000

125+ to 150 million shares \$135,000

Over 150 million shares \$155,000

Real Estate Investment Trusts (REITs) are subject to the same fee schedule as other equity securities. For the purpose of determining the total shares outstanding, shares outstanding of all members in a REIT Family listed on the Nasdaq Global Market may be aggregated. The maximum annual fee applicable to such a REIT Family shall not exceed \$155,000. For purposes of this rule, a "REIT Family" means three or more REITs that are provided management services by the same entity or by entities under common control.

(2) Companies listing American Depositary Receipts (ADRs):

Up to 50 million ADRs and other listed equity securities \$45,000

50+ to 75 million ADRs and other listed equity securities \$52,500

Over 75 million ADRs and other listed equity securities \$75,000

(3) Closed-end Funds:

Up to 50 million shares \$30,000

50+ to 100 million shares \$50,000

100+ to 250 million shares \$75,000

Over 250 million shares \$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(4) Limited Partnerships:

Up to 75 million shares \$37,500

75+ to 100 million shares \$50,000

100+ to 125 million shares \$62,500

125+ to 150 million shares \$67,500

Over 150 million shares \$77,500

(5) Investment Management Entities and Eligible Portfolio Companies (effective January 1, 2018):

Nasdaq will apply a 50% fee discount to the annual fee otherwise owed under paragraph (d)(1) of this rule for Eligible Portfolio Companies and Investment Management Entities that have one or more Eligible Portfolio Companies. For purposes of this rule, an "Investment Management Entity" is a company listed on Nasdaq or another national securities exchange that manages private investment vehicles not registered under the Investment Company Act. An "Eligible Portfolio Company" of an Investment Management Entity is a Nasdaq-listed Company in which an Investment Management Entity has owned at least 20% of the common stock on a continuous basis since prior to that company's initial listing.

In order to qualify for this discount in any calendar year, a Company, other than a new listing, must submit satisfactory proof to Nasdaq no later than December 31st of the prior year that it satisfies the requirements specified above. A new listing that satisfies these requirements is eligible for the discount upon listing.

Notwithstanding the foregoing, if an Investment Management Entity or Eligible Portfolio Company would otherwise be subject to an All-Inclusive Annual Fee that is lower than the fee provided for in this paragraph (5), then the alternative fee schedule shall apply.

(e) Assessment of All-Inclusive Annual Listing Fee

- (1) In the first calendar year of listing, a Company's All-Inclusive Annual Listing Fee will be based on the total shares outstanding as of the date of listing and will be prorated based on the month of listing. For example, a Company that lists on any day in March will owe 10/12 of the applicable annual fee; if it lists on any day in April, it will owe 9/12 of the applicable annual fee.
- (2) After the first calendar year of listing, a Company's All-Inclusive Annual Listing Fee will be assessed on January 1st for the upcoming calendar year based on the total shares outstanding as of December 31st of the prior year. If a Company is listed on January 1st, the Company will owe the All-Inclusive Annual Listing Fee for the entire year, even if the Company delists or is removed before the Company is billed or pays the fee for that year.
- (3) For a Company with any equity securities listed on the Nasdaq Global or Global Select Markets, total shares outstanding shall mean, and the All-Inclusive Annual Listing Fee for the year shall be based on, the aggregate number of all securities outstanding for each class of equity securities (not otherwise identified in this Rule 5900 Series) listed on the Nasdaq Global Select, Global and Capital Markets as of January 1 of that year, as shown in the Company's periodic reports required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. In the case of a foreign private issuer, the All-Inclusive Annual Listing Fee will be based on only those equity securities issued and outstanding in the United States, provided the Company notifies Nasdaq of that number by completing the appropriate form in the Nasdaq Listing Center.
- (4) **Transfers from Capital Market.** If a Company transfers its listing from the Capital Market to the Global or Global Select Market, its All-Inclusive Annual Listing Fee will be prorated based on the month of the transfer. Such a Company will owe the All-Inclusive Annual Listing Fee for the new market tier starting in the month of transfer and the All-Inclusive Annual Listing Fee for the Capital Market for all earlier months in the calendar year.

For example, a Company with 80 million total shares outstanding is listed on the Capital Market and transfers to the Global Market on October 20th. Its new All-Inclusive Annual Fee for the Global Market is \$100,000, which is prorated from October to December, resulting in an annual fee due of \$25,000 for its first calendar year of listing on the Global Market. Since this Company already paid an All-Inclusive Annual Fee of \$75,000 on the Capital Market, it will be credited \$18,750, which represents the portion of the All-Inclusive Annual Fee already paid for listing on the Capital Market for the remainder of the year. The Company, therefore, has a balance due to Nasdaq of \$6,250.

- (5) No portion of the All-Inclusive Annual Listing Fee paid is refundable if a class of securities is delisted or otherwise removed from The Nasdaq Stock Market. No portion of the All-Inclusive Annual Listing Fee that is due and payable when a

class of securities is delisted or otherwise removed from The Nasdaq Stock Market will be waived upon delisting or removal.

- (6) **Relisting.** A Company that was suspended, delisted, or removed from Nasdaq for any reason, whether regulatory or voluntary, is not required to pay a second All-Inclusive Annual Listing Fee if it relists in the same calendar year.

Adopted Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended Feb. 25, 2015 (SR-NASDAQ-2015-017); amended July 22, 2015 (SR-NASDAQ-2015-087); amended May 12, 2016 (SR-NASDAQ-2016-057); amended June 10, 2016 (SR-NASDAQ-2016-085); amended June 14, 2016 (SR-NASDAQ-2016-088); amended Aug. 11, 2016 (SR-NASDAQ-2016-118), operative Sept. 10, 2016; amended Dec. 19, 2016 (SR-NASDAQ-2016-173), operative Jan. 1, 2017; amended Jan. 1, 2018 (SR-NASDAQ-2017-100).

5920. The Nasdaq Capital Market

(a) Entry Fee

(1) A Company that submits an application to list any class of its securities (not otherwise identified in this Rule 5900 Series) on the Nasdaq Capital Market, shall pay to Nasdaq a fee calculated on total shares outstanding, according to the following schedule. This fee will be assessed on the date of entry on the Nasdaq Capital Market, except for the application fees described in paragraph (a)(10) below.

Up to 15 million shares \$50,000

Over 15 million shares \$75,000

(2) A Company that submits an application to list any class of convertible debentures on the Nasdaq Capital Market, shall pay to Nasdaq a non-refundable application fee of \$5,000 and a fee of \$1,000 or \$50 per million dollars face amount of debentures outstanding, whichever is higher.

(3) A closed-end management investment company regulated under the Investment Company Act of 1940, as amended (a "Closed-End Fund"), that submits an application for listing on the Nasdaq Capital Market shall pay to Nasdaq an entry fee of \$5,000 (of which \$1,000 represents a non-refundable application fee).

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

(5) Total shares outstanding means the aggregate of all classes of equity securities to be listed on the Nasdaq Capital Market as shown in the Company's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the Company's appropriate regulatory authority.

(6) A Company that submits an application to list any class of rights on the Nasdaq Capital Market, shall pay, at the time of its application, a non-refundable application fee to Nasdaq of \$1,000.

(7) The fees described in this Rule 5920(a) shall not be applicable with respect to any securities that:

(i) are listed on another national securities exchange, if the issuer of such securities transfers their listing exclusively to the Nasdaq Capital Market;

(ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated under the plan applicable to Nasdaq Capital Market securities;

(iii) are listed on another national securities exchange, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Capital Market; or

(iv) are listed on Nasdaq by a newly formed Company resulting from a transaction between two or more Nasdaq-listed Companies (or involving assets from such Companies), where at least one of the Nasdaq-listed Companies ceases to be separately listed.

(8) The fees described in this Rule 5920(a) shall not be applicable to a Company

(i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are approved for listing on Nasdaq; and

(ii) that maintains such listing and designation after it lists such securities on Nasdaq.

(9) A Company that submits an application for listing on The Nasdaq Global Market, but prior to listing revises its application to seek listing on The Nasdaq Capital Market, is not required to pay the application fee described in Rule 5920(a) in connection with the revised application

(10) A Company subject to the Entry Fee described in paragraph (a)(1) of this Rule must submit a non-refundable \$5,000 initial application fee with its application. If the Company does not list within 12 months of submitting its application (or by October 15, 2014, if later), it will be assessed an additional non-refundable \$5,000 application fee each 12 months thereafter to keep its application open. If a Company does not timely pay such additional application fee, its application will be closed and it will be required to submit a new application and initial application fee if it subsequently reapplies. Nasdaq will credit all application fees paid by the Company in connection with an application that has not been closed towards the Entry Fee payable upon listing.

(11) The fees described in this Rule 5920(a) shall not be applicable, to a Company that transfers securities from the Nasdaq Global Market to the Nasdaq Capital Market. However, such a Company must submit a \$5,000 initial application fee with its application if the application is filed after October 15, 2013.

(b) Additional Shares

(1) Each Company, other than a Company that is a Foreign Private Issuer described in paragraph (b)(2), shall pay to Nasdaq a fee in connection with the issuance of additional shares in the amount of \$5,000 or \$.01 per additional share, whichever is higher, up to an annual maximum of \$65,000 per Company. There shall be no fee, however, for issuances of up to 49,999 additional shares per quarter.

(2) Each Company that is a Foreign Private Issuer at the beginning of a fiscal year shall pay to Nasdaq an annual fee of \$7,500 in connection with the issuance of additional shares, or in the case of ADRs, the issuance of additional shares underlying the ADRs, during the fiscal year. There shall be no fee, however, for issuances of up to 49,999 additional shares per year.

(3) The fee will be calculated and assessed quarterly (annually in the case of a Foreign Private Issuer) based on the Company's total shares outstanding as reported on its periodic reports filed with the SEC. In the event that a Company does not timely file a required periodic report with the SEC, the Company must instead provide Nasdaq with the change in its total shares outstanding and the fee will be calculated based on that change. When the Company files its delinquent periodic report, Nasdaq will reconcile the change in shares reported on the periodic report with the number previously provided to Nasdaq and, if necessary, adjust the Company's bill.

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the additional shares fee prescribed herein.

(5) The fees described in this Rule 5920(b) shall not be applicable to a Company (i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are approved for listing on Nasdaq, and (ii) that maintains such listing and designation after it lists such securities on Nasdaq.

(6) The maximum fee charged to an issuer that is a Closed-End Fund in any quarter is \$25,000 per Company.

(c) Standard Annual Fee

(1)

(A) The issuer of each class of securities that is a domestic or foreign issue, other than American Depositary Receipts (ADRs) and Closed-End Funds, listed on the Nasdaq Capital Market shall pay to Nasdaq an annual fee according to the following schedule:

Up to 10 million shares \$32,000

10+ to 50 million shares \$40,000

Over 50 million shares \$45,000

(B) The issuer of each class of securities that is an ADR listed on the Nasdaq Capital Market shall pay to Nasdaq an annual fee according to the following schedule:

Up to 10 million ADRs \$32,000

Over 10 million ADRs \$40,000

(2) Notwithstanding paragraph (1), the issuer of each class of convertible debentures listed on the Nasdaq Capital Market shall pay to Nasdaq an annual fee of \$500 or \$25 per million dollars face amount of debentures outstanding, whichever is higher.

(3) Notwithstanding paragraph (1), a Closed-End Fund listed on the Nasdaq Capital Market shall pay to Nasdaq an annual fee calculated based on total shares outstanding according to the following schedule:

Up to 50 million shares \$22,500

50+ to 100 million shares \$35,000

100+ to 250 million shares \$55,000

Over 250 million shares \$80,000

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

(5) Assessment of Annual Fee

(A) In the first calendar year of listing, a Company's annual fee will be based on the total shares outstanding as of the date of listing and will be prorated based on the month of listing. For example, a Company that lists on any day in March will owe 10/12 of the applicable annual fee; if it lists on any day in April, it will owe 9/12 of the applicable annual fee.

(B) After the first calendar year of listing, a Company's annual fee will be assessed on January 1st for the upcoming calendar year based on the total shares outstanding as of December 31st of the prior year. If a Company is listed on January 1st, the Company will owe the annual fee for the entire year, even if the Company delists or is removed before the Company is billed or pays the fee for that year.

(C) Transfers from Global and Global Select Market. If a Company transfers its listing from the Global or Global Select Market to the Capital Market, it will not owe any additional annual fee for the Capital Market, nor shall it receive any credit or offset of the portion of the annual fee paid or assessed for the prior market.

For example, a Company with 8 million total shares outstanding is listed on the Global Market and transfers to the Capital Market on October 20th. Its new annual fee for the Capital Market is \$32,000. Since this Company already paid an annual fee of \$40,000 on the Global Market, it will not owe any additional annual fee for that calendar year. However, the Company would not receive any further credit of the amount previously paid for listing on the Global Market and would owe the full \$32,000 Capital Market annual fee in the following year.

(D) Relisting. A Company that was suspended, delisted, or removed from Nasdaq for any reason, whether regulatory or voluntary, is not required to pay a second annual fee if it relists in the same calendar year.

(6) Total shares outstanding means the aggregate of all classes of equity securities listed on the Nasdaq Capital Market as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. In the case of foreign companies, total shares outstanding shall include only those shares issued and outstanding in the United States. ADRs outstanding means the aggregate of all classes of ADRs listed on the Nasdaq Capital Market as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. If a Company has any equity securities listed on the Nasdaq Global or Global Select Markets, the shares listed on the Nasdaq Capital Market will be aggregated with those shares on the Global and Global Select Market, and the Company shall not be subject to the fee described in this Rule 5920(c), but instead shall be subject to the fee contained in Rule 5910(c) or (d), as applicable.

(7) Notwithstanding paragraph (6), for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market and the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed \$80,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(8) In lieu of the fees described in Rules 5920(c)(1) and 5920(c)(3), the annual fee shall be \$15,000 for each Company (i) whose securities are listed on the New York Stock Exchange and designated as national market securities pursuant to the plan governing New York Stock Exchange securities at the time such securities are

approved for listing on Nasdaq, and (ii) that maintains such listing and designation after it lists such securities on Nasdaq. Such annual fee shall be assessed on the first anniversary of the Company's listing on Nasdaq. If an issuer of such securities ceases to maintain such listing and designation and the securities instead are designated under the plan governing Nasdaq Capital Market securities, that portion of the fee described in this section attributable to the months following the date of removal shall not be refunded, except such fee shall be applied to The Nasdaq Capital Market fees due for the calendar year of the transfer.

(d) Record-Keeping Fee

A Company that makes a change such as a change to its name, the par value or title of its security, or its symbol shall pay a fee of \$7,500 to Nasdaq and submit the appropriate form as designated by Nasdaq.

(e) Substitution Listing Fee

A Company that implements a Substitution Listing Event shall pay a fee of \$15,000 to Nasdaq and submit the appropriate form as designated by Nasdaq. Notwithstanding the foregoing, this substitution listing fee shall not apply to securities that are listed on a national securities exchange other than Nasdaq and not designated by Nasdaq as Nasdaq national market system securities.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Jan. 6, 2011 (SR-NASDAQ-2011-007); amended July 26, 2011 (SR-NASDAQ-2011-100), operative Aug. 25, 2011; amended Oct. 18, 2012 (SR-NASDAQ-2012-120), operative Jan. 1, 2013; amended Jan. 2, 2013 (SR-NASDAQ-2013-003); amended Oct. 2, 2013 (SR-NASDAQ-2013-130); amended Oct. 11, 2013 (SR-NASDAQ-2013-134), operative Jan. 1, 2014; amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended May 12, 2016 (SR-NASDAQ-2016-057); amended Sept. 26, 2017 (SR-NASDAQ-2017-096).

IM-5920-1. All-Inclusive Annual Listing Fee

(a) Nasdaq offers an All-Inclusive Annual Listing Fee. Companies that list on Nasdaq after January 1, 2015, are subject to this fee schedule. Other Companies were permitted to make an irrevocable election to be subject to the All-Inclusive Annual Listing Fee. All Companies will be subject to this fee schedule beginning January 1, 2018.

(b) Transition

(1) Nasdaq offered the following incentives to a Company listed before January 1, 2015, which, prior to December 31, 2014, made an irrevocable election to be subject to the All-Inclusive Annual Listing Fee:

(A) Until December 31, 2017, the Company will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected

in information held by Nasdaq as of December 31, 2014. As such, regardless of any increase in shares outstanding, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee for such a Company will not increase until at least January 1, 2018.

(B) The Company was not billed for the listing of additional shares after it submitted the opt-in form to Nasdaq, regardless of when the shares were issued. As such, fees for shares issued in the final period of 2014, which otherwise could be billed during 2015, were forgiven.

(2) In addition, until December 31, 2017, any Company that applied to list on Nasdaq prior to January 1, 2015, and lists after that date, and any Company described in Rule 5920(a)(7), will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of the date of listing. As such, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee will not increase, regardless of any increase in shares outstanding, until at least January 1, 2018.

(3) Nasdaq offered the following incentives to a Company listed before January 1, 2015, which did not elect to be subject to the All-Inclusive Annual Listing Fee for 2015 but, between July 22 and December 31, 2015, made an irrevocable election to be subject to the All-Inclusive Annual Listing Fee:

(A) Until December 31, 2017, the Company will be billed based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of December 31, 2015 (including any additional shares reflected in such information that were issued after the Company opted-in, even if such shares were not subject to the listing of additional shares fee pursuant to paragraph (3)(B) below). As such, regardless of any increase in shares outstanding, the number of shares outstanding used to determine the Company's All-Inclusive Annual Listing Fee will not increase until at least January 1, 2018.

(B) The Company was not billed for the listing of additional shares after it submitted the opt-in form to Nasdaq, regardless of when the shares were issued. Share issuances already billed at the time the Company submitted the opt-in form were not forgiven.

(4) A Company listed before January 1, 2015, which did not elect to be subject to the All-Inclusive Annual Listing Fee before 2016, may make an irrevocable election to be subject to the All-Inclusive Annual Listing Fee for 2017 between June 15 and December 31, 2016. The Company will not be billed for the first \$30,000 in fees for the listing of additional shares otherwise payable after the Company submits the opt-in form. Share issuances already billed at the time the Company submits the opt-in form will not be forgiven.

(c) The All-Inclusive Annual Listing Fee eliminates all fees described in Rules 5920(b) - (e) for standard annual fees, additional shares fees, record-keeping fees, and substitution listing event fees. In addition, Companies that pay the All-Inclusive Annual Listing Fee are not subject to the fees described in Rule 5602 (for a written interpretation of the listing rules) and Rule 5810(c) (for review by Nasdaq Staff of a compliance plan). For the avoidance of doubt, Companies that pay the All-Inclusive Annual Listing Fee must still pay the fees described in Rules 5815(a)(3) and 5820(a) (for review by a Hearings Panel or the Nasdaq Listing and Hearing Review Council, respectively, of a Staff Delisting Determination or Public Reprimand Letter). These Companies must also pay fees described in Rule 5920(a) relating to the listing of an additional class of securities of the Company.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) All domestic and foreign Companies listing equity securities, except as described below:

Up to 10 million shares \$42,000

10+ to 50 million shares \$55,000

Over 50 million shares \$75,000

Real Estate Investment Trusts (REITs) are subject to the same fee schedule as other equity securities. For the purpose of determining the total shares outstanding, shares outstanding of all members in a REIT Family listed on the Nasdaq Capital Market may be aggregated. The maximum annual fee applicable to such a REIT Family shall not exceed \$75,000. For purposes of this rule, a "REIT Family" means three or more REITs that are provided management services by the same entity or by entities under common control.

(2) Companies listing American Depositary Receipts (ADRs):

Up to 10 million ADRs and other listed equity securities \$37,000

Over 10 million ADRs and other listed equity securities \$45,000

(3) Closed-end Funds:

Up to 50 million shares \$30,000

50+ to 100 million shares \$50,000

100+ to 250 million shares \$75,000

Over 250 million shares \$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(4) Limited Partnerships:

Up to 75 million shares \$30,000

Over 75 million shares \$37,500

(5) Investment Management Entities and Eligible Portfolio Companies (effective January 1, 2018):

Nasdaq will apply a 50% fee discount to the annual fee otherwise owed under paragraph (d)(1) of this rule for Eligible Portfolio Companies and Investment Management Entities that have one or more Eligible Portfolio Companies. For purposes of this rule, an "Investment Management Entity" is a company listed on Nasdaq or another national securities exchange that manages private investment vehicles not registered under the Investment Company Act. An "Eligible Portfolio Company" of an Investment Management Entity is a Nasdaq-listed Company in which an Investment Management Entity has owned at least 20% of the common stock on a continuous basis since prior to that company's initial listing.

In order to qualify for this discount in any calendar year, a Company, other than a new listing, must submit satisfactory proof to Nasdaq no later than December 31st of the prior year that it satisfies the requirements specified above. A new listing that satisfies these requirements is eligible for the discount upon listing.

Notwithstanding the foregoing, if an Investment Management Entity or Eligible Portfolio Company would otherwise be subject to an All-Inclusive Annual Fee that is lower than the fee provided for in this paragraph (5), then the alternative fee schedule shall apply.

(e) Assessment of All-Inclusive Annual Listing Fee

(1) In the first calendar year of listing, a Company's All-Inclusive Annual Listing Fee will be based on the total shares outstanding as of the date of listing and will be prorated based on the month of listing. For example, a Company that lists on

any day in March will owe 10/12 of the applicable annual fee; if it lists on any day in April, it will owe 9/12 of the applicable annual fee.

- (2) After the first calendar year of listing, a Company's All-Inclusive Annual Listing Fee will be assessed on January 1st for the upcoming calendar year based on the total shares outstanding as of December 31st of the prior year. If a Company is listed on January 1st, the Company will owe the All-Inclusive Annual Listing Fee for the entire year, even if the Company delists or is removed before the Company is billed or pays the fee for that year.
- (3) For a Company with equity securities listed only on the Nasdaq Capital Market, total shares outstanding shall mean, and the All-Inclusive Annual Listing Fee for the year shall be based on, the aggregate number of all securities outstanding for each class of equity securities (not otherwise identified in this Rule 5900 Series) listed on the Nasdaq Capital Market as of January 1 of that year, as shown in the Company's periodic reports required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. If a Company has any equity securities listed on the Nasdaq Global or Global Select Markets, the securities listed on the Nasdaq Capital Market will be aggregated with those on the Global and Global Select Market, and the Company shall not be subject to the fee described in this IM-5920-1, but instead shall be subject to the fee contained in IM-5910-1. In the case of a foreign private issuer, the All-Inclusive Annual Listing Fee will be based on only those equity securities issued and outstanding in the United States, provided the Company notifies Nasdaq of that number by completing the appropriate form in the Nasdaq Listing Center.
- (4) **Transfers from Global and Global Select Market.** If a Company transfers its listing from the Global or Global Select Market to the Capital Market, it will not owe any additional All-Inclusive Annual Listing Fee for the Capital Market, nor shall it receive any credit or offset of the portion of the All-Inclusive Annual Listing Fee paid or assessed for the prior market.

For example, a Company with 110 million total shares outstanding is listed on the Global Market and transfers to the Capital Market on October 20th. Its new All-Inclusive Annual Listing Fee for the Capital Market is \$75,000. Since this Company already paid an All-Inclusive Annual Listing Fee of \$125,000 on the Global Market, it will not owe any additional annual fee for that calendar year. However, the Company would not receive any further credit of the amount previously paid for listing on the Global Market and would owe the full \$75,000 Capital Market annual fee in the following year.

- (5) No portion of the All-Inclusive Annual Listing Fee paid is refundable if a class of securities is delisted or otherwise removed from The Nasdaq Stock Market. No portion of the All-Inclusive Annual Listing Fee that is due and payable when a class of securities is delisted or otherwise removed from The Nasdaq Stock Market will be waived upon delisting or removal.

(6) **Relisting.** A Company that was suspended, delisted, or removed from Nasdaq for any reason, whether regulatory or voluntary, is not required to pay a second All-Inclusive Annual Listing Fee if it relists in the same calendar year.

Adopted Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015; amended Feb. 25, 2015 (SR-NASDAQ-2015-017); amended July 22, 2015 (SR-NASDAQ-2015-087); amended May 12, 2016 (SR-NASDAQ-2016-057); amended June 10, 2016 (SR-NASDAQ-2016-085); amended June 14, 2016 (SR-NASDAQ-2016-088); amended Aug. 11, 2016 (SR-NASDAQ-2016-118), operative Sept. 10, 2016; amended Dec. 19, 2016 (SR-NASDAQ-2016-173), operative Jan. 1, 2017; amended Jan. 1, 2018 (SR-NASDAQ-2017-100).

5930. Linked Securities, SEEDS, and Other Securities

(a) Application Fee and Entry Fee

(1) When a Company submits an application to list any Linked Securities, SEEDS or Other Securities on the Nasdaq Global Market qualified for listing under Rule 5710, 5715 or 5730, it shall pay a non-refundable application fee of \$1,000.

(2) When a Company submits an application to list any Linked Securities, SEEDS or Other Securities on the Nasdaq Global Market qualified for listing under Rule 5710, 5715 or 5730, it shall pay an entry fee calculated based on total shares outstanding according to the following schedule:

Up to 1 million shares \$5,000

1+ to 2 million shares \$10,000

2+ to 3 million shares \$15,000

3+ to 4 million shares \$17,500

4+ to 5 million shares \$20,000

5+ to 6 million shares \$22,500

6+ to 7 million shares \$25,000

7+ to 8 million shares \$27,500

8+ to 9 million shares \$30,000

9+ to 10 million shares \$32,500

10+ to 15 million shares \$37,500

Over 15 million shares \$45,000

The applicable entry fee shall be reduced by any entry fees paid previously in connection with the initial listing during the current calendar year of any of the Company's Linked Securities, SEEDS and Other Securities on the Nasdaq Global Market.

(3) For the sole purpose of determining the entry fee, total shares outstanding means the aggregate of all classes of Linked Securities, SEEDS and Other Securities of the Company to be listed on the Nasdaq Global Market in the current calendar year as shown in the Company's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the Company's appropriate regulatory authority.

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

(5) If the application is withdrawn or is not approved, the entry fee shall be refunded.

(6) The fees described in this Rule 5930(a) shall not be applicable with respect to any securities that:

(i) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities transfers their listing exclusively to the Nasdaq Global Market;

(ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated as national market securities under Rule 5220; or

(iii) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Global Market.

(b) Annual Fee

(1) The issuer of Linked Securities, SEEDS or Other Securities qualified under Rule 5710, 5715 or 5730 for listing on the Nasdaq Global Market shall pay to Nasdaq an annual fee calculated based on total shares outstanding according to the following schedule:

Up to 5 million shares \$15,000

5+ to 10 million shares \$17,500

10+ to 25 million shares \$20,000

25+ to 50 million shares \$22,500

Over 50 million shares \$30,000

(2) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

(3) For the sole purpose of determining the annual fee, total shares outstanding means the aggregate of all classes of Linked Securities, SEEDS and Other Securities of the Company listed on the Nasdaq Global Market, as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Sep. 3, 2013 (SR-NASDAQ-2013-115); amended Nov. 23, 2015 (SR-NASDAQ-2015-146), operative Oct. 23, 2015; amended Apr. 20, 2016 (SR-NASDAQ-2016-059); amended June 1, 2016 (SR-NASDAQ-2016-077).

5940. Exchange Traded Products

The fees in this Rule 5940 shall apply to securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable. These securities include, but are not limited to, Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, and NextShares.

(a) Entry Fee

(1) When a Company submits an application for listing a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable on the Nasdaq Global Market, it shall pay to Nasdaq a listing fee of \$5,000 (which shall include a \$1,000 non-refundable application fee).

(2) When a Company submits an application for listing a series of NextShares under Rule 5745, it shall pay to Nasdaq an initial listing fee of \$20,000 for the first series of NextShares (which shall include a \$1,000 non-refundable application fee) and an additional listing fee of \$7,500 for each subsequent series of NextShares of the Company (which shall include a \$1,000 nonrefundable application fee).

(3) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

(4) If the application is withdrawn or is not approved, the entry fee (less the non-refundable application fee) shall be refunded.

(5) The fees described in this Rule 5940(a) shall not be applicable with respect to any securities that:

- (i) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities transfers their listing exclusively to the Nasdaq Global Market;
- (ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated as national market securities under Rule 5220;
or
- (iii) are listed on another national securities exchange but not listed on Nasdaq, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Global Market.

(b) Annual Fee

(1) The issuer of a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable listed on The Nasdaq Global Market shall pay to Nasdaq an annual fee calculated on total shares outstanding according to the following schedule:

Up to 1 million shares \$6,500

1+ to 2 million shares \$7,000

2+ to 3 million shares \$7,500

3+ to 4 million shares \$8,000

4+ to 5 million shares \$8,500

5+ to 6 million shares \$9,000

6+ to 7 million shares \$9,500

7+ to 8 million shares \$10,000

8+ to 9 million shares \$10,500

9+ to 10 million shares \$11,000

10+ to 11 million shares \$11,500

11+ to 12 million shares \$12,000

12+ to 13 million shares \$12,500

13+ to 14 million shares \$13,000

14+ to 15 million shares \$13,500

15+ to 16 million shares \$14,000

Over 16 million shares \$14,500

(2) The issuer of a series of NextShares shall pay to Nasdaq for each series of NextShares an annual fee calculated on total shares outstanding of that series of NextShares according to the following schedule:

Up to 25 million shares \$6,500

Over 25 million to 100 million shares \$15,000

Over 100 million shares \$25,000

(3) Total shares outstanding means the aggregate number of shares in all series of Portfolio Depository Receipts or Index Fund Shares issued by the Company to be listed on The Nasdaq Global Market as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq.

(4) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Sep. 3, 2013 (SR-NASDAQ-2013-115); amended Nov. 23, 2015 (SR-NASDAQ-2015-146), operative Oct. 23, 2015; amended Feb. 11, 2016 (SR-NASDAQ-2016-025); amended Apr. 20, 2016 (SR-NASDAQ-2016-059); amended June 1, 2016 (SR-NASDAQ-2016-077).

5950. Market Quality Program

Preamble. The Market Quality Program ("MQP" or "Program") is a voluntary program designed to promote market quality in certain securities listed on Nasdaq. An MQP Company may list an eligible MQP Security on Nasdaq and in addition to the standard (non-MQP) Nasdaq listing fee set forth in the Rule 5000 Series (consisting of Rules 5000-5999), a Sponsor may pay a fee ("MQP Fee") in order for the MQP Company, on behalf of an MQP Security, to participate in the Program. An MQP Fee will be used for the purpose of incentivizing one or more Market Makers in the MQP Security ("MQP Market Maker") to enhance the market quality of the MQP Security. Subject to the conditions set forth in this rule, this incentive will be credited ("MQP Credit") to one or more MQP Market Makers that make a quality market in the MQP Security pursuant to the Program.

(a) Application and Withdrawal.

- (1) An entity or Market Maker wishing to participate in the MQP must each submit an application in the form prescribed by Nasdaq ("MQP application").
 - (A) Nasdaq may, on a Program-wide basis, limit the number of MQP Securities that any one MQP Company may have in the MQP.
 - (B) In determining whether to limit the number of MQP Securities per MQP Company, Nasdaq will consider all relevant information, including whether a restriction, if any, is in the best interest of Nasdaq, the MQP Company and the goals of the MQP, and investors.
 - (i) Factors that may be considered include, but are not limited to, the following: the current and expected liquidity characteristics of MQP Securities; the projected initial and continuing market quality needs of MQP Securities; and the trading characteristics of MQP Securities (e.g. quoting, trading, and volume).
 - (C) Nasdaq will provide notification on its website regarding the following:
 - (i) acceptance of an MQP Company, on behalf of an MQP Security, and an MQP Market Maker into the Program;
 - (ii) the total number of MQP Securities that any one MQP Company may have in the Program;
 - (iii) the names of MQP Securities and the MQP Market Maker(s) in each MQP Security, and the dates that an MQP Company, on behalf of an MQP Security, commences participation in and withdraws or is terminated from the Program; and
 - (iv) a statement about the MQP that sets forth a general description of the Program as implemented on a pilot basis and a fair and balanced summation of the potentially positive aspects of the Program (e.g. enhancement of liquidity and market quality in MQP Securities) as well as the potentially negative aspects and risks of the Program (e.g. possible lack of liquidity and negative price impact on MQP Securities that withdraw or are terminated from the Program), and indicates how interested parties can get additional information about products in the Program.
- (2) An MQP Company, on behalf of an MQP Security, or MQP Market Maker may withdraw from the Program as follows:
 - (A) After an MQP Company, on behalf of an MQP Security, is in the MQP for not less than two consecutive quarters but less than one year, it may voluntarily withdraw from the MQP on a quarterly basis. The MQP Company must notify Nasdaq in writing not less than one month prior to withdrawing from the MQP. Notwithstanding, Nasdaq may determine to

allow an MQP Company to withdraw from the MQP earlier. In making this determination, Nasdaq may take into account the volume and price movements in the MQP Security; the liquidity, size quoted, and quality of the market in the MQP Security; and any other relevant factors.

(B) After an MQP Company, on behalf of an MQP Security, is in the MQP for one year or more, it may voluntarily withdraw from the MQP on a monthly basis. The MQP Company must notify Nasdaq in writing not less than one month prior to withdrawing from the MQP.

(C) After an MQP Market Maker is in the MQP for not less than one quarter, he may withdraw from the MQP on a quarterly basis. The MQP Market Maker must notify Nasdaq in writing one month prior to withdrawing from the MQP.

(D) Nasdaq will provide notification on its website when it receives notification that an MQP Company, on behalf of an MQP Security, or Market Maker intends to withdraw from the Program, and the date of actual withdrawal or termination from the Program.

(3) After an MQP Company, on behalf of an MQP Security, is in the MQP for one year, the MQP and all obligations and requirements of the Program will automatically continue on an annual basis unless Nasdaq terminates the Program by providing not less than one month prior notice of intent to terminate or the pilot Program is not extended or made permanent pursuant to a proposed rule change subject to filing with or approval by the Securities and Exchange Commission ("Commission") under Section 19(b) of the Exchange Act; the MQP Company withdraws from the Program pursuant to subsection (a)(2) of this rule; or the MQP Company is terminated from the Program pursuant to subsection (d) of this rule.

(b) MQP Company Participation and Fee Liability.

(1) For an MQP Company, on behalf of an MQP Security, to be eligible to participate in the MQP, the following conditions must be satisfied:

(A) Nasdaq must have accepted the MQP application of the MQP Company in respect of an MQP Security, and must have accepted the MQP application of at least one MQP Market Maker in the same MQP Security;

(B) The MQP Security must meet all requirements to be listed on Nasdaq as an Exchange Traded Fund ("ETF");

(C) The MQP Security must meet all Nasdaq requirements for continued listing at all times the MQP Security participates in the MQP; and

(D) During such time that an MQP Company lists an MQP Security, the MQP Company must, on a product-specific website for each product, indicate that the product is in the MQP and provide the link to the Exchange's MQP website.

(2) MQP Fees.

(A) An MQP Company participating in the MQP shall incur an annual basic MQP Fee of \$35,000 per MQP Security. The basic MQP Fee must be paid to Nasdaq prospectively on a quarterly basis.

(B) An MQP Company may also incur an annual supplemental MQP Fee per MQP Security. The basic MQP Fee and supplemental MQP Fee when combined may not exceed \$70,000 per year. The supplemental MQP Fee is a fee selected by an MQP Company on an annual basis, if at all. The supplemental MQP Fee must be paid to Nasdaq prospectively on a quarterly basis.

(i) The amount of the supplemental MQP Fee, if any, will be determined by the MQP Company initially per MQP Security and will remain the same for the period of a year.

(ii) Nasdaq will provide notification on its website regarding the amount, if any, of any supplemental MQP Fee determined by an MQP Company per MQP Security.

(C) The MQP Fee is in addition to the standard (non-MQP) Nasdaq listing fee applicable to the MQP Security and does not offset such standard listing fee.

(i) The MQP Fee in respect of an ETF shall be paid by the Sponsor(s) of such ETF.

(D) Nasdaq will prospectively bill each MQP Company for the quarterly MQP Fee for each MQP Security.

(E) MQP Fees (basic and supplemental) will be credited to the Nasdaq General Fund.

(c) MQP Market Maker Participation and MQP Credit.

(1) For a Market Maker to be eligible to participate in the MQP and receive a periodic MQP Credit out of the Nasdaq General Fund, the following conditions must be satisfied:

(A) Nasdaq must have accepted the MQP application of an MQP Market Maker in respect of an MQP Security, and must have accepted the application of the MQP Company in respect of the same MQP Security. Nasdaq may also accept the MQP applications of multiple MQP Market

Makers in the same MQP Security, subject to any limitation on the number of MQP Market Makers established pursuant to this rule; and

(B) When making markets in MQP Securities, MQP Market Makers must meet the applicable Market Maker obligations pursuant to Rule 4613, and also meet or exceed the following requirements on a monthly basis:

(i) For at least 25% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better on the bid side of an MQP Security; and b) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better on the offer side of an MQP Security; and

(ii) For at least 90% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO on the bid side of an MQP Security; and b) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO on the offer side of an MQP Security.

(2) MQP Credits for each MQP Security will be calculated monthly and credited out of the Nasdaq General Fund quarterly on a pro rata basis to one or more eligible MQP Market Makers as follows:

(A) Each MQP Credit will be allocated 50% to a Quote Share Payment that is based on Qualified Quotes, and 50% to a Trade Share Payment that is based on Qualified Trades.

(i) A Qualified Quote represents attributable and displayed liquidity (either quotes or orders) in an MQP Security. Further, a quote or order entered by an MQP Market Maker in an MQP Security is only a Qualified Quote if it is posted within 2% of the NBBO.

(ii) A Qualified Trade in an MQP Security represents a liquidity-providing execution of a Qualified Quote on the Nasdaq Market Center.

(B) Trade Share Payments and Quote Share Payments.

(i) Trade Share Payments will be based upon each MQP Market Maker's share of total Qualified Trades in an MQP Security executed on the Nasdaq Market Center.

(ii) Quote Share Payments will be based in equal proportions on: a) average quoted size at or better than NBBO, and b) average time spent quoting at or better than NBBO.

(iii) Trade Share Payments and Quote Share Payments are comprised of basic MQP Fees and supplemental MQP Fees, if any.

(C) An MQP Credit will be credited quarterly to an MQP Market Maker on a pro rata basis for each month during such quarter that an MQP Market Maker is eligible to receive a credit pursuant to this rule. The calculation to establish the eligibility of an MQP Market Maker will be done on a monthly basis. For example, if during a quarter an MQP Market Maker was eligible to receive a credit for two out of three months, he would receive a quarterly pro rata MQP Credit for those two months.

(3) Nasdaq may, on a Program-wide basis, limit the number of MQP Market Makers permitted to register in an MQP Security. Nasdaq will provide notification on its website of any such limit.

(A) If a limit is established, Nasdaq will allocate available MQP Market Maker registrations in a first-come-first-served fashion based on successful completion of an MPQ Market Maker application.

(d) Termination of MQP.

(1) The MQP will terminate in respect of an MQP Security under the following circumstances:

(A) An MQP Security sustains an average daily trading volume (consolidated trades in all U.S. markets) ("ATV") of one million shares or more for three consecutive months;

(B) An MQP Company, on behalf of an MQP Security, withdraws from the MQP, is no longer eligible to be in the MQP pursuant to this rule, or its Sponsor ceases to make MQP Fee payments to Nasdaq;

(C) An MQP Security is delisted or is no longer eligible for the MQP;

(D) An MQP Security does not have at least one MQP Market Maker for more than one quarter; or

(E) An MQP Security does not, for two consecutive quarters, have at least one MQP Market Maker that is eligible for MQP Credit.

(2) MQP Credits remaining upon termination of the MQP in respect of an MQP Security will be distributed on a pro rata basis to the MQP Market Makers that made a market in such MQP Security and were eligible to receive MQP Credit pursuant to this rule.

- (3) Termination of an MQP Company, MQP Security, or MQP Market Maker does not preclude the Exchange from allowing re-entry into the Program where the Exchange deems proper.
- (e) Definitions. For purposes of this Rule, the terms set forth below shall have the following meanings:
- (1) The term "MQP Security" means an Exchange Traded Fund security issued by an MQP Company that meets all of the requirements to be listed on Nasdaq pursuant to Rule 5705.
 - (2) The term "Exchange Traded Fund" includes Portfolio Depository Receipts and Index Fund Shares, which are defined in Rule 5705.
 - (3) The term "Market Maker" shall have the meaning given in Rule 5005(a).
 - (4) The term "Nasdaq Market Center" shall have the meaning given in Rule 4751(a).
 - (5) The term "MQP Company" means the trust or company housing the Exchange Traded Fund or, if the Exchange Traded Fund is not a series of a trust or company, then the Exchange Traded Fund itself. MQP Fees for MQP Securities will be paid by the Sponsors associated with the MQP Companies. The term Sponsor means the registered investment adviser that provides investment management services to an MQP Company or any of such adviser's parents or subsidiaries.
 - (6) The term "Regular Market Session" shall have the meaning given in Rule 4120(b)(4)(D).
- (f) The MQP will be effective for a one year pilot period that will commence when the Program is implemented by Exchange acceptance of an MQP Company, on behalf of an MQP Security, and relevant MQP Market Maker into the Program and will end one year after implementation.

Adopted Mar. 20, 2013 (SR-NASDAQ-2012-137); amended Mar. 19, 2015 (SR-NASDAQ-2015-025); amended June 8, 2017 (SR-NASDAQ-2017-058), operative July 8, 2017; amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

IM-5900-1. Waiver or Credit of Fees upon Application in Certain Merger Situations

Rules 5910(c)(2), 5910(d)(5), 5920(c)(4), 5930(b)(2), and 5940(b)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this Rule 5900 Series. Pursuant to that authority, Nasdaq has determined to waive or credit fees in the following situations involving mergers.

- (a) A Nasdaq Company that completes a merger with another Nasdaq Company during the first 90 days of a calendar year will receive a credit or waiver for 75% of

the annual fee or All-Inclusive Annual Listing Fee assessed to the acquired Nasdaq Company.

(b) Companies will receive a credit or waiver when a non-Nasdaq Company completes a merger with a Nasdaq Company and the non-Nasdaq Company is the surviving entity and lists on Nasdaq. If the Nasdaq Company previously paid its annual fee or All-inclusive Annual Listing Fee, the surviving non-Nasdaq entity will, upon listing on Nasdaq, receive a credit for the annual fee or All-Inclusive Annual Listing Fee previously paid by the Nasdaq Company, prorated for the months remaining in the year after the merger. If the Nasdaq Company has not paid its annual fee or All-inclusive Annual Listing Fee for the year, the Nasdaq Company will receive a waiver of the annual fee or All-Inclusive Annual Listing Fee applicable to the months remaining in the year after the merger and must pay the remaining balance of its annual fee or All-Inclusive Annual Listing Fee, representing the fee for the period it was listed.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015.

IM-5900-4. Waiver of Certain Annual Fees Upon Transfer of a Non-Nasdaq Exchange Listed Security

Rules 5910(c)(2), 5910(d)(5), 5920(c)(4), 5930(b)(2) and 5940(b)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this Rule 5900 Series. Pursuant to that authority, Nasdaq has determined to waive a portion of the annual fee in the case of securities that (i) are listed on a national securities exchange but not listed on Nasdaq, if the issuer of such securities transfers their listing exclusively to Nasdaq; or (ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated under the plan governing Nasdaq securities. In the year such a transfer is made, the Company shall receive a credit in the pro-rated amount of any annual listing fees paid to the relevant exchange for the period of time after the transfer, which will be used to offset (and shall not exceed) the fee otherwise payable for that period under Rules 5910(c), 5910(d), 5920(c), 5930(b) or 5940(b). This credit will be applied after the credit described in Rules 5910(c)(5) and 5920(c)(8), if applicable.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Sep. 3, 2013 (SR-NASDAQ-2013-115).

IM-5900-5. Waiver of Fees upon Relisting for Companies Removed for Late Filings

(a) Entry Fees. Pursuant to Nasdaq's authority to waive certain fees, Nasdaq has determined to waive the entry fee (including the application fee) in the following circumstances:

(1) the Company was suspended and/or delisted from The Nasdaq Stock Market solely for its failure to file a required periodic report with the Commission or other appropriate regulatory authority, pursuant to Rule 5250(c)(1); and

(2) the Company has regained compliance with this requirement and applies to relist on Nasdaq within one year of the date it is delisted from Nasdaq.

(b) Annual Fees. A Company that meets the above requirements and relists during the same year that it has previously paid an annual fee will not be subject to a second annual fee in that same year.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Oct. 18, 2017 (SR-NASDAQ-2017-111).

IM-5900-6. Waiver of Fees for Companies Emerging from Bankruptcy

(a) Entry Fees. Any Company that lists on Nasdaq upon emerging from bankruptcy is not required to pay the entry fee (including the application fee) set forth in Rules 5910(a) and 5920(a).

(b) Annual Fees.

(1) The annual fee or All-Inclusive Annual Listing Fee for any Company that lists on the Nasdaq Global Market (including the Nasdaq Global Select Market) upon emerging from bankruptcy will be the minimum annual listing fee specified in Rule 5910 or IM-5910-1, as applicable, for the first (prorated) year that such a Company is listed and for each of the subsequent two full years. If a Company eligible for treatment under this paragraph transitions from the standard annual fee to the All-Inclusive Annual Listing Fee pursuant to IM-5910-1(b)(1), the Company's All-Inclusive Annual Listing Fee for each full year after it opts in, until the end of the period described in the preceding sentence, shall be the minimum All-Inclusive Annual Listing Fee specified in IM- 5910-1.

(2) Any Company listing on Nasdaq upon emerging from bankruptcy that relists during the same year that it had previously paid an annual fee or All-Inclusive Annual Listing Fee will not be subject to a second annual fee in that year.

Adopted Mar. 12, 2009 (SR-NASDAQ-2009-018); amended Nov. 7, 2014 (SR-NASDAQ-2014-087), operative Jan. 1, 2015.

IM-5900-7. Services Offered to Certain Newly Listing Companies

INTRODUCTORY NOTE: Nasdaq offers certain newly listing companies complimentary services to help them satisfy their obligations as public companies related to governance and communications, and to provide intelligence about their securities. These services are offered to companies listing on the Global or Global Select Market in connection with their initial public offering (other than a company listed under IM-5101-2), upon emerging from bankruptcy, in connection with a spin-off or carve-out from another company, or in conjunction with a business combination that satisfies the conditions in IM-5101-2(b) ("Eligible New Listings"). They are also offered to companies (other than a company listed under IM-5101-2) switching their

listing from the New York Stock Exchange to the Global or Global Select Markets ("Eligible Switches").

Nasdaq initially adopted a rule providing Eligible New Listings and Eligible Switches with services effective December 15, 2011 (the "Original Service Package"). The Original Service Package is described in the rule text available at <http://nasdaq.cchwallstreet.com/Nasdaq/pdf/nasdaq-filings/2011/SR-Nasdaq-2011-122.pdf>.

Nasdaq modified the service package effective for new listings after July 24, 2014 (the "2014 Service Package"). If, however, a Company submitted its Nasdaq listing application before July 31, 2014, and listed before September 30, 2014, then the Company was still eligible to receive the Original Service Package. The 2014 Service Package is described in the rule text available at <http://nasdaq.cchwallstreet.com/Nasdaq/pdf/nasdaq-filings/2014/SR-Nasdaq-2014-058.pdf>.

Nasdaq also modified the service package effective for new listings after September 9, 2016 (the "2016 Service Package"). Any Company receiving services under the Original Service Package or the 2014 Service Package on September 9, 2016, the approval date of the 2016 Service Package, was allowed to continue to receive services under the terms of the Original Service Package or the 2014 Service Package, as applicable, or elect to receive services under the 2016 Service Package (even if those services were not available at the time the company listed on Nasdaq). If a Company elected to receive the 2016 Service Package, the services that the Company is eligible to receive will be determined based on its status and market capitalization at the time of its original listing. The length of time that services are available to the Company under the 2016 Service Package will be calculated from the Company's original listing date. For example, if an Eligible Switch listed on July 22, 2015, when its market capitalization was \$4 billion, that Company would receive services for four years from date of its listing (or until July 22, 2019), as provided in paragraph (c)(2) of the 2016 Service Package, instead of for three years, as provided in paragraph (c) of the 2014 Service Package. The 2016 Service Package is described in the rule text available at <http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2016/SRNASDAQ-2016-098.pdf>.

Nasdaq again modified the service package for new listings on or after April 23, 2018 and the current service package is described in paragraphs (a) - (e) below. The only change in this modification was to the Disclosure Services offered in the package, which was previously an annual stipend of either \$15,000 or \$20,000 for use by the Company on Disclosure Services.

(a) The services offered to certain newly listing Companies, which are offered through Nasdaq Corporate Solutions, LLC, an affiliate of Nasdaq, or a third-party provider selected by Nasdaq, are the following, as more specifically set forth in paragraphs (b) and (c) below:

Whistleblower Hotline: Companies will receive a financial reporting hotline that provides employees and others with a fully-automated, safe and secure means of reporting incidents and concerns. This service has an approximate retail value of \$4,000 per year.

Investor Relations Website: Companies will receive a website with all the necessary content and features to communicate with investors, offering easy access to up-to-date information. Included on this website will be a corporate governance library containing documents such as the Board committees' charters and the Company's code of ethics. These services have a retail value of approximately \$17,000 per year.

Disclosure Services: Companies will be provided disclosure services for earnings or other press releases, and the filing of related regulatory reports, with an approximate annual retail value in the amount listed below.

Audio Webcasting: Companies will receive a package of four audio webcasts. These services have a retail value of approximately \$7,000 per year.

Market Analytic Tools: Companies will receive a market analytic tool, which integrates corporate shareholder communications, capital market information, investor contact management, and board-level reporting into a unified, easy-to use, workflow environment including mobile device access. This tool also provides information about research and earnings estimates on the company and helps companies identify potential purchasers of their stock using quantitative targeting and qualitative insights. This service has an approximate retail value of \$32,000 per year for two users, \$45,000 for three users, and \$58,000 for four users.

Market Advisory Tools: Certain Companies will receive a choice from the following services.

(i) **Stock Surveillance:** a stock surveillance package, under which a dedicated analyst will, on a daily basis, utilize a mosaic of public, subscription and issuer-based data sources to monitor the daily movement and settlement activity of the Company's stock, provide alerts on significant increases in trading volume and block trading activity, offer color to any unusual change in stock price, and identify institutional buying and selling of the Company's shares. To fully utilize this service, Companies will have to subscribe to, and separately pay for, certain third party information, which is not

included. This service has an approximate retail value of \$56,000 per year.

(ii) **Global Targeting:** Investor targeting specialists will help focus the Company's investor relations efforts on appropriate investors, tailor messaging to their interests and measure the Company's impact on their holdings. The analyst team will help develop a detailed plan aligning the targeting efforts with the Company's long-term ownership strategy. Analysis includes addressable risks and opportunities by region and investor type, and recommendations for where to focus time. This service has a retail value of approximately \$44,000 per year.

(iii) **Monthly Ownership Analytics and Event Driven Targeting:** Companies will receive a monthly shareholder analysis and tracking report highlighting the monthly movement and settlement of the Company's stock and providing insight around institutional shareholder activity. Companies will also receive a monthly call with an Advisory Analyst to interpret the results. To assist in focusing their efforts effectively, Companies will receive shareholder targeting around one event each year, such as a roadshow or investor conference. To fully utilize this service, Companies will have to subscribe to, and separately pay for, certain third party information, which is not included. This service has a retail value of approximately \$48,000 per year.

(iv) **Annual Perception Study:** Companies will receive an annual perception study designed to identify how the Company is perceived by key stakeholders. Detailed interviews with the institutional investment community will be conducted, featuring quantitative and qualitative questions targeted to the Company's needs. The responses will be analyzed and the Company will be provided with actionable recommendations for enhancing perception in the market and guidance to implement these changes. This service has a retail value of approximately \$38,000 per year.

(b) Eligible New Listings

- (1) An Eligible New Listing that has a market capitalization less than \$750 million will receive the following complimentary services for two years: Whistleblower Hotline, Investor Relations Website, \$15,000 per year of Disclosure Services, Audio Webcasting and Market Analytic Tools for two users. The total retail value of these services is approximately \$75,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.

- (2) An Eligible New Listing that has a market capitalization of \$750 million or more but less than \$5 billion will receive the following complimentary services for two years: Whistleblower Hotline, Investor Relations Website, \$20,000 per year of Disclosure Services, Audio Webcasting, Market Analytic Tools for two users and the choice of one Market Advisory Tool. The total retail value of these services is up to approximately \$136,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.
- (3) An Eligible New Listing that has a market capitalization of \$5 billion or more will receive the following complimentary services for two years: Whistleblower Hotline, Investor Relations Website, \$20,000 per year of Disclosure Services, Audio Webcasting, Market Analytic Tools for two users and the choice of two Market Advisory Tools. The total retail value of these services is up to approximately \$180,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.

(c) Eligible Switches

- (1) An Eligible Switch that has a market capitalization less than \$750 million will receive the following complimentary services for two years: Whistleblower Hotline, Investor Relations Website, \$15,000 per year of Disclosure Services, Audio Webcasting and Market Analytic Tools for two users. The total retail value of these services is approximately \$75,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.
- (2) An Eligible Switch that has a market capitalization of \$750 million or more but less than \$5 billion will receive the following complimentary services for four years: Whistleblower Hotline, Investor Relations Website, \$20,000 per year of Disclosure Services, Audio Webcasting, Market Analytic Tools for three users and the choice of one Market Advisory Tool. The total retail value of these services is up to approximately \$149,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.
- (3) An Eligible Switch that has a market capitalization of \$5 billion or more will receive the following complimentary services for four years: Whistleblower Hotline, Investor Relations Website, \$20,000 per year of Disclosure Services, Audio Webcasting, Market Analytic Tools for four users and the choice of two Market Advisory Tools. The total retail value of these services is up to approximately \$206,000 per year. In addition, one-time development fees of approximately \$5,000 to establish the services in the first year will be waived.

(d) If an Eligible New Listing or Eligible Switch begins to use a particular service provided under this IM-5900-7 within 30 days after the date of listing, the complimentary period for that service will begin on the date of first use. In all other

cases, the period for each complimentary service shall commence on the listing date. Where a Company can elect from a choice of services, once the Company elects a service it cannot subsequently change to a different alternative, including in a subsequent year. If a company does not use a service in the applicable time period there shall be no refund or other credit for the unused service.

(e) A Company will be considered to be listing on the Global or Global Select Market in conjunction with a business combination that satisfies the conditions in IM-5101-2(b) if:

- (i) the Company was listed on the Global Market at the time it completes the business combination that satisfies the conditions in IM-5101-2(b) and remains listed on the Global Market or transfers to the Global Select Market. In this case, the complimentary period shall commence on the date of such business combination; provided, however, that if the Company begins to use a particular service provided under this IM-5900-7 within 30 days after the date of such business combination, the complimentary period for that service will begin on the date of first use; or
- (ii) the Company was listed on the Capital Market at the time it completes the business combination that satisfies the conditions in IM-5101-2(b) and it both filed an application to list on the Global or Global Select Market before completing the business combination and it demonstrates compliance with all applicable criteria for the Global or Global Select Market within 60 days of completing the business combination. In this case, the complimentary period shall commence on the date of listing on the Global or Global Select Market; provided, however, that if the Company lists on the Global or Global Select Market and begins to use a particular service provided under this IM-5900-7 within 30 days after the date of the business combination, the complimentary period for that service will begin on the date of first use.

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