

Nasdaq Takes a Stand: Board Diversity is Good Corporate Governance, Not a Trend



On December 1, 2020, Nasdaq filed a proposal with the SEC to adopt new listing rules relating to board diversity and heightened disclosure. Nasdaq's position is clear - "diversity in the boardroom is good corporate governance." Citing the recent social justice movement and a wide range of studies linking board diversity to improved corporate governance and financial performance, Nasdaq's proposal highlights the role of national exchanges in providing a regulatory push for companies to embrace meaningful board diversification.

The [proposal](#), if adopted, would require Nasdaq-listed companies, subject to certain exceptions, to have at least one director who self-identifies as female and at least one director who self-identifies as an underrepresented minority or LGBTQ+. Listed companies would also be required to disclose statistical information on board diversity and, if applicable, their rationale for not meeting the diversity objectives. Smaller reporting companies and foreign private issuers could satisfy the requirement with two female directors.

Progress on board diversity has been slow, especially with respect to underrepresented racial and ethnic groups. Under the phase-in provisions of the proposal, companies would have to comply with the statistical disclosure requirement within one year of SEC approval and have at least one diverse director within two years, or explain their rationale for not meeting the objective. Full compliance would be required within four or five years depending on the company's listing tier.

While the phase-in provisions of the rule won't radically transform the public company board landscape any time soon, the disclosure requirements are potentially significant. If investors have clear and consistent information on board diversity, they can exert pressure on companies to accelerate their diversification efforts. Kudos to Nasdaq and its President and CEO Adena Friedman for pushing its over 3,250 listed companies to embrace board diversity as a rule rather than an exception.