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Board Diversity: Nasdaq Clarifies Timing for New Rules

A few days ago, Nasdaq filed a [rule change](#) with the SEC that was declared effective immediately. This rule change was filed to simplify the deadline language of the board diversity listing standards that were adopted in August 2021. The diversity matrix disclosure aspect of the standards became effective in 2022. But, the listing standard requiring listed companies to meet board diversity representation objectives, or explain why the company has not met the objective, is scheduled to phase in over the next several years (see [our blog](#) about the Nasdaq board diversity listing standards).

The listing standards needed simplifying because the deadlines for compliance originally were tied to the date that the SEC approved the listing standards and it got complicated. Under the new rule changes, Nasdaq addressed that problem by eliminating any references to the SEC approval date in the listing standards - and replaced those deadlines as follows:

1. For the diversity matrix requirement that is already effective, the annual deadline for compliance is December 31st.
2. Each Nasdaq company must have, or explain why it does not have, at least one diverse director by December 31, 2023.
3. Each company listed on the Nasdaq Global Select Market or Nasdaq Global Market must have, or explain why it does not have, *at least two* diverse directors by December 31, 2025.
4. Each company listed on the Nasdaq Capital Market must have, or explain why it does not have, *at least two* diverse directors by December 31, 2026.
5. If a company isn't going to meet the board diversity objectives outlined above, it must disclose the Nasdaq requirements and explain the reasons why it did not satisfy them annually on or before December 31st either (a) in a proxy statement or an information statement (or, if the company does not file a proxy, in its Form 10-K or 20-F); or (b) on the company's website. If the company provides the disclosure on its website, it's required to submit the disclosure concurrently with its proxy statement (or 10-K) and submit the URL through the Nasdaq Listing Center within one business day after posting. Under the amended rules, companies are allowed to also notify Nasdaq about this alternative corporate website disclosure by sending an e-mail to drivingdiversity@nasdaq.com.

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