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BLOG

Nasdaq Repeals Board Diversity Disclosure Rules; NYSE Moves to Limit Reverse Stock Splits

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NASDAQ'S CHANGE TO BOARD DIVERSITY DISCLOSURE RULES

On January 21, 2025, the Nasdaq Stock Market (Nasdaq) filed a proposed rule change with the Securities and Exchange Commission (SEC) to repeal its listing rules regarding board diversity disclosures (the Nasdaq Board Diversity Disclosure Rules). The Nasdaq Board Diversity Disclosure Rules were vacated by the United States Court of Appeals for the Fifth Circuit on December 11, 2024. The Nasdaq rule change repealing the Nasdaq Board Diversity Disclosure Rules was approved by the SEC and became effective on February 4, 2025.

Since August 6, 2021, the Nasdaq Board Diversity Disclosure Rules had required each Nasdaq-listed company, subject to certain exceptions, to (i) annually disclose director-diversity information and (ii) either have at least two diverse board members or explain why it did not. Now, Nasdaq-listed companies will no longer be required to file director-diversity-related information with the SEC; however, they are not prohibited from voluntarily doing so.

NYSE CHANGE REGARDING REVERSE STOCK SPLITS

On September 30, 2024, the New York Stock Exchange (NYSE) filed a proposed rule change with the SEC to limit the ability of listed companies to use reverse stock splits to regain compliance with NYSE's continued-listing requirements. The NYSE rule change was approved by the SEC and became effective on January 30, 2025.

The new NYSE rules provide that, notwithstanding the general ability of a listed company to utilize a reverse stock split as a mechanism for regaining compliance with the NYSE's minimum 30-trading-day-average $1.00-closing-price requirement (the Price Criteria), if a listed company's security fails to meet the Price Criteria and the company has (i) effected a reverse stock split over the prior one-year period or (ii) effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one, the company will not be eligible for a six-month compliance cure period and the NYSE will immediately commence suspension and delisting procedures with respect to such security.

The new NYSE rules also prohibit a listed company from effectuating a reverse stock split for the purpose of regaining compliance with the Price Criteria if doing so will result in the company's security no longer satisfying the NYSE's continued-listing requirements. This change will limit the ability of distressed companies to regain compliance with NYSE rules going forward.

Winston's *Capital Markets and Securities Law Watch* will continue to monitor developments on the new rulemaking and will provide our readers with additional updates as they become available.

For more information about the new rules or if you have any questions, please contact the authors of this blog post or your regular Winston contacts.

Jenna Smith, law clerk, co-authored this blog.

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Authors

David A. Sakowitz

Sey-Hyo Lee

Ben D. Smolij

Kamil S. Turkmani

Jenna Smith

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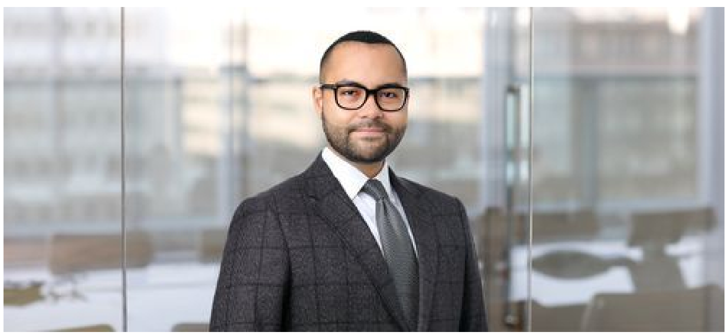

Kamil S. Turkmani

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