

Nasdaq Adopts Emergency Temporary Relief Due to the Spread of COVID-19

April 23, 2020

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As a result of the market uncertainty unleashed by the COVID-19 crisis, the Nasdaq Stock Market (“Nasdaq”) has seen an increased number of issuers become non-compliant with its continued listing requirements for maintaining a minimum bid price and the market value of publicly-held shares (hereinafter “Price Requirements”).

On April 17, 2020, in order to avoid a wave of potential de-listings, Nasdaq filed a proposed rule change with the Securities and Exchange Commission (the “SEC”) to provide issuers more time to become compliant with the Price Requirement rules by “tolling the compliance period through and including June 30, 2020.” While the compliance period is suspended, Nasdaq would monitor the requirements and notify issuers of any new instances of non-compliance with the Price Requirements. If notified, issuers would be required to disclose receipt of the notification in a Form 8-K filing or press release. Following the expiration of the tolling period, affected companies would receive the balance of any pending compliance period that was already in effect to regain compliance with the applicable Price Requirement. Listed companies that become non-compliant during the tolling period will have 180 days to regain compliance, beginning on July 1, 2020. To provide for investor protection, Nasdaq’s website will list companies that are out of compliance with the Price Requirements.

While it usually takes at least 30 days after filing for a proposed rule to become operative, in light of the impact of COVID-19 on financial markets, the SEC designated Nasdaq’s rule change as immediately effective. Nasdaq requested that the SEC waive the 30-day operative delay due to the unprecedented uncertainty and resulting market declines related to the Coronavirus pandemic. Nasdaq believes that it is difficult for non-compliant companies to act to regain compliance under current market conditions and that this relief will allow companies to focus on managing the impact that COVID-19 is having on their businesses rather than satisfying the Price Requirements.

Please contact Michael A. Goldstein, Esq., Victor J. DiGioia, Esq., or your regular Becker contact with any questions on these or related topics.