

June 29, 2010

CORPORATE EXECUTIVE ESSENTIALS

Nasdaq Joins NYSE In Requiring Prompt Notification Of Any Noncompliance With Governance Listing Requirements

Effective June 13, 2010, any company listed on the Nasdaq Stock Market is required to provide Nasdaq with prompt notification whenever an executive officer of the company becomes aware of any noncompliance with Nasdaq's corporate governance listing requirements (as set forth under the Nasdaq Rule 5600 Series), even if the company believes such noncompliance to be immaterial.^[1]

Formerly, companies listed on Nasdaq were only required to report "material" noncompliance with Nasdaq's corporate governance requirements. However, when proposing the rule change to the SEC during May 2010,^[2] Nasdaq noted that it has consistently interpreted this requirement to mean that any noncompliance with its corporate governance listing standards was material and should be reported.

A new FAQ added to Nasdaq's website explains that a company should provide the required notification regarding noncompliance to its Nasdaq Listing Qualifications analyst.^[3]

The New York Stock Exchange had previously adopted substantially the same self-reporting standard, under which the CEO of any company listed on the NYSE must promptly notify the NYSE in writing after any executive officer of that company becomes aware of any noncompliance with any of the applicable provisions of NYSE Section 303A.^[4]

The Nasdaq and NYSE reporting requirements are applicable to both U.S. and foreign issuers listed on the relevant exchange.

^[1] See Nasdaq Rule 5625.

^[2] See SR-Nasdaq-2010-060 (May 14, 2010).



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[3] See Nasdaq Frequently Asked Questions (Corporate Governance Rules & The Interpretative Process – Notification of Noncompliance), available here:

<http://www.nasdaq.com/about/FAQsCorpGov.stm#NonCom1>.

[4] See NYSE Rule 303A.12(b), which became effective January 1, 2010.

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