San Francisco City and County
Employees' Retirement System

SFERS
San Francisco Employees' Retirement System

December 17, 2020

VIA ELECTRONIC FILING

Ms. Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

RE: The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Adopt Listing Rules Related to Board Diversity [Release No. 34-90574; File No. SR-NASDAQ-2020-081]

Dear Ms. Countryman:

On behalf of the San Francisco Employees' Retirement System ("Retirement System" or "SFERS"), thank you for the opportunity to submit comments on Nasdaq proposed Rule 5605(f) (Diverse Board Representation)[1] and proposed Rule 5606 (Board Diversity Disclosure)[2].

About SFERS

SFERS was established by approval of City voters on November 2, 1920 and the California State Legislature on January 12, 1921. SFERS has approximately $27 billion in assets and serves nearly 71,000 active and retired employees of the City and County of San Francisco and their survivors.

SFERS is solely dedicated to securing, protecting and prudently investing pension trust assets, administering benefits programs, and providing promised benefits to the active and retired members of the City and County of San Francisco.

As described in the San Francisco Employees' Retirement System Proxy Voting Guidelines, SFERS believes that corporate boards should be comprised of diverse individuals with the skills, education, experiences, expertise and personal qualities that are appropriate to the company's current and long-term business needs. We believe this diversity is critical in order for the board to properly oversee management, business strategy and risk mitigation. Diversity encompasses, but is not limited to, gender, race, ethnicity, sexual orientation, and disability status. Furthermore, SFERS supports the structured disclosure of the skills, experience and backgrounds of board members, including how those attributes enhance the long-term strategy of the company.

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[1] Proposed Rule 5605(f) would require Nasdaq-listed companies, subject to certain exceptions, (A) to have at least one director who self-identifies as a female, and (B) to have at least one director who self-identifies as Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, two or more races or ethnicities, or as LGBTQ+, or (C) to explain why the company does not have at least two directors on its board who self-identify in the categories listed above.

[2] Proposed Rule 5606 would require Nasdaq-listed companies, subject to certain exceptions, to provide statistical information in a proposed uniform format on the company's board of directors related to a director's self-identified gender, race, and self-identification as LGBTQ+.

Comments on the Proposed Rule

SFERS believes that Nasdaq's proposed rules are in the public's and our beneficiaries' interests and will enhance corporate governance, board decision-making, investor protections, and investor confidence.

Proposed Rule 5605(f), in requiring Nasdaq-listed company to have at least two diverse directors, would set a reasonable minimum standard for publicly traded companies. Given that some corporate boards may currently lack this level of diversity, however, we support the flexibility afforded by Nasdaq's "comply or explain" approach. We commend Nasdaq for providing companies with the opportunity to increase board diversity through this disclosure-based, business-driven approach rather than implementing a strict quota. Due to flexibility of this approach, we do not believe Nasdaq's requirements will be overly burdensome.

Proposed Rule 5606, in requiring companies to disclose the self-identified diversity of their boards in a standardized format, would provide valuable data to institutional investors such as SFERS. As we described above, diversity is one factor amongst a mix of information that we consider when evaluating the qualifications of corporate directors. There is currently a lack of standardized, comparable data on directors' diversity, so the proposed rule would be a positive step towards solving this challenge.

SFERS recognizes that the definition of diversity can include a range of attribute beyond race, ethnicity, gender, and LGBTQ+ identification. We believe, however, that Nasdaq's proposed definition of diversity is suitable to improve transparency and comparability of disclosures across companies, whereas a broader definition could maintain the status quo of inconsistent, non-comparable data.

Lastly, we recognize that implementing Nasdaq's changes may take time. Therefore, we understand the need for implementing a phase-in period for companies to adhere to the new listing standards.

Conclusion

Our duty is to act solely in the best long-term interests of our beneficiaries. We believe that Nasdaq's proposed rules will benefit the beneficiaries of long-term institutional investors such as the San Francisco Employees' Retirement System.

Sincerely,

Jay Huish | William J. Coaker Jr.

Mr. Jay Huish
Executive Director

Mr. William J. Coaker Jr.
Chief Investment Officer