



January 4, 2021

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

Re: File No. SR-NASDAQ-2020-081: Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 - *A proposal to advance board diversity and enhance transparency of diversity statistics through new proposed listing requirements*

Dear Secretary Countryman,

The Biotechnology Innovation Organization (BIO) appreciates the opportunity to provide comments to the U.S. Securities and Exchange Commission (SEC or the Commission) regarding The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") proposal to advance board diversity and enhance transparency of diversity statistics through new proposed listing requirements pursuant to rule 19b-4 under the Securities Exchange Act of 1934, filed on December 1, 2020 by John Zecca, Nasdaq Executive Vice President and Chief Legal Counsel.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. Our members are responsible for innovating the next generation of treatments, diagnostics, and cures that will secure the health and safety of our Nation today and in the future. According to Nasdaq, some 98% of public biotechnology companies are listed on the Nasdaq exchange. Correspondingly, biotechnology companies are a major constituency for the exchange.

### ***Recommendation***

**BIO strongly recommends that the SEC adopt the Nasdaq rule:** The proposal is to adopt Rule 5605(f) (Diverse Board Representation), which 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.

Diversity in the boardroom supports good corporate governance, and significant research indicates that diverse boards are positively associated with improved business and corporate financial performance. The benefits to stakeholders of increased diversity

include more innovative perspectives, enhanced decision making and oversight, and strengthened internal controls. BIO agrees with Nasdaq's belief "that the heightened focus on corporate board diversity by companies, investors, corporate governance organizations, and legislators demonstrates that investor confidence is enhanced when boardrooms are comprised of more than one demographic group."

**The Nasdaq rule is consistent with BIO's goal to accelerate gender, racial, ethnic and LGBTQ representation on biotech corporate boards, in the C-suite and in functional leadership positions.** BIO and the biotechnology industry have been focused on supporting diversity throughout both our research and within our companies themselves. Since 2017 BIO has embarked on an industry-wide campaign to increase diversity in biotechnology company management and boardrooms. **BIO's "The Right Mix Matters" campaign was launched specifically to provide tools "to accelerate gender, racial, ethnic, and LGBTQ representation on biotech company boards, in C-suites and in functional leadership positions."**<sup>1</sup> The Right Mix Matters campaign complements the industry's commitment to enhancing diversity in clinical research and, together, we hope will result in better treatments and better outcomes for all patients.

### ***Active Support***

**BIO strongly supports the Nasdaq proposed rule** and has stated as much publicly on myriad news and social media platforms, including a public statement issued on 12/3/20 by BIO Chief Executive Officer, **Dr. Michelle McMurry-Heath:**

*"The actions taken by Nasdaq are bold, long overdue, and will serve as inspiration for boardrooms across the nation. The biotech industry has been, and remains committed to, promoting inclusivity by accelerating gender, racial, ethnic, and LGBTQ+ representation. In fact, many of our companies already exceed some of these requirements, while we understand more work needs to be done. The goal of inclusion does more than just 'level the playing field;' it makes good business sense and helps organizations grow and prosper. BIO is very supportive of Nasdaq's proposal and looks forward to assisting with the implementation of this initiative in our sector."*

### ***Conclusion***

**BIO hopes that the SEC adopts the Nasdaq rule** because diversity on corporate boards makes good business and financial sense, transparency leads to accountability, and diverse perspectives are more valuable to innovation than homogenous ones. We are committed to our efforts to accelerate gender, racial, ethnic, and LGBTQ representation on biotech company boards, in C-suites and in functional leadership positions, which directly aligns with the goals of the proposed Nasdaq rule. As a result, we will continue to actively support Nasdaq in this endeavor, and other efforts aimed at

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<sup>1</sup> See <https://www.bio.org/right-mix-matters>

positioning the United States as a global innovative leader through embracing our rich diversity.

Sincerely,

Dr. Michelle McMurry-Heath  
Chief Executive Officer  
Biotechnology Innovation Organization

Elliott M. Francis  
Chief Diversity & Inclusion Officer  
Biotechnology Innovation Organization