Nasdaq's Board Diversity Rule

Overview for Issuers

In recent years, there has been an increased focus on corporate board diversity from investors, corporate governance organizations, and legislators. However, many investors have expressed that board diversity disclosures are vague, inconsistently disclosed, and lack uniformity, thus making it difficult to determine how diverse corporate America's boards really are. While many companies have made laudable progress in diversifying their boards, investors continue to lack consistent, comparable disclosures, and progress toward diverse boards remains slow.

Dozens of academic studies reviewed by Nasdaq found a positive association between diverse boards and improved company performance and corporate governance.

We believe that a business-driven approach that focuses on disclosure and transparency, rather than a hard mandate, is the best way to enhance board diversity while providing each company with flexibility to choose the right approach for its circumstances. We are also providing resources, tools and support to our listed companies to aid them in their board composition planning objectives.

The Board Diversity Rule

Nasdaq's Board Diversity Rule, which was approved by the Securities and Exchange Commission (SEC) on August 6, 2021, provides that companies listed on our U.S. exchange:

1. Publicly disclose board-level diversity statistics using a standardized template; and
2. Have or explain why they do not have at least two diverse directors.

The rule provides additional flexibility for Smaller Reporting Companies and foreign companies to meet a diversity objective of two women directors, and for all companies with five or fewer directors to meet a diversity objective of one diverse director.

Disclosing Data

Operating companies listed on Nasdaq's U.S. exchange must disclose board-level diversity data by gender, race/ethnicity, and sexual orientation using the template Board Diversity Matrix (or a substantially similar format) each year.

Nasdaq understands that some directors may prefer not to disclose their gender, race/ethnicity, or sexual orientation, even anonymously within an aggregate matrix. If a director chooses not to self-identify, the matrix gives companies the option of choosing the "did not disclose" demographic background or gender category.

Companies have three options for disclosing board diversity statistics:

1. **In their proxy statements or information statements for annual shareholder meetings,**
2. **If the company does not file a proxy, in its Form 10-K or 20-F, or**
3. **On their websites.**

The timeframe for companies to disclose board diversity statistics is aligned with their annual meetings and proxy requirements. Companies have until the later of August 8, 2022, or the date the company files its proxy or information statement for the company's annual shareholder meeting during 2022. The goal of the disclosure matrix is to create uniformity in reporting, which will establish a baseline for corporate board diversity data and allow stakeholders to track progress and make comparisons across companies.

Board Diversity Matrix Template

Board Diversity Matrix (As of [DATE])
U.S. Incorporated Company

Total Number of Directors	#			
	Female	Male	Non-Binary	Did Not Disclose Gender
Part I: Gender Identity				
Directors	#	#	#	#
Part II: Demographic Background				
African American or Black	#	#	#	#
Alaskan Native or Native American	#	#	#	#
Asian	#	#	#	#
Hispanic or Latinx	#	#	#	#
Native Hawaiian or Pacific Islander	#	#	#	#
White	#	#	#	#
Two or More Races or Ethnicities	#	#	#	#
LGBTQ+	#			
Did not disclose demographic background	#			

A Disclosure Standard, Not a Mandate

Nasdaq is *not* mandating that listed companies have two diverse directors or face delisting. The Board Diversity Rule is designed to encourage a minimum board diversity goal for companies, not a hard quota.

Companies that do not have a minimum of at least one woman director and at least one underrepresented minority or LGBTQ+ director would provide their explanation for not doing so, which could include a description of a different approach.

This rule is not a mandate and does not set a hard target that companies must adhere to regardless of their circumstances. Rather, it provides flexibility for companies to meet the diversity objectives or explain their reasons for not doing so, and provides alternative diversity objectives if the company has a smaller board (one diverse director), is a smaller reporting company (two women) or a foreign company (two women).

If a company chooses to explain why it does not meet the diversity objectives, it would provide its explanation in its proxy statement, information statement for its annual shareholder meeting, or on the company's website. Nasdaq will verify that the company has provided an explanation but will not assess the merits of the explanation.

There is no right or wrong reason that a company may give for not having at least two diverse directors. Nasdaq recognizes that each company has unique circumstances and board compositions, and may choose to take a different approach to board diversity.

Understanding Timing

Nasdaq-listed companies have a transition period to meet the diversity objectives or explain their reasons for not doing so. The timeframe to satisfy the minimum board composition is based on a company's listing tier:

- **Nasdaq Global Select Market** and **Nasdaq Global Market** companies will have, or explain why they do not have, one diverse director by the later of August 7, 2023 (and two diverse directors by August 6, 2025) or the date the company files its proxy or information statement (or, if the company does not file a proxy, in its Form 10-K or 20-F) for the company's annual shareholder meeting in that year.
- **Nasdaq Capital Market** companies will have, or explain why they do not have, one diverse director by the later of August 7, 2023 (and two diverse directors by August 6, 2026) or the date the company files its proxy or information statement (or, if the company does not file a proxy, in its Form 10-K or 20-F) for the company's annual shareholder meeting in that year.
- **Companies with smaller boards**, regardless of listing tier, will have, or explain why they do not have, one diverse director by the later of August 7, 2023 or the date the company files its proxy or information statement (or, if the company does not file a proxy, in its Form 10-K or 20-F) for the company's annual shareholder meeting in that year.

Free Board Recruiting Services

Nasdaq is proud to have established partnerships with Equilar, Athena Alliance, and theBoardlist to aid Nasdaq-listed companies in their search for highly-qualified, diverse, board-ready candidates. We realize one size doesn't fit all which is why we are building relationships with a growing number of collaborative partners. Contact your Nasdaq Relationship Manager to learn how to get access to Equilar's BoardEdge Platform and Equilar Diversity Network, Athena Alliance's community of women leaders, and theBoardlist's premium talent marketplace.

Additional Resources for Listed Companies

Additional resources are available to help companies and their advisors understand the rule and its objectives.

- **FAQs**: A list of Frequently Asked Questions is available on Nasdaq's Listing Center website here.
- **Dedicated Mailbox for Questions**. Email your questions to drivingdiversity@nasdaq.com.

Corporate diversity, at all levels, supports a clear path to innovation and growth. We look forward to working together with companies of all sizes to create stronger and more inclusive boards.