

March 23, 2021

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NW
Washington, DC 20549-1090

Re: 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,

The Principles for Responsible Investment (“PRI”) welcomes the opportunity to submit comments on NASDAQ Stock Market LLC’s Proposed Rule Change to Adopt Listing Rules Related to Board Diversity (“Proposal”) and supports the proposed rule changes to increase board diversity on the NASDAQ stock exchange.

The PRI is the world’s leading initiative on responsible investment. We work to understand the investment implications of environmental, social and governance (ESG) factors and to support our network of investor signatories in incorporating these factors into their investment and ownership decisions. The PRI has over 3,500 signatories (pension funds, insurers, investment managers and service providers) globally with approximately US \$100 trillion in assets under management.¹ The US is the PRI’s largest market, with 748 signatories.²

SUMMARY OF THE PRI’S POSITION

The PRI supports the proposed rule change, which would require Nasdaq-listed companies “(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.”³ Further, it would require all companies listed on Nasdaq’s U.S. exchange to publicly disclose consistent, transparent diversity statistics regarding their board of directors. The proposed rule includes a diversity matrix as a guide for disclosure.

¹ As of March 4, 2021.

² An overview of the PRI’s signatories is available on the PRI website, <https://www.unpri.org/signatories/signatory-resources/signatory-directory>.

³ Proposal.

The proposed rule change is a meaningful first step forward in long-overdue changes in the U.S. financial industry and society broadly. In signing the Principles for Responsible Investment, investors agree to incorporate material ESG factors in investment decisions, and this includes board and corporate diversity and inclusion. Diversity and inclusion on corporate boards and throughout an organization is material to company success and, as such, represents decision-useful information for investors. Through increasing disclosure and mandating minimum standards for board diversity, we believe the proposed rule makes progress in bringing diverse voices and perspectives to company leadership and provides investors with necessary data as they consider the risks and opportunities associated with board diversity.

We encourage Nasdaq to continue efforts improving diversity disclosure of listed companies following this rulemaking. For example, "comply or explain" rules can be improved going forward by assessing company explanations and highlighting good practice examples, or even by setting specific requirements outlining what Nasdaq sees as a sufficient explanation for non-compliance. These explanations would also hopefully include information on company efforts to comply as well as a specific timeline of relevant actions taken and planned.

Diversity and inclusion is of growing importance to investors. An early analysis of the 2020 proxy season shows that diversity focused proposals received increased shareholder support.⁴ We are hopeful the proposed rule will serve as a catalyst for other exchanges and financial institutions calling for similar diversity standards, and lead to increased standardization and disclosure of corporate diversity information.

BENEFITS OF DIVERSE BOARDS

Diversity, Equity and Inclusion has been a growing focus for companies and investors over the past years and has recently come under increased scrutiny as the nation works to more fully appreciate the historic racism that continues to shape the American economy and society today. Investors understand that diverse boards lead to better financial performance and, as such, often look to include diversity data in company analysis. McKinsey found that “companies whose boards are in the top quartile of gender diversity are 28 percent more likely than their peers to outperform financially.”⁵ Similarly, Carlyle concluded that within their portfolio, companies with two or more diverse board members had a 12 percent higher average earning growth per year than companies whose boards lack diversity.⁶

Corporate boards that more closely reflect the diversity of the U.S. population can lead to better financial outcomes, and therefore present a less risky investment opportunity for informed investors.

⁴ Hannah Orowitz and Brigid Rosati, *An Early Look at the 2020 Proxy Season* (June 10, 2020) available at <https://corpgov.law.harvard.edu/2020/06/10/an-early-look-at-the-2020-proxy-season/>.

⁵ McKinsey & Company, *Diversity Wins How Inclusion Matters* (May 2020) page 12, available at <https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Diversity%20and%20Inclusion/Diversity%20wins%20How%20inclusion%20matters/Diversity-wins-How-inclusion-matters-vF.pdf>.

⁶ Jason M. Thomas and Megan Starr, *From Impact Investing to Investing for Impact*, available at https://www.carlyle.com/sites/default/files/2020-02/From%20Impact%20Investing%20to%20Investing%20for%20Impact_022420.pdf.

More must be done to understand how systemic racism and sexism manifest in our financial and corporate systems, and to change the circumstances that lead corporate boards to exclude diverse candidates.

IMPROVED TRANSPARENCY FOR INVESTORS

The PRI agrees with Nasdaq's conclusion, that "board diversity is a priority when assessing companies, and investors report, in some cases, relying on intuition when there is a lack of empirical, evidenced-based data. Furthermore, the continued growth of ESG investing raises the importance of quality data, given the data-driven nature of investment products such as diversity-specific indices and broader ESG funds."⁷ The PRI supports its network of investor signatories in incorporating ESG factors into their investment and ownership decisions, including consideration of data on diversity and inclusion across corporate leadership and entire organizations.

However, the U.S. Government Accountability Office cited a lack of comparable data on diversity in their study on ways to improve ESG disclosure.⁸ Investors interviewed for the study highlighted the lack of comparable and standardized metrics and unclear calculations of data. Some companies change their metrics from year to year, which makes comparison more difficult.⁹

More than 125 investors, some of which are PRI signatories, signed on to a letter by As You Sow, calling for companies to release relevant data on their diversity policies. The letter specifically argues that meaningful data on board diversity is needed, and that investors consider this information in their investment analyses.¹⁰ The letter also states that "there is a significant divergence between the public commitments companies make to workplace equality and the disclosures they provide to investors showing how, and if, they are meeting their stated goals."¹¹

Disclosing board diversity data in a systematic way can lead to meaningful behavioral change. California was the first state to require the disclosure of female directors on the boards of public companies.¹² Though the target date for compliance is December 2021, the law has already had a measurable impact: In 2018, nearly 30 percent of California company boards were all male – now fewer than 3 percent are.¹³

To fully account for the impacts of ESG issues, investors require more reliable and comparable data, including on diversity, inclusion and equity efforts in every aspect of organizations. Standardizing board diversity disclosure would allow investors to make more informed investment decisions,

⁷ Proposal, p. 44.

⁸ United States Government Accountability Office, *Public Companies Disclosure of Environmental, Social and Governance Factors and Options to Enhance Them* (July 2020) available at <https://www.gao.gov/assets/710/707949.pdf>.

⁹ Ibid., p. 12.

¹⁰ As You Sow, *Workplace Equity Disclosure Statement*, available at <https://www.asyousow.org/our-work/gender-workplace-equity-disclosure-statement>.

¹¹ Ibid.

¹² California State Senate *Bill 826 Corporations: boards of directors*, available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB826.

¹³ California Partners Project, *Claim Your Seat*, available at <https://www.calpartnersproject.org/claimyourseat>.

address inequality in the boardroom and help boards better reflect the diverse makeup of the U.S. population. Many companies already report diversity data to the Equal Employment Opportunity Commission, however, this data is currently not made available to the public. This data could easily be reformatted and incorporated in annual corporate disclosures filed to the SEC, utilizing a searchable XBRL format for easy access to investors.¹⁴

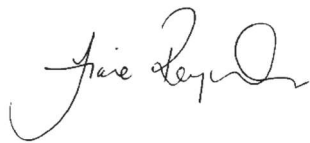
CONCLUSION

In conclusion, the PRI supports NASDAQ's proposed rule calling for increased board diversity and mandatory disclosure of board diversity information. Responsible investment requires consideration of efforts taken by companies to create more diverse, equitable institutions, and these efforts – or lack thereof – have been proven to be material to long-term success. Mandatory ESG disclosure allows for clear standards and consistent reporting that will help move the needle on diversity to a more inclusive, equitable and successful economy and society.

For further conversation and follow up, please feel free to contact:

- Heather Slavkin Corzo, Head of US Policy: heather.slavkin.corzo@unpri.org
- Karen Kerschke, US Policy Analyst: karen.kerschke@unpri.org

Yours sincerely,



Fiona Reynolds

Chief Executive Officer

Principles for Responsible Investment

¹⁴ U.S. Equal Employment Commission, *EEO Data Collection*, available at <https://www.eeoc.gov/employers/eoo-data-collections>.