

# SEC Approves Nasdaq Diversity Proposal

By April Hall

The U.S. Securities and Exchange Commission on Friday approved Nasdaq's proposal to hold companies listed on the exchange accountable for board diversity.

The new rule, proposed in December, is the first of its kind. It requires boards of U.S.-based Nasdaq-listed companies to have at least one female director and one director who self-identifies as a member of an underrepresented community (such as directors of color and LGBTQ+). International and smaller Nasdaq-listed companies will need to have two women directors but will be exempt from the underrepresented community requirement.

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If boards are unable to meet the requirement after five years, they will have to provide an explanation or potentially face removal from the exchange.

"The SEC's approval of the proposed Nasdaq rule changes for listed companies requiring increased disclosure around board diversity will have a material impact on the board diversity of public companies," says Rusty O'Kelley, co-leader of Russell Reynolds Associates' Board & CEO Advisory Partners and global leader of

the Board Consulting and Effectiveness practice. "The Nasdaq's own 2020 data analysis shows over 75% of boards would not have met the proposed new standards at the time of the analysis. While public company boards have been adding diverse directors at a fast pace in the last year, according to ISS data, there are still hundreds of Nasdaq companies that lack ethnic diversity and another group of a couple of hundred that lack gender diversity."

The SEC also approved a separate Nasdaq proposal to offer one year of recruiting services at no charge to protect companies from any undue expense in their efforts to meet the new requirement.

"We are pleased that the SEC has approved Nasdaq's proposal to enhance board diversity disclosures and encourage the creation of more diverse boards through a market-led solution," a Nasdaq statement said. "We look forward to working with our companies to implement this new listing rule and set a new standard for corporate governance."

The Latino Corporate Directors Association came out in strong support of the new rule.

"We applaud Nasdaq for their leadership in proposing rules to boost diversity on corporate boards," says Esther Aguilera, president and CEO of Latino Corporate Directors Association. "Corporate boards remain agile when they reflect the increasingly diverse marketplace and workforce. Latino market share is growing at an astounding rate, 70% faster than the U.S. general population."

Boards will be required to report on director diversity starting with the 2022 proxy season.