

New NASDAQ Rule Requires Disclosure of Director Compensation from Third Parties

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On July 1, 2016, the SEC approved a NASDAQ amendment to its rules that require NASDAQ-listed companies to disclose certain payments to their directors or director nominees made by third parties for such service. The amendment is scheduled to become effective 30 days following the SEC's approval. See the SEC's Notice can be reviewed at <https://www.sec.gov/rules/sro/nasdaq/2016/34-78223.pdf>

The amendment addresses conflict situations where a shareholder privately offers to compensate a director nominee in for the nominees' standing for election or service as a director. The arrangements subject to the requirement are quite broad. NASDAQ adopted the amendment because it believes such undisclosed compensation arrangements may:

- Lead to conflicts of interest among directors and impair their ability to perform their duties as directors ; and
- Promote short-term results over creating long-term value.

Under the amendment, a listed company will be required to publicly disclose, on or through its website, or in its information or proxy statement for any stockholders' meeting at which directors are elected (or, if it does not file proxy or information statements, in its annual reports to the SEC), the material terms of all arrangements for such compensation or other payment.

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