

Client Alert

NYSE and Nasdaq Submit Amended Corporate Governance Rule Proposals to the SEC

On October 8 and October 9, 2003, the New York Stock Exchange and the Nasdaq Stock Market, Inc., respectively, filed with the Securities and Exchange Commission the latest amendments to their corporate governance rule proposals. Copies of the proposals are available on the NYSE and Nasdaq websites at www.nyse.com/pdfs/amend2-10-08-03.pdf¹ and www.nasdaq.com/about/SR-NASD-2002-141_Amendment_3.pdf.

The NYSE and Nasdaq filed their original corporate governance rule proposals with the SEC on August 16 and October 9, 2002, respectively, and have since received public comments and worked with the SEC staff to harmonize their proposals. The NYSE and Nasdaq previously adopted final rules effective June 30, 2003 relating to shareholder approval of equity compensation plans and the voting of proxies.

Once approved by the SEC, the new NYSE and Nasdaq corporate governance rules generally will require compliance by listed companies by the earlier of (i) a company's first annual meeting after January 15, 2004 or (ii) October 31, 2004. The effective dates and transition periods were selected to conform with those mandated for audit committee reforms under the Sarbanes-Oxley Act of 2002 and Rule 10A-3 under the Securities Exchange Act of 1934. The proposals would not require listed companies with classified boards to replace directors who would not normally stand for election at the company's first annual meeting after January 15, 2004 in order to meet the new standards. However, these companies would have until their second annual meeting after January 15, 2004, but no later than December 31, 2005, to replace directors in order to meet the new standards. Listed companies, even those with classified boards, must still comply with the new audit committee requirements by the effective date noted above.

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¹ A blackline of the NYSE amended corporate governance rule proposals, showing the changes from the previous proposals filed on April 4, 2003, is available at the NYSE website at www.nyse.com/pdfs/comparite2.pdf.

Based on our discussions with the NYSE, we expect the SEC to approve these corporate governance rule proposals imminently and not later than the end of October. We will circulate a client alert discussing the new NYSE and Nasdaq corporate governance rules in more detail following SEC approval.

October 21, 2003

For Additional Information

This client alert can be found, together with other recent Chadbourne & Parke LLP client alerts, at chadbourne.com/publications/sub_Publications.html. If you have any questions regarding the NYSE and Nasdaq amended corporate governance rule proposals, please contact any of the following:

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