

ClientAlert

December 7, 2009

Nasdaq Rule Change Mandates Notification 10 Minutes Prior to Release of Material Information

The Nasdaq Stock Market recently filed an immediately effective rule change with the Securities and Exchange Commission with respect to the release of material information and public disclosure of information. Nasdaq now requires, rather than merely recommends, that Nasdaq-listed companies provide Nasdaq with notification at least ten minutes prior to releasing material information under Rule 5250(b) of the Nasdaq rules. Nasdaq also modified rule language regarding public disclosure of information to eliminate a potential inconsistency with the SEC's interpretive guidance regarding the use of company websites to satisfy public disclosure requirements under Regulation FD. The change clarifies that the posting of information on the company's website by itself "may not" (as opposed to "will not") satisfy Regulation FD, consistent with the SEC's acknowledgment that website posting may under certain specified circumstances be sufficient disclosure under Regulation FD. The Nasdaq rule change is operative on December 7, 2009.

Comments on the proposed rule change may be submitted to the SEC until 21 days after the date the applicable proposal is published in the Federal Register. Information on submitting comments to the SEC can be found on the SEC's website at <http://www.sec.gov/rules/submitcomments.htm>.

**Our client alerts are for general informational purposes and should not be regarded as legal advice.
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