

# Comparison of NYSE and Nasdaq Corporate Governance Listing Standards

November 4, 2003

On November 4, 2003, the Securities and Exchange Commission (SEC) approved the proposed changes to the listing standards governing companies whose securities trade on the New York Stock Exchange, Inc. (NYSE) and the Nasdaq Stock Market (Nasdaq). Both NYSE and the National Association of Securities Dealers, Inc. (NASD) submitted their original rule proposals to the SEC in 2002. SEC approval of the new rules in the intervening months was delayed, in part, by the passage of the Sarbanes-Oxley Act in July 2002 and the SEC's focus on rulemaking mandated by Sarbanes-Oxley, which included a number of the topics covered by the proposed listing standards. During 2003, both NYSE and the NASD submitted revisions to their proposed governance rules in response to SEC comments and to harmonize their listing standards with Sarbanes-Oxley and the newly-adopted SEC rules.

The new listing standards impose minimum requirements for corporate governance and director independence and more clearly define the duties and qualifications of directors who serve on key board committees.

This summary compares the corporate governance listing standards of NYSE and Nasdaq as finally adopted on November 4, 2003. It is not intended to be a complete recitation of each standard, many of which are subject to additional interpretations and nuances contained in the NYSE and NASD commentary accompanying the proposals and the rules themselves.

For additional information about the proposed NYSE or Nasdaq listing standards or any other matters discussed in this summary, please contact Hunter Rost at (615) 850-8958 or [hrost@wallerlaw.com](mailto:hrost@wallerlaw.com).

	<b>NYSE Corporate Governance Rules</b>	<b>Nasdaq Corporate Governance Rules</b>
<b>Effective Dates/ Transition</b>	<p>A company must comply with the new listing standards by the earlier of its first annual meeting after January 15, 2004, or no later than October 31, 2004.</p> <p>If a company with a classified board would be required to change a director who would not normally stand for election in such annual meeting, the company may continue such director in office until the second annual meeting after such date, but no later than December 31, 2005.</p>	<p>A company must comply with the provisions regarding director independence, independent committees and notification of non-compliance by the earlier of its first annual meeting after January 15, 2004, or no later than October 31, 2004.</p> <p>If a company with a classified board would be required to change a director who would not normally stand for election in such annual meeting, the company may continue such director in office until the second annual meeting after such date, but no later than December 31, 2005.</p> <p>Companies must comply with the code of conduct requirement by May 4, 2004. The requirement for audit committee approval of related party transactions becomes operative January 15, 2004.</p>
<b>Independent Directors</b>	<p>Independent directors must comprise a majority of a company's board of directors.</p> <p>For a director to be deemed "independent,"</p>	<p>Independent directors must comprise a majority of a company's board of directors.</p> <p>The company must disclose in its annual proxy statement (or, if the company does</p>

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	<p>the board must affirmatively determine that the director has no material relationship with the company. Companies must disclose the basis for such determination in their annual proxy statement (or in the company's Form 10-K if the company does not file a proxy). A board may adopt and disclose categorical standards to assist it in determining director independence, and may make a general disclosure if a director meets these standards; any determination for a director who does not meet the standards must be specifically explained. Ownership of even a significant amount of company stock is not considered a <i>per se</i> bar to a determination of director independence.</p> <p>The following categories of persons shall not be considered independent:</p> <ul style="list-style-type: none"> <li>• A director who is an employee or whose immediate family member is an executive officer of the company until 3 years after the end of such employment relationship;</li> <li>• A director who receives, or whose immediate family member receives, more than \$100,000 per year in direct compensation from the company, other than director and committee fees and pension or other forms of deferred compensation for prior services (provided such compensation is not contingent in any way on continued service), until 3 years after he or she ceases to receive more than \$100,000 per year in such compensation;</li> <li>• A director who is affiliated with or employed by, or whose immediate family member is affiliated with or employed in a professional capacity by, a present or former internal or external auditor of the company until 3 years after the end of the affiliation or the employment or auditing relationship;</li> <li>• A director who is employed, or whose immediate family member is employed, as an executive officer of another company where any of the company's present executives serve on that</li> </ul>	<p>not file a proxy statement, on its Form 10-K or 20-F) those directors that the board has determined to be independent.</p> <p>The board has a responsibility to make an affirmative determination that individuals serving as independent directors do not have a relationship with the company that would impair their independence. The following categories of individuals shall not be considered to be independent:</p> <ul style="list-style-type: none"> <li>• A director who currently is, or at any time during the past 3 years was, employed by the company or its parent or subsidiaries.</li> <li>• A director who accepted, or who has a family member who accepted, payments in excess of \$60,000 per year from the company or its parent or its subsidiaries during the current fiscal year or any of the past 3 fiscal years, other than the following: <ul style="list-style-type: none"> <li>-- compensation for board or board committee service;</li> <li>-- payments arising solely from investments in the company's securities;</li> <li>-- benefits under a tax-qualified retirement plan or non-discretionary compensation;</li> <li>-- compensation paid to a family member who is a non-executive employee of the company or its parent or subsidiaries; and</li> <li>-- loans permitted under Section 13(k) of the Securities Exchange Act of 1934, as amended ("Exchange Act");</li> </ul> </li> <li>• A director who is a family member of an individual who is, or at any time during the past 3 years was, an executive officer of the company or its parent or subsidiaries;</li> <li>• A director who is, or has a family member who is, a partner in, or controlling shareholder or executive officer of, any organization to which the company made, or from which it received, payments for property or services in the current or any of the past 3 fiscal years exceeding the greater of</li> </ul>

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	<p>company's compensation committee until 3 years after the end of such service or the employment relationship; and</p> <ul style="list-style-type: none"> <li>• A director who is an executive officer or an employee, or whose immediate family member is an executive officer, of a company that makes payments to, or receives payments from the listed company for property or services in an amount which, in any single fiscal year, exceeds the greater of \$1 million or 2% of such other company's consolidated gross revenues until 3 years after falling below such threshold (NYSE states that charitable organizations are not considered "companies" for purposes of this requirement, although listed companies must disclose in their annual proxy statement contributions by the company to any charitable organization in which a director serves as an executive officer if contributions in any single fiscal year exceed \$1 million or 2% of such organization's consolidated gross revenues).</li> </ul> <p><i>Transition Note:</i> The <i>per se</i> independence tests above have a 1-year look-back period during the first year following adoption of the new standards. Thereafter, the full 3-year look back period applies.</p> <p>Note that independence requirements for audit committee members are more stringent than the requirements set forth above. See "Independence of Audit Committee Members" below.</p>	<p>(i) 5% of the recipient's consolidated gross revenues for that year or, (ii) \$200,000, other than the following:</p> <ul style="list-style-type: none"> <li>-- payments arising solely from investments in the company's securities; or</li> <li>-- payments made under non-discretionary charitable matching programs;</li> </ul> <ul style="list-style-type: none"> <li>• A director of the company who is, or has a family member who is employed as an executive officer of another entity where at any time during the past 3 years any of the company's executive officers serve on the compensation committee of the other entity; or</li> <li>• A director who is, or has a family member who is, a current partner of the company's outside auditor or was a partner or employee of the company's outside auditor who worked on the company's audit during any of the past 3 years.</li> </ul> <p>Nasdaq does not believe that ownership of the company stock by itself would preclude a board finding of independence.</p> <p>Note that independence requirements for audit committee members are more stringent than the requirements set forth above. See "Independence of Audit Committee Members" below.</p>
<b>Controlled Companies</b>	<p>A company in which more than 50% of the voting power is held by an individual, group, or another company is exempt from the director independence requirements for the board, nominating/corporate governance committee and compensation committee. A controlled company that chooses to take advantage of any or all of such exemptions must disclose its determination in its annual proxy statement (or, if the controlled company does not file an annual proxy, in its Form 10-K).</p>	<p>A company in which more than 50% of the voting power is held by an individual, group, or another company is exempt from the director independence requirements and the requirements pertaining to director nominations and executive compensation. A controlled company must still comply with the requirements for executive sessions of independent directors.</p>
<b>Investment Companies</b>	<p>A closed-end fund will only be required to comply with the Sarbanes-Oxley audit committee requirements and with the</p>	<p>An investment company will not be required to comply with the independence requirements set forth in "Independent</p>

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	<p>Exchanges' requirements regarding the audit committee charter, but not the Exchange's additional independence requirements set forth in "Independent Directors" above or internal audit requirements.</p> <p>In addition, audit committees for closed-end funds must also establish procedures for the confidential submission of concerns by employees of the investment adviser, as well as employees of the investment company.</p>	<p>Directors" above. In lieu thereof, a director shall not be considered independent if such director is an "interested person" of the company under the Investment Company Act of 1940, other than in his or her capacity as a member of the board of directors or any board committee.</p> <p>In addition, audit committees for investment companies must also establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or auditing matters by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company.</p>
<b>Applicability to Foreign Private Issuers</b>	<p>A foreign private issuer is allowed to follow home-country practices in lieu of the new corporate governance rules, provided that such foreign private issuer:</p> <ul style="list-style-type: none"> <li>• has an audit committee that complies with Exchange Act Rule 10A-3;</li> <li>• notifies NYSE in writing after any executive officer becomes aware of any non-compliance with any applicable provision of Exchange Act Rule 10A-3; and</li> <li>• provides a brief, general summary of the significant ways in which its governance differs from those followed by domestic companies under the NYSE listing standards. This may be done either on the foreign private issuer's website (provided it is in English and accessible from the United States) and/or in its annual report to shareholders in the United States. If information is provided only on the website, the annual report must state this and provide a link to the website.</li> </ul>	<p>A foreign private issuer is not required to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such foreign private issuer or that is contrary to generally accepted business practices in its home country. Nasdaq may provide exemptions from its corporate governance rule as necessary to carry out such intent as long as the exemption is not contrary to federal securities laws, including Section 10A(m) of the Exchange Act and Rule 10A-3 thereunder. If a foreign private issuer receives an exemption from the Nasdaq rules, it is required to:</p> <ul style="list-style-type: none"> <li>• disclose in its annual report each requirement from which it is exempted; and</li> <li>• describe the home-country practice it follows in lieu of such requirements.</li> </ul>
<b>Executive Sessions</b>	<p>Boards must convene regular executive sessions in which the non-management directors meet without management. In addition, a company should hold an executive session limited solely to independent directors (at least once per</p>	<p>Independent directors must convene regularly-scheduled executive sessions (at least twice per year in conjunction with regularly-scheduled board meetings).</p>

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	<p>year).</p> <p>Companies must disclose a method for interested parties to communicate concerns about the company to the presiding director or with the non-management directors as a group.</p>	
<b>Lead Director</b>	<p>Designation of a presiding or lead director is not required, although if a presiding director is selected or there is a procedure by which one director is chosen to preside at each meeting, that director must be named or the procedure described in the company's annual proxy statement.</p>	
<b>Board Committees</b>	<p>Companies must have an audit committee, a nominating/corporate governance committee and a compensation committee, each comprised solely of independent directors. A company may allocate the responsibilities of the nominating and compensation committees to committees of the company's own denomination, provided that the committees are composed entirely of independent directors.</p>	<p>Companies must have an audit committee comprised of at least three members, each of whom meets the independence requirements specified in the Nasdaq listing standards. There is no requirement to have a nominating committee or compensation committee, but the functions normally undertaken by these committees must, in most cases, be performed by independent directors. See "Compensation Committee" and "Nominating and Governance Committee" below.</p>
<b>Audit Committee</b>	<p>Companies must have an audit committee that satisfies the requirements of Rule 10A-3 under the Exchange Act. The audit committee must be comprised of at least three members.</p>	<p>Companies must have an audit committee comprised of at least three members. Note that Small Business issuers must now have an audit committee.</p>
<b>Financial Literacy of Audit Committee Members</b>	<p>Existing NYSE requirements that all members of the audit committee be financially literate and that at least one member of the committee have "accounting or related financial management expertise" continue to apply. There is a presumption that a director who meets SEC definition of "audit committee financial expert" has such expertise.</p>	<p>Each member of the audit committee must be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement. Companies must certify to Nasdaq that at least one member has past employment experience in finance or accounting, professional certification in accounting or other comparable experience or background which results in the individual's financial sophistication, such as serving as a CEO, CFO or other senior officer with financial oversight responsibilities.</p> <p>Directors who meet the SEC definition of "audit committee financial expert" are presumed to qualify as financially sophisticated audit committee members.</p>

	<b>NYSE Corporate Governance Rules</b>	<b>Nasdaq Corporate Governance Rules</b>
<b>Independence of Audit Committee Members</b>	<p>Audit committee members must:</p> <ul style="list-style-type: none"> <li>• Meet the NYSE definition of “independence” for directors;</li> <li>• Meet the independence criteria set forth in Exchange Act Rule 10A-3(b)(1) (subject to the exemptions provided in Rule 10A-3(c)): <ul style="list-style-type: none"> <li>-- they must not accept any consulting, advisory, or other compensatory fee from the company other than for board service; and</li> <li>-- they must not be an affiliated person of the company.</li> </ul> </li> </ul> <p>An audit committee member may not receive consulting, legal, advisory or similar fees. Customary director’s fees (which may be any combination of cash and stock and may include customary additional amounts for committee service) must be the sole compensation an audit committee member receives from the company.</p> <p>If any audit committee member serves on the audit committee of more than three public companies and the company does not limit the number of audit committees on which its audit committee members serve, the board must determine that such service would not impair the ability of such member to effectively serve on the company’s audit committee and disclose such determination in the proxy statement.</p>	<p>Audit committee members must:</p> <ul style="list-style-type: none"> <li>• Meet the Nasdaq definition of “independence” for directors;</li> <li>• Meet the independence criteria set forth in Exchange Act Rule 10A-3(b)(1) (subject to the exemptions provided in Rule 10A-3(c)): <ul style="list-style-type: none"> <li>-- they must not accept any consulting, advisory, or other compensatory fee from the company other than for board service; and</li> <li>-- they must not be an affiliated person of the company; and</li> </ul> </li> <li>• Not have participated in the preparation of the financial statements of the company or any current subsidiary of the company at any time during the past 3 years.</li> </ul> <p>However, one director who (i) is not “independent” under Nasdaq requirements, (ii) meets the criteria in Exchange Act Rule 10A-3, and (iii) is not a current officer or employee of the company (or family member of an officer or employee) may serve on the audit committee if the board under “exceptional and limited circumstances” determines it is in the best interests of the company and shareholders. The company must disclose such relationship and the basis for the boards’ determination in its next annual proxy statement (or, if the company does not file a proxy statement, in its Form 10-K or 20-F). Such a director may not serve on the audit committee for more than 2 years and may not chair the audit committee.</p> <p>Nasdaq recommends that companies disclose in their annual proxy statement if any director is deemed independent but falls outside the safe harbor provisions of Exchange Act Rule 10A-3(e)(1)(ii).</p>
<b>Responsibilities of the Audit Committee</b>	<p>All listed companies must adopt a written audit committee charter that addresses:</p> <ul style="list-style-type: none"> <li>• The committee’s purpose, which at a minimum must be to: <ul style="list-style-type: none"> <li>-- Assist board oversight of;</li> </ul> </li> </ul>	<p>Audit committees must adopt a formal written charter specifying:</p> <ul style="list-style-type: none"> <li>• The scope of its responsibilities and authority and the means by which it</li> </ul>

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	<ul style="list-style-type: none"> <li>-- the integrity of the company's financial statements;</li> <li>-- the company's compliance with legal and regulatory requirements;</li> <li>-- the independent auditor's qualifications and independence; and</li> <li>-- the performance of the company's internal audit function and independent auditors; and</li> <li>-- Prepare an audit committee report as required by the SEC to be included in the company's annual proxy;</li> <li>• An annual performance evaluation of the audit committee:</li> <li>• The audit committee charter must also set forth the duties and responsibilities of the audit committee, which, at a minimum, must include:</li> <li>• Those duties set out in Exchange Act Rule 10A-3(b)(2), (3), (4) and (5) to: <ul style="list-style-type: none"> <li>-- directly appoint, retain, compensate, and oversee the work of the company's independent auditors; (the audit committee must have sole authority to approve all audit engagement fees and terms, as well as all significant non-audit engagements with the independent auditors, and independent auditor must report directly to the audit committee;</li> <li>-- establish procedures for the receipt, retention and treatment of complaints received by the company regarding accounting, internal accounting controls or auditing matters, as well as for confidential, anonymous submission by company employees of concerns regarding questionable accounting or auditing matters;</li> <li>-- engage outside legal, accounting or other advisors to the extent the audit committee deems necessary</li> </ul> </li> </ul>	<p>carries out its responsibilities;</p> <ul style="list-style-type: none"> <li>• The outside auditor's accountability to the audit committee;</li> <li>• The audit committee's responsibility to ensure the independence of the outside auditor; and</li> <li>• The committee's purpose of overseeing the accounting and financial reporting process of the company and the audits of the financial statements of the company.</li> <li>• The responsibilities and authority necessary to comply with Exchange Act Rule 10A-3(b)(2), (3), (4) and (5).</li> </ul> <p>The audit committee must have the specific responsibilities and authority set forth in Exchange Act Rule 10A-3(b)(2), (3), (4) and (5) (subject to the exemptions in Rule 10A-3(c)) to:</p> <ul style="list-style-type: none"> <li>• directly appoint, retain, compensate, and oversee the work of the company's independent auditors; the audit committee must have sole authority to approve all audit engagement fees and terms, as well as all significant non-audit engagements with the independent auditors, and independent auditor must report directly to the audit committee;</li> <li>• establish procedures for the receipt, retention and treatment of complaints received by the company regarding accounting, internal accounting controls or auditing matters, as well as for confidential, anonymous submission by company employees of concerns regarding questionable accounting or auditing matters;</li> <li>• engage outside legal, accounting or other advisors to the extent the audit committee deems necessary to carry out its duties; and</li> <li>• receive funding from the company to compensate such outside legal, accounting or other advisors;</li> </ul>

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	<p>to carry out its duties; and</p> <ul style="list-style-type: none"> <li>-- receive funding from the company to compensate such outside legal, accounting or other advisors;</li> <li>• At least annually, obtain and review a report by the independent auditor describing: <ul style="list-style-type: none"> <li>-- the auditing firm's internal quality-control procedures;</li> <li>-- any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and</li> <li>-- (to assess the auditor's independence) all relationships between the independent auditor and the company.</li> </ul> </li> </ul> <p>The audit committee should present its conclusions with respect to the independent auditor to the full board;</p> <ul style="list-style-type: none"> <li>• Discuss the company's annual audited financial statements and quarterly financial statements with management and the independent auditor, including the company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations;"</li> <li>• Discuss the company's earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies;</li> <li>• Discuss policies with respect to risk assessment and risk management;</li> <li>• Meet separately, periodically, with management, with internal auditors (or other personnel responsible for the internal audit function), and with independent auditors;</li> <li>• Review with the independent auditor any audit problems or difficulties and</li> </ul>	



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	<p>management’s response;</p> <ul style="list-style-type: none"> <li>• Set clear hiring policies for employees or former employees of the independent auditors;</li> <li>• Report regularly to the board of directors.</li> </ul>	
<b>Compensation Committee</b>	<p>Companies must have a compensation committee consisting entirely of independent directors.</p> <p>The compensation committee must adopt a written charter that addresses the committee’s purpose and responsibilities which, at a minimum, must be to have direct responsibility to:</p> <ul style="list-style-type: none"> <li>• Review and approve corporate goals and objectives relevant to CEO compensation;</li> <li>• Evaluate CEO’s performance in light of those goals and objectives;</li> <li>• Either as a committee or together with the other independent directors (as directed by the board), to determine and approve the CEO’s compensation level based on the evaluation (the board is not precluded from discussing CEO compensation);</li> <li>• Make recommendations to the board with respect to non-CEO compensation, incentive compensation plans and equity-based plans; and</li> <li>• Produce a compensation committee report on executive compensation as required by the SEC to be included in the company’s annual proxy statement or annual report on Form 10-K filed with the SEC.</li> </ul> <p>The committee must conduct an annual evaluation of its own performance.</p> <p>The charter should give compensation committee authority to retain and terminate a consulting firm to assist in the evaluation of CEO or senior executive compensation and to approve that firm’s fees and other retention terms.</p>	<p>Companies are not required to have a compensation committee.</p> <p>CEO compensation must be determined, or recommended to the board of directors for determination, by either:</p> <ul style="list-style-type: none"> <li>• A majority of the independent directors, or</li> <li>• A compensation committee comprised solely of independent directors.</li> </ul> <p>The CEO may not be present during voting or deliberations.</p> <p>Compensation of executive officers other than the CEO shall be determined by either:</p> <ul style="list-style-type: none"> <li>• A majority of the independent directors, or</li> <li>• A compensation committee comprised solely of independent directors.</li> </ul> <p>If the compensation committee is comprised of at least three members, one member who is not independent and is not a current officer or employee (or family member of an officer or employee) of the company, may serve on the compensation committee if the board (under exceptional and limited circumstances) determines that it is in the best interests of the compensation company and its shareholders and the company discloses such relationship and the reason for the determination in the next annual proxy statement subsequent to the determination (or, if the company does not file a proxy statement, in its Form 10-K or 20-F). Such a director may not serve on the compensation committee for more than 2 years.</p>

	<b>NYSE Corporate Governance Rules</b>	<b>Nasdaq Corporate Governance Rules</b>
<b>Nominating and Governance Committee</b>	<p>Companies must have a nominating/corporate governance committee consisting entirely of independent directors.</p> <p>The nominating and corporate governance committee must adopt a written charter that addresses the committee's purpose and responsibilities which, at a minimum, must be to:</p> <ul style="list-style-type: none"> <li>• Identify individuals qualified to become board members consistent with criteria approved by the board;</li> <li>• To select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders;</li> <li>• To develop and recommend a set of corporate governance principles applicable to the company; and</li> <li>• To oversee the evaluation of the board and management.</li> </ul> <p>The committee must conduct an annual evaluation of its own performance.</p> <p>If the company is contractually obligated to provide a third party with the right to nominate a director, the selection and nomination of such director need not be subject to the NYSE nominating committee requirements.</p> <p>The charter should give the committee authority to retain and terminate a search firm used to identify director candidates and to approve their fees and other retention terms.</p>	<p>Companies need not have a nominating committee.</p> <p>Director nominees must be either selected or recommended for the board of director's selection by either:</p> <ul style="list-style-type: none"> <li>• A majority of the independent directors, or</li> <li>• A nominations committee comprised solely of independent directors.</li> </ul> <p>A company must certify that it has adopted a formal written charter or board resolution, as applicable, addressing the nominations process and such related matters as may be required under the federal securities laws.</p> <p>If the nominations committee is comprised of at least three members, one member who is not independent and is not a current officer or employee (or family member of an officer or employee) of the company, may serve on the nominations committee if the board (under exceptional and limited circumstances) determines that it is in the best interests of the company and its shareholders and the company discloses such relationship and the reason for the determination in the next annual proxy statement subsequent to the determination (or, if the company does not file a proxy statement, in its Form 10-K or 20-F). Such a director may not serve on the compensation committee for more than 2 years.</p> <p>If the right to nominate a director legally belongs to a third party the selection and nomination of such director need not be subject to the Nasdaq nominating committee requirements. This does not relieve an company's obligation to comply with Nasdaq committee composition requirements.</p> <p>The nomination requirements are also not applicable if the company is subject to a pre-existing, binding obligation that requires a director nomination structure that is inconsistent with the Nasdaq rules.</p>

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<b>Corporate Governance Guidelines</b>	<p>Companies must adopt corporate governance guidelines which must address:</p> <ul style="list-style-type: none"> <li>• Director qualification standards;</li> <li>• Director responsibilities;</li> <li>• Director access to management and independent advisors;</li> <li>• Director compensation;</li> <li>• Director orientation and continuing education;</li> <li>• Management succession; and</li> <li>• Annual performance evaluation of the board.</li> </ul>	
<b>Code of Ethics</b>	<p>Companies must adopt a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers. Topics should include:</p> <ul style="list-style-type: none"> <li>• Conflicts of interest;</li> <li>• Corporate opportunities;</li> <li>• Confidentiality;</li> <li>• Fair dealing;</li> <li>• Protection and proper use of company assets;</li> <li>• Compliance with laws;</li> <li>• Rules and regulations (including insider trading laws); and</li> <li>• Encouraging the reporting of illegal or unethical behavior.</li> </ul> <p>Any waivers of the code for directors or executive officers may be made only by the board or a board committee, and must be promptly disclosed to shareholders.</p>	<p>Companies are required to adopt and disclose to the public a code of conduct for directors, officers and employees. The code must comply with the definition of a “code of ethics” set forth in Section 406(c) of the Sarbanes-Oxley Act.</p> <p>The Code must be “publicly available.”</p> <p>The code must provide for an enforcement mechanism that ensures prompt and consistent enforcement of the code, protection for persons reporting questionable behavior, clear and objective standards for compliance and a fair process by which to determine violations.</p> <p>Any waivers of the code for directors or executive officers must be made only by the board and must be disclosed, along with the reason for the waiver, on a Form 8-K filed within five days..</p>
<b>Internal Audit</b>	<p>Each company must have an internal audit function to provide management and the audit committee with ongoing assessments of the company’s risk management processes and system of internal control. A company may outsource this function to a third party service provider.</p>	

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<b>Website Disclosure</b>	<p>Companies must disclose on their corporate websites, copies of:</p> <ul style="list-style-type: none"> <li>• Their corporate governance guidelines;</li> <li>• Codes of business conduct and ethics; and</li> <li>• Key committee charters.</li> </ul>	<p>Nasdaq requires that a company's code of conduct be made "publicly available," although it does not specify the means by which the code should be made available. Companies may wish to post their code of conduct on their corporate websites.</p>
<b>Receipt of Complaints</b>	<p>Audit committee must comply with Exchange Act Rule 10A-3(b)(3) requirement to establish process for receipt of complaints regarding accounting, internal controls or auditing matters.</p> <p>Companies must also disclose in their annual proxy statement a method by which interested parties who have concerns about the company's management may make their concerns known, directly and confidentially, to the presiding director or non-management directors as a group.</p>	<p>Audit committee must comply with Exchange Act Rule 10A-3(b)(3) requirement to establish process for receipt of complaints regarding accounting, internal controls or auditing matters.</p>
<b>Certifications/ Notifications</b>	<p>Company's CEO must certify to NYSE annually that he or she is not aware of any company violations of NYSE corporate governance listing standards. This certification, along with the certifications mandated by the Sarbanes-Oxley Act of 2002 and the SEC, must be disclosed in the company's annual report to shareholders.</p> <p>CEO must notify NYSE promptly after he or she becomes aware of any violation of a corporate governance standard.</p>	<p>An issuer must provide Nasdaq with prompt notification after an executive officer becomes aware of any material non-compliance by the issuer with a Nasdaq corporate governance requirement.</p> <p>A company that receives an audit opinion containing a going concern qualification must make a public announcement through the news media disclosing the receipt of such qualification within 7 days of filing such an opinion in a filing with the SEC.</p>
<b>Violations</b>	<p>Upon finding a violation of a NYSE rule, the NYSE may issue a public reprimand letter to the company and ultimately suspend or de-list the offending company.</p>	<p>Nasdaq shall review the company's past corporate governance activities and may take any appropriate action, including placing of restrictions or additional requirements for listing, or denial of listing of a security, if Nasdaq determines there have been violations or evasions of such corporate governance standards.</p>
<b>Director Orientation</b>	<p>NYSE urges companies to establish an orientation program for new board members. NYSE intends to develop a Directors Institute with leading authorities in corporate governance to provide continuing director education.</p>	<p>Nasdaq intends to develop director continuing education requirements.</p>