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Nasdaq Permits Direct Listings

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On February 15, 2019, Nasdaq filed an immediately effective rule proposal to permit "direct listings" without an IPO and, in doing so, joins the NYSE, whose proposal to permit direct listings was approved by the SEC in February 2018. For a private company that does not need to raise capital in the public markets, but would like to provide greater liquidity for its existing shareholders and employees or make its common equity a more valuable currency in acquisition transactions, a direct listing is an excellent alternative to a traditional underwritten initial public offering. Spotify executed a direct listing in April 2018 and Slack Technologies indicated earlier this month that it would take the same approach.

Nasdaq's Listing Rule IM-5315-1 sets forth the direct listing requirements for common equity securities and describes how Nasdaq will determine compliance with the Nasdaq Global Select Market initial listing standards based on the price of a security, including the bid price, market capitalization and market value of publicly held shares requirements. Under the rule, a company that lists through a direct listing on the Nasdaq Global Select Market:

- will be subject to all initial listing requirements applicable to equity securities and, subject to applicable exemptions, the corporate governance requirements set forth in Nasdaq's Rule 5600 Series;
- must have an effective registration statement allowing existing shareholders to sell their shares;? and
- will be required to obtain an independent third-party valuation to ensure the company satisfies the initial listing requirements.

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