THOMAS P. DiNAPOLI
STATE COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 30, 2020

Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Proposed Rule Change to Adopt Listing Rules Related to Board Diversity, Release No.34-905574: File No. SR NASDAQ-2020-081

Dear Secretary Countryman:

I write as Trustee of the New York State Common Retirement Fund ("Fund"), which is the third-largest public pension fund in the United States, with an estimated \$226 billion in assets under management as of September 30, 2020. The Fund holds and invests the assets of the New York State and Local Retirement System on behalf of more than 1.1 million members and beneficiaries and pays over \$1 billion per month in benefits. The Fund's public equities portfolio includes thousands of public companies and represents over 53% of the Fund's total portfolio. The public equities allocation primarily relies on broad passive index funds.

I urge the Securities and Exchange Commission ("Commission") to approve Nasdaq's Proposed Rule Change to Adopt Listing Rules Related to Board Diversity ("Proposal"), to require: (1) that corporate boards have at least one female and one underrepresented minority, or (2) that the company explain why its board does not have diverse members. I also support the Proposal's requirement that companies disclose the number of diverse directors in a matrix format.

The Proposal comes as America faces a widespread and long-overdue reckoning with systemic racial injustices and inequalities. As a result, the issue of corporate board diversity has rightfully gained renewed focus. The Fund has long regarded board diversity as a critical measure of sound corporate governance integral to the long-term success of our portfolio companies. As thoroughly described in the Proposal, research has shown that the ability to draw on a wide range of perspectives and experiences is a vital component of a company's sustained success in the global marketplace. It is crucial that companies seriously commit to address potential and actual forms of bias and remove barriers that impede full inclusion.

Because of the link between diversity and returns to shareholders, the Fund regularly engages portfolio companies to encourage them to follow best practices for building diversity and disclosing data and policies. Recently, I have called on the Fund's portfolio companies to urgently refocus on ensuring a robust corporate culture of diversity and inclusion, at both the board level and throughout their workforce.

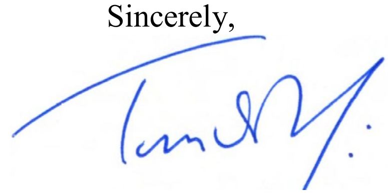
The renewed focus on diversity has also been paired with strong investor interest in reliable and comparable data on diversity and inclusion. Investors currently face a lack of standardized disclosure around board diversity, due to inaction by critical market participants, including the Commission and self-regulatory organizations. Under the Commission's current principles-based disclosure regime, board diversity data is often non-existent, inconsistent or, because of comparability issues, unusable by investors that need this information for many purposes. For example, the Fund uses diversity data in its proxy voting decisions. While there are third-party providers of board diversity data, their information is not always obtained directly from the listed company, creating a greater risk of inaccuracy.

The Proposal, which importantly sets out a standard for companies to disclose their progress on achieving board diversity and addresses longstanding requests for diversity disclosure by the investor community, is a sensible, flexible, and practical step in the right direction. The Proposal improves transparency in our national market system, promoting a free and open market that also protects investors and the public interest. It will also result in cost savings to investors, who currently purchase third-party research or must directly engage with individual companies to gather information about board diversity.

I believe the Proposal could be improved by including other categories of diversity, such as persons with disabilities. And, though I would prefer to see requirements disaggregating the data and more rapid compliance, it is a good first step.

In conclusion, the current board diversity disclosure framework is inefficient for investors. The Proposal would provide investors with vital diversity information about Nasdaq-listed companies that will assist in investment-related decisions. It provides significant benefits while imposing almost no costs on companies. The Proposal's requirement to increase diversity (or explain noncompliance) will also result in significantly more diverse corporate boards, which will improve shareholder returns. I urge the Commission to quickly approve this Proposal and to follow Nasdaq's lead and make board diversity and required disclosures a Commission rulemaking priority as it has been in the past.

Sincerely,



Thomas P. DiNapoli
State Comptroller