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# Focusing on Compensation Committee Charters Part II ? for Nasdaq Companies Only

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We previously discussed the requirements for NYSE companies **here**. Today, Cindy Akard talks about the required changes to committee charters for Nasdaq companies.

*Are any charter amendments required by July 1?*
No. Compensation committees have additional responsibilities by July 1 related to compensation committee advisers, but they can reflect these in a committee charter, committee resolution or other board action. However, some Nasdaq companies might want to go ahead and amend their charters by this July 1 deadline, because they will eventually have to include these additional responsibilities in the charters by the later deadline in 2014.

*Can you summarize the resolution, action or the amendments to the charter that are required by July 1?*
In a charter, resolution or other board action, Nasdaq-listed companies must provide the compensation committee with the authorization to engage their own advisers and be directly responsible for the appointment, compensation and oversight of their work. The committees must have appropriate funding to pay the advisers. Before engaging these advisers directly, or even receiving advice from any other advisers, the committees must take into account specific independence factors.

*Are there additional changes to the charter required in the future?*
Yes. By the earlier of October 31, 2014, or their first annual meeting after January 15, 2014, Nasdaq rules state that compensation committee charters “must specify” the adviser requirements noted above, as well as the scope of responsibility of the compensation committee and how it is carried out, the committee or board’s responsibility for determining CEO and executive officer compensation and that the CEO may not be present during voting or deliberations on his or her compensation.
In addition, if a committee charter addresses committee member independence, companies may want to reflect the requirement to evaluate and determine membership under the new independence standards.

*When is certification to Nasdaq required?*
A certification is required within 30 days after the final implementation deadline in 2014. We understand Nasdaq is planning to provide a form of certification.

*Where can we find these rules?*
Nasdaq has updated its Marketplace Rule 5605(d), with the effective dates listed in Rule 5605(d)(6).

**If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.**

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