

NASDAQ CAPITAL MARKET SECURITIES TO RECEIVE BLUE SKY EXEMPTIONS

The Securities and Exchange Commission (“SEC”) recently approved an amendment to a rule under Section 18 of the Securities Act of 1933 (the “Securities Act”) that will designate securities listed on the Nasdaq Capital Market as “covered securities” for purposes of Section 18. This amendment will have the effect of exempting companies listed on the Nasdaq Capital Market from state pre-sale qualification requirements under the National Securities Market Improvement Act of 1996. The amendment will be effective on May 24, 2007.



Pursuant to the amendment, securities issued by companies listed on the Nasdaq Capital Market (formerly the Nasdaq SmallCap Market) will no longer be required to register stock offerings under state securities, or “blue sky”, laws. Previously, companies listed on or downgraded to the Nasdaq Capital Market generally needed to comply with state securities law registration requirements. For companies with employees in states with very narrow exemptions for employee compensation plans (such as California), these registration requirements were particularly burdensome. The amendment also permits companies to transfer their listing from the Nasdaq Global Market to the Nasdaq Capital Market without losing the “covered security” designation.

Section 18 of the Securities Act currently exempts securities listed on the New York Stock Exchange, the American Stock Exchange and the Nasdaq Global Market (formerly the Nasdaq National Market) from state registration requirements. In 2006, the Nasdaq Stock Market requested that securities listed on the Nasdaq Capital Market receive the same exemption. However, the SEC delayed approving this request until Nasdaq proposed changes to its Capital Market listing standards to make them substantially similar with those of the other markets listed above. The SEC’s approval of these proposed changes is set forth [here](#).

Further Questions

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