



## [Client Alert] SEC Approves NASDAQ Limitation on Regulation A+ Listings

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In 2015, the SEC amended its rarely used Regulation A with the goal of easing the regulatory burden on smaller companies and making it easier for them to raise capital. As amended, Regulation A provides for offerings of securities that are exempt from registration but that can be made using general solicitation and advertising (unlike most private placements). Issuers offering securities under Regulation A must file an offering statement on Form 1-A with the SEC, including an offering circular for distribution to investors. Companies offering securities under Regulation A may apply to list those securities with a national securities exchange.

The amendments to Regulation A were met with much enthusiasm, and there was a flurry of Regulation A offerings beginning in 2016. A handful of Regulation A issuers successfully listed on Nasdaq or the NYSE, but the stocks performed poorly. In April 2019, Nasdaq filed a proposed rule change with the SEC to adopt a new initial listing requirement for any company applying to list on the exchange in connection with a Regulation A offering. The SEC approved the new rule on June 28, 2019.

Under the new rule, any company listing on Nasdaq in connection with a Regulation A offering must, at the time of approval of its initial listing application, have a minimum operating history of two years. Nasdaq believes this will help assure that Regulation A issuers “will be more likely ready for the rigors of being a public company, including satisfying the [SEC’s and Nasdaq’s] corporate governance requirements.”

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