



Via Electronic Mail

March 27, 2014

Mr. Edward S. Knight
Executive Vice President & General Counsel
NASDAQ OMX Group
805 King Farm Boulevard
Rockville, MD 20850

Dear Ed:

The Council of Institutional Investors (“CII”) is disappointed that NASDAQ OMX Group (“NASDAQ”) is courting the initial listing of Alibaba Group Holding Limited (“Alibaba”) on the NASDAQ Stock Market.¹ As you are aware, Alibaba was reportedly denied listing by Hong Kong Exchanges and Clearing Limited (“HKEx”) because of CEO Jack Ma’s insistence on a corporate structure for nominating directors that was inconsistent with the principle of one share, one vote—a principle incorporated in both HKEx listing standards² and in CII’s membership approved corporate governance policies.³

As long-term investors, CII members share your view that the goals of NASDAQ listing standards are, at least in part, to (1) “maintain the quality of and public confidence in its market,” and (2) “to protect investors and the public interest.”⁴ In our view, those worthy goals would be further undermined by the listing of Alibaba on the NASDAQ Stock Market with a structure that departs from the principle of one share, one vote.

¹ See, e.g., Bradley Hope, New York Stock Exchange Is Front-Runner to Land Prized Alibaba Listing, Wall St. J., updated Mar. 18, 2014, at 2 (“Representatives from NYSE and Nasdaq have been courting Alibaba CEO Jack Ma . . .”),

<http://online.wsj.com/news/articles/SB10001424052702303563304579447271784600840?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702303563304579447271784600840.html>.

² See, e.g., Adam Haigh & Kana Nishizawa, Alibaba Loss Seen as Price Worth Paying for Hong Kong Investors, Bloomberg, Mar. 24, 2014, at 4 (“The principal of ‘one share, one vote’ is deep-rooted in the Hong Kong capital market, [Hong Kong Securities and Futures Commission Chairman Carlson] Tong said . . .”), <http://www.bloomberg.com/news/2014-03-23/alibaba-loss-seen-as-price-worth-paying-for-hong-kong.html>.

³ Council of Institutional Investors, Corporate Governance Policies § 3.3 (updated Sept. 27, 2013) (“Each share of stock should have one vote . . . [and] [c]orporations should not have classes of common stock with disparate voting rights.”), http://www.cii.org/corp_gov_policies#shareowner_rights.

⁴ NASDAQ Listing Rules § 5101 Preamble to the Rule 5100 Series (amended June 6, 2009), http://nasdaq.cchwallstreet.com/nasdaq/main/nasdaq-equityrules/chp_1_1/chp_1_1_4/chp_1_1_4_3/chp_1_1_4_3_3/default.asp.

March 27, 2014

Page 2 of 2

We respectfully reiterate our written requests that NASDAQ promptly pursue improvements to its listing standards that would make the U.S. markets more competitive on quality and more responsive to investor needs.⁵ Those improvements should, first and foremost, include adopting the fundamental corporate governance principles of one share, one vote⁶ and majority voting for directors.⁷

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Thank you for considering the concerns of long-term institutional investors. Please do not hesitate to contact me directly with any questions at 202.261.7081 or jeff@cii.org.

Sincerely,



General Counsel

⁵ See, e.g., Letter from Ann Yerger, Executive Director, to Mr. Edward Knight, Executive Vice President & General Counsel 1 (Mar. 19, 2014) (“CII reiterate[s] our request that NASDAQ OMX amend its listing standards”),

http://www.cii.org/files/issues_and_advocacy/correspondence/2014/03_19_14_CII_letter_NASDAQ_majority_voting.pdf.

⁶ Letter from Jeff Mahoney, General Counsel, to Mr. Edward S. Knight, Executive Vice President 1 (Oct. 2, 2012) (The . . . Council . . . hereby asks you to propose a rule for approval by the . . . Securities and Exchange Commission under which (1) companies that seek an initial listing on the NASDAQ Stock Market . . . will be ineligible for a listing if they have two or more classes of common stock with unequal voting rights, and (2) companies newly listed on NASDAQ in the future will be prohibited from issuing multi-class stock with unequal voting rights subsequent to their initial listing.”),

http://www.cii.org/files/issues_and_advocacy/correspondence/2012/10_02_12_cii_letter_to_nasdaq_dual_class_stock.pdf.

⁷ See, e.g., Letter from Jeff Mahoney, General Counsel, to Mr. Edward S. Knight, Executive Vice President 1 (June 20, 2013) (“CII . . . hereby respectfully requests that you propose a rule for approval by the . . . SEC . . . that would require that an issuer that intends to list its equity securities on the NASDAQ Stock Market . . . adopt a majority voting standard in uncontested elections of directors with a requirement that incumbent directors who do not receive a majority of votes promptly resign from the board.”),

http://www.cii.org/files/issues_and_advocacy/correspondence/2013/06_20_13_cii_letter_nasdaq_majority_voting.pdf.