

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99980 / April 17, 2024

Admin. Proc. File No. 3-19787

In the Matter of
NANO MAGIC INC.

ORDER REQUESTING ADDITIONAL BRIEFS

On April 30, 2020, the Commission issued an order pursuant to Section 12(k) of the Securities Exchange Act of 1934 temporarily suspending trading in the securities of Nano Magic Inc. (“NMGX”) for the period from 9:30 a.m. EDT on May 1, 2020, through 11:59 p.m. EDT on May 14, 2020.¹ On May 6, 2020, Nano Magic filed a petition to terminate the trading suspension.

In its Rule 550 petition, Nano Magic requests restoration of its eligibility for the “piggyback” exception under Exchange Act Rule 15c2-11, which allows broker-dealers to submit quotations in a company’s securities without complying with otherwise applicable requirements set forth in that Rule. At the time that the Commission suspended trading, Nano Magic’s common stock was quoted on the OTC Pink marketplace and was piggyback eligible. Because the trading suspension resulted in a break in quotations for more than four business days in succession, Nano Magic lost piggyback eligibility.² As a consequence, following the trading suspension’s expiration, a broker-dealer could not immediately resume quotations in Nano Magic’s securities. Instead, Exchange Act Rule 15c2-11 required broker-dealers first to satisfy certain requirements, including an information-review requirement,³ and broker-dealers are also subject to additional requirements under FINRA Rule 6432.⁴

According to a declaration submitted by a Nano Magic director, Nano Magic did not have piggyback eligibility as of May 2022. It now appears, however, that Nano Magic has

¹ *Nano Magic Inc.*, Exchange Act Release No. 88789, 2020 WL 2097884 (April 30, 2020).

² *See* 17 C.F.R. § 240.15c2-11(f)(3) (2000); *accord* 17 C.F.R. § 240.15c2-11(f)(3)(i)(A).

³ *See* 17 C.F.R. § 240.15c2-11(a)(1)(i)(C).

⁴ *See* FINRA Rule 6432 (requiring broker-dealers to demonstrate compliance with Exchange Act Rule 15c2-11’s requirements by filing FINRA Form 211).

regained piggyback eligibility. A broker-dealer filed a Form 211 pursuant to FINRA Rule 6432 on the basis of Nano Magic’s status as a current Exchange Act reporting company,⁵ and FINRA processed it on March 8, 2023. As of April 17, 2024, Nano Magic’s common stock is quoted on the OTCQB marketplace, and OTC Markets’ website lists Nano Magic’s securities as “Piggyback Qualified - SEC Reporting.”⁶

Upon consideration of the record and the briefs filed, we believe that additional briefing would “significantly aid the decisional process.”⁷ Specifically, the parties are directed to address whether the Commission should dismiss Nano Magic’s Rule 550 petition as moot.⁸ Because Nano Magic now has piggyback eligibility, for example, the parties should address whether Nano Magic continues to sustain a legally cognizable injury and, if so, whether the Commission could in this proceeding redress it.⁹

Accordingly, it is ORDERED that the parties submit briefs addressing the foregoing issues. Nano Magic shall file an opening brief by May 8, 2024, the Division shall file an answering brief by May 29, 2024, and Nano Magic shall file any reply by June 5, 2024. The Commission may deem waived or forfeited any argument or contention not advanced in these briefs.

⁵ See 17 C.F.R. § 240.15c2-11(b)(3)(i).

⁶ NMGX, OTC Markets, *available at* <https://www.otcmarkets.com/stock/NMGX/quote> (last visited Apr. 17, 2024).

⁷ Rule of Practice 421(b), 17 C.F.R. § 201.421(b).

⁸ See, e.g., *Zoom Companies, Inc.*, Exchange Act No. 87383, 2019 WL 5395561, at *1 n.3 (Oct. 22, 2019) (stating that “we decline to resolve [this proceeding] on the merits because no party has a concrete interest in its outcome or any remedy we could provide,” but explaining that “[w]e need not determine whether [the proceeding] is moot in an Article III sense”); *Marshall Fin., Inc.*, Exchange Act Release No. 50343, 2004 WL 2026518, at *1 (Sept. 10, 2004) (dismissing appeals as moot because “[w]e perceive no relief that is available here,” and stating that a party’s “desire for helpful precedent, without anything more substantial at stake in the controversy, does not persuade us that this case is not moot”); see also *Tara Gold Res. Corp. v. SEC*, 678 F.3d 557, 558-60 (7th Cir. 2012) (dismissing as moot petition for review from Commission order revoking registration of a security where the company successfully re-registered the security).

⁹ See, e.g., *Eyecity.com, Inc.*, Exchange Act Release No. 99717, 2024 WL 1091212, at *3 (Mar. 12, 2024); accord *Paul Richard Aquitania*, Exchange Act Release No. 98801, 2023 WL 7108827, at *2 n.11 (Oct. 27, 2023) (explaining that the possibility that the applicant might derive “some tangential benefit” from an appeal that has become moot “is not a sufficient justification” for continuing the proceeding”); *Marshall Fin., Inc.*, 2004 WL 2026518, at *1 (dismissing appeals as moot where “even a favorable decision by the Commission” in the proceeding would “entitle [the applicant] to ‘no relief’”); see also *Spencer v. Kemna*, 523 U.S. 1, 10-11 (1998) (explaining that collateral consequences are not presumed).

The parties' attention is directed to the e-filing requirements in the Commission's Rules of Practice.¹⁰ We also remind the parties that any document filed with the Commission must be served upon all participants in the proceeding and be accompanied by a certificate of service.¹¹

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

¹⁰ See Rules of Practice 151, 152(a), 17 C.F.R. §§ 201.151, .152(a) (providing procedure for filing papers with the Commission and mandating electronic filing in the form and manner posted on the Commission's website); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. Parties generally must certify that they have redacted or omitted sensitive personal information requirement from any filing. Rule of Practice 151(e), 17 C.F.R. § 201.151(e).

¹¹ See Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) ("Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of the service, the method of service, and the mailing address or email address to which service was made, if not made in person.").