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July 18, 2016

Mr. Brent J. Fields, Secretary
U.S. Securities and Exchange
Commission
100 F Street, NE
Washington, DC 20549-1090

Re: **Petition by OTC Markets Group Inc. for Rulemaking to Amend Regulation A to make Commission Reporting Companies Eligible Issuers and Permit Delayed or Continuous Non-Fixed Price or At the Market Offerings**

Dear Mr. Fields:

This firm writes in strong support of the petition (the "Petition") of OTC Markets Group Inc. for a rulemaking which has been submitted to the U.S. Securities and Exchange Commission (the "Commission") pursuant to Rule 192(a) of the Commission's Rules of Practice. The Petition requests that the Commission implement amendments to Regulation A to (i) broaden the ability of all small issuers, including issuers reporting under Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), to utilize Regulation A, and (ii) modify the provisions of Regulation A to permit delayed or continuous, non-fixed price or "at the market" offerings for smaller reporting issuers.

The new Regulation A amendments adopted under the Jumpstart Our Business Startups ("JOBS") Act of 2012 have been effective since June 19, 2015. The genesis of the changes was a top-ranked recommendation made by participants, including the undersigned, at the Commission's 2010 Government-Business Forum on Small Business Capital Formation. Congress incorporated the suggestion into Title IV of the JOBS Act, which led to the Commission rulemaking implementing the provisions of Title IV.

In its rulemaking, the Commission chose to retain certain vestigial provisions of Regulation A. For example, it chose to continue Regulation A's restriction on use only by U.S. and Canadian companies. It further chose to retain the provision to allow only non-Exchange Act reporting companies to use Regulation A. There was no specific reason for retaining this

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July 18, 2016

Page 2

restriction other than a concern about extending issuer eligibility “before the Commission has the ability to assess the impact of the changes to Regulation A.”

Similarly, the Commission’s prohibition of “at the market” offerings was meant to be provisional. As noted in the release implementing the new Regulation A rules, the Commission said “we believe that any determination as to whether the exemption would be an appropriate method for such offerings should occur in the future.”

Expand Regulation A to All Smaller Reporting Companies

Under the new Regulation A rules, issuers have been pleased to see a streamlined Commission review process of their filings, expanded test the waters capabilities compared to a traditional S-1 filing, and state blue sky preemption for over-the-counter offerings in Regulation A Tier II. As mentioned in the Petition, it seems counterintuitive to deny these benefits to companies that have taken on the obligation to be full Exchange Act reporting companies.

The Commission recently proposed to increase the pool of issuers having the benefits of scaled reporting as “smaller reporting companies.” This change was proffered presumably in part to assist in controlling reporting companies’ compliance costs and enhancing their access to capital. Combined with this change, allowing smaller reporting companies the very substantial benefits of a Regulation A public offering would be a significant and tangible step to fulfilling the Commission’s goal to facilitate capital formation while continuing to protect investors and maintaining efficient markets.

Indeed, as mentioned in the Petition, some companies are seriously considering “de-registering” as reporting companies to avail themselves of a Regulation A offering. This dramatic step clearly should not be required to access this new and very useful tool of capital formation, and it is difficult to see how causing companies to deregister to avail themselves of Regulation A is consistent with investor protection.

While some larger reporting companies may be able to access short-form registration on Form S-3, smaller companies trading over-the-counter do not have this ability. We believe the Commission should adopt, as the House Financial Services Committee has approved, an expansion of the availability of Form S-3 to all reporting companies. Unfortunately, that bill has not moved forward, and the Commission has chosen not to pursue a move on its own. This leaves fewer financing options for a small, Exchange Act reporting company.

By allowing all smaller reporting companies the benefits of the carefully designed and very well-balanced new set of rules set forth in the rulemaking petition, we believe that efficient, cost-effective and investor-protective offerings can significantly improve access to capital for smaller reporting companies and enhance job creation.

July 18, 2016
Page 3

Allow At The Market Offerings

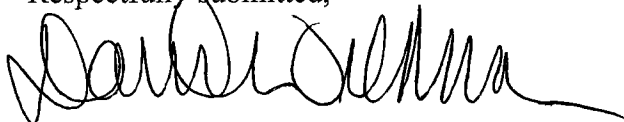
As part of expanding Regulation A's availability to Exchange Act reporting companies, the Commission also should consider allowing these issuers to make delayed or continuous non-fixed price sales or "at the market" offerings. After an issuer is listed and trading pursuant to a Regulation A offering, to the extent the issuer has remaining capacity available under its annual Regulation A exemption (i.e., it has not raised \$50 million), that issuer should be permitted to continue to avail itself under Regulation A of selling securities on a delayed or continuous basis at the prevailing market price. By doing so, the issuer will be providing additional liquidity to the existing trading market.

This trading market will be more effective at providing accurate price discovery in making these additional sales. By allowing these smaller reporting companies the ability to make "at the market" sales to more natural buyers of the issuer's stock, the Commission will be providing them access to more efficient sources of capital. Without providing these issuers the ability to make additional sales on a non-fixed price basis, the Commission is potentially (a) placing a ceiling on the value of the of the issuer's security or (b) forcing the issuer into a less efficient method of raising follow-on capital until it becomes eligible to utilize Form S-3, such as through a private investment in public equity (PIPE) potentially with unfavorable terms. In each case these alternatives could hurt both the company and its initial investors.

In sum, we support the Petition and urge the Commission to adopt its recommendations to further strengthen the row of arrows in the quiver of entrepreneurial companies.

If you have any questions, or if we can provide any additional information, please do not hesitate to contact the undersigned at [REDACTED] or at [REDACTED].

Respectfully submitted,



David N. Feldman, Partner
Duane Morris LLP