

September 30, 2020

Via Electronic Submission

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
rule-comments@sec.gov

**Re: Comments to File No. S7-08-20; Release No. 34-89290
Reporting Threshold for Institutional Investment Managers**

OTC Markets Group¹ is pleased to submit this comment letter in response to the Securities and Exchange Commission's (the "SEC" or the "Commission") proposed amendments to the threshold for 13F reports by institutional investment managers (the "Proposal").²

We operate the primary over-the-counter ("OTC") electronic trading market in the United States – where regulated broker-dealers trade over 11,000 securities, from large, international companies to hundreds of U.S. community banks to small and growing venture-stage companies. We are firm believers in the power of disclosure, as we have seen our own markets transform over the past several decades from a paper-based system where company disclosure and pricing information was available only on an intermittent basis to a select few "in-the-know," to the vibrant, data-driven electronic trading market of today.

While we support the Proposal's overarching goal of modernizing the 13F reporting regime, we join many others in expressing our concern that the Proposal would do a great disservice to our U.S. capital markets by decreasing the amount of valuable information available to investors. **Rather than further restricting 13F reporting requirements, we believe these obligations should be extended to apply to all publicly traded equities – including those traded on OTC markets.** Share ownership disclosure by institutional investment managers and other powerful market participants is an essential component of fair and efficient markets, as it allows public companies and their investors to understand who holds their securities. Indeed, the Congressional intent driving 13F reporting requirements is based entirely on the value of such information to the marketplace:

The reporting system required by Section 13(f) is intended to create in the Commission a central repository of historical and current data about the investment

¹ [OTC Markets Group Inc.](#) operates the OTCQX® Best Market, the OTCQB® Venture Market and the Pink® Open Market for 11,000 U.S. and global securities. Through OTC Link® ATS and OTC Link ECN, we connect a diverse network of broker-dealers that provide liquidity and execution services. We enable investors to easily trade through the broker of their choice and empower companies to improve the quality of information available for investors. OTC Link ATS and OTC Link ECN are SEC regulated ATSs, operated by OTC Link LLC, member FINRA/SIPC.

² Reporting Threshold for Institutional Investment Managers, Securities Exchange Act Release No. 89290 (July 10, 2020), 85 FR 46016 (July 31, 2020), available at <https://www.sec.gov/rules/proposed/2020/34-89290.pdf>.

activities of institutional investment managers, in order to improve the body of factual data available and to facilitate consideration of the influence and impact of institutional investment managers on the securities markets and the public policy implications of that influence.³

Loosening the disclosure requirements for institutional investors runs contrary to the Commission's stated goals of transparency in the name of investor protection and market efficiency.

The Commission should not only maintain or lower the monetary threshold for 13F reporting, but should also revise the definition of "13(f) securities" to include OTC-traded stocks. Currently, Rule 13f-1(c) defines "section 13(f) securities" (those that trigger Form 13F reports) as including all equity securities traded on an exchange or "quoted on the automated quotation system of a registered securities association", which is a reference to the OTC Bulletin Board (or "OTCBB") operated by FINRA.

Over the past ten years, trading activity in OTC equity securities has moved entirely from OTCBB to our markets. As of September 2020, there was not a single security quoted on the OTCBB. In fact, on September 24, 2020, FINRA filed a proposed rule change seeking to cease operation of the OTCBB.⁴ Therefore, due simply to an outdated reference, the rule unintentionally excludes over 11,000 securities traded on our OTC Link ATS from 13F reporting requirements – including many of the world's largest multinational companies such as Adidas, Heineken and Roche that choose to have their ADRs trade on these markets rather than an exchange.

The Proposal's effect of limiting disclosure obligations is also inconsistent with the Commission's other efforts to increase transparency in our public markets. For example, the Commission recently overhauled Exchange Act Rule 15c2-11 to require current public disclosure from all OTC-traded companies in order for brokers to publish quotations in these securities. As noted by Chairman Jay Clayton in an interview concerning the Rule 15c2-11 amendments, "[t]he bedrock of our federal securities laws is transparency".⁵ We are concerned the Proposal would limit, rather than encourage, disclosure and ultimately exacerbate the existing informational asymmetries between large, powerful institutional investors and smaller firms and retail investors.

In 2013, we submitted comments on a 13F rulemaking petition, requesting that the Commission expand the scope of 13F reporting to include OTC equity securities traded on the OTCQX,

³ Exchange Act Release No. 15461 (Jan. 5, 1979), 44 FR 3033, at 3033-3034 (the "1979 Adopting Release").

⁴ SR-FINRA-2020-031, available at: <https://www.finra.org/sites/default/files/2020-09/SR-FINRA-2020-031.pdf>

⁵ Alexander Osipovich, SEC Bolsters Safeguards Against Penny-Stock Fraud, WSJ (Sept. 16, 2020), available at: <https://www.wsj.com/articles/sec-bolsters-safeguards-against-penny-stock-fraud-11600294607>.

OTCQB and Pink markets.⁶ We reiterate our request here and further urge the Commission to apply these reporting obligations equally to exchange and non-exchange traded securities. Specifically, we request that the definition of “section 13(f) securities” be amended to include those quoted on an “Interdealer Quotation System” such as OTC Link ATS.

We welcome the opportunity to discuss our comments with the Commission. Please contact Cass Sanford, Associate General Counsel (cass@otcmarkets.com) or Dan Zinn, General Counsel (dan@otcmarkets.com), with any questions or to request additional information.

Very truly yours,



Daniel Zinn
General Counsel



Cass Sanford
Associate General Counsel

⁶ OTC Markets Group Inc., Comments to File No. 4-659 (Apr. 30, 2013), available at: <https://www.sec.gov/comments/4-659/4659-13.pdf>. Our 2013 proposal was supported by the Security Traders Association of New York, Comments to File No. 4-659 (Apr. 10, 2013), available at: <https://www.sec.gov/comments/4-659/4659-11.pdf>. (“We believe that the creation in the Commission of a central repository of historical and current data about investment activities of institutional investment managers in OTC equity securities would be valuable to the investing public as well as to issuers of those securities. Currently some managers do provide this information to issuers on a voluntary basis; others do not. Therefore, the information that issuers have is often incomplete and confusing. This could easily be solved by requiring the inclusion OTC equity securities in 13(f) filings.”)