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Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

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Dear SEC staff,

I am a private investor that has been investing in relatively smaller and less liquid companies for many years. I applaud the SEC's desire and efforts to protect retail investors from fraud, especially "pump & dump" schemes. However, the proposed rule changes to 17 CFR 240.15c2-11 (as explained in Release No. 34-87115; File No. S7-14-19) will have adverse consequences. I'd like to offer several ideas for improving the proposed amendments.

Consequences:

Many companies won't comply with the proposed rule changes (they won't provide updated financials) resulting in the elimination of broker bid-offer quotes which will curtail or choke off current liquidity and effectively end markets in many securities.

Many companies, that now trade on the OTC, pink sheets or bulletin boards, previously deregistered from the SEC because of the high cost associated with complying with Sarbanes Oxley. The majority of these companies provide information (at least an annual report) to shareholders. There are thousands of retail investors that hold shares in these companies. If the rules are implemented as proposed, many of these companies won't issue timely financials and will cease being quoted. There are several reasons why companies may choose not to file timely financials:

1. Management may want to avoid revealing confidential financial and business information to competitors.
2. Shareholders (often insiders and management) most likely will want to be the buyer of last resort and repurchase shares at artificially low prices from shareholders.
3. Management may prefer having fewer shareholders to deal with.
4. Shareholders (often insiders or controlling family members) may prefer a lower share price for tax reasons.

If there are no broker quotes available to shareholders, trading will all but cease. <u>There will be virtually no liquidity preventing shareholders from selling at a fair price.</u> Most shareholders would have to contact the company to sell their shares and would be at the mercy of management to pay them a fair price. At best, shareholders will be stranded and at worst, taken advantage of. These amendments will harm many retail investors and will encouraging bad behavior by these companies. They will also encourage companies that are currently filing to deregister and take advantage of shareholders by purchasing their stock at bargain prices since shareholders may have nowhere else to turn (moral hazard).

<u>How can the SEC improve the situation?</u>

- Set threshold criteria that differentiate legitimate businesses from “pump & dump” companies. Examples include years in business, retained earnings, sales, book value, and meaningful issuance of new shares. Most legitimate businesses trading on the OTC, pink sheets and bulletin boards but not listed with the SEC will meet threshold levels for criteria like these and thereby can be differentiated from frauds.
- Require annual financial statements to be provided to shareholders upon request.
- Provide lower cost registration options to smaller companies so fewer companies will deregister and more companies will remain fully transparent.
- Require broker dealers to issue warnings when retail investors attempt to purchase OTC, pink sheet and bulletin board stocks.
- Grandfather all stock currently quoted (suboptimal but worth discussing)
- Change the shareholder definition to “beneficial shareholders” from “shareholders of record”

Most shareholders currently hold their shares at their broker in street name which aggregates actual shareholders into one “shareholder of record”. This means that many companies are in fact owned by a number of shareholders (300 or 2,000) which would require registration with the SEC. Companies exploit this situation to go completely dark and cease communications with shareholders despite actually having a number of shareholders that requires registration under the current rule. By changing the definition to “beneficial shareholder”, the SEC can protect investors and improve the marketplace. Many shareholders opt to hold shares in street name at their broker because getting physical certificates (and thereby becoming a shareholder of record) is administratively time consuming, costs up to $500, and requires either costly safe storage or risky home storage. Many shareholders may also simply be unaware that they can request shares to be registered in their name.

As a long-standing investor, I am thankful for the work of the SEC that ensures the fair, orderly and efficient capital markets that I and other investors depend on to earn fair returns. I sincerely hope you will revise the amendments to prevent quoted markets from disappearing (disastrous for retail investors) and to eliminate the moral hazard for companies to take advantage of investors by ceasing the trading in their shares (on the OTC, pink sheets, and bulletin boards).

Thank you and regards,

Michael Tofias