



December 23, 2019

VIA E-MAIL (rule-comments@sec.gov)

Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. S7-14-19 – Publication or Submission of Quotations Without Specified Information

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on certain amendments proposed by the Securities and Exchange Commission (the “Commission”) to Rule 15c2-11 under the Securities Exchange Act of 1934 (the “Proposal”).² We strongly support the Commission’s goals of fostering greater transparency in the market for over-the-counter (“OTC”) securities, protecting retail investors from fraud and improving efficiency in the OTC market, and modernizing Rule 15c2-11.

As the Proposal recognizes, much has changed since the Commission’s last substantive amendment to Rule 15c2-11. Among other things, the Internet has facilitated investors’ access both to issuer information and to quotations for OTC securities. At the same time, fraudulent schemes involving OTC securities have caused, and continue to cause, significant harm to retail investors. SIFMA’s member firms actively monitor the OTC market and their customers’ trading in OTC securities in order to detect, and to report to regulatory and law enforcement authorities, potential fraud or market manipulation or other suspicious activity. In addition, some firms are restricting certain customer activity in OTC securities and/or looking at efforts to educate customers about the potential risks of investing in OTC securities.

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly one million employees, we advocate for legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. With offices in New York and Washington, DC, SIFMA is the U.S. regional member of the Global Financial Markets Association.

² Publication or Submission of Quotations Without Specified Information, 84 Fed. Reg. 58206 (Oct. 30, 2019).

We believe the Commission’s proposed changes to Rule 15c2-11 would be helpful in mitigating the potential for fraudulent conduct in the OTC market. We offer a few comments on the Proposal below and note some areas for potential clarification so that market participants can most effectively implement the final rule.

a. Proposed Amendments to the Piggyback Exception

We support the Commission’s proposal to limit the piggyback exception with respect to the securities of a so-called “catch-all issuer” unless information about the issuer is current and publicly available. This proposed change, along with the proposed cooling-off period following a trading suspension and the proposed elimination of piggyback eligibility with respect to the securities of shell companies, should serve to enhance OTC market transparency and better protect investors.

However, because of the potential for investor confusion or market disruption in certain situations when eligibility for the piggyback exception changes (*e.g.*, when the information about a catch-all issuer is no longer current, or when an issuer becomes a shell company), we believe there should be a grace period during which a security could continue to be quoted after the loss of eligibility. A grace period would ensure that market participants become aware of any loss of eligibility, could allow a catch-all issuer to update its information, and/or could facilitate investor transactions in the securities. We believe both a “tag” on a quotation and notice on the website of an interdealer quotation system (“**IDQS**”) would be helpful in these types of scenarios.

b. Proposed Amendments to the Unsolicited Quotation Exception

We support the Commission’s proposal to limit a broker-dealer’s reliance on the unsolicited quotation exception when a quotation would be published or submitted by or on behalf of a company insider but the information required by proposed paragraph (b) of Rule 15c2-11 is not current and publicly available.

As the Commission notes in the Proposal, the insiders of a company may have both the incentive and the ability to engage in misconduct with respect to securities of that company trading in the OTC market.³ We believe that the Commission’s proposed amendments to the unsolicited quotation exception would help to mitigate the risk of such misconduct and, thus, would serve to enhance investor protection and the integrity of the OTC market.

³ *Id.* at 58225-26.

c. Proposed New Exception Relating to Average Daily Trading Volume and Assets

Proposed paragraph (f)(5) of Rule 15c2-11 would except broker-dealers and qualified IDQSs from the information review requirement with respect to the liquid securities of certain well-capitalized issuers. We agree with the Commission that these types of securities are generally less susceptible to fraud and manipulation. However, the second prong of the proposed new exception, the “asset test,” may be difficult to implement in practice as information about affiliated versus unaffiliated shareholders’ equity may be unavailable. We suggest that the proposed exception provide alternative measures, and also that a grace period be available in the event a quoted security ceases to qualify for the exception.

d. Reliance on Qualified IDQS Determinations

We appreciate the Commission’s proposal to allow broker-dealers to rely on the determinations of a qualified IDQS as to certain securities and issuers, and believe this change could streamline implementation of some of the other proposed changes to Rule 15c2-11 and enhance the efficiency of the OTC market. To that end, we request that the text of proposed paragraph (f)(8) be revised so that it clearly allows a broker-dealer – for purposes of unsolicited quotations on behalf of company insiders under clause (ii) of proposed paragraph (f)(2) – to rely on the determination of a qualified IDQS that the required documents and information are current and publicly available. This appears to be the Commission’s intent, as the Proposal states that “new proposed paragraph (f)(8) would permit broker-dealers to rely on a publicly available determination by a qualified IDQS ... that an issuer’s proposed paragraph (b) information is current and publicly available for purposes of ... the unsolicited quotation exception.”⁴ However, the text of proposed paragraph (f)(8) does not reference paragraph (f)(2)(ii), and it is not clear from the proposed rule text that reliance on the current and publicly available determination under paragraph (f)(8)(i) does not need to be in conjunction with a determination under (f)(8)(ii) that a specific exception is available.

e. FINRA Rule 6432

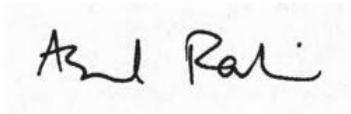
We agree with the comment of OTC Markets Group Inc.⁵ that FINRA Rule 6432 should be amended to allow a broker-dealer to rely on the determination of a qualified IDQS to initiate quotations in a security without the filing of a separate Form 211 by the broker-dealer.

⁴ *Id.* at 58232 (also stating that proposed paragraph (f)(8) would allow a broker-dealer to rely on determinations by a qualified IDQS “that (1) proposed paragraph (b) information is current and publicly available or (2) that a broker-dealer may rely on an [enumerated] exception...” (emphasis added)).

⁵ Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc., et al., to the Commission (Nov. 25, 2019), <https://www.sec.gov/comments/s7-14-19/s71419-6471877-199389.pdf>.

We appreciate the efforts of the Commission and its staff to improve transparency, better protect investors, and enhance efficiency in the OTC market, and we look forward to engaging with you on this important effort. If you have any questions regarding our comments or require additional information, please do not hesitate to contact us at (202) 962-7300.

Sincerely,



Aseel M. Rabie
Managing Director and
Associate General Counsel



Bernard V. Canepa
Vice President and
Assistant General Counsel