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September 16, 2009

Ms. Elizabeth M. Murphy
Secretary
Office of the Corporate Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: SR-FINRA-2009-054 (SEC Release No.34-60515)
Proposed rule change to adopt FINRA Rules 6434 (Minimum Pricing Increment for OTC Equity Securities), 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities), 6450 (Restrictions on Access Fees) and 6460 (Display of Customer Limit Orders)

Dear Ms. Murphy:

Knight Capital Group, Inc. (Knight)[1] welcomes the opportunity to offer our comments to the Securities and Exchange Commission (Commission) on the recent rule filing of the Financial Industry Regulatory Authority (FINRA) in which FINRA proposes to adopt Rules 6434 (Minimum Pricing Increment for OTC Equity Securities), 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities), 6450 (Restrictions on Access Fees) and 6460 (Display of Customer Limit Orders).

Knight respectfully opposes this rule filing and requests that the Commission reject the proposed changes. Our views relating to non-subscriber access fees and the prohibition of sub-penny quoting are consistent with the two letters we previously submitted to the Commission on virtually the same issues.[2] We believe that, as proposed, the current rule

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[1] Knight is the parent company of Knight Equity Markets, L.P., Knight Capital Markets LLC, Knight Direct LLC, Knight BondPoint, Inc., and Knight Libertas LLC all of whom are registered with the SEC and various self-regulatory organizations. Knight Capital Europe Limited and Hotspot Fxi Europe Limited are authorized and regulated by the Financial Services Authority. Knight Equity Markets Hong Kong Limited is authorized and regulated by the Securities and Futures Commission. Knight, through its affiliates, is a major liquidity center for the U.S. securities markets. We trade nearly all equity securities. On active days, Knight can execute in excess of five million trades, with volume exceeding five billion shares. Knight's clients include more than 3,000 broker-dealers and institutional clients. Currently, Knight employs more than 1,000 people worldwide. For more information, please visit: www.knight.com

[2] January 24, 2006 (SR-NASD-2005-095) and June 1, 2007 (SR-NASD-2007-029).

filing could have material, adverse effects upon the over-the-counter (OTC) equity market.

Introduction

FINRA stated in its recent filing that the proposed rules (modeled after Regulation NMS), "would enhance market quality and investor protections in this [OTC equity] market." Knight fully supports the objectives of FINRA to insure that we have the most fair and transparent marketplace possible. However, as we have noted in our previous comment letters, it is difficult to reconcile the OTC equity market with the standards articulated in Regulation NMS, since the NMS and OTC markets are two completely different market structures. The current OTC equity market is a competitive dealer market where non-listed securities are quoted, with numerous dealers participating and representing customer interests.[3] The proposed rule changes attempt to map Regulation NMS requirements on a market structure that does not resemble the NMS equity marketplace.

Proposed Rule 6434

FINRA has proposed prohibiting sub-penny quoting in a manner similar to what the SEC adopted for NMS stocks under Regulation NMS. Although FINRA has stated that the sub-penny proposal will promote "greater price transparency and consistency," it is not clear how the proposal will achieve that goal. Indeed, aside from a reference to the potential for a market participant to "step ahead" of a limit order, there has been no empirical data offered to support this significant market structure change. To the contrary, for decades, securities priced above $1.00/share on the OTC equity markets have efficiently traded in sub-penny increments. It is fairly well-recognized that less liquid securities trade in increments smaller than a penny, so as to help generate the requisite interest needed to satisfy investor demands for liquidity. Additionally, the new proposal contemplates a price increment of $.000001 for stocks priced below $.01/share. Thus, this proposal would create 10,000 price points at or below $0.01. This could lead to significant operational and market quality issues. This is particularly important in the OTC equity markets since most securities trade at prices less than $.01. In fact, in August 2009, 18 of the top 20 most actively traded securities (by volume) on the OTCBB traded in prices lower that $.01 per share.[4]

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[3] Unlike NYSE and NASDAQ where companies undergo a strict process for the listing of their stocks, companies traded on the OTC equity market (i.e., Pink Sheets, OTC Bulletin Board - "OTCBB," and grey markets) are listed by the market making dealers active in the market via SEC Rule 15c2-11.
[4] The 18 securities also accounted for over 75% of the total volume of the top 100 most actively traded securities on the OTCBB (Source: OTCBB.com).

Proposed Rule 6437

Knight fully supports the market structure that has evolved in OTC equity market that, for the most part, has resulted in fewer locked/crossed markets. This is due, at least in considerable part, to the fact that access fees currently must be displayed in a market participant's quote. As such, generally speaking, we support the efforts of FINRA to reduce incidents of locked/crossed markets. However, the rule filing does not provide any data to support the fact that locked/crossed markets are occurring today with any degree of frequency or that such incidents are affecting negatively overall market quality. We believe that such empirical data is essential for the Commission and market participants to fully evaluate the costs and benefits of the proposed rules.

Additionally, we believe that if the proposed Rule 6450 (below) is adopted, there will be a sharp rise in locked/crossed markets. In fact, in its rule filing, FINRA notes that since there is not a consolidated quotation mechanism in the OTC equity market, the proposed rule does not prohibit locking/crossing across inter-dealer quotation systems. Again, this serves to highlight further why the market structure for the OTC equities is very different from that of NMS stocks. As a result, we believe the following is just one example of what can be expected:

- Inside market on the OTCBB: .8999 x .90

- Under proposed Rule 6450, Market Participant A (MPA), a potential buyer, can charge a non-subscriber access fee up to $.0027 per share.

- Rather than take the offering at $.90, MPA can cross the market in the Pink Sheets by posting a bid of $.9001 (this would comply with proposed Rules 6437 and 6450). The market is now crossed: .9001 (Pink Sheets) x .90 (OTCBB)

- If MPA's bid gets hit in the Pink Sheets, it will buy stock at .9001. It can then immediately sell the stock to the OTCBB bid at $.8999 and make an instant profit. Although MPA sold the stock at a slight loss of $.0002/share, its access fee of $.0027 provided it with an instant, virtually riskless profit of $.0025/share.

When coupled together, these two rule proposals will potentially lead to far more locked/crossed markets and encourage a surge in the "access-fee" trading described in the above example.

Proposed Rule 6450

The most difficult of the four proposals to reconcile with the existing OTC equity market structure is permitting market participants to charge non-subscriber access without an offsetting requirement that they be displayed within their quotation. As we have noted in our previous comment letters, access fees are not a regulatory requirement. Rather, they are strictly a business decision. If this rule proposal is approved, it appears it will simply serve to validate a business model. Today, an ATS or ECN can charge both subscriber and non-subscribers access fees. They are simply required to place non-subscriber fees in their quotes. In a marketplace where the vast majority of trading volume is in sub-penny increments, the example provided above serves as a good illustration why these access fees must remain displayed in market participant quotes. Unlike the trading in NMS stocks, access fees in the OTC equity markets are a significant component of the transaction and market price for the security. To remove the requirement that it must be displayed in a quotation will distort considerably the true market value of the security, lead to questionable trading behavior and degrade overall investor execution quality.

To summarize, the current rule proposal could:

- Negatively impact the competition that currently maintains access fees at an acceptable level to buyers and sellers;
- Create locked and crossed markets where they are now rare;
- Create the potential for "access-fee" trading;
- Degrade execution quality;
- Create confusion in the market, as it will not be clear who is charging access fees, when they are charging them and how much they are charging;
- Create confusion between market participants relating to who is the "maker" and who is the "taker" of liquidity for purposes of the proposed access fees – especially in situations where trades occur over the telephone; and
- Lead to situations where the best market for a security is not the NBBO, rather it could be the next level quotation without an access fee (or an access fee combined with the quotation is better than the NBBO).

The OTC equity market is a large, robust and competitive market. Volumes continue to grow. As of August 2009, year-to-date volume was more than 700 billion shares in the OTCBB and Pink Sheets with markets made in more than 5,000 companies.[5] Market

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[5] Source: OTCBB.com and the Pink Sheets.

participants compete in a fair and transparent manner, and all quotes reflect "all-in" pricing – any fees are reflected in the quotations. Hence, there are no "hidden" fees, and the price quoted is the price paid.

As noted above, non-displayed access fees could create a new natural hunting ground for rebate trading and will likely create large volumes, where they would not normally occur, thereby creating a misleading signal to the marketplace in normally illiquid securities. Fee disputes and locked markets would likely ensue, as market participants take advantage of inter-venue access fee quote arbitrage.

In the end, access fees that are not included in the quote would act as impediment both structurally and operationally to the OTC equity marketplace.

Proposed Rule 6460

Knight generally supports the proposition to display limit orders in the OTC equity market. Currently, Knight voluntarily displays limit orders in OTCBB and Pink Sheet securities up to the tier-size in each market. Thus, the proposed rule essentially seeks to codify, in part, a practice already achieved via the natural evolution of competitive efforts between market participants trading in OTC equities over several years. The important distinction, however, between what exists today and the proposed changes is the definition of "block-size." We believe the current proposal demonstrates again the vastly different market structures present in the NMS and OTC equity markets, thus making efforts to assimilate the rule structures, at best, very difficult.

For example, in the NMS markets, limit orders over 10,000 shares or $200,000 in value are not required to be displayed. This exclusion helps to prevent orders of these sizes or values from being stepped ahead of by other market participants for small increments. For less liquid securities, that is clearly a more acute concern. The current rule proposal requires that orders be displayed up to a value of $100,000. In the less liquid OTC equity market that would encompass nearly every trade executed. In fact, in August 2009, the average trade size in the OTCBB was approximately 50,000 shares, the average price per share was $0.06, and thus the total value of the average trade was $3,000.[6] By extension, the proposed threshold for "block-size" trades is over 30x the average trade size. Accordingly, the dollar level size proposed is very high for this marketplace, given the generally, very low dollar prices of the equities. It is important to note that the illiquid securities of the OTC equity market are very sensitive to public information of large sized buying and selling interest. We believe that in the OTC equity market, the current

[6] Source: OTCBB.com

minimum quote size (MQS) is a better benchmark to use when displaying limit orders. This would limit the client order information from being broadcast streetwide and still require market participants to continually display the client interest until the time that the entire order is completely executed.[7]

Additionally, since the OTC equity markets continue to be driven by manual street executions (as opposed to the NMS marketplace that is driven by automated street executions), a market maker could face dual liability when displaying large size orders. For example, if Market Maker A (MMA) is required to display a customer limit order for 800,000 shares on the bid, MMA could face potential dual liability if it receives an opposite customer market order and a street-side trade simultaneously. In a market in which orders could be received over the telephone and electronically, establishing which order was received first can be difficult. If, however, a marker maker is limited only to the tier-size, it will facilitate the execution of client orders and minimize the impact for dual liability to only the tier-size.

Other items

We also note that the filing does not address fully how the proposed rules will affect grey market securities or unsolicited customer orders.

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[7] It is also noteworthy to point out that the MQS in NMS stocks is 100 shares. Any order below 100 shares is considered an odd-lot and not required to be displayed. In the OTC equity market, there are several MQS tiers that are above 100 shares. If the order is above 100 shares but below the MQS, does it have to be displayed? Or, will the definition of odd-lots be expanded in the OTC equity market to include orders that are less than the MQS?

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Conclusion

We commend FINRA for its efforts to enhance transparency and fairness in the OTC equity market. However, Knight believes that the proposed changes will not have the intended effects and may have a number of negative consequences.

Thank you for providing us with the opportunity to comment on this rule proposal. Knight would welcome the opportunity to discuss our comments with the Commission.

Sincerely yours,

Leonard J. Amoruso	Michael T. Corrao
General Counsel	Chief Compliance Officer
Knight Capital Group, Inc.	Knight Equity Markets, L.P.

cc: SEC Chairman Mary L. Schapiro
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