

Michael R. Trocchio
Direct Phone: 202.373.6167
Direct Fax: 202.373.6467
michael.trocchio@bingham.com

May 31, 2011

Via Electronic Submission

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. SR-FINRA-2011-019; Release No. 34-64397

Dear Ms. Murphy:

On behalf of our client, OTC Markets Group Inc. (“OTCMG”), we submit these comments in response to the above-referenced proposal by the Financial Industry Regulatory Authority, Inc. (“FINRA”) to change the name of FINRA’s quotation system (the “Proposal”).¹ We respectfully request that the U.S. Securities and Exchange Commission (“Commission”) exercise its authority under section 19(b)(3)(C) of the Securities Exchange Act of 1934, as amended (“Exchange Act”), to abrogate the Proposal. We believe that if FINRA wishes to go forward with the proposed name change, FINRA should be required to re-file the proposed name change in accordance with the provisions of Section 19(b)(1) of the Exchange Act and that it should be reviewed in accordance with Section 19(b)(2) of the Exchange Act.

I. Background and Summary of Comments

About the OTCBB

The FINRA OTC Bulletin Board (“OTCBB”) is an interdealer quotation system that, among other things, collects and displays real-time quotations for over-the-counter (“OTC”) equity securities. FINRA has been using the “OTC Bulletin Board” and “OTCBB” names to describe its electronic bulletin board for OTC equity securities since the inception of the service. The www.OTCBB.com website has been owned and operated by FINRA (and the NASD, FINRA’s predecessor) for more than twenty years. FINRA strictly controls the securities that may be quoted on its OTCBB through the application of stringent eligibility requirements.² For example, FINRA requires that in order to be quoted on its OTCBB, any U.S. issuer must be required to make periodic

¹ See Securities Exchange Act Release No. 63597 (May 4, 2011), 76 FR 27123 (May 10, 2011) (the “Proposing Release”).

² See FINRA Rule 6530 (listing strict eligibility requirements for securities that may be quoted on the OTCBB).

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

T +1.415.393.2000
F +1.415.393.2286
bingham.com

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filings with the Commission or with U.S. banking or insurance regulators, and be current with those filings.³ FINRA imposed these strict eligibility requirements for its OTCBB issuers in 1999 due to FINRA's concern with the potential for fraud in its OTCBB "given the lack of reliable and current financial information about the issuers, and the **perception by the public that the OTCBB is similar to a highly regulated market**, such as the registered exchanges ..."⁴

FINRA determined it no longer wants to be in the business of, or incur the expenses associated with, operating a quotation collection system (regardless of its name) in competition with the private sector. In November 2009, FINRA submitted a rule-filing with the Commission proposing to eliminate all of FINRA's rules relating to its operation of the OTCBB and to create a Quotation Consolidation Facility ("QCF") that would serve as a monopoly data consolidator for all quote data collected by others in the OTC market (the "QCF Proposal").⁵ OTCMG has been vigorously opposing the QCF Proposal on several grounds, including that it amounts to an anticompetitive appropriation by FINRA of quotation data that OTCMG owns as the operator of an interdealer quotation system that competes with FINRA's OTCBB. The Commission is still considering whether to approve the QCF Proposal.

The Proposal

Through the Proposal, FINRA seeks to change the name of its OTCBB to "Non-NMS Quotation Service" (or "NNQS").⁶ FINRA filed the Proposal as effective upon filing because FINRA believes, as it has stated, that the Proposal is "non-controversial" under Rule 19b-4(f)(6). The stated purpose of the Proposal is to enable FINRA to sell the www.OTCBB.com domain name, as well as whatever rights it purports to have in the term "OTCBB"⁷ and all informational content from the www.OTCBB.com domain name that is not otherwise required to be retained by FINRA for regulatory purposes (the

³ See FINRA Rule 6530(a).

⁴ NASD NTM 98-14.

⁵ See Securities Exchange Act Release No. 60999 (Nov. 20, 2009), 74 FR 61183 (Nov. 23, 2009) (the "QCF Proposing Release").

⁶ Proposing Release, 76 FR at 27124.

⁷ In the Proposing Release, FINRA states the OTCBB Assets include the "OTCBB trademark." On April 12, 2011 the United States Patent and Trademark Office ("USPTO") rejected FINRA's attempts to register the trademarks for the terms "OTC Bulletin Board" and "OTCBB" because these terms are descriptive and possibly generic. The USPTO's rejection of FINRA's attempt to trademark these terms raises questions as to the accuracy of FINRA's statements in the Proposal itself.

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“OTCBB Assets”) to Rodman & Renshaw Capital Group, Inc. (“Rodman”).⁸ The Proposal has no details regarding FINRA’s understanding, if any, of how Rodman intends to use the OTCBB Assets.

About Rodman & Renshaw and Hudson Securities

Rodman is a holding company that includes Rodman & Renshaw, LLC (the “Rodman Broker-Dealer”), a FINRA member, among its subsidiaries. The Rodman Broker-Dealer is an investment banking firm that advertises itself as a full-service investment bank that is “the leader in the PIPE (private investment in public equity) and RD (registered direct offering) transaction markets.”⁹ Rodman also owns Hudson Securities, Inc. (“Hudson”), which is also a broker-dealer and member of FINRA. Hudson is, primarily, a market maker in the U.S. OTC market.

Summary of Comments

For the reasons described below, we believe that the Proposal should be abrogated because it clearly is not a non-controversial rule filing and it significantly affects the protection of investors and the public interest. The proposed name-change and associated sale of the OTCBB Assets to Rodman would be confusing to investors and is contrary to public policy. We also believe FINRA has not provided an adequate statutory basis for the Proposal. Consequently, we believe Proposal is controversial and should be abrogated by the Commission.

II. The Proposal Will Cause Confusion

The sole purpose of FINRA’s proposal to change the name of its quotation system from “OTCBB” to “NNQS” is to enable FINRA to sell the OTCBB Assets to Rodman. Indeed, the Proposal states that the renaming of the OTCBB “enables FINRA to proceed with the sale of the OTCBB [A]ssets[.]”¹⁰ If Rodman is permitted to obtain the OTCBB Assets for its own use, including for use in connection with the securities businesses Rodman conducts through its two FINRA member subsidiaries, we believe this will inevitably lead to confusion among the general investing public and others regarding the nature of Rodman’s services offered under the “OTCBB” website and name.

⁸ Proposing Release, 76 FR at 27124 (stating that the purpose of FINRA’s proposal to change the name of “OTCBB” to “NNQS” is to “remove certain current impediments” to the sale of the OTCBB Assets to Rodman).

⁹ See <http://www.rodmanandrenshaw.com/comprofile>

¹⁰ Proposing Release, 76 FR at 27124.

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As noted above, the "OTCBB" name has been used by FINRA and the NASD for more than twenty years to describe the www.OTCBB.com informational website and their interdealer quotation service. Furthermore, according to FINRA itself, as far back as 1998 there has been a "perception by the public that the OTCBB is similar to a highly regulated market." FINRA's recognition of this public perception existed even before FINRA greatly increased the regulatory restrictions on the securities that could trade on its OTCBB quotation system. The OTCBB is highly regulated by FINRA, thus it is not surprising that there is a perception that the OTCBB is a highly regulated market. For example, as noted above, FINRA only permits U.S. securities to be quoted on the OTCBB if the U.S. issuer is required to make periodic filings with the Commission or with U.S. banking or insurance regulators and is current with those filings. FINRA also requires participating market makers to comply with the informational requirements of Rule 15c2-11 under the Exchange Act before permitting the market makers to quote securities on the OTCBB. Industry observers and investors understand that FINRA's operation of the OTCBB ensures that information they receive from www.OTCBB.com can be relied on as the website is owned and operated by a regulator.

There can be no doubt that the OTCBB Assets, to some portion of the U.S. market and its investors, connote a source of information from a regulator. Similarly, FINRA's former name, NASD, signaled a sanctioned regulatory body upholding the highest standards of investor protection and industry oversight. Imagine the potential for investor confusion if, at the time the NASD changed its name to FINRA, it had also proposed to sell the NASD.com website address to a member firm. Such a proposal would have been considered controversial to say the least, as many investors would likely believe content on the NASD.com website was coming directly from a regulatory body.

If Rodman ever uses the OTCBB Assets, many people would naturally associate the services to be offered by Rodman with FINRA and its strict regulatory standards. For example, this could lead visitors to the www.OTCBB.com website to believe that companies mentioned there, with which Rodman works in its investment banking and market making capacities, are affiliated with or approved by a regulator. This would increase confusion and could potentially, unwittingly, aid fraudulent or other undesirable market practices. If the Proposal is adopted and the OTCBB Assets are sold to Rodman, a private entity would suddenly be offering services, possibly including a quotation system and/or other securities services, using the OTCBB Assets, which would surely cause confusion among the many investors who would continue to mistakenly believe that the services performed and/or information offered are being offered by FINRA.

Simply put, as long as FINRA has operated a quotation system, it has been operated under the "OTCBB" name, and there is nothing to prevent investors from being confused and perhaps misled as to the ownership and operational standards governing the "new" OTCBB services offered by Rodman. It is not at all clear what benefit to investors and the market would result from the proposed renaming of FINRA's quotation system, and there certainly has been no showing that any such benefit would outweigh the potential harm of such investor confusion. The threat of unnecessary risk without a clear benefit to

investors makes the Proposal controversial, and should lead the Commission to require public comment and further analysis prior to deciding whether to approve the Proposal.

For these reasons, we believe the Proposal adversely affects the protection of investors and the public interest and should be abrogated.

III. The Proposal Raises Public Policy Questions relating to Single Broker-Dealer Control of a Marketplace

The Proposal raises a significant public policy question that the Commission should investigate further and the public should be permitted to comment on. Specifically, the Commission should investigate whether FINRA's sale of the OTCBB Assets will permit Rodman to operate an OTC marketplace, akin to FINRA's current OTCBB quotation system, that is 100% owned and controlled by Rodman through its subsidiary broker-dealers. If Rodman does in fact intend to operate its own marketplace (such as a quotation system or alternative trading system) using the OTCBB Assets, this may raise significant conflicts of interest due to Rodman's ownership of broker-dealers, one of which is an OTC equity market maker that currently maintains numerous quotations on the OTCBB.

As expressed in the Dodd-Frank Act¹¹ and reaffirmed by recent SEC rulemaking,¹² it is generally disfavored for dealers of a class of securities to control the marketplace for those same securities because such control inherently creates conflicts of interest. For example, a dealer/owner of a marketplace might seek to limit outside access to the marketplace in order to limit competition and give itself a competitive advantage.¹³ Similarly, a dealer/owner could limit the scope of products available on the marketplace if there is an economic incentive to do so.¹⁴ These issues prompted Congress to direct the Commission to address certain types of ownership limitations through rulemaking,¹⁵ which prompted the Commission to propose Regulation MC ("Reg MC"). Proposed Reg MC would require clearing agencies, security-based swap execution facilities and security-based exchanges to enforce a 20% voting interest limit for participants.

¹¹ See Section 765 ("Section 765") of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

¹² See Securities Exchange Act Release No. 63107 (October 14, 2010), 75 FR 65882 (October 26, 2010) (the "Reg MC Proposing Release").

¹³ Reg MC Proposing Release, 75 FR at 65890.

¹⁴ *Id.*

¹⁵ See Section 765.

The proposed 20% limitation recognizes that a dealer/owner of a marketplace is inherently tempted to place its own commercial interests above the regulatory responsibilities of owning the marketplace. That principle is equally true here; and before any sale of the OTCBB Assets occurs, the Commission should review FINRA's proposal to have one entity own a "new" OTCBB market where that entity's own broker-dealer(s) deal in OTC securities, and where the opportunity for conflicts of interest could arise, putting investors and other OTC market participants at risk. At the very least, the possibility of such use by Rodman of FINRA's OTCBB Assets merits opportunity for public comment and further inquiry by the Commission. For this reason, the Proposal should be abrogated.

IV. Inadequate Statutory Basis

We do not believe FINRA has provided an adequate statutory basis for the Proposal. In the Proposal, FINRA states,

"the proposed [name] change is consistent with Section 15A(b)(6) and (11) of the Exchange Act in that it facilitates FINRA's continued ability to operate an interdealer quotation system for use by market makers in OTC equity securities that is functionally identical to the service provided under the current name, thereby supporting the availability of quotation information in the over-the-counter equity securities market."¹⁶

This blanket assertion is incorrect. We do not see how changing the name of the FINRA's OTC equity quotation system "facilitates" FINRA's continued operation of an interdealer quotation system. In contrast, FINRA's proposed name change seems only to facilitate its sale of the OTCBB Assets for private monetary gain. We also do not see how changing the name of the OTCBB "support[s] the availability of quotation information." If anything, changing the name of FINRA's quotation system from the well-known "OTCBB" to "NNQS" will confuse investors and other market participants. The Proposal does not seem designed to facilitate anything other than FINRA cashing-in on the good will associated with the OTCBB Assets that FINRA has created. For these reasons, we believe FINRA has failed to provide an adequate statutory basis for the Proposal, and it should be abrogated.

V. Conclusion

The Proposal will cause investor confusion, is unnecessary, is contrary to public policy, and lacks an adequate statutory basis. By contrast, it is not clear what benefit the Proposal will provide, other than to allow a private entity that owns two FINRA member firms to acquire ownership of, and use, the OTCBB Assets that are so closely associated

¹⁶ Proposing Release, 76 FR at 27124.

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with a securities industry regulator. For these reasons, the Proposal should be abrogated and re-filed so that the general public has an opportunity to comment on the proposal.

Sincerely yours,

A handwritten signature in black ink that reads "Michael R. Trocchio". The signature is written in a cursive style with a large initial "M".

Michael R. Trocchio