



January 27, 2021

Ms. Jill M. Peterson
Assistant Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: *File No. SR-FINRA-2020-031; Proposed rule change to adopt new requirements for member inter-dealer quotation systems and to delete the rules related to the OTC Bulletin Board® Service*

Dear Ms. Peterson,

OTC Link LLC (“OTC Link”)¹ respectfully submits this letter to the Securities and Exchange Commission (“Commission” or “SEC”) as a follow-up to our October 28, 2020 Letter² on Proposed FINRA Rule 6439 (“Rule 6439” or the “Proposed Rule”). OTC Link’s comments in this letter are focused on the Proposed Rule’s provisions related to subscriber unresponsiveness.

As set forth more fully below, imposing the requirement on interdealer quotation systems (“IDQS”) to log complaints and document subscriber rationale for unresponsiveness under the Proposed Rule would inhibit market efficiency and would not achieve FINRA’s stated goal of enhancing firm quote compliance.

Subscriber Unresponsiveness Under Proposed Rule 6439(c)

Paragraph (c) of proposed Rule 6439 would require a member IDQS such as OTC Link ATS to establish, maintain, and enforce written policies and procedures designed to address instances of subscriber unresponsiveness that, at a minimum, specify an efficient process for:

- (1) monitoring subscriber responsiveness;
- (2) subscribers submitting to the member IDQS complaints regarding potential instances of order unresponsiveness;
- (3) documenting the subscriber’s rationale for unresponsiveness; and
- (4) determining specified steps when an instance or repeated order unresponsiveness may have occurred.

¹ OTC Link LLC is a wholly-owned subsidiary of OTC Markets Group Inc. OTC Link LLC is a FINRA member broker-dealer and operates OTC Link ATS, an SEC regulated Alternative Trading System (ATS). Unlike traditional ATSS, OTC Link ATS does not route nor execute orders. Rather, OTC Link ATS operates as an interdealer quotation system (IDQS) connecting a diverse network of broker-dealer subscribers that provide liquidity and execution services for over 11,000 U.S. domiciled and global securities.

² See OTC Link LLC Comments to File No. SR-FINRA-2020-031 (Oct. 28, 2020), available at: <https://www.sec.gov/comments/sr-finra-2020-031/srfinra2020031-7952160-224887.pdf> (hereinafter referred to as the “October Letter”).

In its November 20, 2020 response to public comment on Proposed Rule 6439 (the “FINRA Response”),³ FINRA noted that OTC Link’s ‘saturation’ feature sufficiently monitors for subscriber unresponsiveness and removes unresponsive quotes pursuant to FINRA Rule 5220 (Offers at Stated Prices) and thus would satisfy paragraphs (c)(1) and (c)(4) of the Proposed Rule. However, FINRA also noted it believes that OTC Link’s saturation feature would *not* satisfy paragraphs (c)(2) and (c)(3) of the Proposed Rule, which, “when combined, would require that the member IDQS provide a mechanism or process where one subscriber may submit or report to the member IDQS a potential instance of order unresponsiveness by another subscriber and document the subscriber’s rationale in response to that event.”⁴

IDQs Should not Become the Arbiters of Disputes Related to Unresponsiveness

OTC Link respectfully disagrees with FINRA’s statement that “the member IDQS is in the best position to obtain this [subscriber complaint and rationale] information from the subscriber at the time of, or close in time to, the event, and to document this information and make it available to FINRA upon request.”⁵ Rather, OTC Link believes that the function of an IDQS with respect to firm quote obligations under FINRA Rule 5220 and subscriber unresponsiveness should be to ensure market integrity in a fair and quantitative manner. The obligations of a member IDQS should be to monitor and deter the occurrence of subscriber unresponsiveness by tracking timestamped quotation and order-level data transacted within the IDQS. OTC Link’s ‘saturation’ feature adequately and appropriately serves this function.⁶

The requirements in paragraphs (c)(2) and (c)(3) of the Proposed Rule, and the additional description in the FINRA Response, would essentially require OTC Link to (i) collect and record subscriber complaints (many of which would originate as a phone call), (ii) reach out to the (allegedly) unresponsive counterparty to generate a report indicating why they failed to respond, and (iii) serve as the centralized clearinghouse and recordkeeper for these written complaints. In attempting to perform this function, however, OTC Link would not have access to necessary underlying information regarding the issue, such as communications between the counterparties outside of OTC Link’s system. OTC Link also lacks the regulatory authority to resolve any dispute. Imposing these obligations on the IDQS is

³ See FINRA Response to Comments to File No. SR-FINRA-2020-031 (Nov. 20, 2020), available at: <https://www.sec.gov/comments/sr-finra-2020-031/srfinra2020031-8038360-225610.pdf>.

⁴ See FINRA Letter at pg. 3. The FINRA Response also provides an example of a mechanisms that could satisfy the requirements of paragraphs (c)(2) and (c)(3): “the member IDQS could provide a messaging protocol or other mechanism that would permit a subscriber to submit or report to the member IDQS a potential instance of order unresponsiveness and that also would contact the other party to obtain their rationale.” OTC Link does not currently maintain such a messaging mechanism.

⁵ Id.

⁶ Today, OTC Link monitors subscriber responsiveness through our saturation feature. In summary, our saturation feature will remove quotes from OTC Link ATS’ best bid or offer calculation if the subscriber that posted the quote fails to respond to a message sent by a counterparty in a timely manner, thereby preventing extensive market delays. OTC Link also tracks subscriber unresponsiveness as a percentage of its ‘received Liability 1’ messages that expire without a response. OTC Link believes that these features offer market participants and FINRA transparency into the market, deter subscriber unresponsiveness, and facilitate our subscribers’ compliance with Rule 5220’s firm quote provisions.

neither an effective nor efficient means to enhance firm quote compliance, resolve instances of unresponsiveness or achieve any of the other stated objectives of the Proposed Rule. Further, any obligation that would implicitly or explicitly require member IDQs to act as a clearinghouse for subjective subscriber complaints of non-responsiveness will blur the distinction between SROs and commercial market operators, such as OTC Link.

To protect the need for clear separation between FINRA and member IDQs under the Proposed Rule, OTC Link requests that paragraphs (c)(2) and (c)(3) of the Proposed Rule be modified to only require that a member IDQs escalate instances of unresponsiveness to FINRA for review when the IDQs is informed of such cases via appropriate channels (*i.e.* phone, email, message).

Conclusion

OTC Link thanks the Commission and FINRA for the opportunity to submit additional comments on Proposed Rule 6439. As with our October Letter, OTC Link's comments are intended to reflect our continued support of Proposed Rule 6439 and enhance the Proposed Rule's stated objectives.

Should you have any questions, please feel free to contact OTC Link LLC at [REDACTED] or [REDACTED].

Regards,



Cass Sanford
Associate General Counsel
OTC Markets Group Inc.
Managing Member, OTC Link LLC

CC:
Ms. Stephanie Dumont, SVP and Director of Capital Markets Policy, FINRA
Mr. David Chapman, Director, Market Regulator, FINRA
Ms. Racquel Russell, Associate General Counsel, FINRA