



November 21, 2016

Mr. Stephen Luparello
Director
U.S. Securities and Exchange Commission
Division of Trading and Markets
100 F Street, N.E.
Washington, D.C. 20549

Re: Request for Exemptive Relief with Respect to Rule 15c2-11

Dear Mr. Luparello,

Global OTC¹ requests that the Securities and Exchange Commission (“Commission” or “SEC”) grant an exemption under Rule 15c2-11(h) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)² if a broker-dealer, consistent with the approach described below, publishes quotations on the interdealer quotation system (“IDQS”)³ operated by Global OTC (“Global OTC IDQS”) in a covered OTC equity security (“OTC Security” or, plural, “OTC Securities”) that is “piggyback qualified”⁴ on another IDQS in the manner set forth below and subject to the conditions in this letter.

Commission Rule 15c2-11

Adopted by the SEC in 1971 as a means reasonably designed to prevent fraudulent, deceptive, and manipulative acts through quotation in OTC Securities, Rule 15c2-11 (“Rule”) requires a broker-dealer that publishes or submits for publication quotations in OTC Securities on a quotation medium to gather, review, and preserve certain specified information and to have a reasonable basis under the circumstances for believing that the information is accurate in all

¹ Global OTC is an Alternative Trading System (“ATS”) and an interdealer quotation system (“IDQS”) that provides an electronic platform for quoting and trading over-the-counter (“OTC”) equity securities. Global OTC is operated by Archipelago Trading Services, Inc. and is a broker-dealer registered with the SEC and a member of the Financial Industry Regulatory Authority (“FINRA”).

² See 17 CFR § 240.15c2-11.

³ The term “interdealer quotation system” is defined in Rule 15c2-11(e)(2) as “any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers.” 17 CFR § 240.15c2-11(e)(2).

⁴ A security is considered “piggyback qualified” or “piggyback eligible” for the exception specified in paragraph (f)(3)(i) of Rule 15c2-11 (“piggyback exception”) if quotations in the security, excluding identified unsolicited customer indications of interest, have been maintained within an IDQS for at least twelve days of the previous thirty calendar days, with no more than four business days in succession without a quotation in such system (the “frequency of quotation requirements”).

material respects and was obtained from reliable sources.⁵ Rule 15c2-11(a) specifies the documents and information that must be reviewed by the broker-dealer.⁶ Rule 15c2-11(b) requires a broker-dealer to review certain additional information which comes to the broker-dealer's knowledge or possession.⁷ The Rule further requires a broker-dealer to maintain certain documents and information specified in Rule 15c2-11(a) and (b).⁸

Under the piggyback exception, the Rule's information requirements do not apply when a broker-dealer publishes a quotation for an OTC Security that meets the frequency of quotation requirements set forth in that exception.⁹ The piggyback exception is only available for quotations in an IDQS, and piggyback eligibility is not transferable from one IDQS to another.¹⁰ However, the Commission staff, pursuant to delegated authority, granted an exemption from the Rule to permit broker-dealers to rely on the piggyback exception with respect to quotations in certain quotation mediums, including quotation mediums that are not IDQSs, for OTC Securities under certain limited circumstances.¹¹

Global OTC believes that the Rule's goal of deterring broker-dealers from initiating or resuming quotations for OTC Securities that may facilitate a fraudulent or manipulative scheme would continue to be met and, in fact, be furthered if the piggyback exception were transferable from one IDQS to another. Specifically, as detailed below, Global OTC believes that allowing for transferability of such status from one IDQS to another IDQS would increase transparency, the availability of quotations, and competition while providing redundancy in the market for

⁵ See Exchange Act Release No. 9310 (Sept. 13, 1971), 36 FR 18641 (Sept. 18, 1971). In addition to the requirements of the Rule, FINRA Rule 6432 prohibits a broker-dealer from initiating or resuming quotations in OTC Securities in a quotation medium unless the broker-dealer has demonstrated compliance with the requirements of both FINRA Rule 6432 and Rule 15c2-11, subject to certain exceptions. To demonstrate compliance, a broker-dealer must file a Form 211 with FINRA, together with the information required under Rule 15c2-11(a), at least three business days before the quotation is published or displayed. FINRA must complete its review of such submission before a member may initiate or resume entry of quotations for an OTC Security in any quotation medium.

⁶ See 17 CFR § 240.15c2-11(a).

⁷ See 17 CFR § 240.15c2-11(b).

⁸ See 17 CFR § 240.15c2-11(c).

⁹ See 17 CFR § 240.15c2-11(f)(3).

¹⁰ See Letter from Jonathan G. Katz, Sec'y, SEC, to Michael J. Kulczak, Assoc. Gen. Counsel, Nat'l Ass'n of Sec. Dealers, Inc. (NASD) (Dec. 20, 1993).

¹¹ See Letter from Larry E. Bergmann, Senior Associate Director, Division of Market Regulation, to Howard Kramer, Esq., Schiff Hardin & Waite (October 6, 2000) (hereinafter the "GlobeNet Exemption"). The GlobeNet Exemption is subject to conditions, including that the security has been the subject of *bona-fide* two-way bid and ask priced quotations (exclusive of identified customer interests) during the previous 30 calendar days, with no more than four business days in succession without such quotations, in an IDQS that displays unsolicited customer indications of interest. The GlobeNet Exemption is not available to securities that are exempt from registration under Rule 12g3-2(b) of the Exchange Act.

OTC Securities to prevent single point of failure (“SPOF”) risk and price volatility. Additionally, Global OTC believes that liquidity in OTC Securities would improve and that volatility would decrease as a result of the relief requested in this letter.

Description of Global OTC

Global OTC is a quotation medium, IDQS, and ATS that provides an electronic platform for quoting and trading OTC Securities. In accordance with the requirements to qualify as an IDQS under the Rule, Global OTC IDQS does not accept or maintain dark orders and displays and fully attributes to the broker-dealer representing the quotation all quotations submitted on Global OTC IDQS. Global OTC IDQS also identifies unsolicited indications of customer interest. Until recently, when Global OTC started operating as an IDQS,¹² OTC Bulletin Board and OTC Link (formerly Pink Sheets) were the only IDQSs and, as such, the only systems on which broker-dealers could initiate quotations and make use of the piggyback exception in compliance with the Rule. Global OTC IDQS permits a broker-dealer to disseminate quotation information in OTC Securities (1) for which such broker-dealer has filed a Form 211 with FINRA, and FINRA has cleared that Form 211, for quoting on Global OTC IDQS; (2) that qualify for the piggyback exception on Global OTC; or (3) that are otherwise eligible for quoting under the Rule.¹³ An OTC Security that Global OTC IDQS permits a broker-dealer to disseminate because it satisfies one or more of the criteria in the preceding sentence is an “Eligible Security” or, plural, “Eligible Securities.”

On a daily basis, Global OTC runs a quotation surveillance report to monitor which OTC Securities are Eligible Securities for broker-dealers to publish quotations on Global OTC IDQS. If Global OTC receives a quotation or order for an OTC Security that is not an Eligible Security on Global OTC IDQS, the quotation or order will be routed out to another IDQS that is disseminating quotations in such security. If there is no other IDQS that is disseminating quotations in such OTC Security, then the quotation or order will be rejected by Global OTC IDQS. Quotations in Eligible Securities on Global OTC IDQS are incorporated within the Global OTC book and disseminated via the Global OTC data feeds. Global OTC IDQS matches orders on a price/time priority basis, and orders unable to be executed immediately are ranked within the Global OTC book. If a better bid or offer is available elsewhere, Global OTC IDQS attempts to access that quotation.

Request for Exemptive Relief

¹² As of May 19, 2016, Global OTC began operating as an IDQS, as defined in Rule 15c2-11(e)(2).

¹³ See GlobeNet Exemption, supra note 11.

As discussed above, the piggyback exception has been viewed as available only for quotations on an IDQS, and piggyback eligibility is not transferable from one IDQS to another.¹⁴ In light of changes to the market for OTC Securities, Global OTC believes that it is no longer necessary to limit the securities that are piggyback qualified to the IDQS for which a Form 211 is filed and cleared. Additionally, allowing for transferability of such status from one IDQS to another IDQS would increase transparency, the availability of quotations, and competition and provide redundancy in the market for OTC Securities. Accordingly, for these reasons, and subject to the conditions set forth below, Global OTC requests that the Commission grant an exemption under the Rule to allow a broker-dealer to avail itself of the piggyback exception if the broker-dealer publishes on Global OTC IDQS quotations in an OTC Security that satisfies the requirements of the piggyback exception in paragraph (f)(3)(i) of the Rule on any IDQS and in a manner consistent with this letter.

Global OTC believes this exemptive relief would mitigate the SPOF risk in the market for OTC Securities. As we have seen in the past, FINRA, on occasion, has halted all trading and quoting in the OTC Securities market when an IDQS experienced a significant systems outage.¹⁵ Permitting transferability of piggyback eligibility from one IDQS to another IDQS, such as Global OTC IDQS, would mitigate this risk by allowing quoting of such piggyback qualified securities on more than one IDQS, thus providing redundancy in the market for OTC Securities. Global OTC believes the exemptive relief would improve the integrity of, and investor confidence in, the market for OTC Securities by providing an alternate IDQS platform that would allow for the quoting and trading of all piggyback eligible securities should another IDQS experience an outage.

Further, allowing broker-dealers to publish quotations on Global OTC IDQS in a security that satisfies the requirements of the piggyback exception would increase liquidity by expanding the opportunity for broker-dealers to provide quotations. This expanded opportunity to provide quotations in piggyback eligible securities would not impact the reliability of public quotations. Additionally, as noted by the Commission in adopting the rule pertaining to unlisted trading privileges,¹⁶ price volatility is potentially higher when securities are traded on only one

¹⁴ See *supra* notes 10 and 11; see also FINRA Notice 92-50, Procedures Regarding Securities and Exchange Commission Rule 15c2-11 and Schedule H, Section 4 of the NASD® By-Laws, Answer to Question #28 (stating that “[t]he staff of the SEC takes the position that the piggyback exception does not transfer from one quotation medium to another”).

¹⁵ For example, see available notices regarding market wide halts in OTC Securities on November 10, 2014 [<https://www.finra.org/search/industry/halt>], October 17, 2014 (http://www.finra.org/sites/default/files/37-14%20Extraordinary%20Event%20Halt_0_0.pdf), December 10, 2013 [<http://www.wsj.com/articles/SB10001424052702304014504579250230460717604>], and November 7, 2013 [<https://www.finra.org/sites/default/files/UPCNotice/p381590.pdf>].

¹⁶ See Securities Exchange Act Release No. 43217 (November 6, 2000), 65 FR 53560 (September 5, 2000) (File No. S7-29-99).

platform.¹⁷ Similarly, the ability to quote piggyback qualified securities on multiple IDQs could reduce price volatility in OTC Securities. Moreover, allowing broker-dealers to quote piggyback qualified securities on Global OTC IDQs would increase the competition among IDQs, potentially leading to lower costs and improved services.

The market for OTC Securities and its regulatory framework have evolved dramatically since the adoption of the Rule. Technology has made significant contributions to the availability of information to market participants. Global OTC believes that technology better connects the participants in the OTC Securities market, offering widespread and instant access to issuer information.

Based on the increased availability of information and the benefits outlined above, we request that the Commission grant an exemption to allow a broker-dealer to avail itself of the piggyback exception when quoting on Global OTC IDQs any OTC Security that (1) qualifies for the piggyback exception in another IDQs, or (2) is initially quoted in Global OTC IDQs based on the relief provided in this Order and then establishes and maintains piggyback eligibility under rule 15c2-11(f)(3)(i) based on quotations (exclusive of any identified customer interests) in Global OTC IDQs.

Global OTC represents that it would monitor piggyback eligibility of OTC Securities quoted on other IDQs. Specifically, prior to permitting a broker-dealer to publish quotations in an OTC Security, that is not an Eligible Security, on Global OTC IDQs, Global OTC will verify that the security is classified as a piggyback qualified security on another IDQs and that quotations in such security are published on such other IDQs on the day the security is transferred. Global OTC will use the FINRA Daily List, OTC Link's OTC Dealer Security Search, and/or another service that may be available in the future, to verify that a security is piggyback qualified on another IDQs and will use the UTP Quotation Data Feed (UQDF), the OTC Markets Group's Real-Time+ data, and/or another service that may be available in the future to verify that such security is being quoted on the IDQs on which it is piggyback qualified on that day ("currently quoted" or "current quotations"). This process will filter out any securities that are piggyback qualified but are not currently quoted (for example, security ABC may be piggyback qualified on IDQs-Z but has not been quoted in the past 2 days). As such, Global OTC will only permit a broker-dealer to commence quoting on Global OTC IDQs securities that are not Eligible Securities, if those securities are piggyback qualified on another IDQs *and* that have current quotations on such other IDQs.¹⁸

¹⁷ *Id.*

¹⁸ Global OTC is not requesting the transfer of piggyback eligibility for OTC Securities of issuers that, at the time of the transfer, are identified with the fifth character identifier appended by FINRA as delinquent in their required filing obligations under federal securities laws.

Once quoting for a transferred security commences on Global OTC IDQS, Global OTC will monitor the quoting in such security.¹⁹ Broker-dealers will only be permitted to continue quoting a transferred security on Global OTC IDQS if such security continues to be piggyback qualified on another IDQS or establishes piggyback eligibility on Global OTC IDQS by being quoted on Global OTC IDQS (exclusive of any identified customer interest) for 12 of the preceding 30 calendar days with no more than 4 business days in succession without a quotation. If a security does not meet these conditions, Global OTC will not allow broker-dealers to submit quotations for such OTC Security to Global OTC IDQS.

Example of piggyback eligibility and transfer review process:

- On Monday, June 1, security ABC is piggyback qualified on IDQS-Z.
- On Tuesday, June 2, security ABC is made available for quoting on Global OTC IDQS because it is piggyback qualified on IDQS-Z and quoted on IDQS-Z on June 2.
- On Tuesday, June 2, Global OTC IDQS adds a symbol for security ABC to its quotation surveillance report.
- Global OTC will add a symbol for security ABC to its transfer list and monitor that the security remains piggyback qualified on IDQS-Z.
- The quotation surveillance report will determine when ABC establishes piggyback eligibility on Global OTC IDQS. At that time, Global OTC will cease its review of whether ABC is piggyback eligible on IDQS-Z and only maintain a continuous review to ensure that quoting for ABC on Global OTC IDQS continues to meet the piggyback eligibility requirement.

Global OTC represents that it will maintain books and records sufficient to demonstrate that Global OTC IDQS is complying with the terms of this letter and will promptly provide such records to the Commission staff upon request.

Conclusion

We believe that the policy goals underlying the Exchange Act, including maintenance of fair and orderly securities markets, broad dissemination of reliable quotation and transaction information, and facilitation of competition, would be significantly improved if broker-dealers are able to publish quotations on Global OTC IDQS, so long as the frequency of quotation requirements have been established for such particular security on any IDQS. Therefore, we request that the Commission issue an exemptive order under 15c2-11(h) to allow a broker-dealer that publishes quotations on Global OTC IDQS in an OTC Security that is piggyback qualified in another IDQS, without separately complying with the requirements of the Rule.

¹⁹ As noted above, Global OTC will run a quotation surveillance report on its system and, as noted above, Global OTC will also perform a daily check of the FINRA Daily List, OTC Link's OTC Dealer Security Search, and/or another service that may be available in the future, to verify that a security is piggyback qualified on another IDQS.

We thank the Division for their consideration of this request. If any member of the staff has any questions or comments regarding this request, please contact Sherry J. Sandler, at (212) 656-4028 or Sherry.sandler@theice.com.

Best Regards,

A handwritten signature in blue ink that reads "Sherry Sandler". The signature is written in a cursive style with a long horizontal flourish at the end.