

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79360; File No. TP 16-16)

November 21, 2016

Order Granting Limited Exemption from Exchange Act Rule 15c2-11 to Certain Interdealer Quotation Systems Pursuant to Exchange Act Rule 15c2-11(h)

By letter dated November 21, 2016 (the “Letter”), Global OTC requested that the Securities and Exchange Commission (the “Commission”) grant a limited exemption from rule 15c2-11 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), in connection with the publication or submission for publication of quotations for a covered over-the-counter (“OTC”) equity security (an “OTC Security” or, plural, “OTC Securities”) in the interdealer quotation system (“IDQS”) operated by Global OTC (“Global OTC IDQS”). Specifically, Global OTC seeks an exemption to permit broker-dealers, consistent with the approach described below, to publish or submit for publication quotations in Global OTC IDQS for an OTC Security that is already “piggyback” qualified, or “piggyback” eligible, under rule 15c2-11(f)(3), in another IDQS, without the broker-dealer separately complying with the requirements of rule 15c2-11, subject to certain conditions.

Rule 15c2-11, with certain exceptions, requires that a broker-dealer that publishes or submits for publication quotations for OTC Securities in a quotation medium gather, review, and preserve certain specified information and have a reasonable basis under the circumstances for believing that the information is accurate in all material respects and was obtained from reliable sources.<sup>1</sup> Rule 15c2-11 includes an exception to the rule’s requirements—the “piggyback” exception—for when a broker-dealer publishes, in an IDQS<sup>2</sup> that specifically identifies as such

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<sup>1</sup> See 17 CFR 240.15c2-11(a)–(c).

<sup>2</sup> Paragraph (e)(2) of rule 15c2-11 defines an IDQS to mean “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). Global OTC

unsolicited customer indications of interest, a quotation for an OTC Security that was already the subject of regular and frequent quotations in compliance with rule 15c2-11(f)(3)(i).<sup>3</sup> For this piggyback exception to apply, the security must have been the subject of quotations (exclusive of any identified customer interests) in the IDQS on each of at least 12 days within the previous 30 calendar days, with no more than 4 business days in succession without a quotation.<sup>4</sup> Thus, if a publication or submission for publication of a quotation for an OTC Security meets all of the requirements of this exception, a broker-dealer can “piggyback” on either its own or other broker-dealers’ previously published quotations in an IDQS.

The Letter represents that the concerns the Commission raised in adopting rule 15c2-11 would not be implicated if exemptive relief, subject to the conditions below, were granted to broker-dealers publishing or submitting for publication quotations in Global OTC IDQS. Specifically, Global OTC describes in the Letter an approach based on transferability of piggyback eligibility from one IDQS to another IDQS to allow a broker-dealer to avail itself of the piggyback exception when quoting in 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 this approach would assist investors in OTC Securities by increasing competition, promoting fair and orderly markets, and providing redundancy in the event of systems failures by having an additional IDQS in which to

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represents that it qualifies as an IDQS because Global OTC IDQS does not accept or maintain dark orders and fully attributes to the broker-dealer representing the quotation all quotations submitted on Global OTC IDQS.

<sup>3</sup> See 17 CFR 240.15c2-11(f)(3)(i) (providing frequency of quotation requirements for a security to meet the piggyback exception).

<sup>4</sup> Id.

continuously quote OTC Securities that already are eligible for the piggyback exception in another IDQS.

Based on the facts and representations made in the Letter, we find that it is appropriate in the public interest, and is consistent with the protection of investors, to grant, and hereby grant, broker-dealers a limited exemption from rule 15c2-11 to permit a broker-dealer to publish or submit for publication quotations in Global OTC IDQS, or in any other IDQS,<sup>5</sup> for an OTC Security that is piggyback eligible under rule 15c2-11(f)(3) in another IDQS, without the broker-dealer separately complying with the requirements of rule 15c2-11, subject to the conditions of this Order.

The conditions of this Order are designed to extend the rule 15c2-11(f)(3)(i) exception to broker-dealers that are publishing or submitting for publication quotations for already-quoted OTC Securities that are currently piggyback eligible under rule 15c2-11(f)(3) in an IDQS other than an IDQS in which piggyback eligibility has been established, while at the same time limiting the scope of relief by excluding from eligibility certain OTC Securities. The first condition limits the applicability of relief to an IDQS that meets the requirements to be an IDQS as defined in the rule<sup>6</sup> and that meets the requirements of rule 15c2-11(f)(3)(i). Conditions two, three, and four are designed to help ensure that the relief is limited to quotations in an IDQS that has established, maintains, and enforces monitoring and review requirements to verify that the OTC Security is piggyback eligible in another IDQS (or has established piggyback eligibility in the IDQS) and that there are current quotations for that OTC Security in that other IDQS, and

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<sup>5</sup> Based on the facts and representations, we believe it is appropriate to expand the scope of the exemptive relief to include publishing or submitting for publication quotations in any IDQS, not just Global OTC IDQS, provided that the conditions of this Order are satisfied.

<sup>6</sup> See 17 CFR 240.15c2-11(e)(2); supra note 2.

that the issuer of the OTC Security is not delinquent in its required filing obligations under the federal securities laws, on the day that a broker-dealer commences publishing or submitting for publication quotations for that OTC Security in the IDQS. Finally, condition five is designed to ensure that the IDQS maintains adequate books and records to demonstrate compliance with this Order.

This Order does not expand the number of OTC Securities that are already quoted pursuant to the exception from the requirements of rule 15c2-11 contained in rule 15c2-11(f)(3); rather, this Order extends the rule 15c2-11(f)(3)(i) exception to quotations for these already-quoted OTC Securities published by broker-dealers in an IDQS other than the IDQS in which piggyback eligibility is established if, and only if, the requirements of Rule 15c2-11(f)(3)(i) are otherwise satisfied and the conditions of this Order are met. As such, we do not believe that the transfer of piggyback eligibility for these already-quoted OTC Securities under rule 15c2-11(f)(3), from one IDQS to another IDQS, as conditioned in this Order, constitutes a fraudulent, manipulative, or deceptive practice comprehended within the purpose of rule 15c2-11.

#### Conclusion

IT IS HEREBY ORDERED, pursuant to Exchange Act rule 15c2-11(h), that broker-dealers are exempt from the requirements of rule 15c2-11 solely to permit broker-dealers to publish or submit for publication quotations in Global OTC IDQS or in any similarly situated IDQS for an OTC Security that is piggyback eligible under rule 15c2-11(f)(3) in another IDQS, subject to the following conditions:

1. The IDQS meets the requirements to be an IDQS as defined in the rule<sup>7</sup> and specifically identifies as such unsolicited indications of customer interest of the kind described in paragraph (f)(2) of rule 15c2-11.
2. The IDQS permits a broker-dealer to commence publishing or submitting for publication quotations in such IDQS for the OTC Security, in reliance on this Order, only if (a) the OTC Security is piggyback eligible under rule 15c2-11(f)(3) in another IDQS; and (b) the OTC Security has current quotations in that other IDQS, and the symbol for the OTC Security does not contain the fifth letter identifier appended by FINRA to the symbols of OTC Securities to identify issuers that are delinquent in their required filings, on the day the broker-dealer commences quoting in such IDQS.
3. Once a broker-dealer commences publishing or submitting for publication quotations in the IDQS for the OTC Security in accordance with condition 2, such IDQS permits broker-dealers to continue publishing or submitting for publication quotations in such IDQS for the OTC Security only if the OTC Security continues to be piggyback eligible under rule 15c2-11(f)(3) in another IDQS *or* has established and maintains piggyback eligibility under rule 15c2-11(f)(3)(i) based on quotations (exclusive of any identified customer interests) in such IDQS.
4. The IDQS establishes, maintains, and enforces policies and procedures reasonably designed to ensure compliance with this Order.
5. The IDQS maintains books and records sufficient to demonstrate that such IDQS is complying with the terms of this Order, and such IDQS promptly provides such records to Commission staff upon request.

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<sup>7</sup> See 17 CFR 240.15c2-11(e)(2); supra note 2.

This Order is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this Order are directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, particularly section 10(b) of the Exchange Act and rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this Order. This Order should not be considered a view with respect to any other question that the publication or submission for publication of quotations in reliance on this Order may raise, including, but not limited to, the applicability of other federal or state laws to such activity.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Robert W. Errett  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(6).