



August 20, 2018

Via Email Only

North American Securities Administrators Association, Inc.
750 First Street, NE, Suite 1140
Washington, DC 20002

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RE: OTC Markets Group Inc. Comments Regarding NASAA's Proposed Model Rules

Dear Ms. Anderson, Mr. Beatty, Mr. Stewart and Mr. Staley:

OTC Markets Group Inc. ("OTC Markets Group")¹ respectfully submits this comment letter in support of the North American Securities Administrators Association's ("NASAA") proposed model rules announced on July 19, 2018: (1) to designate nationally recognized securities manuals for the purpose of the manual exemption, and (2) to exempt secondary trading in securities issued by Regulation A, Tier 2 issuers.

OTC Markets Group applauds NASAA's initiative to update its model rules to recognize companies that make current information available online, for free, to buyers and sellers in the secondary market. We strongly believe that the proposed model rules would promote the public availability of current company disclosure so that investors can easily price risk and make more informed investment decisions.

Our experience with secondary trading regulation throughout the country indicates that when a company's compliance with state Blue Sky laws cannot be easily confirmed, broker-dealers, clearing firms and third-party compliance providers do not give effect to the jurisdiction's registration exemptions, and in fact operate as though the exemptions do not exist. This restricts broker-dealers

¹OTC Markets Group Inc. (OTCQX: OTCM) operates the OTCQX® Best Market, the OTCQB® Venture Market and the Pink® Open Market for 10,000 U.S. and global securities. Through OTC Link® ATS and OTC Link ECN, we connect a diverse network of broker-dealers that provide liquidity and execution services. We enable investors to easily trade through the broker of their choice and empower companies to improve the quality of information available for investors. To learn more about how we create better informed and more efficient markets, visit www.otcmarkets.com. OTC Link ATS and OTC Link ECN are operated by OTC Link LLC, member FINRA/SIPC and SEC regulated ATS.

from providing investment advice, distributing research to retail customers and facilitating trading in managed accounts, which impacts the liquidity in that security's secondary market and restricts the flow of information to investors.

We strongly support the first proposal. With this model rule, NASAA would recognize the over 1,200 companies trading on the OTCQX and OTCQB markets, each of which meets objective financial standards and provides current disclosure to investors. These companies include large international mega-caps, local community banks and others. Designating OTC Markets Group as a "recognized securities manual," with respect to securities traded on our OTCQX and OTCQB markets would encourage additional states to join the thirty-one states that treat transactions on these markets as exempt for secondary trading purposes. We also support NASAA's second proposed model rule, which similarly aims to recognize the ongoing disclosure of issuers current in their reporting requirements under Tier 2 of Regulation A.

As set forth more fully below, adoption of these model rules will help maintain investor protection safeguards, support small company capital formation and update state Blue Sky laws.

Recognition of Current Information Sources for Purposes of the Manual Exemption

As investment activity continues to move online, firms like OTC Markets Group are increasingly recognized as information repositories and publishers of company information. The current disclosure that companies make available on our website, www.otcmarkets.com, have led the OTCQX and OTCQB markets to achieve state and national recognition. State regulators across thirty-one states have made these markets exempt for secondary trading purposes, through formal rule changes, no-action letters, administrative orders and under existing trading exemptions, with several more states currently in the process of adopting rule proposals.² The vast majority of those states have recognized OTCQX and OTCQB as designated securities manuals for purposes of their respective manual exemptions. The Securities and Exchange Commission ("SEC") has also recognized our OTCQX and OTCQB markets as "Established Public Markets" for the purpose of determining a public market price when registering securities for resale in equity line financings.³

As detailed below, OTC Market Group's robust disclosure and financial standards, and the free, publicly-available information on OTC Markets Group's website, www.otcmarkets.com, includes and exceeds the information required under state manual exemptions.

OTCQX

OTCQX is our top-tier market, designed for established, investor-focused U.S. and global companies that meet high financial standards, demonstrate compliance with U.S. securities laws, and provide current disclosure. The OTCQX market also includes "Premier" segments that impose a more

² As of the date hereof, transactions in OTCQX and OTCQB securities are exempt in the following states: Alaska, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho (OTCQX Only), Indiana, Iowa, Kansas (OTCQX Only), Louisiana, Maine, Minnesota, Mississippi, Nebraska, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont (OTCQX Only), Washington, West Virginia, Wisconsin and Wyoming.

Michigan, Oklahoma and Missouri have each announced rule proposals recognizing our OTCQX and OTCQB markets and are in the process of adopting such proposals.

³ See SEC Compliance and Disclosure Interpretations, Question 139.13 (May 16, 2013), available at: <https://www.sec.gov/divisions/corpfin/guidance/sasinterp.htm>.

stringent set of financial criteria to help investors separate the largest and most established companies from smaller, growth companies.

To qualify for the OTCQX market, companies must meet high financial standards. OTCQX does not admit Penny Stocks (as defined under Rule 3a51-1 under the Securities Exchange Act of 1934 (the “Exchange Act”), Shell companies, Blank Check companies, and companies subject to bankruptcy or reorganization proceedings. Additionally, OTCQX issuers must provide ongoing disclosure, including providing annual financial statements audited by a firm registered with the Public Company Accounting Oversight Board (“PCAOB”), as well as interim financial reports prepared in accordance with U.S. GAAP or home country standards.

A summary of the OTCQX financial requirements and the complete OTCQX Rules are available on our website.⁴

OTCQB

OTCQB provides public trading for developing companies with standards that promote price transparency and ensure current public disclosure. The streamlined OTCQB Standards enable companies not yet ready for the OTCQX market to provide a strong baseline of transparency to inform and engage U.S. investors.

All OTCQB companies must provide annual audited financial statements by a firm registered with the PCAOB, have a registered transfer agent and undergo initial and annual verification and management certification process to confirm company data, officers, directors, controlling shareholders, and advisors. The complete OTCQB Standards are available on our website.⁵

OTCQX and OTCQB Ongoing Disclosure Requirements

All OTCQX and OTCQB issuers must remain current in their applicable reporting requirements. Given the variety of issuers in our markets, the OTCQX Rules and OTCQB Standards are tailored to provide investors with high-quality information while leveraging commonly-used reporting regimes. OTCQX and OTCQB companies can remain current in their disclosure obligations by meeting one of the following five disclosure standards, as applicable:

1. filing periodic reports with the SEC on the EDGAR system,
2. making required filings under the SEC’s Regulation A, Tier 2,
3. reporting to their applicable banking regulator,
4. for foreign issuers, remaining current with their home country disclosure requirements and making the information available in English in the U.S. in compliance with Exchange Act Rule 12g3-2(b), or,

⁴ Copies of the OTCQX Rules for U.S Companies, International Companies, and U.S Banks are available at the following links:

- https://www.otcmartets.com/files/OTCQX_Rules_for_US_Companies.pdf
- https://www.otcmartets.com/files/OTCQX_Rules_for_US_Banks.pdf
- https://www.otcmartets.com/files/OTCQX_Rules_for_International_Companies.pdf

⁵ A copy of the OTCQB Standards is available at the following link:
https://www.otcmartets.com/files/otcqb_standards.pdf.

5. following the OTCQX U.S. and OTCQB Disclosure Guidelines, which were originally developed based on state and federal securities laws that require issuers to provide adequate current public information, including NASAA's Uniform Securities Act, Rules 10b-5 and 15c2-11 of the Exchange Act and Rule 144 of the Securities Act of 1933.⁶

OTC Markets Group makes all OTCQX and OTCQB company disclosure publicly available for free on the OTC Markets Group website. A visitor can search for information about an individual security by typing in the company name or stock symbol in the search bar. The "Company Profile" tab for each company includes a business description and the names of the issuer's officers and directors. Audited balance sheet information and audited income statements, required to be published at least annually, are available on each company's "Financials" tab. Financial statement information is available for the most recent year end and the immediately preceding three years or the period of existence of the issuer if less than four years. The information available for OTCQX and OTCQB companies also includes applicable SEC and bank regulatory filings.

Ongoing Compliance Monitoring

OTC Markets Group's issuer compliance department oversees a company's initial and ongoing compliance with the OTCQX Rules and OTCQB Standards. All OTCQX and OTCQB companies are also required to timely disclose material news and information and are subject to the OTC Markets Group Stock Promotion Policy.⁷ We maintain an automated process for determining when an issuer is current in its disclosure and in compliance with the ongoing financial and qualitative requirements. We use an established compliance notification and action process for companies that do not meet the ongoing compliance provisions. Companies that become delinquent in providing the required information are removed from OTCQX or OTCQB, as applicable.

By requiring companies to meet qualification standards and providing current company disclosure online, in an easily accessible format, at no fee, the OTCQX and OTCQB markets exemplify the intended function of a securities manual. Affirmative recognition of these markets is all the more necessary in light of S&P ceasing to publish its manual.

Secondary Trading Exemption for Securities of Regulation A, Tier II Issuers

Similar to companies on the OTCQX and OTCQB markets, issuers current in their Regulation A reporting requirements provide valuable information to the public and would benefit greatly from an active, informed and efficient secondary market. NASAA should adopt the proposed model rules and encourage states to recognize the current information that Regulation A, Tier 2 issuers make publicly-available via EDGAR and other online sources.

Conclusion

For the reasons set forth above, OTC Markets Group supports NASAA's initiative to designate the OTC Markets Group website as securities manual with respect to securities on the OTCQX and OTCQB markets.

⁶ A copy of the OTCQX U.S. and OTCQB Disclosure Guidelines is available at the following link: <https://www.otcmartets.com/files/OTCQXOTCQBGuidelines.pdf>.

⁷ OTC Markets Group Policy on Stock Promotion is available at the following link: https://www.otcmartets.com/files/OTC_Markets_Group_Policy_on_Stock_Promotion.pdf.

We thank NASAA for working with us over the past several years and look forward to maintaining an open dialogue going forward. Please contact me at dan@otcmarkets.com or (212) 896-4413 if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Zinn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel Zinn
General Counsel
OTC Markets Group Inc.