

# SEC Proposes Amendments to Enhance Retail Investor Protections

## Actions Increase Availability of Issuer Information and Modernize the Rule Governing Quotations for Over-the-Counter Securities

**FOR IMMEDIATE RELEASE**  
**2019-189**

*Washington D.C., Sept. 26, 2019* — The Securities and Exchange Commission today announced that it has voted to propose amendments to Exchange Act Rule 15c2-11, which sets out certain requirements with which a broker-dealer must comply before it can publish quotations for securities in the over-the-counter (“OTC”) market. The proposed amendments are designed to modernize the Rule, which was last substantively amended in 1991, and to enhance investor protection by requiring that current and publicly available issuer information is accessible to investors. The proposed amendments would provide greater transparency to the investing public by requiring that information about the issuer and the security be current and publicly available before a broker-dealer can begin quoting that security.

Securities that trade on the OTC market are primarily owned by retail investors. Because broker-dealers play an integral role in facilitating investor access to OTC securities and serve an important gatekeeper function under Rule 15c2-11, the Rule requires that a broker-dealer review basic information about an issuer before quoting securities to investors in the OTC market. Certain of the Rule’s exceptions, however, permit broker-dealers to continue to publish quotations when there is no current information about the issuer available to the public or the broker-dealer. The Commission is concerned that, in today’s OTC market, market participants can take advantage of these exceptions to the detriment of retail investors.

Therefore, the Commission is proposing to limit eligibility for some of the exceptions where an issuer’s information becomes unavailable to the public or is no longer current. The proposed amendments would also add new exceptions for broker-dealers quoting certain OTC securities that may be less susceptible to fraud or manipulation.

The proposed amendments contribute to the Commission’s ongoing efforts to better address risks to investors, particularly retail investors. The Commission believes that investors who have access to current and publicly available issuer information are better equipped to make informed decisions about how to allocate their capital.

“Over the past several years, the Commission has brought hundreds of enforcement actions involving tens of millions of dollars in investor harm,” said SEC Chairman Jay Clayton. “When there is little or no current and publicly available information about an issuer, it is difficult for an investor or other market participant to evaluate the issuer and the risks involved in purchasing or selling its securities. Protecting investors by facilitating their access to current and basic information is a core component of our regulatory framework.”

Stephanie Avakian, Co-Director of the Division of Enforcement, said, “This proposal is the result of a multi-year cooperative effort between our Division and the Division of Trading and Markets to prevent the type of microcap fraud that our Enforcement staff sees every day.”

Steven Peikin, Co-Director of the Division of Enforcement, said, “This proposal represents an important proactive step to prevent these types of frauds before investors lose their hard-earned money.”

Brett Redfearn, Director of the Division of Trading and Markets, said, “The proposal focuses on the need for current and publicly available disclosures in over-the-counter securities and at the same time is intended to inhibit a quoted market for OTC securities that may be used as vehicles for fraud. This would result in better protection for investors.”

The public comment period will remain open for 60 days following publication of the proposal in the Federal Register.

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## **FACT SHEET**

### **Publication or Submission of Quotations Without Specified Information**

#### **Proposed Amendments**

The Commission proposed amendments to Exchange Act Rule 15c2-11 that are intended to modernize the Rule and better protect retail investors from incidents of fraud and manipulation in over-the-counter (“OTC”) securities. The Rule provides for the publication and submission of quotations by a broker-dealer in a quotation medium for securities that are not listed on a national securities exchange. Prior to submitting or publishing a quotation, a broker-dealer must review certain basic information about an issuer.

The Commission’s proposed amendments would (i) provide greater transparency to investors and other market participants by requiring that information about the issuer and the security be current and publicly available; (ii) limit certain existing exceptions to the Rule to provide greater protections to retail investors; (iii) reduce regulatory burdens on broker-dealers quoting certain OTC securities that may be less susceptible to potential fraud and manipulation; and (iv) streamline the Rule and remove obsolete provisions without undermining the important investor protections of the Rule.

#### **Highlights of Proposed Amendments**

Facilitate the availability of current issuer information:

- Require the documents and information that the Rule requires broker-dealers to obtain and review to be current and publicly available;
- The piggyback exception, which is based on continuous and frequent quotations and allows broker-dealers to publish quotations for a security in reliance on the quotations of a broker-dealer that initially performed the information review required by the Rule, would be amended to require, among other things, that issuer information be current and publicly available; and
- Require that certain information be current and publicly available for a broker-dealer to rely on the unsolicited quotation exception to publish quotations by or on behalf of company insiders.

Limit certain exceptions to provide greater protections to investors:

- Limit the piggyback exception only to bid and ask quotations that are published at specified prices;

- Eliminate the piggyback exception during the first 60 calendar days after the termination of a Commission trading suspension under Section 12(k) of the Exchange Act; and
- Eliminate the piggyback exception for securities of “shell companies.”

Reduce burdens for broker-dealers with proposed new exceptions where there is less concern regarding fraud and manipulation:

- For securities of well-capitalized issuers whose securities are actively traded;
- If the broker-dealer publishing the quotation was named as an underwriter in the security’s registration statement or offering circular;
- Where a regulated third party complies with the Rule’s required review and makes known to others the quotation of a broker-dealer relying on the exception; and
- In reliance on publicly available determinations by regulated third parties that the requirements of certain exceptions have been met.

The Commission also proposed amendments to streamline the Rule. Additionally, the Commission is seeking public comment on its proposed guidance, as well as a concept release that addresses information repositories and a possible regulatory structure for such entities.

### **What’s Next?**

The public comment period will remain open 60 days following publication of the proposal in the Federal Register.

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