

Press Release

SEC Adopts Amendments to Enhance Retail Investor Protections and Modernize the Rule Governing Quotations for Over-the-Counter Securities

FOR IMMEDIATE RELEASE

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Washington D.C., Sept. 16, 2020 — The Securities and Exchange Commission today adopted amendments to Exchange Act Rule 15c2-11, an important component of the over-the-counter (OTC) market regulatory structure. The amendments are designed to modernize the rule, which was last substantively amended nearly thirty years ago, including to recognize advances in communications technologies. The amended rule enhances disclosure and investor protection in the OTC market by ensuring that broker-dealers, in their role as professional gatekeepers to this market, do not publish quotations for an issuer's security when current issuer information is not publicly available, subject to certain exceptions.

"These retail investor-focused improvements to Rule 15c2-11 are long overdue," said SEC Chairman Jay Clayton. "The technological advancements that have taken place since the rule was last amended enable us to require that information in the OTC market be more timely, enabling investors to make better informed investment decisions, and reducing fraud in these markets where retail presence is significant and, unfortunately, pump-and-dump and other frauds are too common."

"The amended rule represents another important step in our tireless and proactive efforts to protect retail investors from being victimized by microcap fraud," said Stephanie Avakian, Director of the Division of Enforcement.

Brett Redfean, Director of the Division of Trading and Markets, said that "the amendments strike the right balance between promoting critically important investor protections while at the same time providing new exceptions that should make it easier for certain securities to develop a quoted market."

Securities that trade on the OTC market are primarily owned by retail investors. Because broker-dealers play an integral role in facilitating access to OTC securities and serve an important gatekeeper function, Rule 15c2-11 requires broker-dealers to review key, basic issuer information before initiating or resuming quotations for the issuer's security in the OTC market.

Prior to today's amendments, certain of the rule's previous exceptions permitted broker-dealers to maintain a quoted market for an issuer's security in perpetuity, in the absence of current and publicly

available information about the issuer, and even when the issuer no longer exists. Recognizing the ease with which information sharing takes place today, the amendments generally prohibit broker-dealers from publishing quotations for an issuer's security when issuer information is not current and publicly available, subject to certain exceptions. Investors who have access to current and publicly available issuer information are better equipped to make informed decisions about how to allocate their capital and to counteract misinformation that can proliferate through promotions and other channels.

The amendments also are designed to enhance the efficiency of the OTC market and facilitate capital formation for issuers for which information is current and publicly available. Specifically, the amendments add new exceptions for certain OTC securities that may be less susceptible to fraud or manipulation, such as actively traded securities of well-capitalized issuers, and expand the scope of market participants that may comply with the rule's required review of issuer information.

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FACT SHEET

Publication or Submission of Quotations Without Specified Information

Amendments

Rule 15c2-11 (the "Rule") governs the publication or submission of quotations by broker-dealers in a quotation medium other than a national securities exchange. Before a broker-dealer may initiate or resume quotations for a security in a quotation medium, the broker-dealer must review key, basic information about the issuer of the security. The Rule allows any qualified interdealer quotation system ("qualified IDQS") to conduct the required information review as well.

The amendments are designed to modernize the Rule to (1) provide greater transparency to investors and other market participants by requiring that information about the issuer and its security be current and publicly available before a broker-dealer can begin quoting that security; (2) limit broker-dealers' reliance on certain of the Rule's exceptions when issuer information is not current and publicly available; and (3) provide exceptions to reduce unnecessary burdens on broker-dealers to quote certain OTC securities that may be less susceptible to fraud and manipulation.

The amendments facilitate transparency of OTC issuer information by:

- Requiring to be current and publicly available certain specified documents and information regarding OTC issuers that a broker-dealer or qualified IDQS must obtain and review for the broker-dealer to commence a quoted market in an OTC issuer's security ("information review requirement");
- Updating the "piggyback" exception, which allows broker-dealers to rely on the quotations of another broker-dealer that initially complied with the information review requirement, to require, among other things, that issuer information, depending on the issuer's regulatory status, be current and publicly available, timely filed, or filed within 180 calendar days from a specified period; and
- Requiring that issuer information be current and publicly available for a broker-dealer to rely on the unsolicited quotation exception to publish quotations on behalf of company insiders and affiliates of the issuer.

The amendments provide greater investor protections when broker-dealers rely on the piggyback exception by:

- Requiring at least a one-way priced quotation;
- Prohibiting reliance on the exception during the first 60 calendar days following the termination of a Commission trading suspension under Section 12(k) of the Exchange Act; and
- Providing a time-limited window of 18 months during which broker-dealers may quote the securities of “shell companies.”

The amendments reduce unnecessary burdens on broker-dealers by:

- Allowing broker-dealers to initiate a quoted market for a security if a qualified IDQS complies with the information review requirement and makes a publicly available determination of such compliance; and
- Providing new exceptions, without undermining the Rule’s important investor protections, for broker-dealers to:
 - Quote actively traded securities of well-capitalized issuers;
 - Quote securities issued in an underwritten offering if the broker-dealer is named as an underwriter in the registration statement or offering statement for the underwritten offering, and the broker-dealer that is the named underwriter quotes the security; and
 - Rely on certain third-party publicly available determinations that the requirements of certain exceptions are met.

The amendments also streamline and remove outdated provisions from the Rule. The Commission is also issuing guidance that provides basic principles and examples of red flags to facilitate compliance with the information review requirement.

What’s Next?

The Rule will become effective 60 days following publication of the amendments in the Federal Register. The Rule will have a general compliance date that is nine months after the effective date as well as a compliance date that is two years after the effective date regarding provisions to require an issuer’s financial information for the last two fiscal years to be current and publicly available.

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Related Materials

- [Final Rule](#)