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OTC Markets Quotation Levels, Listing Requirements, and Comprehensive Pubco Criteria

The following is written by Laura Anthony, Esq., a going public attorney focused on OTC listing requirements, direct public offerings, going public transactions, reverse mergers, Form 10 and Form S-1 registration statements, SEC compliance and OTC Market reporting requirements.

The OTC Markets divide issuers into three (3) levels of quotation marketplaces: OTCQX, OTCQB and OTC Pink. The OTC Pink, which involves the highest-risk, highly speculative securities, is further divided into three tiers: Current Information, Limited Information and No Information. This blog provides a summary of the listing requirements for each level of quotation on OTC Markets.

OTCQX

The OTCQX divides its listing criteria between U.S. companies and International companies, though they are very similar. The OTCQX has two tiers of quotation for U.S. companies: (i) OTCQX U.S. Premier (also eligible to quote on a national exchange); and (ii) OTCQX U.S. and two tiers for International companies: (i) OTCQX International Premier; and (ii) OTCQX International. Quotation is available for American Depository Receipts (ADR's) or foreign ordinary securities of companies traded on a Qualifying Foreign Stock Exchange, and an expedited application process is available for such companies.

Issuers on the OTCQX must meet specified eligibility requirements. Moreover, OTC Markets have the discretionary authority to allow quotation to substantially capitalized acquisition entities that are analogous to SPAC's.

OTCQX – Requirements for Admission

To be eligible to be quoted on the OTCQX U.S., companies must:

- Have \$2 million in total assets as of the most recent annual or quarter end;

- As of the most recent fiscal year end have at least one of the following: (i) \$2 million in revenues; (ii) \$1 million in net tangible assets; (iii) \$500,000 in net income; or (iv) \$5 million in market value of publicly traded securities;
- Meet one of the following penny stock exemptions under Rule 3a51-1 of the Exchange Act: (i) have a bid price of \$5 or more; or (ii) have net tangible assets of \$2 million if the Company has been in continuous operation for at least three years, or \$5,000,000 if the Company has been in continuous operation for less than three years which qualification can be satisfied as of the end of a fiscal period or as a result of an interim capital raise; or (iii) have average revenue of at least \$6,000,000 for the last three years;
- Not be a blank check or shell company as defined by the Securities Act of 1933 (“Securities Act”);
- Not be in bankruptcy or reorganization proceedings;
- Be in good standing in its state of incorporation and in each state in which it conducts business;
- Have a minimum of 50 beneficial shareholders owning at least one round lot (100 shares) each;
- Be quoted by a market maker on the OTC Link;
- Have a minimum bid price of \$0.10 per share for its common stock as of the close of business on each of the 30 consecutive calendar days immediately preceding the Company’s application for OTCQX. If (i) there has been no prior public market for the Company’s securities in the U.S. and (ii) FINRA has approved a Form 211, then the Company may apply to OTC Markets for an exemption from the minimum bid price requirements, which exemption is at the sole discretion of OTC Markets. In the event that the Company is a Seasoned Public Issuer (i.e., has been in operation and quoted on either OTC Link, the OTCBB or an exchange for at least one year) that completed a reverse stock split within 6 months prior to applying for admission to OTCQX U.S., the Company must have a minimum bid price of \$0.10 per share for its common stock as of the close of business on each of the 5 consecutive trading days immediately preceding the Company’s application for OTCQX, after the reverse split;
- Have GAAP compliant (i) audited balance sheets as of the end of each of the two most recent fiscal years, or as of a date within 135 days if the Company has been in existence for less than two fiscal years, and audited statements of

income, cash flows and changes in stockholders' equity for each of the fiscal years immediately preceding the date of each such audited balance sheet (or such shorter period as the Company has been in existence), and must include all going concern disclosures including plans for mitigation; and GAAP compliant (ii) unaudited interim financial reports, including a balance sheet as of the end of the Company's most recent fiscal quarter, and income statements, statements of changes in stockholders' equity and statements of cash flows for the interim period up to the date of such balance sheet and the comparable period of the preceding fiscal year; and

- Be included in a Recognized Securities Manual or be subject to the reporting requirements of the Exchange Act.

To be eligible to be quoted on the OTCQX International, companies must:

- Have U.S. \$2 million in total assets as of the most recent annual or quarter end;
- As of the most recent fiscal year end, have at least one of the following: (i) U.S. \$2 million in revenues; (ii) U.S. \$1 million in net tangible assets; (iii) U.S. \$500,000 in net income; or (iv) U.S. \$5 million in global market capitalization;
- Meet one of the following penny stock exemptions under Rule 3a51-1 of the Exchange Act: (i) have a bid price of U.S. \$5 or more; or (ii) have net tangible assets of U.S. \$2 million if the company has been in continuous operation for at least three years, or U.S. \$5,000,000 if the company has been in continuous operation for less than three years; or (iii) have average revenue of at least U.S. \$6,000,000 for the last three years;
- Be quoted by a market maker on the OTC Link (which requires a 15c2-11 application if the company is not already quoted on a lower tier of OTC Markets);
- Not be in bankruptcy or reorganization proceedings;
- Be included in a Recognized Securities Manual or be subject to the reporting requirements of the Exchange Act;
- Have its securities listed on a Qualifying Foreign Stock Exchange for a minimum of the preceding 40 calendar days; provided, however, that in the event the company's securities are listed on a non-U.S. exchange that is not a Qualified Foreign Stock Exchange, then at the company's request and subsequent to the company providing OTC Markets Group with personal information forms for each executive officer, director, and beneficial owner of 10% or more of a class of the company's securities and such other materials as OTC Markets Group deems

necessary to make an informed determination of eligibility, OTC Markets Group may, upon its sole and absolute discretion, consider the company's eligibility for OTCQX International;

- Meet one of the following conditions: (i) be eligible to rely on the registration exemption found in Exchange Act Rule 12g-2(b) and be current and compliant in such requirements; or (ii) have a class of securities registered under Section 12(g) of the Exchange Act and be current in its SEC reporting requirements; or (iii) if such company is not eligible to rely on the exemption from registration provided by Exchange Act Rule 12g3-2(b) because it does not (A) meet the definition of "foreign private issuer" as that term is used in Exchange Act Rule 12g3-2(b) or (B) maintain a primary trading market in a foreign jurisdiction as set forth in Exchange Act Rule 12g3-2(b)(ii), and is not otherwise required to register under Section 12(g), be otherwise current and fully compliant with the obligations of a company relying on the exemption from registration provided by Exchange Act Rule 12g3-2(b). For an explanation of Exchange Act Rule 12g3-2(b), see my blog [HERE](#).

To be eligible to be quoted on the OTCQX U.S. Premier, companies must:

- Satisfy all of the eligibility requirements for OTCQX U.S. set forth above;
- Have (i) At least (a) 500,000 publicly held shares; and (b) \$1 million in market value of publicly held shares; and (ii) at least (a) \$500,000 in net income (in the latest fiscal year or in two of the last three fiscal years); or (b) \$2.5 million in stockholders' equity; or (c) \$35 million in market value of listed securities;
- Have a minimum of 100 beneficial shareholders owning at least one round lot (100 shares) each;
- Have a minimum bid price of \$1.00 per share for its common stock as of the close of business on each of the 30 consecutive calendar days immediately preceding the Company's application for OTCQX. If (i) there has been no prior public market for the Company's securities in the U.S. and (ii) FINRA has approved a Form 211 and (iii) the bid price is equal to or greater than \$1.00, then the Company may apply to OTC Markets for an exemption from the 30-day minimum bid price requirements, which exemption is at the sole discretion of OTC Markets. In the event that the Company is a Seasoned Public Issuer (i.e., has been in operations and quoted on either OTC Link, the OTCBB or an exchange for at least one year) that completed a reverse stock split within 6

months prior to applying for admission to OTCQX U.S., the Company must have a minimum bid price of \$1.00 per share for its common stock as of the close of business on each of the 5 consecutive trading days immediately preceding the Company's application for OTCQX, after the reverse split;

- Conduct annual shareholders' meetings and submit annual financial reports to its shareholders at least 15 calendar days prior to such meetings.

To be eligible to be quoted on the OTCQX International Premier, companies must:

- Satisfy all of the eligibility requirements for OTCQX International set forth above;
- As of its most recent fiscal year end, (i) have (a) revenue of U.S. \$100 million; (b) global market capitalization of U.S. \$500 million, (c) aggregate cash flow for the three preceding years of U.S. \$100 million; and (d) minimum cash flow in each of the two preceding years of \$25 million; or (ii) have (a) revenue of U.S. \$75 million and (b) global market capitalization of \$750 million.

To be eligible to be quoted as an OTCQX U.S. Acquisition Company, companies must:

- Satisfy all of the eligibility requirements for OTCQX U.S. set forth above;
- Have \$25 million in net tangible assets as of the most recent annual or quarterly year end;
- Have \$10 million in market value of publicly traded securities as of the most recent fiscal year end;
- Have a minimum bid price of \$5.00 per share for its common stock as of the close of business on each of the 30 consecutive calendar days immediately preceding the Company's application for OTCQX; and
- Be subject to the reporting requirements of the Exchange Act.

Designated Advisors for Disclosure ("DAD")/Principal American Liaison ("PAL")

All U.S. companies that are quoted on the OTCQX must have either an Attorney Designated Advisor for Disclosure ("DAD") or an Investment Bank DAD. All DAD's must be approved by OTCQX after submitting an application. OTC Markets publishes a list of pre-approved DADs. A Company may appoint a new DAD at any time, provided that the Company retains an approved DAD at all times.

A DAD's primary role is to provide advice and guidance to a Company in meeting its OTCQX obligations. The OTCQX puts a great deal of onus on the DAD to be responsible for the Company in which it sponsors, emphasizing the negative impact on the DAD's reputation for sponsoring Companies that are not of acceptable quality. In addition to providing advice and counsel to a Company, a DAD is required to conduct investigations to confirm disclosures. A DAD must submit a Letter of Introduction and subsequent annual letters confirming their duties and the attesting to the disclosures made by the Company.

All International companies that are quoted on the OTCQX must have either an Attorney Principal American Liaison ("PAL") or an Investment Bank PAL; provided however, if the company's OTCQX traded security is an ADR, the international company may have an ADR PAL. All PAL's must be approved by OTC Markets Group. A company may appoint a new PAL at any time provided they maintain a PAL at all times.

Application to the OTCQX

All U.S. companies that are quoted on the OTCQX must submit an application and pay an application fee. The application consists of (i) the contractual agreement with OTCQX for quotation; (ii) personal information for each executive officer, director and beneficial owner of 10% or more of the securities, except for companies already traded on a foreign exchange or moving from a recognized U.S. exchange; (iii) designation of the DAD/PAL or application for same; (iv) appointment form for the DAD/PAL; (v) a letter from the Company's independent auditor affirming their role and qualifications; and (vi) a digital Company logo.

All international companies that are quoted on the OTCQX must submit an application and pay an application fee. The application consists of (i) OTCQX application for international companies; (ii) the contractual agreement with OTCQX for international companies; (ii) the OTCQX application fee; (iv) the OTCQX Agreement for international companies; (v) an application for the international company's desired PAL if such PAL is not already pre-qualified; (vi) an appointment form for the DAD/PAL; and (vii) a copy of the company's logo in encapsulated postscript (EPS) format.

The application is subject to review and comment by OTC Markets. OTC Markets may require additional conditions or undertakings prior to admission. Moreover, the application may be denied if, in the opinion of OTC Markets, trading would be likely to

impair the reputation or integrity of OTC Markets Group or be detrimental to the interests of investors.

Initial Disclosure Obligations

A Company must post its initial disclosure documents on the OTC Markets website within 90 days of submission of its application to quote on the OTCQX, and such posting must be confirmed with a notice by the Company DAD/PAL. The filing of the initial disclosure is a precondition to acceptance of an application for quotation. Initial disclosure documents include: (i) SEC reports if the Company is subject to the Exchange Act reporting requirements; (ii) current information in accordance with OTC Markets disclosure guidelines including financial statements; and (iii) for International companies not subject to the SEC reporting requirements, all information required to be made public pursuant to Exchange Act Rule 12g3-2(b) for the preceding 24 months, which information must be posted in English.

A Company must supplement and update any changes to the initial disclosure within 30 days of acceptance of its application for quotation. International companies must follow initial disclosure with a PAL Letter of Introduction.

Requirements for Ongoing Qualification for Quotation on the OTCQX

The following is a summary of the ongoing responsibilities for U.S. OTCQX quoted securities:

- Compliance with Rules – OTCQX quoted companies must maintain compliance with the OTCQX rules including disclosure requirements. The Company's DAD/PAL is responsible for reporting their/its potential conflicts of interest;
- Compliance with Laws – OTCQX quoted companies must maintain compliance with state and federal securities laws and must cooperate with any securities regulators, including self-regulatory organizations;
- Blue Sky Manual Exemption – Companies must either properly qualify for a blue sky manual exemption or be subject to and current in their Exchange Act reporting requirements;
- Retention and Advice of DAD – Companies must have a DAD at all times and are required to seek the advice of such DAD as to their OTCQX obligations;

- Duty to Inform DAD – As part of its duty to seek advice from its DAD, a Company has an obligation to provide disclosure and information to the DAD, including “complete access to information regarding the Company, including confidential and propriety information” and access to personnel;
- Notification of Resignation or Dismissal of DAD – A Company must immediately notify OTC Markets in writing of the resignation or dismissal of the DAD for any reason;
- Payment of Fees – a Company must pay its annual fees to OTC Markets;
- Sales of Company Securities by Affiliates – Prior to transacting in the Company’s securities through a broker-dealer, each officer, director or other affiliate of the Company shall make its status as an affiliate of the Company known to the broker-dealer;
- Distribution and Publication of Proxy Statements – An OTCQX U.S. Premier company shall solicit proxies for all meetings of shareholders. Companies not subject to the Exchange Act reporting requirements must publish, on the OTC Markets website, copies of all proxies, proxy statements and all other material mailed by the Company to their shareholders within 15 days of such mailing;
- Redemption Requirements – All redemptions must be either by lot or pro rata and require 15 days’ notice;
- Changes in Form or Nature of Securities – All changes in form, nature or rights associated with securities quoted on the OTCQX require 20 days’ advance notice to OTC Markets;
- Transfer Agent – Companies are required to use the services of a registered transfer agent and authorize such transfer agent to share information with OTC Markets;
- Accounting Methods – Any change in accounting methods requires advance notice of such change and its impact, to OTC Markets;
- Change in Auditors – All changes in auditor requires prompt notification and a letter from such auditor analogous to Form 8-K requirements;
- Responding to OTC Markets Group Requests – OTCQX quoted companies are required to respond to OTC Markets comments and amend filings as necessary in response thereto;
- Ongoing Disclosure Obligations – (i) Companies subject to the Exchange Act reporting requirements must remain current in such reports; (ii) Companies not subject to the Exchange Act reporting requirements must remain current with the

annual, quarterly and current reporting requirements of OTC Markets, including posting annual audited financial statements prepared in accordance with GAAP and audited by a PCAOB auditor; (iii) file a notification of late filing when necessary; (iv) quickly release disclosure of material news and recent developments, whether positive or negative, through a press release on the OTC Markets website; (v) an OTCQX Company should also act promptly to dispel unfounded rumors which result in unusual market activity or price variations;

- General requirements regarding integrity – OTCQX quoted Companies are expected to act professionally and uphold the OTC Markets standards for “high quality”; and to release news and reports that are prepared factually and accurately with neither excessive puffery or conservatism; companies must not report or act in a way that could be misleading; must not inundate with non-material releases; and must not make misleading premature announcements;
- Maintain Company Updated Profile – OTCQX quoted companies are required to maintain updated accurate information on their profile page and to verify same every six months;
- DAD Letter – Within 120 days of each fiscal year end and after the posting of the Company’s annual report, every Company must submit an annual DAD letter;
- To remain eligible for trading on the OTCQX U.S. tier, the Company’s common stock must have a minimum bid price of \$0.10 per share as of the close of business for at least one of every thirty consecutive calendar days. In the event that the minimum bid price for the Company’s common stock falls below \$0.10 per share at the close of business for thirty consecutive calendar days, a grace period of 180 calendar days to regain compliance shall begin, during which the minimum bid price for the Company’s common stock at the close of business must be \$0.10 for ten consecutive trading days;
- To remain eligible for trading on the OTCQX U.S. Premier tier, the Company’s common stock must have a minimum bid price of \$1.00 per share as of the close of business for at least one of every thirty consecutive calendar days. In the event that the minimum bid price for the Company’s common stock falls below \$1.00 per share at the close of business for thirty consecutive calendar days, a grace period of 180 calendar days to regain compliance shall begin, during which the minimum bid price for the Company’s common stock at the close of business must be \$1.00 for ten consecutive trading days. In the event that the Company’s common stock does not regain compliance during the grace period, the

Company shall have a fast-track option to have its securities traded on the OTCQX U.S. tier.

The following is a summary of the ongoing responsibilities for OTCQX International quoted securities:

- Eligibility Criteria – The International company must meet the above eligibility requirements as of the end of each most recent fiscal year;
- Compliance with Rules – OTCQX quoted companies must maintain compliance with the OTCQX rules, including disclosure requirements. Officers and directors of the company are responsible for compliance and are solely responsible for the content of information;
- Compliance with Laws – OTCQX quoted companies must maintain compliance with applicable securities laws of their country of domicile and applicable U.S. federal and state securities laws. The company must comply with Exchange Act Rule 10b-17 and FINRA rule 6490 regarding notification and processing of corporate actions (such as name changes, splits and dividends). The company must cooperate with any securities regulators, whether in their country of domicile or in the U.S., including self-regulatory organizations;
- Blue Sky Manual Exemption – Companies must either properly qualify for a blue sky manual exemption or be subject to and current in their Exchange Act reporting requirements;
- Retention and Advice of PAL – Companies must have a PAL at all times and are required to seek the advice of such PAL as to their OTCQX obligations;
- Notification of Resignation or Dismissal of PAL – A company must immediately notify OTC Markets in writing of the resignation or dismissal of the PAL for any reason;
- Payment of Fees – A company must pay its annual fees to OTC Markets;
- Responding to OTC Markets Group Requests – OTCQX quoted companies are required to respond to OTC Markets comments and amend filings as necessary in response thereto;
- Ongoing Disclosure Obligations – (i) Companies subject to the Exchange Act reporting requirements must remain current in such reports; (ii) A company that is not an SEC Reporting Company must remain current and fully compliant in its obligations under Exchange Act Rule 12g3-2(b), if applicable, and in any event shall, on an ongoing basis, post in English through the OTC Disclosure & News

Service or an Integrated Newswire, the information required to be made publicly available pursuant to Exchange Act Rule 12g3-2(b); (iii) provide a letter to its PAL at least once a year, no later than 210 days after the fiscal year end, which states that the company (y) continues to satisfy the OTCQX quotation requirements; and (z) is current and compliant in its obligations under Exchange Act Rule 12g3-2(b) and that the information required under such rule is posted, in English, on the OTC Markets website or that the company is subject to the SEC reporting requirements and is current in such reporting requirements;

- PAL Letter – Within 225 days of each fiscal year end and after the posting of the company's annual report, every company must submit an annual PAL letter.

Removal from OTCQX International

A company may be removed from the OTCQX if, at any time, it fails to meet the eligibility and continued quotation requirements subject to a 30-day notice and opportunity to address them. In addition, OTC Markets Group may remove the company's securities from trading on OTCQX immediately and at any time, without notice, if OTC Markets Group, upon its sole and absolute discretion, believes the continued inclusion of the company's securities would impair the reputation or integrity of OTC Markets Group or be detrimental to the interests of investors. In addition, OTC Markets can temporarily suspend trading on the OTCQX pending investigation or further due diligence review.

A company may voluntarily withdraw from the OTCQX with 24 hours' notice.

Fees

Upon application for quotation on the OTCQX, Companies must pay an initial non-refundable fee of \$5,000. In addition, Companies must pay an annual non-refundable fee of \$15,000.

OTCQB

To be eligible to be quoted on the OTCQB, all companies will be required to:

- Meet a minimum closing bid price on OTC Markets of \$.01 for each of the last 30 calendar days;

- In the event that there is no prior public market and a 15c2-11 application has been submitted to FINRA by a market maker, OTC Markets can waive the bid requirement at its sole discretion;
- In the event that a Company is a seasoned public issuer that completed a reverse stock split within 6 months prior to applying to the OTCQB, the Company must have a post reverse split minimum bid price of \$.01 at the close of business on each of the 5 consecutive trading days immediately before applying to the OTCQB;
- In the event the Company is moving to the OTCQB from the OTCQX, it must have a minimum closing bid price of \$.01 for at least one (1) of the 30 calendar days immediately preceding;
- Companies may not be subject to bankruptcy or reorganization proceedings the Company's application;
- Either be subject to the reporting requirements of the Securities Exchange Act of 1934 and be current in such reporting obligations or, if an international issuer, be eligible to rely on the registration exemption found in Exchange Act Rule 12g-2(b) and be current and compliant in such requirements or be a bank current in its reporting obligations to its bank regulator;
- Not be in bankruptcy or reorganization proceedings;
- Be duly organized, validly existing and in good standing under the laws of each jurisdiction in which it is organized and does business;
- Submit an application and pay an application and annual fee;
- Maintain a current and accurate company profile on the OTC Markets website;
- Use an SEC registered transfer agent and authorize the transfer agent to provide information to OTC Markets about the Company securities, including but not limited to, shares authorized, shares issued and outstanding, and share issuance history; and
- Submit an OTCQB Annual Certification confirming the accuracy of the current company profile and providing information on officers, directors and controlling shareholders.

All companies are required to post their initial disclosure on the OTC Markets website and make an initial certification. The initial disclosure includes:

- Confirmation that the Company is current in its SEC reporting obligations and has filed all reports with the SEC, that all financial statements have been prepared in accordance with U.S. GAAP, and that the auditor opinion is not adverse, disclaimed or qualified;
- International Companies - (i) Companies subject to the Exchange Act reporting requirements must be current in such reports; (ii) A company that is not an SEC Reporting Company must be current and fully compliant in its obligations under Exchange Act Rule 12g3-2(b), if applicable, and shall have posted in English through the OTC Disclosure & News Service or an Integrated Newswire, the information required to be made publicly available pursuant to Exchange Act Rule 12g3-2(b) for the preceding 24 months (or from inception if less than 24 months); and all financial statements have been prepared in accordance with U.S. GAAP and that the auditor opinion is not adverse, disclaimed or qualified;
- Verification that the Company profile is current, complete and accurate;

All companies will be required to file an initial and annual certification on the OTC Markets website, signed by the CEO and/or CFO, stating:

- The company's reporting standing (i.e., whether SEC reporting, bank reporting or international reporting) and briefly describing the registration status of the company;
- If the Company is an International Company and relying on 12g3-2(b), that it is current in such obligations;
- That the company is current in its reporting obligations to its regulator and that such information is available either on EDGAR or the OTC Markets website;
- States the law firm and/or attorneys that assist the company in preparing its annual report or 10-K;
- Confirms that the company profile on the OTC Markets website is current and complete;
- Identifies any third-party providers engaged by the Company, its officers, directors or controlling shareholders, during the prior fiscal year and up to the date of the certification, to provide investor relations services, public relations services, stock promotion services or related services;
- Confirms the total shares authorized, outstanding and in the public float as of that date; and

- Names and shareholdings of all officers and directors and shareholders that beneficially own 5% or more of the total outstanding shares, including beneficial ownership of entity shareholders.

An application to OTCQB can be delayed or denied at OTC Markets' sole discretion if they determine that admission would be likely to impair the reputation or integrity of OTC Markets group or be detrimental to the interests of investors.

Requirements for Bank Reporting Companies

Bank reporting companies must meet all the same requirements as all other OTCQB companies except for the SEC reporting requirements. Instead, bank reporting companies are required to post their previous two years' and ongoing yearly disclosure that was and is filed with the company's bank regulator, on the OTC Markets website.

International Companies

In addition to the same requirements for all issuers as set forth above, foreign issuers must be listed on a Qualified Foreign Exchange and be compliant with SEC Rule 12g3-2(b). Moreover, a foreign entity must submit a letter of introduction from a qualified PAL which states that the PAL has a reasonable belief that the company is in compliance with SEC Rule 12g3-2(b), is listed on a Qualified Foreign Exchange, and has posted required disclosure on the OTC Markets website. A foreign entity must post two years' historical and ongoing quarterly and annual reports, in English, on the OTC Markets website which comply with SEC Rule 12g3-2(b).

Ongoing Requirements

- U.S. OTCQB companies will be required to remain current in their SEC reporting obligations.
- A foreign company that is not an SEC Reporting Company must remain current and fully compliant in its obligations under Exchange Act Rule 12g3-2(b), if applicable, and in any event shall, on an ongoing basis, post in English through the OTC Disclosure & News Service or an Integrated Newswire, the information required to be made publicly available pursuant to Exchange Act Rule 12g3-2(b).
- Banks must remain current in their banking reporting requirements;
- All OTC Markets posting and reports must be timely filed 45 days following the end of a quarter or 90 days following the end of the fiscal year for US issuers and

as soon as practicable but no later than 6 months following the end of the fiscal year end or 60 days following the end of a quarter for International companies; where applicable, file a notice of late filing allowing for 5 extra days on a quarterly report and 15 extra days on an annual report;

- All OTCQB companies will be required to post annual certifications on the OTC Markets website;
- All companies are required to comply with all federal, state, and international securities laws and must cooperate with all securities regulatory agencies;
- Must pay the annual fee;
- All companies must respond to OTC Markets inquiries and requests;
- All companies must maintain an updated company profile on the OTC Markets website and must submit a Company Update Form at least once every six months;
- All Companies must file interim disclosures in the event the Company undergoes a reverse merger or change of control and make new updated certifications and disclosure related to the new business and control persons;
- All OTCQB companies must meet the minimum bid price of \$.01 per share at the close of business of at least one of the previous thirty (30) consecutive calendar days; in the event that the price falls below \$.01, the company will begin a grace period of 180 calendar days to maintain a closing bid price of \$.01 for ten consecutive trading days;
- Use an SEC registered transfer agent and authorize the transfer agent to provide information to OTC Markets about the Company securities, including but not limited to, shares authorized, shares issued and outstanding, and share issuance history.
- Officers and directors of the Company are responsible for compliance with the ongoing requirements and the content of all information. Entities that do not meet the requirements of either OTCQX or OTCQB will be quoted on the OTC Pink.

Fees

Newly applying entities must pay an initial application fee of \$2,500, which fee is waived for existing OTCQB entities. All OTCQB companies will be required to pay an annual fee of \$10,000.

Removal/Suspension from OTCQB

A company may be removed from the OTCQB if, at any time, it fails to meet the eligibility and continued quotation requirements subject to a 30-day notice and opportunity to address them. In addition, OTC Markets Group may remove the company's securities from trading on OTCQB immediately and at any time, without notice, if OTC Markets Group, upon its sole and absolute discretion, believes the continued inclusion of the company's securities would impair the reputation or integrity of OTC Markets Group or be detrimental to the interests of investors.

In addition, OTC Markets can temporarily suspend trading on the OTCQB pending investigation or further due diligence review.

A company may voluntarily withdraw from the OTCQB with 24 hours' notice.

OTC PINK

The OTC Pink, which includes the highest-risk, highly speculative securities, is further divided into three tiers: Current Information, Limited Information and No Information, based on the level of disclosure and public information made available by the company either through the SEC or posted on OTC Markets. There are no qualitative standards beyond disclosure for OTC Pink companies, which include companies in all stages of development as well as shell and blank check entities.

Current Information

Companies with Current Information status on OTC Markets include both companies that are subject to and current in their SEC Exchange Act reporting requirements and companies that file current information on OTC Markets in accordance with their Alternative Reporting Standards. The following minimum disclosure is required to maintain Current Information status:

- If subject to the Exchange Act reporting requirements, compliance with such reporting requirements will satisfy the financial reporting requirements for Current Information;
- If not subject to the Exchange Act reporting requirements, a company must post annual financial statements, including a balance sheet, income statement, statement of cash flows and notes to financial statements, for the previous two

fiscal years or from inception if the company is less than two years old, which annual report must be filed within 90 days of fiscal year end;

- If financial statements are audited, the auditor report must be posted (audited financial statements are not required);
- If the company's financial statements are not audited, an annual Attorney Letter and Attorney Letter Agreement must be posted within 120 days of fiscal year end;
- If not subject to the Exchange Act reporting requirements, a company must post quarterly financial statements within 45 days of the end of each fiscal quarter;
- The company profile page on OTC Markets must be current and accurate;
- File annual and quarterly reports with narrative information and CEO and CFO certifications that track SEC Rule 15c2-11 disclosures and can be completed using a fillable form available through OTC Markets;
- A company must file a Form 8-K if SEC reporting or submit a news release within 4 days of any of the following:
 - Entry or Termination of a Material Definitive Agreement
 - Completion of Acquisition or Disposition of Assets, Including but not Limited to Mergers
 - Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of an Issuer
 - Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement
 - Costs Associated with Exit or Disposal Activities
 - Material Impairments
 - Sales of Equity Securities
 - Material Modification to Rights of Security Holders
 - Changes in Issuer's Certifying Accountant
 - Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review
 - Changes in Control of Issuer
 - Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers
 - Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

- Amendments to the Issuer’s Code of Ethics, or Waiver of a Provision of the Code of Ethics
- Other events the issuer considers to be of importance

In addition, to maintain Current information status, a company must subscribe to the OTC Disclosure & News Service with an annual fee of \$4,200 and a one-time set-up fee of \$500.

Limited Information

Companies with Limited Information status on OTC Markets are delineated by a “yield” sign and post some financial and basic information on the company on the OTC Markets website, but either do not report to the SEC or do not include enough information to satisfy the Current Information requirements. The following minimum disclosure is required to maintain Limited Information status:

- Maintain quarterly and annual reports that are no older than 6 months and that include a balance sheet, income statement and total number of issued and outstanding shares;
- Financial statements must be prepared in accordance with GAAP; and
- The company profile page on OTC Markets must be current and accurate.

In addition, to maintain Limited information status, a company must subscribe to the OTC Disclosure & News Service with an annual fee of \$4,200 and a one-time set-up fee of \$500.

No Information

Companies with No Information status on OTC Markets are delineated by a “stop” sign and do not provide any current or updated reliable public disclosure.

OTHER OTC MARKET DESIGNATIONS

Caveat Emptor – Skull and Crossbones

Companies with a Caveat Emptor designation on OTC Markets are delineated with a skull and crossbones sign. These companies have raised concerns such as improper or misleading disclosures, spam campaigns, questionable stock promotion, investigation of fraudulent or other criminal activity, regulatory suspensions or disruptive

corporate actions. While labeled with a skull and crossbones, a company that does not have Current Information or is not on the OTCQB will have its quote blocked on the OTC Markets website.

Other OTC or Grey Market

Companies labeled as Other OTC or Grey Market are delineated by a grey yield sign. These companies do not have a current 15c2-11 and are not eligible for quotation by a market maker or broker-dealer until such time as a 15c2-11 application is made with and accepted by FINRA.

The Author

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Securities Law Blog is written by Laura Anthony, Esq., a going public lawyer focused on OTC Listing Requirements, Direct Public Offerings, Going Public Transactions, Reverse Mergers, Form 10 Registration Statements, and Form S-1 Registration Statements. Securities Law Blog covers topics ranging from SEC Compliance, FINRA Compliance, DTC Chills, Going Public on the OTC, and OTCQX and OTCQB Reporting Requirements. Ms. Anthony is also the host of LawCast.com, the securities law network.

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