Hon. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Proposal to Amend Rule 15c2-11

Dear Secretary Fields:

GATE Global Impact, Inc. ("Gate") writes this letter to encourage the Securities and Exchange Commission (the "SEC") to review and revise Rule 15c2-11 of the Securities Exchange Act of 1934 (the "Exchange Act").

I. Background

A. JOBS Act and Regulation A

The Jumpstart Our Business Startups Act of 2012 (the "JOBS Act") represented a meaningful step to improve the capital formation process. The JOBS Act amended Section 3(b) of the Securities Act of 1933 (the "Securities Act") to promote the use of Regulation A of the Securities Act registration for small public offerings. Regulation A has permitted non-reporting companies to sell a limited amount of securities under an offering circular that, while filed with and reviewed by the SEC, is far shorter and easier to prepare than a full-fledged registration statement, and need not include audited financial statements. Securities sold under Regulation A may be sold to any investor, without regard to any income or net worth criteria. Such securities are unrestricted and may be immediately resold, assuming buyers can be found.

While Regulation A was designed to promote capital formation for small businesses, it was rarely used. This was due in part to the comparative ease of use of Regulation D of the Securities Act, which involves no SEC filings and because of Regulation A's modest $5 million offering cap. The use of Regulation A was also impaired by the fact that such offerings were subject to compliance with state securities or "blue sky" laws. The time and expense of blue sky compliance for such small offerings made Regulation A offerings impractical.

To address Regulation A's shortcomings, the JOBS Act directed the SEC to adopt rules ("Regulation A+") which: (i) raise the $5 million cap to $50 million of equity, debt or convertible debt securities within any 12-month period; (ii) treat Regulation A+ securities as "covered securities" exempt from blue sky compliance if they are listed on a national securities exchange or if offers and sales are limited to "qualified purchasers"; (iii) provide that securities offered under Regulation A+ may be offered and sold publicly by general solicitation to any potential purchaser, and will not be restricted securities; and (iv) permit issuers to "test the waters" to solicit interest in their Regulation A+ offerings prior to filing an offering circular with the SEC.

With a $50 million offering cap, Regulation A+ offerings are now more cost effective, even if the securities offered do not qualify as "covered securities" because they are not listed or are not sold only to "qualified purchasers." Gate expects many small companies may view Regulation A+ as a viable alternative to more costly registered offerings and to Regulation D private placements in which, even though the offering may far exceed $50 million, there are restrictions on permissible purchasers.

B. Rule 15c2-11

Rule 15c2-11 (the "Rule") regulates the initiation and resumption of quotations in a quotation medium by a broker-dealer acting as a market maker for certain over-the-counter ("OTC") securities. The SEC adopted Rule 15c2-11 in 1971 to prevent fraudulent and manipulative trading schemes that had arisen in connection with the distribution and trading of unregistered securities about which there was little public information. The Rule prevents market makers from publishing quotations for covered OTC securities without reviewing basic information about the issuer. The Rule applies to market makers publishing quotations in a "quotation medium," but it does not apply to broker-dealers publishing quotations for securities listed and traded on an exchange or quoted on Nasdaq.

Subject to certain exceptions, the Rule prohibits a market maker from publishing a quotation for a security (or submitting a quotation for publication) in a quotation medium unless it has obtained and reviewed specified information about the issuer and the security. The market maker also must have a reasonable basis for believing that the issuer information is accurate and that it was obtained from a reliable source.

C. Piggyback Exception

Under the Rule's "piggyback" exception, the information requirements do not apply when a market maker publishes, in an interdealer quotation system, a quotation for a covered OTC security that already has been the subject of regular and frequent quotations. An interdealer quotation system is a quotation medium of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers. A market maker can piggyback on either its own or other market makers' previously published quotations. The exception is grounded on the assumption that regular and frequent quotations for a security generally reflect market supply and demand forces based on independent, informed pricing decisions.

D. The Reasons for the Rule

To understand how to improve the Rule it is useful to consider the reasons the Rule was created. Incidents involving fraud and manipulation of microcap securities that trade in OTC securities market have been a concern of the SEC for decades.[1] Manipulation of OTC securities has also been a concern of Congress for decades.[2]

Microcap securities generally are characterized by low share prices and little or no analyst coverage.[3] The issuers of microcap securities typically are thinly capitalized and often are not required to file periodic reports with the SEC. Securities of microcap companies usually are quoted on the Pink Sheets. Microcap fraud frequently involves issuers for which public information is limited, especially when issuers are not subject to reporting requirements.[4] Without information, it is difficult for investors, securities professionals, and others to evaluate the risks presented by microcap securities. Investors consequently can fall prey to persons who make false representations and unrealistic predictions about these securities.

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[1] *See, e.g., M. Rimson & Co., Inc.,* 1997 WL 93628 (February 25, 1997) (Initial Decision); (Securities Exchange Act Release No. 38489 (April 9, 1997); *SEC v. Jeffrey Szur,* No. 97 Civ. 9305 (S.D.N.Y. Dec. 18, 1997); *SEC v. George Badger,* No. 97 CV 963K (D. Utah Dec. 18, 1997); *SEC v. Andrew Scudiero,* No. 97 Civ 9304 (S.D.N.Y. December 18, 1997); *SEC v. Leonard Alexander Ruge,* No. 97 Civ. 9306 (S.D.N.Y. Dec. 18, 1997); *SEC v. Joseph Pignatiello,* No. 97 Civ 9303 (S.D.N.Y. Dec. 18, 1997); *see also* Litigation Release No. 15595 (Dec. 18, 1997), 1997 SEC LEXIS 2602 (For a summary of the SEC's allegations in these cases).

[2] *See* United States Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, Hearing on Fraud in the Micro Capital Market (Sept. 22, 1997) (testimony of Arthur Levitt, Chairman of the U.S. Securities and Exchange Commission).

[3] The term "microcap securities" is not defined under the federal securities laws or regulations. The use of the term "microcap securities" in this letter should be distinguished from its use in the mutual fund context. For example, Lipper Analytical Services, a mutual fund rating organization, generally categorizes microcap companies as companies with market capitalization of less than $300 million. Lipper-Directors' Analytical Data, Investment Objective Key, 2d ed. 1997.

[4] *See, e.g., SEC v. Global Financial Traders, Ltd.,* Litigation Release Nos. 15291 (Mar. 14, 1997) and 15338 (April 17, 1997).

As part of their manipulative schemes, unscrupulous retail brokers, operating out of "boiler rooms," frequently use high pressure sales tactics to stimulate investors to buy these securities. These brokers often publicly disseminate false press releases or make false statements about issuers (including through the Internet) to promote sales. To further the manipulative scheme, retail broker-dealers often also act as market makers or, either on their own or through the issuers' promoters, induce other firms to act as market makers in the securities. Market makers' quotations have been important to the success of microcap fraud schemes. By publishing quotations in one or more quotation mediums, broker-dealers give the market for the securities an aura of credibility. This can occur even if the market maker is not intentionally participating in improper activities, but is publishing quotes in response to escalating demand for the securities resulting from increasing retail sales. Trading volume for the security skyrockets and quotations and sales prices escalate (often at prices artificially set by the manipulators). Eventually, broker-dealers and promoters stop stimulating interest in the security and its price drops. Too often the result is the same: innocent investors lose money.

These developments have caused the SEC to reexamine Rule 15c2-11 on several occasions.

E. 1991 Proposed Amendments to the Rule

In 1991 the SEC proposed amendments to Rule 15c2-11 that would have eliminated the piggyback provision. The SEC believed the underlying assumption of the piggyback provision was no longer valid in the non-Nasdaq OTC market. The SEC observed that the Rule's coverage was limited to non-Nasdaq OTC securities, which usually are low-priced, speculative stocks of relatively unknown issuers, and that the market for these securities was characterized by an absence of both market making and retail competition. As a result, the SEC proposed amendments that would have required every market maker to review issuer information prior to initiating or resuming quotations in a covered OTC security.

F. 1999 Proposed Amendments to the Rule

In 1999 the SEC again proposed amendments to Rule 15c2-11. In addition to other proposed changes, the SEC proposed the elimination of the piggyback provision. The SEC noted that microcap fraud was facilitated by market makers that publish quotations for a security without reviewing any issuer information. The SEC recognized that even if market maker were not participating in the fraud, these other broker-dealers gave the security a measure of credibility through their quotations. The SEC believed that eliminating the piggyback provision was an essential step to preventing microcap fraud.

II. Comments

A Market Maker Should be Permitted to Charge the Issuer of the Securities a Fee for Making a Form 211 Filing and Any Market Maker That Piggybacks on Its Filing.

Currently the market maker that compiles the information required to comply with Rule 15c2-11 and that files the Form 211 is not compensated by the issuer of the securities or the other market makers that piggyback on its Form 211 filing. The current model results in the classic *free rider* problem.[5] The piggybacking market makers are able to wait for a competitor to incur the costs associated with preparing and filing the Form 211, and then piggyback on the filing. This model produces a scenario where a market maker that has a poor compliance program or that has a nefarious intent, will fail to take the appropriate steps in advance of filing the Form 211 and other market makers will not detect the failure of the initial market maker. The additional market makers will then piggyback on the initial Form 211 filing resulting in a number of broker-dealers making markets in a security that has not been properly reviewed. This process creates the opportunity for a number of market makers to publish quotations in the subject security that creates the impression the security is worthy of investment by the public.

The SEC has on several occasions attempted to address the problems with Rule 15c2-11 and eliminate the piggyback exception. These proposals have met with substantial resistance from the industry. Gate believes the unintended consequence of the amendments to Regulation A will be an increase in the number of Form 211 filings and piggybacking by other market makers. In the past the SEC has indicated a market maker "*may charge for the reasonable expenses it incurs* in producing and forwarding copies of Rule 15c2-11 information." While this statement appears to have been made with respect to charging the issuer of the securities, it is unclear why a market maker cannot charge other market makers for the work required to prepare the Form 211. Rather than attempting to eliminate the piggyback exception, Gate recommends the SEC explore a different approach.

Gate believes market makers should be permitted to charge the issuer of the securities a fee that is in excess of the costs of preparing and making the filing. Market makers should also be permitted to charge any market maker that piggybacks on its Form 211 filing. Such an approach would create an incentive for market makers to do a better job in preparing the information required to comply with Rule 15c2-11 because they will be permitted to charge the issuer and other market makers that piggyback on their work. This approach would also create a disincentive for market makers to piggyback on such filings because they will be charged for doing so by the market maker preparing the Form 211 filing. Such fees would also have the potential ancillary benefit of increasing the costs for market makers or issuers with nefarious intent to promote the quotation of securities that are being manipulated.

III. Conclusion

Gate believes Rule 15c2-11 has played an important part in curtailing the level of fraud in microcap securities. However, the Rule is due for a meaningful review and amendments in light of the passage of the JOBS Act. The expanded use of Regulation A will more than likely produce an increase in the number of securities that will be subject to the Rule. This increase without a change to the piggyback exception could lead to a substantial increase in the number of microcap securities manipulated by nefarious issuers and market makers. Gate encourages the SEC to review and revise Rule 15c2-11 to address this risk.

We hope that you, the other Commissioners, and the SEC staff find these comments useful. As the operator of a trading platform designed to address some of the issues facing small private companies, we

[5] In economics, the free rider problem occurs when those who benefit from resources, goods, or services do not pay for them, which results in an under-provision of those goods or services.

welcome the opportunity to discuss with you how the SEC may amend Rule 15c2-11 to facilitate a model that promotes the production and dissemination of higher quality information regarding microcap securities.

If Gate or I can be of further assistance to you in this matter, please do not hesitate to contact me at the address above or 646.665.7480.

Very truly yours,

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