

## Practice Update

# Compliance Date for New OTCQB Marketplace Standards Fast Approaching

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March 31st Fiscal Year End Companies Must Meet Upcoming Deadline

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OTC Markets Group (OTCQX: OTCM) (OTC Markets) has established new eligibility standards for companies to be able to trade on the OTCQB® Venture Stage Marketplace (the OTCQB). These new standards are aimed at improving information available to investors. The OTCQB is a marketplace for early-stage and developing U.S. and international companies. Each current OTCQB-quoted company will be required to comply with the new OTCQB standards 120 days after its fiscal year end, which includes an annual certification and annual fees, as described below. March 31st fiscal year end companies will need to comply with the new OTCQB standards by July 31, 2014. Companies that do not comply with the new procedures within the required timeframe will be downgraded to OTC Pink.

## Annual Certification

Under the new eligibility requirements, each OTCQB company will be required to post an annual certification on the OTC Markets website, signed by the chief executive officer and/or the chief financial officer, which states: (i) the company's reporting

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standard (e.g. SEC Reporting, Bank Reporting or International Reporting) and briefly describes the registration status of the company; (ii) that the company is current in its reporting obligations to its regulator and such information has been posted either on EDGAR or the OTC Markets website; (iii) the law firm and/or attorneys involved in the company's preparation of its Annual Report or Form 10-K; (iv) the company profile on the OTC Markets website is current and complete; (v) the total shares outstanding and in the public float as of the most recent fiscal year end; and (vi) the names and shareholdings of all officers and directors, in addition to beneficial shareholders who hold more than five percent of shares outstanding.

## **Fees**

For new companies upgrading to OTCQB, there is a one-time application fee of \$2,500, which is waived for current OTCQB companies. Current OTCQB companies will be required to pay an annual fee of \$10,000. For current OTCQB companies that apply for OTCQB in 2014, the annual fee will be discounted to \$7,500 for each of the first two years.

## **Minimum Bid Price Test**

As of May 1, 2014, all current and prospective OTCQB-quoted companies are now required to meet a minimum bid test. In order to be eligible for OTCQB, companies: (i) must have a minimum bid price of \$0.01 per share as of the close business for each of the previous thirty consecutive calendar days and (ii) once quoted on the OTCQB, must maintain a minimum bid price of \$0.01 per share as of the close of the business for at least one of every thirty calendar days. OTCQB companies which do not meet the minimum bid test will be removed from OTCQB and downgraded to OTC Pink.

## **Bank Reporting Companies**

In addition to the standards described above, bank reporting companies also need to post on the OTC Markets website any disclosure (previous two years' disclosure initially) that is filed with the company's bank regulator, except for information deemed non-public.

## **International Reporting Companies**

As of May 1, 2014, international reporting companies that are in compliance with SEC Rule 12g3-2(b) and listed on a qualified foreign stock exchange may now apply to trade on OTCQB. In addition to meeting the initial bid price test and submitting an initial application and applicable fees, international reporting companies also need to submit a "Letter of Introduction" from a qualified Principal American Liaison (PAL) which states that the PAL has a reasonable belief that the company is in compliance with Rule 12g3-2(b), is listed on a qualified foreign exchange and has posted the required disclosure on the OTC Markets website, including the previous two years' disclosure required under Rule 12g3-2(b) in English (except press releases) and submit an initial OTCQB certification. Once listed on OTCQB, international reporting companies must meet the ongoing minimum bid price test, post on the OTC Markets website the disclosure required under Rule 12g3-2(b) in English, including Quarterly Reports and audited Annual Reports (except press releases), and submit annual OTCQB certifications.

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