



The Security Traders Association of New York, Inc.

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Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2001

Re: **File No. S7-04-08**

Dear Ms. Morris:

The Security Traders Association of New York ("STANY")¹ respectfully submits the following comments concerning rule proposal S7-04-08 by the Securities and Exchange Commission (the "Commission") to amend the Rule that exempts a foreign private issuer from having to register a class of equity securities under Section 12(g) of the Securities Exchange Act of 1934 (the "Exchange Act") based on the submission to the Commission of certain information published outside the United States.

STANY strongly supports that part of the proposal that would make information supplied under Exchange Act Rule 12g3-2(b) available over the Internet. We believe this would provide ready access by U.S. investors to the disclosure materials produced by foreign private issuers and level the playing field with non-U.S. investors.

We also generally support the Commission's proposal to eliminate the written application requirements of Rule 12g3-2(b). However, we believe that an issuer that relies on the exemption should file with the Commission and publish on EDGAR the location of the materials supplied in compliance with the Rule so that broker-dealers can fulfill their obligations under rule 15c2-11.

It is our experience that investors rarely request the information filed under Rule 12g3-2(b) from broker-dealers. No good purpose is served by requiring broker-dealers to maintain copies of this information in their files. Instead, issuers should identify the location of this information through a filing published on EDGAR because investors are much more likely to seek this information in EDGAR.

We strongly oppose that part of the proposal that would require Exchange Act registration if the annual trading volume of a class of equity securities exceed 20% of global trading volume. We believe that this requirement will injure investors and cause business currently conducted by U.S. broker-dealers to move outside the United States.

Trading volume is fluid and cannot be directly controlled by an issuer. As such, we are concerned that the only way that a foreign private issuer, who does not wish to register under the Exchange Act, can effectively avoid the 20% threshold is by engaging in actions intended to reduce the trading volume in the United States. Issuers that wish to avoid registration will cancel U.S. ADR programs and otherwise discourage trading activity in the United States.

¹ STANY is an affiliate of the Security Traders Association ("STA"), a worldwide professional trade organization for equities traders. With close to 1,500 members in the New York metropolitan area, STANY is the largest STA affiliate. STANY works to improve the ethics, business standards and working environment for members, who are engaged in the buying, selling and trading of securities.

These actions will harm U.S. investors in two ways. First, investment opportunities for U.S. investors in non-U.S. securities will be reduced. Second, U.S. investors that are determined to invest in foreign securities will be forced to open foreign brokerage accounts. The Commission does not supervise the activity of non-U.S. broker-dealers operating outside the United States. As a result, these U.S. investors will be denied the substantial protection offered to customers of U.S. broker-dealers under federal securities laws and the rules of the Financial Services Regulatory Authority.

We are also concerned that the 20% trading volume proposal will mean a loss of business for our members. The trading in ADRs currently accomplished by U.S. broker-dealers will likely be curtailed, and trading in the underlying securities will occur in foreign markets.

We think the Commission should design rules that will better enable U.S. broker-dealers to compete for business with foreign broker-dealers, rather than causing business currently conducted in the U.S. to move overseas. We also believe that U.S. investors should be encouraged to trade securities in the United States, rather than opening brokerage accounts overseas to take advantage of investment opportunities available there. For these reasons, we urge the Commission to remove that part of the proposal that would require a foreign private issuer to register a class of its securities under the Exchange Act because the U.S. trading volume of those securities is greater than 20% of global trading volume.

Members of the STANY Board of Directors, STANY's International Committee and STANY's Trading Issues Committee would be happy to discuss this matter with the Commission. Please do not hesitate to call on us with any questions.

Respectfully submitted,

Kimberly Unger
Executive Director