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Mr. Jonathan G. Katz, Secretary
Securities and Exchange Commission
100 F St. NW
Washington, DC 20549-9303

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File No. S7-12-05

Dear Mr. Katz:

Here are my comments on this proposed rule easing delisting requirements for international issuers.

At first glance, this seems like a reasonable proposal. The proposal allows companies to stop registering with the SEC if their U.S. trading falls below certain thresholds. The current threshold is abysmally low, and raising it seems reasonable. Furthermore, Qualified Institutional Buyers (QIBs) and accredited investors should be excluded for purposes of counting U.S. shareholders, as they presumably have the expertise and resources to make their own investment decisions on unregistered securities.

Of course, this policy will hasten the exodus of foreign listings from the U.S. market and thus damage the role of the U.S. capital markets in global commerce. This reduces the investment opportunities available to U.S. investors. One of the basic lessons of modern portfolio theory is that diversification reduces risk, and international diversification reduces risk even more. Furthermore, higher returns may also be available at times in some foreign markets. With fewer investment choices, U.S. investors are stuck with the unpleasant combination of fewer promising investment opportunities and higher risk as well.

As an individual investor I have already been forced to sell shares that I owned in a UK-based company as it cancelled its ADRs and exited the U.S. market. This is an unpleasant experience.

This proposal is an incremental band-aid to the real problem, which is that the Commission has not yet developed a coherent policy toward the global markets of today. This lack of coherent policy puts U.S. investors and U.S. exchanges at a severe disadvantage in international commerce. In particular, current U.S. policy makes it very difficult and expensive for most U.S. investors to trade international securities, and it makes it very difficult for U.S. exchanges to attract international listings. This can only hurt U.S. investors and U.S. markets.

Currently, many brokerage firms are so afraid of SEC sanctions that they make it difficult for retail investors to purchase foreign securities. It is possible, but it is generally much more expensive to trade stocks listed on foreign markets. Brokerage firms will route you to their international desk, where customers pay human-brokered transaction fees and often face daunting minimum size requirements. Even firms that provide direct online access to foreign markets to their customers in those markets generally do not give such direct access to U.S. customers. For the typical U.S. investor, this means that in order to conduct online trading in a foreign market, you need to open an account with a foreign brokerage firm.

Why are we sending our brokerage business abroad? This may also hurt U.S. tax collection as non-U.S. firms do not necessarily file 1099 forms with the IRS.

Of course, the Commission has legitimate investor protection concerns about unregistered foreign securities. The traditional approach has been to try to make everything that trades in the U.S. to be registered here, and to make it hard for U.S. firms to market or trade foreign stocks. This approach is no longer optimal because it deprives U.S. markets of important trading opportunities and it deprives U.S. investors of important investment opportunities.

The goal should be to provide efficient access to global opportunities while providing adequate investor protection at the same time.

An enlightened approach would provide two benefits while maintaining customer protection: First, it would allow quality issuers into U.S. markets with minimal regulatory burden. Second, it would allow U.S. investors to access foreign markets efficiently using standard U.S. brokerage firms.

To achieve the first benefit, the Commission should recognize that several foreign markets have good enough investor protection and allow securities traded on those markets into U.S. markets with a minimum of paperwork. The basic requirement would be that the security is listed on a recognized foreign market with adequate investor protection. The SEC would develop a list of such markets. Requiring a minimum market capitalization for the parent firm of $1 billion U.S. dollars would also help to reduce potential problems, as the capital markets are likely to monitor such firms more closely than small-cap and micro-cap issues. And of course, the issuer must abide by the rules of the stock market on which it lists.

For quality issuers in markets that are not yet recognized, the Commission should explore methods to reduce the regulatory burden imposed by current regulations. Finding ways to reduce the Section 404 burdens on issuers is important not only for foreign issuers, but for domestic issuers as well.

Second, the Commission should provide safe harbor rules such that compliant brokerage firms need not fear enforcement action for giving their customers efficient access to foreign securities through normal online brokerage accounts. These safe harbor rules would ensure that investors are aware that the securities are not registered with the SEC and that investors may lack many of the safeguards they take for granted in the US.

For example, investors should be warned very carefully every time they purchase or sell a stock that is not an SEC registrant, whether it is foreign or domestic. For example, when a customer places an online order to buy, they could be required to acknowledge the following large type warning:

WARNING! You are about to place an order to purchase securities that are not registered with the United States Securities and Exchange Commission (SEC). This means:

- You may not experience the same level of investor protection that you have with SEC-registered securities.
- You may not have access to the same quantity or quality of company information such as financial statements according to U.S. accounting standards.
- The corporate governance of the issuer may not be in accordance with U.S. standards.
- You may not experience the same level of protection against insider trading and other trading abuses.

Do you wish to continue? ( ) YES (*) NO

If the order is placed in person or by telephone, the registered representative would be required to read the warning each time the investor placed an order to buy or sell the security.

Similarly, U.S.-based firms could even produce research and recommend foreign securities, as long as any research report contained a similar disclaimer in large type on its first page.

Cheers,

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