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February 22, 2007

File No. S7-12-05
SEC Release No. 34-55005

Ladies and Gentlemen:

We write with respect to the re-proposal by the Securities and Exchange Commission (the "Commission") set forth in Release No. 34-55005 (the "Release") to amend the rules allowing a foreign private issuer to terminate the registration of, and to cease its reporting obligations regarding a class of, equity or debt securities under Sections 12(g) and 15(d), respectively, of the Securities Exchange Act of 1934. While we agree with the broader and more accommodating approach adopted by the Commission in the Release, we would like to address several specific issues that we believe should be considered further.

Average Daily Trading Volume ("ADTV") (Rule 12h-6(a)(4)(i))

- Definition of trading market. We recommend that the Commission limit the ADTV test to only measure stock exchange-based trading. We are concerned that it may be very difficult, if not impossible, to accurately gather information describing off-market trading in jurisdictions that do not maintain a formalized transaction reporting system. This creates uncertainty and risk for registrants, and may prevent deregistration by some registrants close to the 5% ADTV quantitative threshold. We also do not think it would be appropriate to force registrants into an "apples to oranges" comparison (comparing U.S. exchange and off-market trading to only primary market exchange trading) simply because primary market off-market trading is difficult to obtain or unreliable. We believe that comparing US exchange-based trading with exchange-based trading in an issuer's primary trading market continues to provide an accurate indicator of the level of U.S. interest (particularly as we would expect off-market trading to be considerably lower

than exchange-based trading). Further, limiting the test for deregistration to an analysis of publicly available stock exchange data will make the ADTV test easier to calculate and less expensive for registrants.

- Treatment of ADRs in calculating the ADTV. We recommend that the Commission clarify that in calculating the U.S. ADTV of its ADRs, an issuer should factor in the ratio each ADR represents with respect to the issuer's deposited shares. For example, where one ADR represents two deposited shares, the U.S. ADTV should be doubled in order that the U.S. ADTV can be meaningfully compared to the ADTV in the issuer's primary trading market.

One Year Ineligibility Period After Delisting (Rule 12h-6(a)(4) – Note 1)

We recommend that the Commission clarify in the final adopting release that Note 1 to proposed Rule 12h-6(a)(4) does not apply where a registrant has been involuntarily delisted by a stock exchange, such as for failing to meet minimum capitalization or other eligibility requirements. As the Commission's intent is to discourage a registrant from delisting in order to decrease its average daily trading volume ("ADTV"), there is no reason to apply this restriction to involuntary delistings.

Sponsored ADR Facilities (Rule 12h-6(a)(4) – Note 2)

- One Year Ineligibility Period After Termination of ADR Facility. We recommend that Note 2 to proposed Rule 12h-6(a)(4) be aligned with Note 1 of that Rule, so that it only applies if the U.S. ADTV exceeds 5% of the ADTV in the registrant's primary trading market at the time of termination. We understand that the purpose of this restriction should be to discourage registrants from terminating ADR facilities to decrease their ADTV below 5%. If a registrant is already below that percentage, this restriction should not apply. We note that the cost and tax implications for U.S. holders identified by the Commission in the Release will be similar whether termination of ADR facilities occurs before or after deregistration.

- Maintenance of ADR Facilities. We recommend that the Commission not adopt a condition requiring maintenance of ADR facilities for a period post-deregistration. Currently, there are no limitations on a registrant's ability to terminate its ADR program at any time, and we do not believe any aspect of the deregistration proposal requires or justifies such a new limitation. While registrants may elect to maintain an ADR program post-delisting, we believe that this should remain a commercial decision and should not be mandated by the Commission. Delaying termination of ADR facilities would not avoid (but merely delay) tax and cost implications for holders if the registrant elects to terminate its ADR program upon expiry of the mandated period. On the other hand, maintaining an ADR program after deregistration will require changes to the original ADR program resulting in new and unnecessary

additional costs for registrants. Without a U.S. listing, use of the ADR program will likely decline further anyway.

Foreign Listing Requirement (Rule 12h-6(a)(3))

We recommend that the Commission clarify that the requirement under Rule 12h-6(a)(3) that the foreign private issuer has maintained a listing on a foreign exchange for the 12 months preceding the filing of the Form 15F (the "Foreign Listing Requirement") does not apply to an issuer with no trading market.[1] Today, such an issuer could deregister if it had fewer than 300 holders of record resident in the United States. Under the amendments proposed it could not do so. We believe this disadvantage to certain issuers is an unintended consequence of eliminating the current version of Rule 12g-4(a)(2). We would recommend adding a clause to Rule 12h-6(a)(3) to the effect that it is only applicable to a security that does have a trading market (or, if the Commission prefers, has had a trading market for the preceding 12 months). In the alternative, Rule 12h-6(b) could be made available to equity securities that have no trading market (or, if the Commission prefers, has not had a trading market for the preceding 12 months).

Counting Method (Rule 12h-6(d))

We note that proposed Rule 12h-6(d)(4) would permit, but not require, foreign private issuers to rely in good faith on the assistance of an independent information services provider in collecting information concerning U.S. ownership. We believe it is important for the Commission to make clear that parties are not required to take account of this information if it is not found by them to be reliable. It should not be read as imposing a requirement beyond the provisions of Rule 12h-6(d)(3), which already require parties to take account of "information that is otherwise provided to you".

Definition of "Primary Trading Market" (Rule 12h-6(e)(5))

We recommend that the Commission clarify the definition of "Primary Trading Market" to account for foreign private issuers with listings on multiple exchanges in a single jurisdiction. For example, in Germany companies are often listed on a number of exchanges (Berlin, Düsseldorf, Frankfurt, Hamburg, Munich etc.). Under the current drafting, it is not clear whether trading that took place "in, on or through the facilities of a securities market in a single jurisdiction…" refers to trading on one or multiple exchanges. We recommend amending this to read "in, on or through the facilities of *one or more exchanges* ~~a securities market~~ in a single jurisdiction…" We believe this is consistent with the Commission's approach that the primary trading market be defined by jurisdiction.

[1] Our firm has a foreign private issuer client with more than 500 shareholders with transfer restrictions in its by-laws that would not permit its shares to be listed on any exchange or freely traded in any market.

Availability of Rule 701 Following Deregistration

As discussed in our letter of February 28, 2006 with respect to the Commission's earlier proposal, we make the following recommendations with respect to Rule 701.

- Initial Registered Offers. We recommend that the Commission make clear, either in the final adopting release or in an amendment to Rule 701, that the exemption provided by the rule will be available to foreign private issuers that deregister under Rule 12h-6, regardless of whether the issuer had initially offered the securities covered by the relevant plan under a Form S-8 (or other) registration statement.

- U.S. GAAP Reconciliation. We recommend that Rule 701(e)(4) be modified to allow foreign private issuers that are eligible for the exemption provided under Rule 12g3-2(b) to satisfy their financial disclosure obligations through compliance with that rule, rather than the provision of financial statements reconciled to U.S. GAAP (if the amount sold exceeds $5 million in a given year). Without this change, one of the significant potential benefits of deregistration will be unavailable to many foreign private issuers.

- U.S.$5 Million Threshold. We recommend that the $5 million annual threshold in Rule 701(e) be increased to a level that reflects the continued growth in equity ownership by employees through employer-sponsored plans that has occurred since the current annual threshold was set.

* * *

We would be happy to discuss any of the above issues further with the Commission. Please feel free to direct any inquiries to Philip J. Boeckman, William P. Rogers, Jr. or George Stephanakis in London or Tom Brome, Mark I. Greene, Richard Hall, Timothy G. Massad, Paul Michalski or Peter S. Wilson in New York.

Sincerely,

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