The Bank of New York
Depositary Receipts Division
101 Barclay Street
22nd Floor
New York, NY 10286

Verdun Edgtton
Vice President and Corporate Governance Officer

212 815 3882 Telephone
212 571 3050 Facsimile
vedgtton@bankofny.com

February 14, 2006

The BANK of NEW YORK

Mr. Jonathan Katz
Secretary
Securities & Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303

Dear Mr. Katz,

Re: Termination of a Foreign Private Issuer's Registration of a Class of Securities Under Section 12(g) and Duty to File Reports Under Section 15(d) of the Securities Exchange Act of 1934.

We are submitting this letter in response to the Securities and Exchange Commission's request for comment on Release No. 34-53020.

The Bank of New York is depositary for more than 1,200 American and global depositary receipt programs, representing 64 percent of all sponsored programs worldwide and acts in partnership with leading companies from 60 countries. The perspective we provide in this letter is that of a market practitioner with a significant degree of corporate action experience involving foreign private issuers.

We welcome and endorse the Commission's decision to amend its rules to permit a foreign private issuer to terminate its registration and reporting obligations under the Securities Exchange Act of 1934, as amended, (the "Exchange Act") detailed in the proposed rules. However, we offer some additional commentary that we believe might be of interest to the Commission.

We note that the proposed rules provide that a foreign private issuer would be in a position to obtain the Exchange Act Rule 12g3-2(b) exemption immediately upon the effectiveness of the termination of Exchange Act reporting. We endorse the proposal. Furthermore, these foreign private issuers would maintain the exemption not by submitting hardcopy materials but rather by publishing in English the home country materials required by Rule 12g3-2(b) on its Internet web site or through an electronic information delivery system that is generally available to the public in its primary trading market. As we believe this will make reporting easier for foreign private issuers and also make access for U.S. investors less tedious and more timely, in addition to treating all foreign private issuers in the U.S. more equally, we would submit that this means of maintaining the exemption be extended also to foreign private issuers that currently have the benefit of the exemption under Rule 12g3-2(b).

Over the past year or so, we have been involved in at least a dozen transactions where foreign private issuers have undertaken transactions which have been designed to make them eligible to terminate the registration of a class of its securities under Section 12(g) if those securities are held of record by less than 300 U.S. resident holders, determined after "looking through" brokers, banks and other intermediaries. The common thread of these transactions has been for issuers to terminate their

depositary receipt facility and advance the sale period provision such that depositary receipt holders are cashed out by the company in order to reduce the number of U.S. resident shareholders below the 300 threshold. This 'accelerated' sale eliminates thousands of U.S retail investors.

Ironically, issuers may not qualify for deregistration under the proposed rules because large Qualified Institutional Buyers (QIBs) may cause them to exceed the share ownership threshold. We therefore recommend that shares held by QIBs be excluded from the U.S. investor threshold tests, since their inclusion for calculation purposes under proposed Rule 12h-6 will, in many instances, push U.S. resident ownership of the issuer's worldwide public float beyond the proposed percentage thresholds.

It is likely that shares held by QIBs can make up a major proportion of an issuer's worldwide public float. Traditionally, the Commission through its rules has recognized that QIBs require minimal protection with regards to disclosure as compared to other investors. We believe that this principle continues to remain relevant and would submit that shares held by QIBs be excluded from the U.S. resident ownership component of the threshold tests under proposed Rule 12h-6. If this were the case, a foreign private issuer could, without terminating the deposit agreement and implementing an accelerated forced sale, obtain a Rule 12g exemption, move their existing Level II or III depositary receipt program to Level I OTC status yet still permit many U.S. retail holders to hold their depositary receipts in a convenient and cost effective manner.

If the Commission is not minded to exclude QIBs for calculation purposes, we would submit that the Commission gives consideration to raising the record holder threshold beyond the current 300 level. The rationale for this submission is that the internationalization of all (not only the U.S.) foreign securities markets over the past 20 years has resulted in a substantial increase in interest, generally, by U.S. investors in the securities of foreign private issuers. This is borne out by the statistics noted by the Commission in its Release. Further, the substantial advances in information technology and therefore access to world-wide capital markets means that the 300 U.S. resident shareholder threshold may be exceeded very easily. Finally, maintaining the 300 U.S. resident shareholder threshold will continue to impose the substantial costs of compliance with reporting obligations upon foreign private issuers who fail to qualify under the other limbs of the proposed threshold test. This, we submit, could have a negative impact upon foreign private issuers who wish to undertake registered offerings in the U.S. As a consequence, U.S. investors would not receive exposure to such securities and the investment opportunities they provide. In light of these issues, we would submit that the U.S. resident shareholder threshold be increased to 3000 record holders.

The Bank of New York would be happy to discuss any aspects of this comment letter with the Commission.

Sincerely,

Depositary Receipts Division

The Bank of New York