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May 12, 2008

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090

RE: File Number S7-05-08; Comments on Foreign Issuer Reporting Enhancements

Dear Ms. Morris:

We are pleased to submit this comment letter in response to the proposed changes by the U.S. Securities and Exchange Commission (the "Commission") to foreign private issuer reporting obligations as published on February 29, 2008 in Release Nos. 33-8900; 34-57409 (the "Release"). This letter is intended to provide comments on the proposals included in the Release based on our experience working with foreign private issuers.

We applaud the Commission's efforts to improve the access of foreign private issuers to U.S. capital markets, as evidenced by its recently-adopted rules facilitating the deregistration of securities and the termination of reporting obligations for foreign private issuers, and permitting foreign private issuers to prepare the financial information included in their annual reports using International Financial Reporting Standards as issued by the International Accounting Standards Board without U.S. GAAP reconciliation. With the proposals included in the Release, we recognize the challenge the Commission faces in balancing accommodations that address the distinct circumstances of foreign private issuers with the need to ensure that adequate disclosure will be available to investors.

We have set forth our comments to specific proposals included in the Release below.

1. Annual Test for Foreign Private Issuer Status

We support the Commission's proposal included in the Release to adopt an annual test for foreign private issuer status, which would minimize the uncertainty faced by companies and investors in situations of occasional fluctuation above or below the status determination point over the course of a fiscal year. Testing this determination once a year would offer a uniform way for issuers to assess their status and would enable them to plan more effectively for their reporting obligations on an ongoing basis. In response to the Commission's request for comments as to the likelihood of foreign private issuers' manipulating the amount of their voting securities held by U.S. residents as a result of the proposed test, we assert that this scenario is unlikely and should not prevent the rule from being adopted.

2. Accelerating the Reporting Deadline for Form 20-F

We disagree with the proposal to accelerate the reporting deadline for Form 20-F to 90 days for large and accelerated filers and 120 days for all other filers. We believe that an accelerated deadline would present great hardship for many foreign private issuers given the amount of time and the extensive resources involved in preparing the Form 20-F.

Based on our experience working with issuers in emerging markets, including Latin America and Asia, the process of preparing the Form 20-F requires the engagement of personnel and resources throughout the company as well as the management of external parties such as auditors and counsel who are needed to support the process. This involves substantial planning and coordination on the part of the issuer. Moreover, a foreign private issuer's home jurisdiction often requires different disclosure of information than that needed for the Form 20-F, which means that the issuer must expend additional efforts to satisfy both sets of requirements. Often the same personnel who manage the process of preparing a Form 20-F are responsible for overseeing the issuer's home jurisdiction disclosures so that resources would be spread thin to complete these dual processes. In addition, annual shareholders' meetings are conducted at the same time and the same personnel are responsible. Finally, to the extent that disclosure is duplicative, the effort involved in translating documents and information into English is another factor that adds to the time foreign private issuers need to prepare the Form 20-F. Accelerating the deadline for filing the Form 20-F would tax the resources of many private issuers to such an extent that the quality of the disclosure in the United States as well as in the home country could be compromised.

Another consideration is that many foreign private issuers prepare their home jurisdiction disclosures before the Form 20-F, often because the home jurisdiction deadline falls earlier in the fiscal year. By accelerating the deadline for filing the Form 20-F, issuers may be faced with a situation in which they are required to prepare both their home jurisdiction disclosures and the Form 20-F in a single quarter, despite the differences in information and financial reporting methods involved in both filings.

In an example of how the accelerated timing contemplated by the proposal would interfere with the home jurisdiction's timing, many Mexican issuers hold their shareholders' meetings at the end of April, at which time their shareholders approve the company's Mexican GAAP financial statements and the financial statements are then considered final for Mexican corporate law purposes. Accelerating the deadline of the Form 20-F would place these issuers in the situation of having to include financials that have not yet been approved by their shareholders.

Although we do not believe that the deadline for filing the Form 20-F should be shortened due to these considerations, if the Commission decides to do so, we encourage it to adopt a rule in which the Form 20-F would be due on the earlier of the following dates: (i) 30 days after the home jurisdiction's report is due, or (ii) 150 days after the end of the fiscal year. This would have the result of meeting the Commission's objective to shorten the current deadline in order to provide more timely disclosure for investors, while reducing administrative burdens and eliminating the possibility that a foreign private issuer would have to submit the Form 20-F prior to its home country deadline unless it chose to do so. We strongly support the Commission's intention to provide a two-year transition period in the event that the filing deadlines are shortened.

In summary, we believe the proposal included in the Release would be contrary to the principles of comity and respect for the home country disclosure requirements that the Commission has traditionally espoused in its policies and would present undue hardship for foreign private issuers that would discourage them from participating in the U.S. reporting regime.

3. Amending Exchange Act Rule 13e-3

We applaud the Commission's efforts in modernizing and rationalizing the deregistration and termination of reporting obligations procedures for foreign private issuers. However, we believe the Commission's proposal to require foreign private issuers relying on Rule 12h-6 to file a Schedule 13E-3 would present an undue burden on foreign private issuers which would outweigh any benefits of increased disclosure. The preparation of Schedule 13E-3 is generally considered a fairly burdensome undertaking. We note that Rule 12h-6 differs fundamentally from a "going private transaction" in that it is less the result of a deliberate decision by an issuer (for example, to buy back stock, conduct a tender

offer or sell assets) and more a reaction to trading markets and the nature of an issuer's investor base. Rule 12h-6 with respect to equity securities is currently predicated on an absence of significant U.S. trading volume and the issuer's not having accessed the U.S. public markets in the last twelve months. Rule 12h-6 also requires the existence of a listing and primary trading market in a foreign jurisdiction, in the case of equity securities. In our experience, most foreign private issuers that deregister continue to be public companies in their home jurisdictions. Essentially, these issuers have not consummated the equivalent of a going private transaction in that home country disclosures continue to be available in situations where the primary trading market is outside the United States. We urge the Commission to take into account these fundamental differences between deregistration, on the one hand, and a going private transaction, on the other hand, in determining whether the proposed requirement and the burdens it entails are warranted.

4. Requiring Item 18 Reconciliation in Annual Reports and Registration Statements Filed on Form 20-F

We would also like to take this opportunity to comment on a matter under consideration that is included in the Release, which would require foreign private issuers listing a class of securities on a national securities exchange, registering a class of securities under Exchange Act 12(g), or filing an annual report on Form 20-F to provide financial statements according to Item 18 of Form 20-F as opposed to Item 17, which they are currently able to use. We urge the Commission to limit the applicability of this proposed requirement. For example, the Commission could consider limiting this requirement to issuers whose securities primarily trade in the United States. We believe that the requirement would create significant burdens for foreign private issuers not accessing U.S. investors given the extensive work required to provide the U.S. GAAP and Regulation S-X footnote disclosures where they are not otherwise required.

In addition, we believe that the additional disclosure may not contribute in a meaningful way to an investor's understanding of an issuer's overall financial picture. The Management's Discussion & Analysis section of the Form 20-F, which is an important source of information for investors, is written based on the home jurisdiction's GAAP. This section reflects the essence of how an issuer analyzes its financial results and the basis on which it makes strategic decisions. With this in mind, we believe it is much more valuable for investors to see financial information that reflects the issuer's own understanding of its financial condition and results of operations, as opposed to additional disclosures under U.S. GAAP that are not being used by the issuer in its day-to-day analysis and do not necessarily correspond with the issuer's own view of its business. Furthermore, we would also like to emphasize that many investors and research analysts follow the home jurisdiction's GAAP as the primary GAAP used to

evaluate an issuer's financial statements, and so the additional disclosures required under Item 18 would be of limited value to them.

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In conclusion, while we support the proposal to allow issuers to test their status as foreign private issuers once a year, we are not in favor of the proposal to accelerate the deadline for filing the Form 20-F given the daunting challenges it would entail for foreign private issuers attempting to complete the resource-intensive process of preparing the Form 20-F and its accompanying financials in less time than is presently required, and in some cases earlier than their home jurisdiction's requirements. If the Commission does decide that earlier disclosure is beneficial, we encourage the Commission to adopt a rule that takes into consideration an issuer's home jurisdiction's deadline such that the issuer is not required to file the Form 20-F prior to its home jurisdiction filing. Similarly, we do not support the proposal to require foreign private issuers deregistering pursuant to Rule 12h-6 to file a Schedule 13E-3. We also urge the Commission to consider adopting some relief to the requirements that issuers using Form 20-F disclose financial statements under Item 18, as opposed to Item 17, due to the hardship this extra disclosure would present for issuers and the limited value to investors.

We appreciate the opportunity to comment on the Release and would be happy to discuss any questions the Commission or its staff may have relating to our comments. Please feel free to contact Douglas Tanner at 212-530-5505 or Taisa Markus at 212-530-5165 for further information.

Sincerely,

Milbank, Tweed, Hadley & McCloy LLP