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May 12, 2008

Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. S7-05-08
Foreign Issuer Reporting Enhancements

Dear Ms. Morris:

We are submitting this letter in response to the Commission's request for comment on its Foreign Issuer Reporting Enhancements proposal (Release Nos. 33-8900; 34-57409; International Series Release No. 1308 (the "Proposing Release")). Specifically, we are commenting on the proposal to accelerate the deadline for filing annual reports on Form 20-F.

We strongly support the Commission's stated goals of (i) promoting the convergence of international accounting standards, (ii) eliminating unnecessary barriers to the U.S. capital markets, and (iii) providing U.S. investors with more timely information about foreign private issuers. The Commission's recent elimination of the U.S. GAAP reconciliation requirement for foreign private issuers that prepare financial statements using International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board ("IASB") was an important step in furtherance of all three of these goals. The rulemaking has underscored the Commission's commitment to IFRS, and it will provide meaningful cost savings for many foreign private issuers accessing the U.S. capital markets. Importantly, the rulemaking has also

opened the way for an acceleration of the current six-month deadline for filing annual reports on Form 20-F. We agree that the time has come to revisit this deadline and that investors will benefit from receiving Form 20-F reports on a more timely basis.

For the reasons discussed below, however, we urge the Commission to adopt a more measured approach than the 90- and 120-day deadlines suggested in the Proposing Release. We believe that any new deadlines should distinguish between those foreign private issuers that are permitted to prepare their home country annual reports using U.S. GAAP or IFRS as issued by the IASB, and those that are not. The latter group of issuers, which we refer to as "dual-GAAP reporting companies," are required by their home country regulations to prepare financial statements in a form that is not currently acceptable for use in Form 20-F. These issuers will not benefit from the Commission's recent reforms and will continue to bear the substantial burden of preparing two sets of annual financial statements. In light of this important distinction, we are recommending a four-month filing deadline for issuers that are permitted to prepare their home country financials in a form acceptable for use in Form 20-F (*i.e.*, U.S. GAAP or IFRS as issued by the IASB), and a five-month deadline for dual-GAAP reporting companies.

The Commission should adopt a four-month deadline for foreign private issuers that are permitted to prepare their home country annual reports using U.S. GAAP or IFRS as issued by the IASB.

We agree with the Commission that U.S. investors will benefit from an acceleration of the current six-month deadline for filing Form 20-F annual reports. Form 20-F serves the important purpose of providing U.S. investors with an English-language annual report based on a uniform set of disclosure standards. In most cases, this report contains significant information that is not included in an issuer's home country reports. Under the Commission's current rules, however, many foreign private issuers take the full six months to file their Form 20-F reports, and in some cases, the filing occurs months after they have released their home country financial data to the markets. As a result, U.S. investors frequently do not have timely access to SEC-mandated disclosures regarding foreign private issuers, and there is a risk that Form 20-F itself is losing its relevance to investors and the markets.

We also agree that the Commission's recent rule amendments permitting the use of IFRS as issued by the IASB without reconciliation to U.S. GAAP will make it significantly easier for many foreign private issuers to meet an accelerated Form 20-F filing deadline. There is no question that eliminating the reconciliation requirement will save substantial costs, in terms of both time and money, for IFRS issuers. Among other things, such issuers will no longer have to maintain two sets of financial statement documentation and will no longer have to hire internal and external auditors with specific U.S. GAAP accounting expertise.

Even without the reconciliation requirement, however, the process of preparing an English-language annual report on Form 20-F will continue be a significant burden for most foreign private issuers. Although the disclosure requirements of Form 20-F overlap with those of many foreign jurisdictions, the common requirements are interpreted differently by different foreign regulators and practitioners, and some of the disclosure requirements are unique to Form 20-F. Certain disclosures, such as the market risk disclosures in Item 11 and the internal control reporting requirements in Item 15, can be particularly burdensome to prepare for foreign private issuers. In addition, the Commission's industry-specific disclosure requirements (*e.g.*, Industry Guide 3 for banks and bank holding companies and Industry Guide 7 for mining companies) differ in significant ways from the corresponding requirements in foreign jurisdictions and thus add further layer of complexity and cost for companies in those industries.

Another challenge facing foreign private issuers, and one that should not be underestimated, is the exercise of translating the Form 20-F disclosure into the English language. The complexities of the disclosure require specialized translation expertise, and once the document is translated, it must be reviewed by senior management (for whom English is often a second language) and carefully compared to the home country disclosures for consistency. In our experience, translation generally does not commence until a home country annual report is substantially complete, and from then it can take several weeks to make the initial translation and verify with management and external advisors the accuracy of all of the English-language disclosures. Even the information that is specific to Form 20-F is often collected by company personnel in a foreign language and must subsequently be redrafted and translated into English.

The time frame for completion of Form 20-F reports can also be impacted by personnel constraints. The responsibility for preparing a company's Form 20-F often falls on the same individuals who are required to prepare the home country annual report, and it may not be feasible for them to perform both tasks simultaneously without hiring additional personnel.

Taking account of these various factors, we believe that the proposed 90-day deadline for accelerated filers is aggressive, and we would instead recommend a four-month deadline for those issuers who are permitted to prepare home country financial statements using U.S. GAAP or IFRS as issued by the IASB. This approach would shorten the time frame by a full two months and, in our view, would provide significant benefits to investors. At the same time, it would not unduly burden foreign private issuers by requiring an annual report filing in the United States prior to the time they are required to file their home country annual reports. We note that the European Union's Transparency Directive requires European-listed issuers to file annual reports within four months of the end of the fiscal year, and we do not think that it would be appropriate for the Commission to impose a stricter deadline.

The four-month deadline also has the advantage of a clean, easily understandable rule for all IFRS and U.S. GAAP issuers. As discussed in more detail below, we do not believe it would benefit investors or the markets to have a patchwork of different deadlines linked to different home country filing requirements, nor do we believe it is necessary to create separate deadlines for accelerated and non-accelerated filers.

The Commission should adopt a five-month deadline for dual-GAAP reporting companies.

We recommend that the Commission provide an additional month for dual-GAAP reporting companies, which are required by their home country regulations to prepare financial statements using accounting principles other than U.S. GAAP or IFRS as issued by the IASB. Until the convergence of accounting standards is complete, these foreign private issuers will continue to be caught between conflicting regulatory regimes. Whether such a company chooses to reconcile its financial statements to U.S. GAAP or to prepare full U.S. GAAP financial statements, the result is the same: the company is effectively required to prepare two sets of financial information each year. This involves, among other things, maintaining two sets of supporting documentation, employing internal audit teams familiar with two different sets of accounting principles and retaining external audit teams who can audit and opine on two different sets of accounting principles.

The burden is compounded for those issuers that are subject to industry-specific disclosure requirements. Not only are the basic disclosure requirements different from those in most foreign countries (as noted above), but the industry-specific financial data may need to be reconciled to U.S. GAAP. Thus, for example, a foreign bank subject to Industry Guide 3 may need to make significant adjustments to its statistical data in order to avoid confusion when reading that data together with the U.S. GAAP information contained in the financial statements. In our experience with Japanese financial institutions, these requirements add considerable time and complexity to the exercise of producing an annual report for U.S. regulatory purposes.

Finally, because of the additional financial statement requirements, the constraints of having the same personnel responsible for the Form 20-F and the home country annual report are often felt more acutely by dual-GAAP reporting companies.

For these reasons, we are recommending a five-month deadline for dual-GAAP reporting companies. This extended deadline would only apply to those issuers that are *required* to prepare home country financial statements using accounting principles other than U.S. GAAP or IFRS as issued by the IASB. As the convergence process continues, and more countries move to adopt IFRS, we would expect more and more foreign private issuers to fall out of this category and into the category of four-

month filers. This approach thus has the advantage of a built-in sunset provision, without penalizing issuers that are caught between two conflicting regulatory regimes.

We recognize that under our proposed formulation the extended five-month deadline would apply to issuers from countries that have adopted IFRS, but with some deviations from the standards issued by the IASB. Where these deviations are significant, we believe that issuers should benefit from the extended deadline for the reasons discussed above; and where these deviations are less significant (and the required adjustments relatively easy), we believe that market pressures are likely to cause issuers to file earlier than the five-month deadline. Under our proposed formulation, we envision that dual-GAAP reporting companies wishing to take advantage of the five-month deadline will identify themselves on the cover page of the Form 20-F; and we expect that, due to market pressures, only those issuers that can reasonably justify the significance of the differences between their local accounting standards and IFRS as issued by the IASB will so identify themselves. For these reasons, we do not believe that the Commission's rules should attempt to draw distinctions between different categories of "IFRS" standards that do not conform to IFRS as issued by the IASB.

We share the Commission's view that convergence should be a top priority for regulators in the United States and around the world, but we do not believe that acceleration of the Form 20-F deadline can or should be an instrument for bringing about convergence. Forcing dual-GAAP reporting companies to bear the costs of a 90-day SEC deadline is unlikely to persuade their home country regulators to speed up the convergence; on the contrary, it may have the unintended consequence of causing such companies to deregister and exit the U.S. markets. To date, the Commission's initiative to accelerate the Form 20-F deadline has appropriately followed, rather than led, the process of global convergence of accounting standards, and we strongly urge the Commission to continue on this course.

The Commission should not link the Form 20-F deadline to issuers' home country requirements for filing annual reports.

We believe it would be a mistake to link the Form 20-F deadline to the requirements for filing annual reports in an issuer's home country. While it might seem reasonable to apply a single time period (say, one month after the home country deadline) within which to file Form 20-F annual reports, we believe this approach would be harmful to investors and the markets. It would result in a patchwork of different filing deadlines for foreign private issuers, each of which would be subject to change (and even possible extension) as a result of a regulatory decision in a foreign country. In our experience, the markets have been well-served by the uniformity of the current six-month deadline, and we urge the Commission adopt similar, clearly-understandable rules in its effort to accelerate the deadlines.

Foreign private issuers face a variety of different challenges in meeting their Exchange Act reporting requirements, and these challenges vary depending on the issuer, the industry and the home country. We do not believe, however, that the Commission should attempt to tailor its rules to each type of issuer in each different jurisdiction. Thus, for example, we do not think it would be fruitful to attempt to quantify in terms of days, weeks or months the time required to complete each component of the Form 20-F process (*e.g.*, 30 days for industry-specific disclosure, 15 days for non-Romance languages, etc.) or to formulate different deadlines on this basis. For similar reasons, we do not think that it is necessary to draw lines on the basis of an issuer's status as an accelerated or non-accelerated filer, as we believe that, in the case of foreign private issuers, a company's size is a relatively less significant factor affecting its ability to prepare its annual Exchange Act report on an accelerated basis.

We believe that the four- and five-month deadlines proposed above represent a reasoned and balance approach that will be easily understandable to investors and the markets. The distinction between dual-GAAP reporting companies and other foreign private issuers is a fundamental one, which translates directly into differential costs to issuers. It is therefore both fair and appropriate for the Commission to adopt different deadlines on the basis of these criteria. Moreover, as noted above, we would expect the five-month deadline to sunset and accelerate automatically for more and more foreign private issuers as the process of international convergence of accounting standards continues, with the result that the rules will gradually move toward a single four-month deadline for all foreign private issuers.

* * * *

We commend the Commission and the staff for this important initiative, and we are grateful for the opportunity to comment the proposal. Please do not hesitate to contact Tong Yu at (011) (81-3) 3597-6306 or David S. Huntington at (212) 373-3124 should you wish to discuss any of the issues raised in this letter.

Yours sincerely,

Paul, Weiss, Rifkind, Wharton & Garrison LLP

Paul, Weiss, Rifkind, Wharton & Garrison LLP

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Paul S. Atkins, Commissioner
Kathleen L. Casey, Commissioner
John W. White, Director, Division of Corporation Finance
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