

8 October 2007

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

Dear Ms. Morris,

File No. S7-18-07: Revisions of Limited Offering Exemptions in Regulation D; Securities and Exchange Commission Release No. 33-8828; RIN 3235-AJ88

We are submitting this letter in response to the request of the U.S. Securities and Exchange Commission (the "**Commission**") for comments in respect of the Commission's proposal (the "**Proposal**") to revise Regulation D under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"). The Forum for U.S. Securities Lawyers in London (the "**Forum**") is a trade association representing a large number of U.S.-qualified lawyers practicing at a number of law firms and financial institutions in the London capital markets, as well as market participants including securities exchanges, settlement systems and registrars. Founded in 2006, the Forum is an independent, self-funded organization dedicated to addressing issues of, application of and compliance with US securities laws in the London and international capital markets. We are submitting this letter on behalf of certain members of the Forum who are signatories of this letter.

We strongly support efforts to rationalize and streamline the law applicable to offerings that are not registered under the Securities Act. We believe that the laws relating to private offerings in the United States need to be revisited in light of market and technological developments over the last 25 years. As the Commission recognizes through the multiple questions contained in the Proposal, there are many areas of possible comment on the Proposal. We are limiting our comments to those points raised in the Proposal that we perceive as being of the most direct relevance to private offerings in the United States when combined with offshore capital raisings.

We wish to comment with respect to two issues that have been raised by the Proposal: (a) we request that the Commission makes no modifications to Rule 144A under the Securities Act ("**Rule 144A**") in respect of procedural restrictions relating to the transferability of restricted securities sold under Rule 144A and (b) we request that the Commission clarify that any general announcement would not constitute "directed selling efforts" as defined in Regulation S under the Securities Act ("**Regulation S**") where an offering is conducted using Rule 144A or Rule 507 together with Regulation S.

(a) Procedural restrictions relating to the transferability of restricted securities

In the Proposal, the Commission states that Rule 144A contains few procedural restrictions relating to the transferability of restricted securities sold under Rule 144A and asks whether Rule 144A needs to be modified "in light of the possibility that, if [it] were to expand the definition of qualified institutional buyer under Rule 144A, these restrictions would lead to a greater likelihood of restricted securities flowing into the public market".

A number of "qualified institutional buyers" (as defined in Rule 144A, "QIBs") play an active role in the international capital markets and a significant portion of large offerings of securities by "foreign private issuers" are conducted using Rule 144A together with Regulation S. International equity offerings in particular often combine a public offering, conducted under Regulation S, and stock exchange listing in the issuer's home jurisdiction or major international financial centre, such as London or Hong Kong, with an offering in the United States to QIBs conducted under Rule 144A. Liquidity is provided by virtue of the listing outside the United States, and the vast majority of resales of the Rule 144A securities, if still restricted, will take place using Rule 904 of Regulation S. As the different national electronic book entry settlement and clearing systems through which these equity securities are customarily held generally are not designed to accommodate requirements for legends and certifications, there are typically few procedural restrictions relating to the transferability of the Rule 144A securities beyond deemed representations and warranties of the QIB purchasers that they will comply with the transfer restrictions imposed by the Securities Act.

We are not aware of any pattern of abusive behavior by QIBs with respect to resales of Rule 144A securities in the United States in violation of the relevant transfer restrictions. In the absence of evidence of such behavior, we believe that U.S. investors are and will continue to be adequately protected with respect to resales of Rule 144A securities without the imposition of procedural restrictions on the transfer of Rule 144A securities. We do not believe that expanding the definition of QIB to include those types of legal entities proposed to be included in the revised accredited investor definition would lead to any greater likelihood of restricted securities being resold in the United States in violation of the relevant transfer restrictions, as the entities comprising the new categories of QIBs would also be sophisticated institutional investors familiar with the requirements of the U.S. securities laws. These new categories of QIBs should resell their restricted securities in the same manner as those investors in the existing QIB categories currently do.

We are concerned that modifying Rule 144A to impose additional procedural restrictions with respect to the securities sold thereunder would hinder offers and sales of equity securities of foreign private issuers to QIBs under Rule 144A. This is due to the complications that additional procedural restrictions could entail to established clearing and settlement practices. Any additional procedural restrictions could make it more difficult for QIBs to buy, hold and trade such securities. Accordingly, we request that the Commission refrain from modifying Rule 144A to impose additional procedural restrictions with respect to the securities sold thereunder. In the event that the Commission should determine otherwise, we kindly request that the Commission provide market participants with the opportunity to comment on the practicality and utility of any specific restrictions that the Commission may consider adopting.

(b) General announcement constituting "directed selling efforts"

In the Proposal, the Commission proposes to add a new Preliminary Note 8 to Rule 144A to clarify that publication of a general announcement of an offering in accordance with newly proposed Rule 507 would not preclude resales pursuant to Rule 144A. As mentioned above, international securities offerings are often conducted using Rule 144A together with Regulation S. In the initial adopting release for Regulation S (Securities Act Release No. 33-6863, 2 May 1990), the Commission tacitly recognized that this would become a legal structure used for international securities offerings by stating that "legitimate selling activities carried out in the United States in connection with an offering of securities . . . exempt from registration . . . will not constitute directed selling efforts with respect to offers and sales made under Regulation S". Similarly, offerings of securities currently can be, and are, conducted under Regulation D concurrently with an offering under Regulation S, and the activities permitted in connection with an offering conducted under Regulation D would not constitute directed selling efforts and thus jeopardize the safe harbor provided by Regulation S. As the Commission also stated in the adopting release for Regulation S, ". . . legitimate U.S. selling activities made in connection with the sale of securities in compliance with Rule 144A [cite omitted], or in a private placement exempt under section 4(2) [cite omitted] or Rule 506 [cite omitted] generally will not result in directed selling efforts".

Forum for **US Securities Lawyers** in London

We request that the Commission clarify that that publication of a general announcement of an offering in accordance with newly proposed Rule 507 in connection with an offering conducted under Rule 507 and/or Rule 144A would not constitute directed selling efforts for purposes of a concurrent offering conducted in accordance with Regulation S.

We would be pleased to respond to any enquiries regarding this letter or our views on the Proposal generally. Please contact Daniel Bushner, Eric Stuart or Marie Elena Angulo at Ashurst (Tel: +44 (0) 20 7638 1111); Alan J. Berkeley at Kirkpatrick & Lockhart Preston Gates Ellis LLP (Tel: +1 202 778 9050); Jeffrey Cohen or Larry Vranka at Linklaters LLP (Tel: +1 (212) 903 9000); Katherine Mulhern at Lovells LLP (Tel: +44 (0) 20 7296 2000); Kristian Wiggert at Morrison & Foerster LLP (Tel: +44 (0) 20 7920 4000); Michael Dunn at Norton Rose LLP (Tel: +44 (0) 20 7283 6000); or Daniel Winterfeldt at Simmons & Simmons (Tel: +44 (0) 207 628 2020) if you have any enquiries in relation to this letter.

Respectfully submitted,

Ashurst

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