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BDI

September 21, 2007

Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-9303

Re: Comments on Proposed Acceptance from Foreign Private Issuers of Financial Statements Prepared in accordance with International Financial Reporting Standards without Reconciliation to U.S. GAAP
File No. S7-13-07

Dear Ms. Morris:

We are submitting this letter in response to the request of the Securities and Exchange Commission (the "Commission") for comments on the Commission's proposal to accept from foreign private issuers financial statements prepared in accordance with International Financial Reporting Standards ("IFRS"), without reconciliation to generally accepted accounting principles as used in the United States ("U.S. GAAP"). The proposal is discussed in Release No. 33-8818; 34-55998; International Series Release No. 1302; File No. S7-13-07 (the "Release").

We strongly support the Commission's proposal to accept IFRS financial statements from foreign private issuers without reconciliation to U.S. GAAP. We believe that the proposal has the potential to:

- Improve investor information by leading to harmonized international accounting standards;

- Increase the efficiency of the global marketplace; and

- Significantly reduce costs for foreign private issuers, making the U.S. market more attractive.

We believe that this is a crucial moment for the process of convergence of international accounting standards, and one that may not occur again in the near future. European companies have been using IFRS for three years, and have made the transition from home country accounting principles without material incident. The IASB and the FASB, with strong support from the Commission, the European Commission, CESR and IOSCO, have made substantial progress towards achieving convergence, and have expressed a strong desire to continue this process. There are many companies that publish IFRS financial statements both in the United States and abroad – in 2006, the Commission had the opportunity to review the annual reports of more than 100 foreign issuers prepared originally on the basis of IFRS and reconciled to U.S. GAAP, and engaged those companies in a thorough and professional comment process.[1] All of these factors make this an appropriate time to eliminate the U.S. GAAP reconciliation requirement.

Convergence of accounting standards is an extremely important issue for European companies. It makes cross-border transactions easier to implement, facilitates access to global capital markets (including the United States market), improves the comparability of financial statements for investors and substantially reduces costs. Convergence is an international process, based on the adoption of high quality accounting principles by an independent standard setter, with the strong support of regulators that ensure that those accounting principles are properly and consistently applied.

Adopting a practical rule that eliminates the U.S. GAAP reconciliation requirement is an essential step in the ongoing convergence process. European companies are eagerly awaiting a rule that will be effective in 2009 (for 2008 calendar year annual reports). If the Commission were to adopt a practical rule on this timetable, it would substantially improve the perception by European companies of the U.S. market, and it could encourage them to offer their shares or list in the United States, and to maintain their existing listings.

It is in the interest of United States investors for the Commission to encourage as many non-U.S. companies as possible to publish IFRS financial statements in the United States. Having a critical mass of IFRS reporting companies in the United States will enhance the familiarity of investors (and the Commission) with IFRS. The more companies that publish IFRS financial statements in the United States, the more likely that IFRS will become a truly global standard.

From a practical perspective, companies publishing IFRS financial statements will widely use the new rule if it allows them to publish a single set of consolidated financial statements that can be used worldwide. This will allow them to reduce costs, and to provide a more uniform (and thus more clear) picture of their results and financial condition to investors. It will also benefit

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1 See "Staff Observations in the Review of IFRS Financial Statements" (July 2, 2007), available at http://www.sec.gov.divisions/corpfin/ifrs_staffobservations.htm.

investors, who will be able to review a single set of financial statements in assessing a company's results of operations and financial condition.

If the new rule is subject to conditions that preclude companies from publishing a single set of consolidated financial statements worldwide, then many companies will choose not to use it. The United States market would be perceived as less attractive and companies would not achieve their cost reduction objectives.

European companies represent the vast majority of the foreign private issuers that are U.S. reporting companies and that are required to publish IFRS financial statements in accordance with their home country rules. As a result, to succeed overall, the SEC's proposal must succeed with European companies.

For European companies, the crucial issue is to ensure proper coordination of the new rule with IFRS as adopted in the European Union. While European companies would prefer that there be only one "IFRS" (and not an IASB version plus jurisdictional variants), they are faced with the reality that they are legally bound to publish financial statements in accordance with IFRS as adopted by the European Union.

The Commission's proposal would only eliminate U.S. GAAP reconciliation for companies that publish financial statements in accordance with IFRS as published by the IASB. In order for a European company to publish a single set of financial statements worldwide, those financial statements would have to comply with IFRS both as published by the European Union (to meet home country legal requirements) and as published by the IASB (to meet the requirements of the new rule).

Today, this is substantively achievable for most (and perhaps all) European companies. There is no guarantee, however, that it will always be true. If a conflict were to arise in the future, the Commission's current proposal would effectively require European companies to publish two sets of "IFRS" financial statements to remain in the United States market. This could result in confusion for investors.

We strongly recommend that the Commission eliminate the U.S. GAAP reconciliation requirement for companies that publish financial statements in accordance with IFRS as adopted by the European Union. This would be the best way of making the U.S. market attractive to European issuers. It is also perfectly consistent with the protection of U.S. investors for the SEC to recognize a high quality jurisdictional variant of IFRS, based on IASB standards and supported by strong auditing and regulatory infrastructure. This is particularly true given that today there is no material difference between IFRS as adopted by the European Union and IFRS as published by the IASB.

If future differences arise, they are likely to result mainly from timing differences to reflect the period between adoption of a standard by the IASB and its approval by the European Commission. This issue could be dealt with through appropriate disclosure on new accounting pronouncements. If serious differences were to appear likely in the future, the SEC could take appropriate action at the relevant time, including engaging in a dialogue with the European Commission, recommending "MD&A" disclosure or, if absolutely necessary, requiring a reconciliation to IFRS as published by the IASB.[2] Because these issues will arise only in the future (if ever), there is no need to take any such action at the present time.

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[2] If the Commission decides not to adopt our proposal, then at a minimum it should provide for a reconciliation between IFRS as adopted by the European Union, and IFRS as published by the IASB, as it did in General Instruction G to Form 20-F.

The Commission seems to take the view in the Release that limiting the new rule to IFRS as published by the IASB is necessary to achieve convergence and consistent global application. We respectfully disagree, for several reasons. First, IFRS as adopted by the European Union is the required accounting standard in 27 countries. It is widely enough used to constitute a force in favor of convergence in and of itself. Second, the IASB, FASB and international regulators have strong incentives to achieve convergence, regardless of the variant (or variants) of IFRS that is included in the Commission's new rule. Third, if European companies do not find the new rule advantageous, and choose to leave the U.S. market, then this could seriously hinder the convergence process. Fourth, if the SEC were to recognize the quality of IFRS as adopted by the European Union, this would be a positive factor that would lead to a more harmonious convergence process through cooperative dialogue and mutual accommodation. We believe this is a worthy objective.

If the Commission were to decide to accept IFRS as adopted by the European Union without U.S. GAAP reconciliation, then it would certainly be appropriate for the Commission, after a period of time, to review the impact of this decision on the convergence process. We are confident that the Commission will find the impact to be positive.

In addition to our principal comment relating to IFRS as adopted by the European Union, we have a number of additional points that we believe the Commission should consider in adopting its final rule:

- Auditors' Reports. The required confirmation in auditors' reports should follow the final substantive rule adopted by the Commission. As a result, if the Commission accepts IFRS as adopted by the European Union, then it should accept audit reports that confirm that financial statements comply with IFRS as adopted by the European Union.[3]

- English Language Version. We believe it is inappropriate for the Commission to require companies to use only the English language version of IFRS. It is perfectly understandable that the staff's understanding of IFRS is based on the English language version, and that its future comments will be based on this version. Companies from non-English speaking countries, however, should not be required to use the English language version, which would increase the risk of error, and which would make it impracticable to publish the same financial statements in the United States and in the home country (a German company, for example, could not as a practical matter certify in its German annual report that it used the English language version of IFRS). Translation discrepancies should be dealt with through the comment process and, if necessary, through international dialogue.

- 20-F Deadline. We believe that the Commission should not shorten the deadline for filing the Form 20-F. U.S. GAAP reconciliation is not the only factor that is specific to the U.S. filings of foreign private issuers – items such as Section 404 internal control certification, disclosure committee review, U.S. tax disclosure and review by the national office of auditing firms often require a significant amount of time. Companies from non-English speaking jurisdictions need time to prepare translations. In any event, even if the Commission were to shorten the deadline, we recommend that it allow a transition period of a few years, and that the deadline be no earlier than a month after the deadline for home country reports and for publication of financial reports under the European Transparency Directive (the latter is four months).

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[3] Similarly, if the Commission provides for a reconciliation between IFRS as adopted by the European Union, and IFRS as published by the IASB, then the required auditor confirmation should be adapted accordingly.

- Continuing Evolution of IFRS. The Commission has noted in the Release that IFRS does not completely deal with all issues (income statement presentation, insurance, extractive industries, etc.). Like the Commission, we believe that the fact that IFRS is perhaps not "perfect" should not delay the process of eliminating the U.S. GAAP reconciliation. IFRS will undoubtedly continue to evolve to deal with issues that are currently known, as well as future issues. As a whole, IFRS is a body of generally accepted accounting principles that is more than sufficient to provide quality information to investors.

As a final point, we would like to comment briefly on our view regarding the role of the Commission (and other regulators) in the continuing process of accounting convergence. We believe that it is essential that international accounting standards and their official interpretations be issued only by the IASB and IFRIC, based on due process and transparency, under the supervision of the IASB Foundation Trustees.

Regulators such as the Commission have an extremely important role to play, both through their participation in the dialogue and consultation that precedes the adoption of standards by the IASB, and through their essential role in ensuring compliance by companies with these standards. If IFRS is to be a truly global standard, however, it will be important for regulators to consult on a bilateral or multi-lateral basis to ensure consistent interpretation and application of IFRS.

In addition, we hope that the Commission staff will, in commenting on IFRS financial statements, keep in mind the fact that the same financial statements are being reviewed by other regulators, and that they may have undergone board or shareholder approval processes that do not exist, or that are different from those that exist, in the United States. In many countries, restatements are uncommon and not well understood, and they could have a disproportionate impact on market perception (and shareholders) compared to the United States. The Commission staff should continue to favor requests for changes in future filings over restatements, except in the most extreme cases.

The adoption of supplemental disclosure or additional financial statement note requirements by the Commission or other regulators could effectively result in the development of local versions of IFRS. The additional disclosures or notes could potentially result in inconsistencies compared with IFRS as published by the IASB. We believe it would be unfortunate if this were to occur, and we hope the Commission (together with other regulators) will act through the IASB consultation process if it believes that additional disclosures or notes are appropriate.

We recognize that our views on the role of the IASB, the Commission and other regulators do not have a direct impact on the adoption of the new rule. They are extremely important, however, for the continued development of a global accounting standard that is the foundation for the new rule. We hope that the Commission will consider making a strong statement on its future role in the release that accompanies the final rule.

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As our conclusion, we would like to emphasize our support for the Commission's initiative, and to encourage the Commission to adopt a final rule on its target timetable, so that companies can take advantage of the new rule in 2009, when they prepare their 2008 financial statements. We also encourage the Commission to extend the new rule to IFRS as adopted in the European Union, to eliminate the practical difficulties of the current proposal. These steps would send a positive signal to the market and would represent an important milestone in the global accounting convergence process.

As we have done in the past, we have requested that Cleary Gottlieb Steen & Hamilton LLP provide a detailed analysis in support of our position. In addition, the accompanying letter from Cleary Gottlieb contains suggestions on a number of technical corrections that we believe should be taken into account in the final rule.

We congratulate the Commission for its openness in consulting with the stakeholders before taking any action. We appreciate the opportunity to participate in this process and to co-operate actively with the Commission and other concerned bodies and look forward to its successful conclusion.

Very truly yours,

(1) Members of EALIC

(2) Members of UNIQUE

Jacques SCHRAVEN
Chairman
EALIC [1]

Alexandre TESSIER
Directeur Général
AFEP [1]
ASSOCIATION FRANÇAISE DES ENTREPRISES PRIVÉES

Prof. Rüdiger von ROSEN
Managing Director
DEUTSCHES AKTIENINSTITUT [2]

John PIERCE
Chairman
UNIQUE [2]

Robert BACONNIER
Président
ANSA [1]

Stefano MICOSSI
Director General
ASSONIME [1]

John PIERCE
Chief Executive
THE QUOTED COMPANIES ALLIANCE [2]

Dr. Hellmut LONGIN
Präsident
AKTIENFORUM [2]

Rob PIETERSE
Chairman
VEUO [1]

Baron VANDAMME
Président
ABSC-BVBV [1]

Panayotis G. DRACOS
President and CEO
ULC [2]

Caroline WEBER
Directrice Générale
MiddleNext [2]

Beata Stelmach

Beata STELMACH
President
Polish Association of Stock Exchange Issuers (SEG) [1]

Vassil VELEV
Chairman
of the Governing Board
BICA [2]

Pieris THEODOROU
Chairman
SYDEK [2]

Sirkka-Liisa ROINE
Managing Director
PÖRSSISÄÄTIÖN [2]

Klaus BRÄUNIG
Spokesman for the Executive Board
BDI

ABSC – BVBV
Association Belge des Sociétés Cotées
Rue des Sols 8
1000 BRUSSELS
BELGIUM

AFEP
Association Française des Entreprises Privées
11, avenue Delcassé
75008 PARIS
FRANCE

AKTIENFORUM
Lothringerstraße 12
1030 VIENNA
AUSTRIA

ANSA
Association Nationale des Sociétés par Actions
39, rue de Prony
75017 PARIS
FRANCE

ASSONIME
Associazione fra le societa' italiane per azioni
Piazza Venezia 11
00187 ROME
ITALY

BDI
Bundesverband der Deutschen Industrie e.V.
Breite Straße 29
P.O. BOX 11053
10178 BERLIN
GERMANY

BICA
Bulgarian Industrial Capital Association
20, Fr. Joliot-Curie Str.
1113 SOFIA
BULGARIA

DAI
Deutsches Aktieninstitut
Niedenau 13 - 19
60325 FRANKFURT
GERMANY

EALIC
European Association of Listed Companies IVZW-AISBL
Rue Belliard 4-6
1040 BRUSSELS
BELGIUM

Middlenext
Palais de la Bourse
75002 PARIS
FRANCE

PÖRSSISÄÄTIÖN
Finish Foundation for Share Promotion
PO Box 20
00131 HELSINKI
FINLAND

QCA
Quoted Companies Alliance
6 Kinghorn Street
West Smithfield
LONDON EC1A 7HW
GREAT BRITAIN

SEG
Polish Association of Stock Exchange Issuers
Stowarzyszenie Emitentów Gieldowych
Ul. Nowy Świat 35 lok.9
00-029 WARSAW
POLAND

SYDEK
Cyprus Public (Listed) Companies Association
c/o Hellenic Bank
P.O. Box 24747
1394 NICOSIA
CYPRUS

ULC
Union of Listed Companies
4, Zaloskota str
106 71 ATHENS
GREECE

UNIQUE
Union of Issuers Quoted in Europe
31, rue du Commerce
1000 BRUSSELS
BELGIUM

VEUO
Zuid-Hollandlaan 7
2596 AL THE HAGUE
NETHERLANDS

cc: The Honorable Christopher Cox, *Chairman*
The Honorable Paul S. Atkins, *Commissioner*
The Honorable Roel C. Campos, *Commissioner*
The Honorable Annette L. Nazareth, *Commissioner*
The Honorable Kathleen L. Casey, *Commissioner*

Conrad Hewitt, *Chief Accountant*
Julie A. Erhardt, *Deputy Chief Accountant*
John W. White, *Director, Division of Corporation Finance*

Paul M. Dudek, *Chief of the Office of International Corporate Finance*
Ethiopis Tafara, *Director*, *Office of International Affairs*

Commissionner Charlie McCreevy, *European Commission*
Pierre Delsaux, *Director, Free movement of Capital, Company Law and Corporate Governance, DG Internal Market*
David Wright, *Director, Financial Markets, DG Internal Market*
Eddy Wymeersch, *Chairman, Committee of European Securities Regulators*

Andrew A. Bernstein, *Cleary Gottlieb Steen & Hamilton LLP*