

24 September 2007

Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-9303

Attn.: Ms Nancy Morris  
Secretary

Dear Ms Morris

Acceptance from foreign private issuers of financial statements prepared in accordance with international financial reporting standards without reconciliation to US GAAP  
(File Number S7-13-07)

The International Capital Market Association (**ICMA**) is pleased to comment on the proposed rules on acceptance from foreign private issuers of financial statements prepared in accordance with international financial reporting standards without reconciliation to US GAAP (the **Proposed Rules**).

ICMA is the self-regulatory organisation and trade association representing investment banks and securities firms issuing and trading in the international capital markets worldwide. ICMA's members are located in some 50 countries across the globe, including all the world's main financial centres, and currently number over 400 firms.

Our comments are based on extensive consultations with our member firms and their advisors. We attach them as **Annex** to this letter and would be pleased to discuss them with you at your convenience.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Ondrej Petr".

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## ANNEX

### Background

Mutual recognition between the EU and the US of each other's accounting standards is an issue which is of key importance to issuers, investors and investment firms in both jurisdictions. Uncertainty about how and when it will be achieved has caused considerable disruptions in both markets. We welcome and fully support the efforts of the SEC on one hand and the European Commission and CESR on the other to resolve the matter.

We have been extensively involved in the work on the acceptance in the EU of the US GAAP and are encouraged by the progress made by both sides. At the same time, we strongly support the acceptance in the US of IFRS and commend the SEC for releasing the Proposed Rules for consultation.

We have been in contact with the European Commission which has conducted extensive discussions with authorities and market participants across the EU on the Proposed Rules. We understand they will be providing you with an official response on behalf of the EU. We are familiar with the key points of their response and fully endorse them.

We do not respond to each of the specific questions in the Proposed Rules but focus, in general terms, only on the issues of the scope of acceptance of the IFRS in the Proposed Rules and the application of US audit requirements to EU companies.

### Scope of acceptance of IFRS

The Proposed Rules envisage removal of the reconciliation requirements only for foreign issuers who prepare their financial statements using "IFRS as published by IASB". EU companies, however, are legally required to use "IFRS as adopted by the EU". They would therefore remain outside of the Proposed Rules and would have to continue to reconcile their financial statements to the US GAAP.

We would encourage the SEC to waive the reconciliation requirement for companies using IFRS as adopted by the EU. This is namely in view of the following:

- The EU is the largest user of IFRS in the world.
- The adoption by the EU of IFRS standards published by IASB is a legal safeguard which the EU and its Member States (or, indeed, any other jurisdiction in a similar position) are unlikely to surrender.
- EU companies (and their auditors) have no choice but to follow IFRS as adopted by the EU.
- The differences between IFRS as published by the IASB and IFRS as adopted by the EU are insignificant and temporary.
- Great efforts are being made in the EU to ensure common application of the IFRS as adopted by the EU across the Member States.
- In the foreseeable future, the EU is likely to accept US GAAP as equivalent to IFRS as adopted by the EU and allow non-EU issuers to use them without the reconciliation requirement in public offer and admission to trading prospectuses as well as for the purposes of periodic reporting by companies admitted to trading on EU regulated markets. Absence of reciprocal treatment of IFRS as adopted by the EU in the US might delay or even derail this process which is of key importance to a number of US issuers and other market participants.

We are aware of the European Commission's proposal that such a waiver of the reconciliation requirement takes the form of recognition, for a specific period, that IFRS as adopted by the EU are in principle identical to IFRS as published by IASB, followed by a further review at the end of that period. We believe that this proposal constitutes a reasonable way forward and would encourage the SEC to consider it.

### **Application of US audit requirements**

Even if a company using IFRS was not required to reconcile its accounts with US GAAP, it would still be required to have its audit conducted in accordance with the PCAOB standards and any SEC guidance.

As you will know, similar approach will apply in the EU *vis-à-vis* non-EU issuers admitted to regulated markets under the new Statutory Audit Directive, unless (broadly speaking) the audit framework regime of a particular non-EU country is equivalent and unless the non-EU country treats EU companies in a reciprocal manner.

We understand there are currently discussions ongoing between the European Commission and the key non-EU countries (including the US) on this issue and we would encourage the SEC to take these discussions into account when finalising the Proposed Rules. We believe that the US and the new EU audit framework regimes will be in principle identical and it will therefore be justifiable for one to rely on the regulation and supervision of the other.