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**AMERICAN STOCK EXCHANGE
CONFERENCE ON
FINANCING IN THE INTERNATIONAL MARKETS**

**BOLSA MEXICANA DE VALORES
MEXICO CITY, MEXICO**

NOVEMBER 19, 1991

***The views expressed herein are those of Commissioner Schapiro and do not necessarily represent those of the Commission, other Commissioners or the staff.**

**U.S. Securities and Exchange Commission
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Thank you and good afternoon. It is a great pleasure for me to be in Mexico City once again. I would like to thank Jim Jones and the American Stock Exchange for inviting me to participate today. I am honored to be a part of this important conference hosted by the Bolsa.

Over the past two years I have had the very special opportunity to work closely with the Mexican securities industry and the Comision Nacional de Valores, and to establish close personal friendships, as well as to help build strong ties between the United States Securities and Exchange Commission and Mexico.

Nearly two years ago, I came to Mexico for the first time in many years, to speak here at the Bolsa at an international seminar. At that time, President Salinas had recently introduced the National Development Plan and had begun major reforms that have nurtured the economic recovery of Mexico and reattracted flight capital.

Particularly important to the plan for economic development were the renegotiation of Mexico's external debt with the United States under the Brady plan, the maintenance of a sound monetary policy, promotion of direct foreign investment in many sectors, the commencement of an extensive privatization program and finally, the proposed North American Free Trade Agreement with the US and Canada. Your successes have been remarkable and they leave us, your neighbors and friends, in awe of your creativity, perseverance and courage.

The significance and impact of these reforms are reflected in the stock market's statistics. They are also reflected - more subtly - in the evolving role of Mexican companies in the world economy and Mexico's increasing integration into the world of international regulatory cooperation and coordination. For instance, one can look to the leadership of Mexico in the International Organization of Securities Commissions ("IOSCO") to understand how increasingly important a role Mexico plays. Through his chairmanship of the Development Committee of IOSCO, Luis Miguel Moreno has made Mexico a central player in this important international organization.

The capitalization of the Mexican market has grown, in US dollars from under \$4 billion in 1985 to nearly \$33 billion in 1990 - an increase of 725%. Privatization of state owned companies has produced billions of dollars of revenue and boosted market capitalization. According to Banco de Mexico estimates, accumulated direct foreign investment in Mexico at the end of 1990 amounted to more than \$30 billion. But, the statistics are equally impressive whether one is measuring growth in market cap, in foreign investment or even in the number of mutual funds created or assets under management, or virtually any other financial market indicator.

Mexico's is one of the fastest growing emerging markets in the world. It has become a leader in Latin America - a model for many other nations seeking to institutionalize the principle of free markets and acquire for their people the benefits and prosperity that open economies can bring. Certainly, it is this remarkable transformation in the Mexican economy and political orientation that has brought our countries together to negotiate a free trade agreement for the benefit of both nations, and to discuss the long agenda of issues that logically exist between neighboring countries.

In particular, the SEC and the Comision Nacional de Valores have established over the past year, through two formal bilateral meetings and many, many informal working sessions, an ambitious agenda for cooperation. The need for cooperation on issues related to the capital markets is particularly acute when one considers that in 1990, Americans were net purchasers of \$918 million dollars worth of Mexican securities. Mexican stocks represented 10.5% of the aggregate of Americans' net purchases of all foreign equities. In simple terms, on a net basis, Mexican stocks were the most popular foreign stocks for US buyers last year.

Against this backdrop of cross-border activity, I'd like to give you some examples that demonstrate concrete progress in regulatory cooperation which should benefit the markets in a number of ways.

Throughout the year, the SEC's Division of Market Regulation worked with the CNV and Mexican and US brokerage firms on the issue of granting "ready market" status for Mexican securities. This designation was important for brokerage firms operating in the United States because ready market securities incur a lower capital charge under the SEC's net capital rules. The SEC deemed eleven Mexican securities, among the most actively traded and highly capitalized, to

have ready market status in early August. [Telmex, Alfa, Bancomer, Banca Serfin, Banamex, Cemex, Vitro, Kimberly Clark, Femsa, Grupo Industrial Minera Mexico and Cifra] We are continuing to study extension of "ready market" status to Mexican government bonds.

Earlier in the year, the SEC also announced that the Mexican Stock Exchange had been designated an offshore market for the purposes of the safeharbor from Securities Act registration of Regulation S.

In the area of technical assistance, the SEC is working with the CNV on the development and regulation of new financial instruments, including derivatives such as options and futures. Through the SEC's Emerging Markets Advisory Committee, we are discussing alternative project financing techniques. Our agenda also includes work on the development and introduction of a self-regulatory framework, the principles for regulation of automated trading systems, as well as the development of automated market surveillance systems.

An important step in the developing relationship between the SEC and the CNV was the signing last year of the Memorandum of Understanding. As a result of this agreement the SEC has received

prompt and valuable assistance from the CNV in several cases. This document was a first step toward what we hope will be a more comprehensive enforcement cooperation agreement.

Perhaps most importantly, the staffs of the two agencies are working on a case by case basis to facilitate the offering of Mexican securities in the US. Early evidence of the success of this effort can be seen in the Telmex offering, where the Commission staff coordinated with Telmex to expedite the review process through a variety of means.

For Telmex, as for any company in any nation, the decision of how to raise capital is undoubtedly a complex and critical one. While in the past these decisions were often limited to the type of security, the price of the offering and its timing in the market, recent developments have allowed a fourth question to be added to what, when, and how much: the question of "where?" In the United States, and at the SEC, we have seen a remarkable increase in the cross-border flow of capital. These developments obviously are positive, providing new investment opportunities for U.S. investors as well as increased access to capital for U.S. corporations. The converse is also positive, as foreign investors increase their opportunity to invest

in U.S. corporations, and foreign corporations are permitted to access the deep and liquid U.S. capital markets.

Because we are convinced generally that the cross-border flow of capital is such a positive development, the SEC has undertaken in the past few years, significant initiatives designed to facilitate cross-border offerings of securities. The centerpiece of these initiatives was the promulgation of Rule 144A. This development has added yet another option to the "what", "when", "how", and "where" choices: the choice of public offering or private placement.

The adoption of Rule 144A under the Securities Act has had a significant impact upon the accessibility of the U.S. market to foreign issuers. The Rule, which represents an attempt to free the flow of capital between nations, provides a safe harbor exemption from the federal registration requirements for the resale of restricted securities to "qualified institutional buyers."

In promulgating the rule, the Commission hoped to attract more foreign issuers to the private placement market, and also hoped to improve the liquidity of that market. It is the Commission's hope that foreign issuers that previously may have foregone raising capital in

the United States due either to compliance costs or liability concerns, because of the discount and financing costs inherent in selling restricted, illiquid securities, might now find the U.S. private placement market more attractive as a result of this rule.

Rule 144A facilitates the growth of the foreign private placement market by permitting the resales of certain securities in the United States without requiring the registration of the securities with the SEC. The securities sold through the Rule can be any class of security, but may not be of the same class as securities already listed on a registered U.S. securities exchange or quoted on the National Association of Securities Dealers Automated Quotation system.

Securities of issuers eligible for resale under Rule 144A generally are sold initially in private placements subject to an exemption to the registration requirements. Securities sold in the U.S. utilizing the Rule 144A safe harbor must be sold only to "qualified institutional buyers," or "QIBs," a term of art specifically defined in the rule. As a general matter, an institution must in the aggregate own and invest, on a discretionary basis, at least 100 million dollars in securities of issuers that are not affiliated with the institution.

Some entities have requirements in addition to the \$100,000,000 threshold. Banks and savings and loan associations, in addition to meeting the \$100 million level, must have an audited net worth of at least \$25 million. For competitive purposes, foreign banks and their U.S. branches are treated the same as domestic banks. Broker-dealers also receive different treatment under the definition. The threshold is lowered to \$10 million for registered broker-dealers, and a broker-dealer that is acting as riskless principal for a QIB will also be deemed a QIB. The largest purchasers of 144A securities are typically insurance companies, investment companies, private and public pension plans, and banks.

By not being required to register, foreign companies availing themselves of Rule 144A are relieved of certain reporting and information requirements. If the issuer of the securities is neither a reporting company in the US, nor providing limited home country information pursuant to the foreign issuer exemption contained in Rule 12g3-2(b) of the Exchange Act, the issuer of the securities is required to meet an information requirement.

Thus, the issuer would be required to provide a security holder with a brief statement of the issuer's business and most recent financial statements, preferably audited. This information requirement is sufficiently flexible and specific so as not to be a burden on issuers. Early experience has shown that a number of foreign issuers voluntarily provide periodic information in an effort to facilitate the Rule 144A process. Other issuers, including some domestic privately held issuers, have chosen the other option, representing their ability and willingness to provide the material upon request.

The data from the 18 months of the life of the rule is encouraging. Rule 144A clearly has attracted foreign companies to the U.S. capital markets. From April 1990 to July 1991, \$4 billion of securities from 69 foreign issuers have been sold pursuant to 58 Rule 144A placements. The \$4 billion figure represents nearly half of the total \$8.5 billion of securities sold in 144A placements during this period. Foreign issuers have placed \$2.3 billion in debt offerings, \$1.6 billion in common equity offerings, and \$49 million in preferred equity securities.

Mexican issuers and guarantors have been among the most active in the market. The seven Mexican offerings is second only to

29 offerings out of the United Kingdom. [Telmex, Vitro(2), Nafin, International de Ceramica, Cemex and Tolmex, Bancomer]. Likewise, the approximately \$520 million of debt and equity offered in those seven Mexican offerings is second only to the UK. Interestingly, of the 69 foreign issuers and guarantors, only 5 were reporting under the Exchange Act at the time, and only three of those had previously issued securities in the U.S. These figures bear witness that the Rule is indeed attracting new foreign issuers to the U.S. markets.

Finally, we hope that foreign companies will use Rule 144A as a stepping stone to the U.S. public markets. Companies doing private placements can gain an understanding of the U.S. offering process, our markets, investors, broker-dealer community, and the SEC. Thus initiated, the step to registered public offerings should seem less bold. The recent efforts by Telmex, first in the private placement market, and then in a substantial public offering, are evidence of the success of this stepping stone approach. Vitro is a second good example of this stepping stone approach. Vitro first entered the US through private placements, and this week has priced a public offering and listed its stock on the NYSE.

The highly successful Telmex offering conducted last spring demonstrated the benefits of accessing the U.S. capital markets. As you recall, that offering was for approximately 1.6 billion Series L shares of Telefonos de Mexico, by the Government of Mexico. The L shares have limited voting rights, and, unlike the AA shares, may be held by holders of any nationality. Of the 1.6 billion shares, 880 million shares were sold in the U.S. tranche, which accounted for 55% of the offering, and raised \$1.2 billion.

The offering in the United States was in ADSs, each representing 20 Series L shares. The ADSs were priced at \$27.25, and traded actively and in a narrow range for the period following the offering. The ADSs, which are listed on the New York Stock Exchange, continue to trade actively, and currently have appreciated to around \$45 per share.

The Telmex offering also was significant because it demonstrated the efforts the SEC is willing to make to facilitate cross-border transactions and particularly simultaneous offerings. Our staff coordinated their efforts with Telmex representatives in a joint effort to expedite the review process through pre-filing conferences and advance review of draft registration statements. The Commission

staff also coordinated with the CNV in connection with our granting of exemptions from SEC Rules 10b-6 and 10b-7 to permit distribution participants, and in particular Nacional Financiera, to conduct market stabilizing activities in the Mexican market.

Given the success of the Telmex offering, I thought it might be helpful to briefly summarize the U.S. public offering process. Although the process at times seems complex, we perpetually are trying to maintain a balance between simplicity and protection of investors and other market participants.

Under the federal securities laws, any securities transaction which involves the use of the U.S. mails or other facilities of interstate commerce is subject to the jurisdiction of the SEC, and the statutes and regulations that the SEC administers. Activities relating to the public offering of securities in the United States are governed by the Securities Act of 1933 and the Securities Exchange Act of 1934. The Securities Act governs the disclosure process for public offerings, and the Exchange Act details the reporting and registration requirements of issuers once a public offering is completed. Taken together, the statutes are designed to ensure that full and fair disclosure of information regarding the issuer and its securities is

available to enable investors to reach informed investment decisions. It is important to remember that, in the federal context, the regulatory scheme is geared not to an evaluation of the merits or potential success of an issuer or its securities, but solely to whether the applicable disclosure requirements have been met.

As a threshold requirement, all documents and statements created pursuant to the statutes must contain no untrue statement of material fact, or omit to state a material fact whose omission would make the statements misleading. Failure to adhere to this anti-fraud standard in the filing of disclosure documents can be a predicate for both civil and criminal liability.

Under the Securities Act, all offerings of securities must be registered with the Commission, unless an exemption is available. Two principal documents must be prepared in connection with a public offering; the prospectus and the registration statement. The prospectus describes the issuer, the securities being offered, and the terms of the offering transaction. The prospectus must be delivered to all persons who purchase securities from the underwriters, and generally is the only written document that may be delivered during the offering period. The registration statement is filed with the

Commission, and includes the prospectus and other information and documents required by Commission rules. The offering may not legally go forward unless it has been reviewed by the SEC and the registration statement has been declared "effective". This is generally a process of give and take between the SEC staff and the issuer to ensure that all necessary information has been disclosed in the appropriate manner.

Issuers generally do not offer and sell securities directly to the public. Instead, they employ an underwriter, or syndicate of underwriters, to distribute the securities. Investment banking firms that serve as underwriters either purchase the securities directly from the issuer for resale to the public, or act as agent, using reasonable efforts to find buyers for the securities without actually purchasing the securities themselves.

Distributions in which the underwriter is the initial purchaser generally are referred to as "firm commitment" offerings. Offerings by highly capitalized, highly visible U.S. corporations most often are done on a firm commitment basis. In such an offering, the managing underwriters, in conjunction with the other members of the underwriting syndicate, contact their retail and institutional customers

to assess market interest in the offering. The underwriters generally do not obligate themselves to the purchase of the offering until the market has been assessed and the price determined, thereby exposing themselves to only minimal risk.

Newly established or high growth companies often cannot get an underwriter to obligate itself to the purchase of the securities it wishes to issue, and therefore must offer the securities on a "best efforts" basis. As the name indicates, the broker or brokers will use selling efforts to solicit purchasers for the securities, but with no assurance as to the amount of securities to be sold. These best efforts offerings often have contingencies built into them, such as a minimum amount that must be sold during the offering period for the offering to close.

The Commission, to facilitate the registration of foreign issuers, has adopted a three tiered registration system for such issuers. Foreign private issuers entering the US market for the first time file a form F-1, describing how the proceeds of the offering will be used, the terms of the underwriting, a detailed description of the issuer's business and financial information including audited financial statements and historical financial data. Foreign issuers that are

already reporting under the Exchange Act by virtue of a previous registered public offering, listing, or registration under the Exchange Act, file on the shorter Forms F-2 or F-3 and incorporate the Exchange Act reports by reference.

Accessing the US public markets brings with it other obligations on the part of foreign issuers, such as the reporting requirements of the Exchange Act, and the antifraud prohibitions of US law. But the increasing numbers of foreign issuers that come to the US markets find that while there are definitely costs associated with having a US presence, it is a cost that is justified by the returns. And the SEC is continuously searching for ways to reduce these costs and open our markets to the widest array of foreign participants, while still assuring adequate disclosure for the protection of investors.

The advent of the North American Free Trade Agreement between Canada, the United States and Mexico, will likely increase the access of investors and companies in each country to all three markets. It will become increasingly important for us to work together to successfully take advantage of the benefits this increased access can bring. The SEC, by working with the Mexican authorities and with our own exchanges, like the AMEX will do its best to insure that the

**spirit of free trade and open access spreads to the financial markets
and the capital formation process.**

Thank you.