

**Via Email:** [rule-comments@sec.gov](mailto:rule-comments@sec.gov)



25 April 2008

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
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**Re: File No. S7-04-08** *Proposed Rule, Exemption from Registration Under Section 12 (g) of the Securities Exchange Act of 1934 for Foreign Private Issuers*

Dear Ms. Morris:

We are writing on behalf of the International Corporate Governance Network (ICGN). The ICGN is a global membership organisation of institutional and private investors, corporations and advisors from 40 countries and our investor members are responsible for global assets of U.S. \$15 trillion. The mission of the ICGN is to meaningfully contribute to the continuous improvement of corporate governance best practices through the exchange of ideas and information across borders. Information about the ICGN, its members and its activities is available on our website: [www.icgn.org](http://www.icgn.org).

The purpose of the Accounting and Auditing Practices Committee is to address and comment on accounting and auditing practices from an international investor and shareowner perspective. The Committee through collective comment and engagement strives to ensure the quality and integrity of financial reporting around the world. <http://www.icgn.org/membership/index.php>

Thank you for the opportunity to provide comments on the proposed amendments to the rule that exempts a foreign private issuer from having to register a class of equity securities under Section 12(g) of the Securities Exchange Act of 1934. The ICGN agrees that the proposed amendments should make it easier for U.S. investors to gain access to a foreign private issuer's material non-United States disclosure documents to allow for better informed decisions regarding whether to invest in that issuer's equity securities through the over-the-counter market in the U.S. With the globalization of securities markets, advances in information technology, the increased use of ADR facilities by

foreign companies to trade their securities in the U.S., the ICGN and its members have a vested interest in ensuring adequate, timely disclosures by all companies to assist in its members' investment decisions.

ICGN is generally supportive of the proposal. It is our understanding that the proposal will not result in decreased public disclosures. The purpose is only to amend the criteria under which certain foreign private issuers can be exempt from SEC filings for over-the-counter securities. We support electronic publishing of information as preferred to hard copies submitted to the SEC (current requirement). We agree with the proposed rule that if the exemption criteria are met, the issuer should not need to apply to the SEC to get prior approval. However, we recommend that some communication be required by issuers to notify investors that the exemption is being applied.

We are supportive of the proposal that calls for certain disclosures only if 20% or less of trading activity is in the US and listing is made on another primary exchange. A specific count of total investors (current threshold is 300) seems to us to be an outdated and cumbersome methodology.

We hope our comments will assist the Working Group in its continuing deliberations on this important subject. We appreciate the opportunity to comment on the draft guidance. If you would like to discuss any of these points, please do not hesitate to contact Anne Simpson, our Executive Director at +44 207 612 7098 or [execdirector@icgn.org](mailto:execdirector@icgn.org). Thank you for your attention and we look forward to your response on the points above.

Yours sincerely,

Peter Montagnon  
Chairman of the ICGN  
Board of Governors



Christianna Wood  
Chair, ICGN Accounting  
and Auditing Practices  
Committee

Cc: ICGN Board Members  
ICGN Accounting & Auditing Practices Committee