



September 26, 2007

- Via email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-3628

Subject: File Number S7-13-07

Ladies and Gentlemen:

This letter is submitted on behalf of Merrill Lynch & Co., Inc. (“Merrill Lynch”) in response to Release Nos. 33-8818, 34-55998, International Series Release No. 1302, *Acceptance From Foreign Private Issuers of Financial Statements Prepared in Accordance With International Financial Reporting Standards Without Reconciliation to U.S. GAAP* (the “Proposing Release”).

Merrill Lynch, through its subsidiaries, is one of the world’s leading wealth management, capital markets and advisory companies with offices in 37 countries and territories. As an investment bank, we are a leading global trader and underwriter of securities and derivatives across a broad range of asset classes, and we serve as a strategic advisor to corporations, governments, institutions and individuals worldwide.

We applaud the Commission’s proposal to eliminate the reconciliation requirement for financial statements prepared in accordance with International Financial Reporting Standards (“IFRS”). We believe that the reconciliation requirement has been a significant impediment to issuers accessing the U.S. capital markets. We also believe that for issuers preparing financial statements in accordance with IFRS it provides no meaningful benefit to investors.

- **The Commission should move rapidly to eliminate the U.S. GAAP reconciliation requirement for IFRS financial statements.**

We encourage the Commission to adopt the proposal as soon as possible. We see no benefit served by delaying the change or phasing in its applicability. Prompt action by the Commission will make the U.S. capital markets more attractive to issuers from around the world. Our experience has indicated that many foreign issuers elect to utilize Rule 144A over full SEC registration for securities offerings in the U.S. primarily because of the current reconciliation requirements.



Our experience as investment bankers has given us direct access to discussions with our clients on the topic of the consequences of a U.S. listing or public offering. We have seen an unprecedented number of delistings and deregistrations. This trend reflects a range of factors and, in many cases, there is more than one consideration behind a company's decision to delist or register. However, we believe that in a number of cases the burden of the U.S. GAAP reconciliation requirement has been a significant factor. As a global bank that operates and liaises with stock exchanges around the world, we believe that the United States is being overlooked as a capital-raising center in too many cases and that this reflects the assessment among issuers of the current burdens of accessing the U.S. capital markets. Eliminating the U.S. GAAP reconciliation requirement will be a positive step in addressing this broad problem.

- **Even if no reconciliation is required, any acceleration of the deadline for filing Form 20-F should be phased in**

The Proposing Release notes that many issuers file their annual reports on Form 20-F long after they release their home-country financial statements. Some delay is justified because of the additional work required by Form 20-F — not only the U.S. GAAP reconciliation, but also reporting on internal controls over financial reporting and providing substantial additional disclosures that are not otherwise required. The Commission has asked whether it would be appropriate to reduce the filing deadline for an issuer that is permitted to file the same financial statements with the Commission as it publishes and files in its home country market, without any difference or reconciliation. We encourage the Commission to carefully phase in any change in the deadline for filing because there will still be additional work to comply with the requirements of Form 20-F, and many issuers will have to make significant changes in the methods and procedures they have adopted to comply with the SEC's requirements.

- **The Commission should revise its proposal to accommodate the process of adoption of IFRS in the EU**

The Commission has proposed to eliminate the reconciliation requirement for financial statements prepared in accordance with IFRS, but only if they are prepared in accordance with IFRS as published by the International Accounting Standards Board (“IASB”). In the European Union, issuers must prepare financial statements in accordance with IFRS as adopted by the EU. In the interests of reducing barriers between national securities markets by making it possible for a single set of financial statements to be filed in the U.S. as well as other jurisdictions, we recommend that the Commission extend the elimination of the reconciliation requirement to financial statements prepared in accordance with either the IASB or the EU version of IFRS. We believe that these versions may be expected to converge over time, and, in the interim or to the extent they do not converge, we feel material differences can be addressed in narrative form in disclosure documents. In the event that the Commission does not agree with our recommendation, we suggest that the Commission permit EU issuers to file financial statements prepared in accordance with EU IFRS

accompanied with a narrative discussion of the differences between the EU and the IASB versions of IFRS.

- **The Commission should eliminate the reconciliation requirement for interim financial statements**

A foreign private issuer that offers securities under an effective shelf registration statement (and that prepares financial statements under a system of accounting other than U.S. GAAP) is required to provide interim financial statements reconciled to U.S. GAAP if the audited financial statements are more than nine months old. This requirement can create an impediment to the use of shelf registration that undercuts the objectives of the securities offering reforms that became effective in December 2005. In our experience, this can result in unnecessary “black outs” of the shelf registration statement for foreign private issuers and effectively denies foreign private issuers the full benefits of shelf registration afforded to otherwise comparable U.S. issuers.

- **Conclusion**

We commend the Commission for the Proposing Release and appreciate the opportunity to express our support for the proposal. If members of the Staff have any questions or would like any information, please contact us.

Respectfully submitted,

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED



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Fred Knecht  
Authorized Signatory