



## BNY MELLON

October 18, 2010

Elizabeth M. Murphy  
Securities and Exchange Commission  
100 F St., NE  
Washington DC 20549 -1090

File # 4-608

Dear Ms. Murphy,

The Bank of New York Mellon, Inc. (the “Company”), a global financial institution with over \$200 billion in assets, is pleased to provide comments on the Securities and Exchange Commission’s (the “Commission”) Solicitation of Public Comment on Consideration of Incorporating IFRS into the Financial Reporting System for US Issuers (the “Request for Comment”).

We are very supportive of the Commission’s consideration of implementing IFRS into the financial reporting system in the United States as we believe these principles based standards will assist the global capital markets and maintain the competitiveness of U.S. corporations. IFRS has been broadly accepted in each continent and have been operational for several years in some of the largest capital markets outside of the United States. We believe that because IFRS has the greatest potential to become the global standard of accounting, it is in the interests of U.S. investors, U.S. issuers and U.S. markets to mandate reporting using IFRS in the United States as well and that the U. S. should have a date certain for a full conversion from US GAAP to IFRS. It is critical that the U.S. use one accounting standard as dual accounting standards would create challenges in the U.S. capital markets, including comparability for investors and other users of financial information and professional competence of auditors.

The request for Comment focuses on 3 topics potentially affected by IFRS which are included in the Commission’s Work Plan: Contractual Arrangements, Corporate Governance / Stock Exchange Listing Requirements and Statutory Restrictions and Other Legal Standards Tied to Financial Reporting Standards.

We have provided answers to each topical group of questions below, but there are a few thoughts and observations we would like to make on circumstances which we believe mitigate the potential impact of incorporating IFRS into the financial reporting system for U. S. Filers:

- US GAAP continues to change and irrespective of a change to IFRS, there is always an ongoing assessment of the potential impact of accounting changes on contracts, governance (Audit Committee education is an ongoing activity of the Company) and dividends and capital adequacy. We do not believe a change to IFRS would significantly add to the current burden.
- Over the next few years, IFRS will be adopted for statutory reporting in many, if not most, of the non-US locations where the Company does business. So, many of the issues raised in the Request for Comment will need to be evaluated irrespective of a change to IFRS in the U.S.
- Because of the statutory conversions referred to immediately above, there will be “dual reporting” (IFRS and US GAAP) for the majority of the Company’s locations. A decision by the SEC to incorporate IFRS into the financial reporting system for U.S. issuers would, in effect, be a head office conversion which would ultimately have the effect of reducing process burden by enabling us to “shut down” one of the dual reporting, i.e., US GAAP, processes.

Furthermore, the Company has participated in various “roundtable” and discussion groups consisting of participants from various industries. The overriding message from panel participants was that an adequate transition period will be the most important consideration in mitigating concerns outlined in the solicitation for comment.

Below are the Company’s responses to each of the 3 topical groups of questions.

### **Contractual Arrangements**

#### **SEC request:**

To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers be likely to affect the application, interpretation, or enforcement of contractual commercial arrangements such as financing agreements, trust indentures, merger agreements, executive employment agreements, stock incentive plans, leases, franchise agreements, royalty agreements, and preferred stock designations?

What types of contractual commercial arrangements aside from those specifically identified in the previous question would likely be affected by the incorporation of IFRS into the financial reporting system for U.S. issuers, and in what ways?

With respect to existing contractual commercial arrangements, would incorporation of IFRS into the financial reporting system for U.S. issuers be treated differently as compared to how a change in an existing financial reporting standard under U.S. GAAP would be treated today? If so, how?

To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would affect the application, interpretation, or enforcement of contractual commercial arrangements, how would parties to such arrangements most likely address such effects (e.g., by modifying the contract, or adopting multiple accounting systems)?

To what extent would any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of contractual commercial arrangements likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the effects? Are there any other means by which such effects can be mitigated or avoided?

**Company's Response:**

**Business contracts in all lines of business in the U.S. would need to be reviewed and, to the extent various loan covenants, corporate trust indentures, etc. currently refer to US GAAP, renegotiated. While the Company believes that the SEC's current proposed timeframe to conversion from US GAAP to IFRS is sufficient time to review such contracts and likely handle any necessary waivers, a complete review was not be possible prior to the due date for this comment letters. While we do not anticipate any problems related to this review, only a thorough contract by contract review will provide certainty.**

**Executive compensation plans and corporate governance documents, including the Company's Corporate Governance Guidelines and Audit Committee charter, must also be reviewed and revised, if necessary.**

**One way to mitigate the above contractual issues would be for the SEC to define US GAAP as IFRS for companies that would be required to file their SEC financial statements under IFRS. In effect, US GAAP would then be either IFRS for those companies required to file financial statements under IFRS for SEC reporting, and "FASB GAAP" for non-SEC filers. This would then alleviate the process burden of having to renegotiate and/or change contracts.**

**Corporate Governance; Stock Exchange Listing Requirements**

**SEC Request:**

To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect compliance with corporate governance and related disclosure requirements applicable to U.S. issuers, such as stock exchange listing requirements relating to the composition and function of audit committees of the board of directors and disclosure requirements regarding audit committee financial experts?

We understand that experienced professionals, including audit committee members, would likely need to enhance their knowledge of IFRS and develop further expertise, and we believe it would be important for audit committee members to do so in light of their responsibility for oversight of the preparation and audit of financial statements that are presented to U.S. investors. To what extent would current members of boards of directors likely have the education or experience needed to meet the requirements of the definition of “audit committee financial expert” or the stock exchange listing requirements related to accounting or financial management expertise following the incorporation of IFRS into the financial reporting system for U.S. issuers? Would there be adverse effects if any issuer were required to disclose that it does not have any audit committee financial experts while its audit committee members are in the process of obtaining the necessary expertise?

To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would adversely affect board members’ ability to meet the requirements or result in disclosure that the issuer does not have an audit committee financial expert, how would issuers and individual directors most likely address such effects (e.g., by additional training)? To what extent and in what ways would such effects be likely to differ from similar effects in jurisdictions that have adopted, or are in the process of adopting IFRS?

To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect an issuer’s ability to comply with quantitative securities exchange listing standards?

To what extent would any potential adverse effects of incorporating IFRS into the U.S. financial reporting system on issuers’ compliance with corporate governance and related disclosure requirements likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the adverse effects? Are there any other means by which such effects can be mitigated or avoided?

To what extent would any potential adverse effects of incorporating IFRS into the U.S. financial reporting system on issuers’ compliance with quantitative stock exchange listing standards likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the adverse effects? Are there any other means by which such effects can be mitigated or avoided?

Are there any corporate governance and related disclosure requirements other than those identified above that would be affected by incorporating IFRS into the financial reporting system for U.S. issuers?

## **Company's Response:**

**Conversion to IFRS will require U.S. issuers to review the qualifications of their Audit Committee members to determine whether such members meet the requirements of the definition of an "audit committee financial expert" set forth in Item 407(d)(5) of Regulation S-K of the Securities Exchange Act of 1934 ("Item 407(d)(5)") and the financial literacy requirement set forth in the New York Stock Exchange's Corporate Governance Standard 303A.07. We anticipate that issuers will use the annual Directors and Officers Questionnaire to ascertain Audit Committee members' familiarity with IFRS.**

**When Boards deal with accounting matters, resolving questions of recognition, measurement and presentation will involve the same analysis regardless of whether US GAAP or IFRS is used. The Company believes the financial expertise involved in resolving such matters is transferable from one accounting regime to another.**

**We believe that the SEC's proposed phase-in of the conversion to IFRS will provide adequate time for issuers to educate members of their Audit Committees through ongoing training and development programs, which currently exist for US GAAP. We note, however, that the designation of "financial expert" may significant additional exposure to IFRS, perhaps in connection with the member's current employment. Accordingly, we would recommend to the SEC that the designation of "financial expert" be provided with a phase-in period of at least one additional year.**

**Generally, the Company does not believe that a conversion to IFRS will affect its ability to maintain its listing on the NYSE, as we expect our market capitalization and total stockholders' equity to remain well above the minimum continued listing standard, after the conversion to IFRS, and expect to fully comply with all corporate governance standards.**

## **Statutory Distribution Restrictions and Other Legal Standards Tied to Financial Reporting Standards**

### **SEC Request:**

To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect the application of limits in state statutes on the ability of issuers to make distributions to holders of equity securities, either through dividends or similar distributions in respect of those securities, or to repurchase such securities?

Are there any particular distribution statutes from any particular jurisdictions the application of which are especially likely to be affected by incorporating IFRS into the financial reporting system for U. S. issuers? Which statutes, and why?

To what extent would any potential effects of incorporating IFRS into the financial reporting system for U. S. issuers on the application of statutes governing distributions to equity security holders be avoided or minimized by state law permitting the board of directors to rely on reasonable valuation methods, rather than on financial statements, in determining whether a distribution is permissible (e.g., when transitioning to IFRS, if the value of an asset is determined to be lower using IFRS than it would be using the current standard in U.S. GAAP, would the board be able to make a determination that the value of the asset is higher than as calculated under IFRS)?

To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect the application of state statutes requiring a shareholder vote for a sale of “all or substantially all” of the issuer’s property or assets? For example, would the determination of whether such a vote is required change as a result of a change in accounting standards?

Are there any particular asset sale statutes from any particular jurisdictions the application of which is especially likely to be affected by incorporating IFRS into the financial reporting system for U.S. issuers? Which statutes, and why?

To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would affect the application of statutes governing sales of assets, how would the jurisdictions affected likely address such effects?

To what extent are any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of statutes governing sales of assets likely to be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the effects? Are there any other means by which such effects can be mitigated or avoided?

**Company’s Response:**

**The Company does not anticipate that incorporating IFRS into the financial reporting system for U.S. issuers will affect the current application of limits on the ability of issuers to make distributions to holders of equity securities set forth in Section 154 of the Delaware General Corporation Law.**

**The Company has performed a high-level estimate of the impact of IFRS on its Financial Statements. Based on the Company’s estimate of the impact of IFRS on its Financial Statements, it is not anticipated that the conversion to IFRS would materially affect the ability to pay dividends, as the calculation of capital surplus does not materially change in a conversion to IFRS.**

**The Company does not anticipate that the conversion to IFRS would have any impact on Asset Sales /Purchases made in the ordinary course of business. However,**

**the Company recommends a transition period of at least two years – with early adoption permitted - to mitigate any unforeseen affects.**

Thank you for providing the opportunity to communicate the Company's views on this subject. If you have any further questions, please contact me at 212 635-7080.

Sincerely yours,

A handwritten signature in cursive script that reads "John Park".

John Park