



August 16, 2019

Office of the Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: Release No. 34-85814  
Amendments to the Accelerated Filer and Large Accelerated Filer Definitions (the  
“*Proposed Release*”)  
File No. S7-06-19

Dear Ms. Countryman:

We appreciate the opportunity to comment on the Proposed Release, and commend the Commission and its Staff on its thoughtful proposal to harmonize the accelerated filer definition with the smaller reporting company (“SRC”) definition. Our comments focus on the impact of the proposed accelerated filer definition on foreign private issuers (“FPIs”) that present their financial statements in accordance with International Financial Reporting Standards, as issued by the International Accounting Standards Board (“IFRS Filers”).

In footnote 60 in the Proposed Release, the Staff confirmed its past guidance that “an FPI may also qualify as an SRC and has the option to make filings on forms available to U.S. domestic issuers *if it presents financial statements pursuant to U.S. GAAP.*” (emphasis added) As a result of this guidance, an IFRS Filer cannot be an SRC. Under the current definition of an accelerated filer, this guidance has no impact on the accelerated filer status of an IFRS Filer.

Under the proposed rules, an issuer will not be considered an accelerated filer if it is “eligible to use the requirements for smaller reporting companies under the revenue test in paragraph (2) or (3)(iii)(B) of the “smaller reporting company” definition.” This proposed definition, however, results in disparate treatment between (i) IFRS Filers, and (ii) domestic issuers or foreign private issuers that present their financial statements in accordance with U.S. GAAP. Since an IFRS Filer cannot be an SRC, it cannot rely on the proposed expanded exception from accelerated filer status.

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The following table outlines the disparate treatment.

<b>Proposed Accelerated Filer Rule</b>				
<b>Public Float (in millions)</b>	<b>Revenue (in millions)</b>	<b>Status of Domestic Issuer</b>	<b>Status of FPI filing US GAAP</b>	<b>Status of IFRS Filers</b>
Less than \$75	N/A	SRC and Non-accelerated	SRC and Non-accelerated	Non-accelerated
\$75 to less than \$700	Less than \$100	SRC and Non-accelerated	SRC and Non-accelerated	Accelerated

If a domestic issuer and an IFRS Filer each had a public float of \$90 million and no revenue, only the IFRS Filer would be categorized as an accelerated issuer. An IFRS Filer is at a substantial disadvantage under the proposed rules as written. We believe there is no policy rationale for such disparate treatment of IFRS Filers. In fact, as the Commission has stated, “[t]he Commission has long viewed reducing the disparity between the accounting and disclosure practices of the United States and other countries as an important objective both for the protection of investors and the efficiency of capital markets. . . Specifically, the Commission has adopted rules to encourage the use of IFRS, which has become increasingly widespread throughout the world.”<sup>1</sup>

In order to reduce the disparity between IFRS Filers and other types of filers, we encourage the Staff to expand the exemption from the accelerated filer definition to permit IFRS Filers to use the exemption intended for filers with low revenues. For example, the revenue test could be based on either US GAAP or IFRS. We believe an expansion of the exemption would be consistent with the Commission’s past statements about reducing the disparity between the accounting and disclosure practices of the United States and other countries as well as the spirit of the direction of Congress to reduce the burden on smaller issuers.<sup>2</sup>

If you would like to discuss our comments, the Commission may contact Kimberley Anderson at [REDACTED].

Regards,

/s/ Dorsey & Whitney LLP

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<sup>1</sup> See *Acceptance From Foreign Private Issuers Of Financial Statements Prepared In Accordance With International Financial Reporting Standards Without Reconciliation To U.S. GAAP* Release Nos. 33-8879; 34-57026 (December 21, 2007).

<sup>2</sup> See Section 72002 of the Fixing America’s Surface Transportation Act of 2015. See Pub. L. No. 114-94, 129 Stat. 1312 (2015).