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February 28, 2006

**Re: Comments on Proposed Rules Relating to Termination of a Foreign
Private Issuer's Registration of a Class of Securities Under Section
12(g) and Duty to File Reports Under Section 15(d) of the Securities
Exchange Act of 1934
File No. S7-12-05**

Ms. Nancy M. Morris
Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-9303

Dear Ms. Morris:

Davis Polk & Wardwell is pleased to comment on the SEC's initiative to increase the flexibility for foreign private issuers to delist and deregister and we thank the staff and Commissioners for all of the time and effort they have put into the revisions to the deregistration rule.

Like many other associations and law firms that are making comments on this proposal, our experience as an international law firm with many foreign clients leads us to believe that the vast majority of foreign companies have significant U.S. shareholder ownership, but that such ownership is very largely composed of qualified institutional buyers ("QIBs") and that such ownership also tends to be concentrated. We believe that U.S. institutional investors make their investment decisions based upon an analysis of the individual company, prospects in the sector, views as to growth in a specific country or the exchange rate of a currency, or the presence or not in an index and diversification. We are very doubtful that U.S. institutional investors make investment decisions based upon the existence, or not, of a Form 20-F, especially given the fact that most Form 20-Fs are filed six months after the fiscal year end.

We believe the simplest and most elegant solution is to exclude QIBs from the calculation as suggested by the letter from the several European organizations of listed companies. This should not be surprising as it is the natural impact of the fact that it is the United States that provides the largest pool of investment capital

in the world and that U.S. investors, especially sophisticated investors, are increasingly looking outside the United States for investment.

We are aware that a number of associations and law firms are providing comments to the SEC staff with specific ideas as to how QIBs could be excluded or how the calculations could be changed to deal with the effects of concentration. We are also aware that the SEC staff and the Commissioners are very interested in factual data from companies. The primary purpose of this comment letter is to provide factual data to the SEC and, with the consent and cooperation of four European clients, the following paragraphs provide data on the share ownership structure of these companies. A data pool of four companies is, of course, not statistically relevant but we believe that the patterns illustrated by these four companies are illustrative. We also think it is important to note that the four companies chosen reflect four very common patterns of ownership in Europe: a company with significant government ownership, a company with significant family ownership, and two companies with widely dispersed ownership, one that made a U.S. offering and one that listed without an offering. We wish to remind the staff that the first two examples, government and family controlling influence, remain much more common outside the United States than within it and any deregistration rule should take account of this international pattern.

The information from the companies has been provided to us and, in each case, is based upon the company's own estimates as well as guidance from a third party service provider. In some cases, the data is based upon estimates and extrapolations. All data has been collected and reviewed within the last two months. The volume of trading in the U.S. markets is less than 5% of worldwide volume for all of the companies.

Company A (Significant Government Ownership)

Company A is a European WKSI that listed its shares on the NYSE in connection with a public offering in the United States. It is a member of the stock exchange index in its country. Its U.S. offering was a privatization and its government continues to hold 29.9% of its total capital. Company A believes that its U.S. investors are approximately 22% of its total capital. The U.S. shareholder base is highly concentrated. One U.S. investor, an investment advisor with discretionary investment power, holds 9.99% of the total capital on behalf of a number of U.S. institutional investors. The top three U.S. QIB investors represent 16.25% of the outstanding total capital and the top 11 represent 19.79% of Company A's total share capital. Given the shareholding structure of Company A, and following the rules with respect to calculation based upon free float which would require excluding the government owner, U.S. investors, who are overwhelmingly QIBs, would represent a little under 31% of the free float. The result of the SEC's counting rules and the concentration of U.S. QIBs thus leads to the rather absurd result where U.S. investor interest in Company A, especially U.S. retail investor interest, is vastly overstated.

If one were to take the ADR program as a proxy, however imperfect, for U.S. retail interest keeping in mind always that the ADRs also contain institutional investors, then U.S. retail interest in this company is minimal. The ADR program is approximately 0.18% of total capital but because non-U.S. investors also hold through ADRs, only 0.07% of total capital is held by U.S. investors via the ADRs.

Company B (Significant Family Control)

Company B is a European WKSI that is listed on a U.S. stock exchange but has made no offerings in the U.S. public capital markets. Company B is controlled by its founding family, which retains 36.83% of its total capital. In addition, one U.S. QIB, a fund, has made a strategic investment in Company B of 10.35%. The Company has informed us that the strategic investor's decision to invest was not related to its U.S. listing. Apart from these two investors, the total capital of Company B is widely held. Company B believes that, including the strategic investor, its U.S. investors are approximately 12.27% of its total capital. The U.S. shareholder basis is highly concentrated, with the top five U.S. investors (excluding the strategic investor) holding 1.1% of total capital and the top 10 holding 1.25%.

The application of the proposed rules for Company B create a strange result. If under the SEC's rules, the strategic investor is viewed as an affiliate and excluded along with the controlling family, then U.S. investors are 3.63% of the free float. If, however, the U.S. investor is not viewed as an affiliate and is included, then U.S. investors are 19.42% of the free float. A similar anomaly occurs were the U.S. investor to reduce its holding to 9.9% which would increase the U.S. investor calculation to 18.71%. Given the concentration of U.S. investors and Company B's belief that the vast majority, by percentage, are QIBs, this result is a strange one.

Again, using the ADR program as an imperfect proxy for U.S. retail investor interest, the ADR program is approximately 0.7% of total capital.

Company C (Initial Offering in the U.S.)

Company C is a European WKSI that has listed its shares on the NYSE in connection with a public offering in the United States and is in a sector very attractive to U.S. investors. It is a member of the stock exchange index in its country. Its stock ownership is widely held and no single shareholder owns more than 10% of its total capital. Company C believes that its U.S. investors are approximately 22% of its total capital, including the ADR program. The U.S. shareholder base is highly concentrated. The top 10 U.S. investors, all of whom are QIBs, hold 13.4% of the outstanding share capital of Company C. The top 20 U.S. investors, all of whom are QIBs, represent 17.1% of the outstanding share capital and represent 78% of U.S. investors in Company C.

Using the ADR program as an imperfect proxy for U.S. retail investor interest, it represents 6.2% of total capital. With respect to Company C, this figure is larger than the norm because of a large acquisition in the United States.

Company D (Pure Listing)

Company D is a European WCSI in a traditional industrial sector that is listed on a U.S. stock exchange but has made no offerings in the U.S. public capital markets. It is a member of the stock exchange index in its country. Its stock ownership is widely held and no single shareholder owns more than 10% of its total capital. Company D believes that its U.S. investors are approximately 9.7% of its total capital, including the ADR program. The U.S. shareholder base is highly concentrated. The top three U.S. investors, all of whom are QIBs, represent 4.6% of the outstanding share capital and the top 11 represent 8.2% of the total 9.7% of U.S. investors.

Company D has reviewed its shareholder base both before and after listing and has determined that the listing did not increase its U.S. shareholder base and that both before and after listing the U.S. shareholder base was composed of virtually only QIBs. Through our representation of other foreign private issuers, we are aware of a number of other companies, especially those outside of traditional industrial sectors, whose percentage of U.S. investor ownership is significantly larger. We note that, even in the case of Company D, who might, if all of the calculations could be done with a high degree of certainty, meet the requirements of the rule as proposed, the rule leaves no room for uncertainty with respect to the calculations.

Again, using the ADR program as an imperfect proxy for U.S. retail investor interest, it represents 0.7% of total capital, of which 0.5% are U.S. investors.

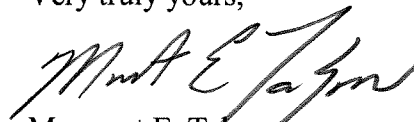
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We realize that four examples are not a good statistical pool, however, we believe that these companies provide a good representation of the types of shareownership patterns that are common in Europe and we hope that the SEC staff finds this data helpful. We believe that each of these companies illustrate why the elimination of QIBs from the calculation is the most workable solution. For all four companies, their U.S. investors are heavily weighted towards QIBs with minimal U.S. non-QIB investment or interest in the companies. Moreover, without an elimination of QIBs both Company A and Company B face a situation where their government/family control situation results in a large overstatement of U.S. investor interest when the free float test is applied. In the case of all companies, the complexity, anxiety and expense of tracing all investors would be mitigated if QIBs, which are more easily identifiable, were excluded. We

therefore believe, no matter what the ultimate test chosen, that a calculation that eliminates or diminishes the impact of concentrated U.S. QIB ownership would best balance the SEC's mandate for the protection of investors with the realities of international investment by U.S. sophisticated investors. Moreover, as QIBs can be identified and calculated, such a test lowers the cost burden and the anxiety of uncertainty inherent in other tests.

We appreciate the opportunity to participate in this process, and we look forward to its successful conclusion.

Very truly yours,



Margaret E. Tanyar

cc: The Honorable Christopher Cox, *Chairman*
The Honorable Paul S. Atkins, *Commissioner*
The Honorable Roel C. Campos, *Commissioner*
The Honorable Cynthia A. Glassman, *Commissioner*
The Honorable Annette L. Nazareth, *Commissioner*

Martin Dunn, *Acting Director, Division of Corporation Finance*
John White, *Director, Division of Corporation Finance (Incoming)*
Brian Cartwright, *General Counsel*
Paul M. Dudek, *Chief of the Office of International Corporate Finance*
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Arthur Docters van Leeuwen, *Committee of European Securities Regulators*