

September 30, 2004

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549-0609

Temporary Postponement of the Final Phase-In Period for
Acceleration of Periodic Report Filing Dates
(Release Nos. 33-8477; 34-50254)
Commission File No. S7-32-04

Dear Mr. Katz:

We are pleased to comment on the Securities and Exchange Commission's (the Commission or the SEC) proposed rule to postpone for one year the scheduled acceleration of the due dates for quarterly and annual reports of accelerated filers. Given the significant effort required to comply with the SEC's rules implementing the internal control reporting provisions of Section 404 of the Sarbanes-Oxley Act of 2002 (Section 404), we support the proposed postponement of the accelerated filing deadlines. Our responses to the "Request for Comment" are discussed below.

Q: Is it appropriate to postpone the final phase-in of the accelerated filing deadlines? If so, is the length of the proposed postponement appropriate, or should it be shorter or longer?

We believe it is appropriate to postpone the scheduled final phase-in of the accelerated filing deadlines for Form 10-K from 75 days to 60 days. This postponement will allow registrants and their independent registered public accounting firms additional time to address the challenges of reporting on internal controls over financial reporting under Section 404 for the first time. We, and the three other largest U.S. registered public accounting firms, expressed this view and the underlying reasons in an August 3, 2004 letter addressed to SEC Chief Accountant Donald T. Nicolaisen. Allowing each accelerated filer an additional 15 days to file its Form 10-K should assist the registrant's management in completing its documentation, testing, and assessment, while also allowing the independent registered public accounting firm additional time to complete its testing, assessment, and required communications with management and the audit committee.

We believe the SEC appropriately has proposed to suspend the scheduled acceleration of periodic reporting dates for only one year. However, we recommend the SEC continue to monitor and assess the implications, and potential adverse consequences, of shorter filing deadlines. The SEC adopted the accelerated filing deadlines at a time when the significant demands of the Section 404 reporting requirements were not fully appreciated. The potential adverse effects of accelerated reporting deadlines on the quality control processes of management, the audit committee and independent registered public accounting firms need to be reassessed. In addition, other initiatives, such as improving the focus and quality of Management's Discussion and Analysis in response to the SEC's December 2003 interpretive release, might lead to additional workload compression for participants in the financial reporting process. The potential for adverse effects is exacerbated by the significant number of public companies that have calendar fiscal years and meet the SEC's definition of an accelerated filer by having public float exceeding \$75 million. Accordingly, following the upcoming year-end reporting season, we recommend the SEC reassess any remaining scheduled acceleration, as well as the scope of the definition of accelerated filers.

Q: Would a postponed phase-in benefit investors by helping to ensure the quality and accuracy of the information included by companies in their periodic reports? Would it disadvantage investors in any significant respect?

While difficult to specifically measure the benefits versus the costs of the proposed postponement, we believe investors will benefit from allowing registrants more time for the initial implementation of Section 404 reporting and that the postponement will result in higher quality financial reporting. For many registrants, retaining the 75-day Form 10-K deadline will allow management, the audit committee and the independent registered public accounting firm critical time to consider the results of the testing of internal control over financial reporting, to aggregate and evaluate those results in order to reach conclusions about the effectiveness of internal control over financial reporting, and to develop the appropriate reports for inclusion in the Form 10-K. We believe that completion of these efforts in a quality manner will be very challenging for many companies in this first year, even with a 75-day reporting deadline.

In our view, the benefits of retaining the 75-day Form 10-K reporting deadline clearly outweigh the costs to investors in terms of any delay in the ultimate date on which the registrant files its Form 10-K. As proposed, the due dates would still be consistent with those in the prior year, which were accelerated from their historical due dates. In addition, the new Form 8-K rules, which were effective in August 2004 and accelerated the due date of Form 8-K and expanded the number of reportable events, should help to provide investors with timely information regarding any significant events in the interim.

Q: Should we postpone the final phase-in of the accelerated filing deadlines for both annual and quarterly reports or only for annual reports given that management's internal control report must appear only in the annual report? Does the required disclosure about material changes to a company's internal control over financial reporting that must appear in the quarterly report warrant a postponement of the accelerated filing deadlines for quarterly reports?

We support the proposed postponement of the further acceleration of the filing deadline for Form 10-Q from 40 days to 35 days. We believe that retaining the current reporting deadline for accelerated filers would provide them time they need to comply with Item 308(c) of Regulation S-K, which requires disclosure of any changes in internal control over financial reporting occurring during the most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, internal control over financial reporting. Following the effective date of Section 404 reporting, PCAOB Auditing Standard No. 2 also will require independent registered public accounting firms, in connection with their reviews of interim financial information, to perform limited procedures to determine whether they are aware of any material modifications that, in their view, should be made to those disclosures. We believe that retaining the current reporting deadline for accelerated filers also would provide them additional time, in advance of the filing of Form 10-Q and providing the Section 302 management certifications (as required in Exhibit 31 under Item 601 of Regulation S-K), to comply with Exchange Act Rule 13a-15(d) or Rule 15a-15(d), as applicable, which requires management to evaluate any changes disclosed under Item 308(c). Retaining the 40-day filing deadline for Form 10-Q also might allow management to better integrate their ongoing evaluation and testing of internal control over financial reporting with their quarterly evaluation of the effectiveness of disclosure controls and procedures.

Q: Should we provide for an extension of the filing dates only for accelerated filers that request an extension, for example, by providing for an extension upon the filing of a Form 12b-25 under the Exchange Act? Should we only provide an extension of the filing deadlines only to certain companies such as those that demonstrate a need for the extension?

We believe the postponement should be provided universally for all accelerated filers and that filing Form 10-K within 75 days should not require the filing of a Form 12b-25, or otherwise be conditioned on a specific demonstration of need.

With so many registrants and independent registered public accounting firms going through Section 404 reporting at the same time for the first time, we believe that in many cases there will be significant challenges to completing the evaluation and reporting activities within the existing deadlines.

Accordingly, we expect that some companies will still file a Form 12b-25 in order to receive an additional 15 days beyond the proposed 75-day deadline in order to timely file their Form 10-K. In addition, some companies might be unable to complete the Section 404 reporting process, including the necessary auditing by the independent registered public accounting firm, within 90 days of their fiscal year-end.

We recommend that the SEC closely monitor the incidence of Form 12b-25 filings related to the inability to complete Section 404 reporting. Given the significance of the Section 404 effort, the related demands on resources, and the uncertainties regarding the application and interpretation of the associated rules, it may be appropriate for the SEC to consider whether the consequences normally associated with a late filing are warranted. For example, the SEC might consider whether it is appropriate for an issuer to lose its short-form registration (Forms S-2 and S-3) eligibility for a full year, or only for the period in which a Form 10-K is delinquent related to the first year of Section 404 reporting. In our view, relief from some of the consequences of non-timely filing due solely to the initial reporting under Section 404 might reduce the incidence of disclaimed opinions on an issuer's internal control over financial reporting by independent registered public accounting firms, which otherwise would result if the Section 404 reporting process was not complete by the extended filing deadline, and result in a higher quality of Section 404 reporting in this transition year, which would be in the public interest.

Conclusion

We support the Commission's effort to reduce the potential for unintended consequences that might affect the quality and accuracy of financial reporting as a result of the convergence of the final phase-in of accelerated filing reporting deadlines and the initial reporting on internal control over financial reporting under Section 404. We believe the postponement of the final phase-in of the accelerated filing deadlines for periodic reports under the Exchange Act will serve the public interest by allowing registrants to focus on both the initial implementation of reporting on internal control over financial reporting and on high quality financial reporting.

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We would be pleased to discuss our comments with the Commission or its staff at your convenience.

Very truly yours,

Ernst & Young LLP