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Ms Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303
The United States of America

Subject: Proposed Rules on acceptance from foreign private issuers of financial statements prepared in accordance with international financial reporting standards without reconciliation to U.S. GAAP (File Number S7-13-07)

Dear Ms Morris,

This letter constitutes the response of the European Commission ('the Commission') to the call for comments made by the US Securities and Exchange Commission ('the SEC') in relation to its proposed rule, of 2 July 2007, on acceptance from foreign private issuers of financial statements prepared in accordance with international financial reporting standards ('IFRS') without reconciliation to US GAAP.

The observations in this letter have been compiled following extensive consultations with the governments of the 27 Member States of the European Union ('EU'), associations representing European issuers, financial intermediaries, accountancy firms and other stakeholders. This response should be considered in the context of the ongoing discussions between the SEC and the Commission to arrive at a situation where US GAAP and *IFRS as adopted by the EU* are accepted in each other's jurisdictions. The European Parliament was also consulted (without prejudicing its right to evaluate the final outcome of the discussions).

The Commission does not seek to respond to each of the specific questions set out in the SEC's proposal but rather would draw the attention of the SEC to the following European views.

1. The Commission strongly welcomes the SEC proposal which is a major step forward towards promoting greater efficiency and dynamism of global capital markets whilst at the same time lowering the compliance costs of internationally operating companies.

1.1. The Commission views this development as a landmark step in the SEC's Roadmap leading to the removal of the reconciliation requirement and as support for the use of IFRS in corporate financial reporting worldwide.

1.2. The Commission strongly supports the objective for IFRS to become the worldwide standard and so replace all regional GAAPs. The Commission recalls that it was the EU which first took the lead in this regard with its key decision to make IFRS mandatory for its listed companies and this laid the foundation for the success of IFRS today. The Commission also notes that the EU is the largest jurisdiction applying IFRS.

1.3. Moreover the Commission refers to the April 2007 EU-US agreement, in the framework of the regular yearly EU-US Summit ('the Merkel initiative'), to take steps towards the convergence, equivalence or mutual recognition, where appropriate, of regulatory standards based on high quality principles. In particular, the focus will be given on the promotion of conditions for the US GAAP and IFRS to be recognized in both jurisdictions.

2. The Commission notes that in its proposal the SEC is considering the removal of the reconciliation requirement only for foreign issuers which prepare their financial statements using *IFRS as published by the IASB*. The SEC is also considering, in its concept release of 7 August, allowing US issuers to prepare financial statements in accordance with IFRS instead of US GAAP.

2.1. If the SEC were to proceed and allow IFRS based financial statements from US issuers, the Commission notes that any such standard could still be overridden by the SEC or the United States Congress. In the same concept release the SEC states *"While the [SEC] consistently has looked to the private sector to set accounting standards, the federal securities laws, including the Sarbanes-Oxley Act of 2002, provide the [SEC] with the authority to set accounting standards for public companies and other entities that file financial statements with the [SEC]."*

2.2. The Commission fully recognises this legitimate democratic override by which each jurisdiction, whilst clear in its support for IFRS, reserves its sovereign right to examine the suitability of any new standard before proceeding with its adoption.

2.3. The Commission supports the international accounting system. Improved consultations with stakeholders, especially at the point at which new standards are being designed, would certainly minimise the likelihood of subsequently rejecting standards considered inappropriate.

2.4. The EU applies safeguards before adopting IFRS into its law. In order to become applicable in the EU, each and every IFRS standard must be transposed into EU law through a European Commission Regulation, itself subject to the consent under the EU's secondary legislation of the Member States and the European Parliament. EU listed companies are therefore required to use *IFRS as adopted by the EU.*

2.5. Time lags between finalisation of standards by the IASB and adoption by the EU are therefore already a reason why, from a practical perspective, it is unlikely that *IFRS as adopted by the EU* would always mirror *IFRS as published by the IASB* at a given point in time.

2.6. The SEC proposal states *"to accept financial statements prepared in accordance with the English language version of IFRS as published by the IASB"*. The Commission has extremely serious concerns if the waiver of the reconciliation requirement were to be limited to only those issuers which are using the English language version of IFRS.

3. Currently the EU accounting legislation has a 'carve-out' only on very specific hedging rules related to portfolio hedges under IAS 39 and EU companies are required to explain their accounting policies in their financial statements. For the vast majority of EU issuers listed in the US, this carve-out has no practical significance and as such their financial statements prepared under *IFRS as adopted by the EU* would be identical to those prepared under *IFRS as published by the IASB.*

3.1. However, the impact of the SEC proposal as it currently stands would be that in the exceptional situation where the EU exercised its own override and even for minor variations in IFRS implementation, European companies would not benefit from this proposal but instead would still have to draw up another set of financial statements solely for US listing purposes.

3.2. The Commission understands that the US authorities cannot be expected to waive the reconciliation requirement for jurisdictions that do not base their accounting standards substantially on *IFRS as published by the IASB*, or that otherwise do not have the quality accounting infrastructure necessary to ensure full and fair financial reporting. In contrast the Commission emphasises that the quality as well as the proximity of *IFRS as adopted by the EU* is such as to be easily equivalent to *IFRS as published by IASB.*

3.3. The Commission confirms its key objective as being the removal of the US GAAP reconciliation requirement for EU issuers listed in the US. In this context the Commission believes that the proposed rule should recognise *IFRS as adopted by the EU* to be equivalent to *IFRS as published by the* IASB i.e. accepted in the US with no reconciliation.

3.4. In parallel, and with the same objective of promoting the efficiency of capital markets and lessening the costs for companies, the EU is also working on the possibility for US issuers listed in the EU to continue filing their financial statements using US GAAP (both as it currently stands and as it may evolve in the future) without any reconciliation requirement. Such a possibility would require a common understanding of the Commission and SEC on the equivalence of *IFRS as adopted by the EU* and US GAAP.

4. On a further point, the Commission also notes the apparent inconsistency of the SEC proposal with US auditing requirements. Even where an issuer using IFRS is no longer required to prepare the reconciliation to US GAAP, it, and its auditor would nevertheless still be required to have the audit conducted in accordance with the standards of the PCAOB and follow any SEC guidance that relates to auditing issues. The Commission considers that this area clearly needs further discussion and consideration of equivalence.

5. In the Commission's view *IFRS as adopted by the EU* as at today already meets the criteria for filing without any reconciliation. If it deems it appropriate, the SEC could revisit the situation at some future time.

   This approach would have the advantage of bringing stability to the markets.

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In summary, the Commission very much welcomes the direction that the SEC is proposing to take. The suggestions made in this letter are intended to address the acceptability of *IFRS as adopted by the EU* without any reconciliation, which remains an issue of major importance. A satisfactory resolution of this issue will in our view, greatly enhance the efficiency and thus prosperity of Trans-Atlantic and US financial markets.

In the context of supporting the SEC's initiative of removing the reconciliation requirement for EU issuers, we would, of course, be happy to discuss or explain further the views expressed in this letter, and to support the SEC's initiative in any other way.

Yours sincerely,

Jörgen Holmquist

Copies to: Christopher Cox, the SEC Chairman
Paul S. Atkins, the SEC Commissioner
Roel C. Campos, the SEC Commissioner
Kathleen L. Casey, the SEC Commissioner
Annette L. Nazareth, the SEC Commissioner
Members of the Accounting Regulatory Committee and the European Securities Committee
Pervenche Berès, Chair of the Committee of Economic and Monetary Affairs, European Parliament
Eddy Wymeersch, Chairman of the Committee of European Securities Regulators