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Mr. Jonathan Katz
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549-5303

Dear Mr Katz,

Re: **Internet Availability of Proxy Materials**
Proposed Rule S7-10-05; Release No. 52926

We are submitting this letter in response to the Securities and Exchange Commission's request for comment on Release No. 52926.

The Bank of New York is depositary for more than 1,200 American and global depositary receipt programs, has a 64% market share, and acts in partnership with leading companies from 60 countries. The particular perspective we provide in this letter is as that of a market practitioner with significant involvement in facilitating on behalf of our foreign private issuers their annual communication with depositary receipt holders.

In general terms, we broadly approve of the Commission's timely consideration of issues related to the availability of proxy materials, electronically. We know that there is a great deal of interest from foreign private issuers in making the current U.S. proxy distribution network more efficient and less costly and therefore improving the means of communication with their U.S investors.

For a foreign private issuer, a network of proxy distribution which utilizes extant technological capabilities is very beneficial. Since foreign private issuers are often confronted with local legal and regulatory timetable constraints, as they pertain to annual general meeting timetabling, they often find it highly problematic to reconcile and accommodate their local requirements with the processes that apply in the U.S. In addition, there is an increasing number of non-U.S. regulators and exchanges who already permit some form of electronic or website posting process for proxy materials. The Internet has therefore proved a viable, and in fact successful, model in many non-U.S. markets. The potential benefits to be gained from the availability of an electronic platform for the execution of proxy voting is likely to go some way to ameliorating some of the process issues related to the different legal and regulatory frameworks which foreign private issuers encounter.

Perhaps one of the most significant concerns for a foreign private issuer is ensuring that the form of proxy which is distributed to its investors replicates, as closely as possible, the form of proxy card it makes available to its shareholders in the local market. Foreign private issuers from a diverse range of legal and regulatory regimes tend to have varying numbers of proposals on a ballot as well as different methods for casting votes on those proposals. By way of example, it is common practice for French foreign private issuers to have upwards of 20 proposals and for issuers from Russia and the emerging markets of Asia to require cumulative voting for the election of board nominees. Since the current U.S. structure, as it applies to domestic issuers, is relatively standardized around the number of proposals and the voting method, foreign private issuers often face great difficulty in having their U.S. proxy card accommodate these important nuances. It is hoped that the progression towards electronic communications and the execution of proxy voting instructions, electronically, will provide foreign private issuers, and therefore those involved in the distribution and tabulation of voting instructions from U.S. investors with greater choice and flexibility over the manner in which proxy materials are presented to their beneficial owners.

A key component of corporate action access and communication is improved transparency of investors, including shareholder identification. Although the identification of investors is not addressed in the current proposal, it is a subject of various non-U.S. regulatory initiatives. For instance, developments in Europe and Canada address rules regulating the transparency of beneficial owners in light of the process mechanics by which an issuer solicits votes, and an owner receives and returns proxy materials. This is likely to continue to be a strong imperative world-wide, and we would encourage exploration of these broader issues at this time or in the near future.

The Bank of New York would be happy to discuss any aspects of this comment letter with the Commission.

Sincerely,

Verdun Edgtton