

CAQ Alert #2008-03 – January 15, 2008

DEAR CENTER MEMBERS

Foreign Private Issuers Wishing to Early Adopt Provisions of Final Rule Eliminating the US GAAP Reconciliation Requirement Should Consult with SEC Staff

On December 21, 2007 the SEC adopted as a final rule Securities Act Release No. 8879 [Acceptance from Foreign Private Issuers of Financial Statements Prepared in Accordance with International Financial Reporting Standards Without Reconciliation to U.S. GAAP](#). The final rule will become effective on **March 4, 2008**.

In communications with the SEC staff (the Staff), the Staff noted that until this new rule is effective, companies are subject to the existing rules regarding the inclusion of U.S. GAAP information. The Staff indicated that they are aware of some foreign private issuers with a fiscal year ending after November 15, 2007 that prepare their financial statements using IFRS, as issued by the IASB, that want to file their annual report on Form 20-F before March 4, 2008. These companies also want to exclude U.S. GAAP information from that filing. The Staff does not want to discourage companies from filing their 20-F before March 4, 2008. Accordingly, these companies are encouraged to contact the Staff to discuss this issue. The Staff recommends that these companies contact either the SEC's Division of Corporation Finance Deputy Chief Accountant Craig Olinger (202-551-3547), or Chief Accountant Wayne Carnall (202-551-3107) to discuss their particular facts and circumstances.

The Staff also noted that this same release provides similar relief from the requirement to provide U. S. GAAP information if the financial statements are filed under Rules 3-05, 3-09, 3-10 and 3-16. Likewise, companies that intend to file financial statements with a fiscal year ending after November 15, 2007 that are prepared using IFRS, as issued by the IASB, that exclude U.S. GAAP information in a filing under the Securities Exchange Act of 1934 before March 4, 2008 are similarly encouraged to discuss their fact pattern with the Staff.

The Staff indicated that companies seeking relief from the existing rules will need to make the request in writing. The Staff expects that they will be able to address these issues quickly.

Companies are encouraged, of course, to discuss any implementation issue with the Staff. However, companies should not assume that the Staff will waive the existing requirements with respect to the inclusion of U.S. GAAP in a registration statement.

Please click on the respective [link](#) to view the SEC's announcement regarding this matter on their website.

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