

MEMO# 10750

February 24, 1999

SEC PROPOSAL ON INTERNATIONAL DISCLOSURE STANDARDS

1 SEC Rel. Nos. 33-7637; 34-41014; Int. Ser. Rel. No. 1182 (Feb. 3, 1999). A copy of the proposal is attached. It is also available on the SEC's web site at www.sec.gov/rules/proposed/33-7637.txt. 2 International Disclosure Standards for Cross-Sector Offerings and Initial Listings by Foreign Issuers (Sept. 1998). The IOSCO report is also available on IOSCO's web site at www.iosco.org/docs-public/1998-intnl_disclosure_standards.html. 3 IOSCO and the SEC believe that promoting the use of a single disclosure document that would be accepted in multiple jurisdictions would facilitate the cross-border flow of securities and capital, ultimately to the benefit of all investors. 4 Securities Act Rule 405; Exchange Act Rule 3b-4. [10750] February 24, 1999 TO: INTERNATIONAL COMMITTEE No. 7-99 SEC RULES COMMITTEE No. 14-99 RE: SEC PROPOSAL ON INTERNATIONAL DISCLOSURE STANDARDS

The Securities and Exchange Commission has issued proposed rules that would revise the SEC's disclosure requirements for foreign private issuers.¹ The new disclosure standards would replace most of the non-financial statement disclosure requirements of Form 20-F, the basic disclosure document for foreign private issuers, and revise the definition of "foreign private issuer" under the Securities Act of 1933 and the Exchange Act of 1934. The new disclosure standards are intended, in part, to conform to the international disclosure standards endorsed by the International Organization of Securities Commissions (IOSCO) at its annual meeting in September 1998.² Specifically, IOSCO endorsed a core set of disclosure standards for the non-financial statement portions of a disclosure document and encouraged its members, which include the SEC, to take whatever steps are necessary in their own jurisdictions to accept disclosure documents prepared in accordance with those standards.³ The SEC believes that the proposed revisions to Form 20-F would be a step towards acceptance of this kind of disclosure document in the US without decreasing the amount or quality of information that US investors will receive about their investments. The proposal would also change the definition of "foreign private issuer" in the rules under the Securities Act and the Exchange Act.⁴ The foreign private issuer definition, which is the same under both Acts, is based in part on whether a majority of the issuer's outstanding voting securities are held of record by US residents. The SEC is proposing a number of new requirements to determine the residence of investors. Specifically, the proposed rule would require issuers to "look through" a bank, broker-dealer or other nominee holder of its securities to determine the residence of the account holder. This is similar to what is currently required of issuers under Rule 12g3-2(a) under the Exchange Act. The proposed rule would also require the issuer to take into consideration the residence information reported by investors on beneficial ownership reports that are provided to the issuer or filed publicly, as well as information otherwise provided to the issuer, in determining their

residence. Comments on the proposed rule are due to the SEC no later than April 9, 1999. The Institute is considering whether to comment on the proposed rule. If there are comments that you would like the Institute to make, please contact me by phone (202-371-5430), fax (202-326-5841) or e-mail (rcg@ici.org) no later than March 26, 1999.
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