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Sarbanes-Oxley Act of 2002

Highlights for Foreign Private Issuers

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The U.S. Sarbanes-Oxley Act of 2002 (the "S-O Act") enacted a wide-range of corporate governance and accounting and disclosure reforms in response to corporate scandals in the United States. The S-O Act applies to issuers, including foreign private issuers[1], that register with the U.S. Securities and Exchange Commission (the "SEC") their securities for sale under the U.S. Securities Act of 1933 (the "Securities Act") or are required to register and file reports with the SEC under the U.S. Securities Exchange Act of 1934 (the "Exchange Act"). The S-O Act does not apply to foreign private issuers who avail themselves of the exemption from Exchange Act registration by furnishing materials with the SEC under Rule 12g3-2(b) of the Exchange Act.

The most significant provision of the S-O Act that affect foreign private issuers can be categorized as follows:

- Provisions related to corporate governance, responsibility for financial reports and conflicts of interest;
- Provisions related to accounting reforms, auditor independence and audit committees; and
- Provisions related to disclosures.

Part I: Provisions Related To Corporate Governance, Responsibility for Financial Reports and Conflicts of Interest

Maintenance and Annual Evaluation of "Disclosure Controls and Procedures" and "Internal Control over Financial Reporting"

The SEC recently adopted new Rules 13a-15 and 15d-15 under the Exchange Act, which require every issuer with a class of securities registered pursuant to Section 12 of the Exchange Act, including foreign private issuers, to maintain "disclosure controls and procedures"[2] and "internal control over financial reporting."[3] It is important to note that the Exchange Act already required issuers to maintain similar financial controls.

Management must now carry out an evaluation with the participation of the issuer's principal executive (CEO) and principal financial officer (CFO), or persons performing similar functions, of the effectiveness of the issuer's "disclosure controls and procedures" and "internal control over financial reporting," as of the end of each fiscal year. No particular evaluation method is required. However, management must evaluate the effectiveness of the issuer's "internal control over financial reporting" on a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, such as the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") Framework. Management's assessment must also be based on procedures sufficient to evaluate an issuer's design and test the operating effectiveness of its "internal control over financial reporting". Management must maintain documentation and other evidentiary material to provide reasonable support for its assessment. As discussed in Part III below, the public accounting firm that is required to attest to, and report on, management's assessment of the effectiveness of the issuer's "internal control over financial reporting" also will require that the issuer develop and maintain such evidentiary material to support management's assessment.

The SEC has acknowledged that there is substantial overlap between an issuer's "disclosure controls and procedures" and its "internal control over financial reporting." However, there are some elements of "disclosure controls and procedures" and "internal control over financial report-

ing" that are not subsumed by one another.

As discussed in Part III and below, the SEC's rules also require each issuer to make certain disclosures and such issuer's CEOs and CFOs to make certain personal certifications related to such issuer's "disclosure controls and procedures" and "internal control over financial reporting" in annual reports on Forms 20-F or Form 40-F. As discussed in Part III below, foreign private issuers will also be required to include an internal control report of management in annual reports on Forms 20-F or Form 40-F covering fiscal years ending on or after April 15, 2005.

Advice: Foreign private issuers should (a) adopt policies relating to maintenance of their "disclosure controls and procedures" and (b) decide which control framework they will use to evaluate their "internal control over financial reporting" and begin to collect the necessary documentation to support their assessments.

CEO/CFO Accountability and Certification of Reports

The S-O Act requires that each annual report on Form 20-F or Form 40-F filed with the SEC include two distinct written certifications of the issuer's CEO and CFO, the text of which are attached as Exhibit A (Section 302 certification) and Exhibit B (Section 906 certification). The Section 302 and 906 certifications are now required to be included as exhibits to annual reports.

In June 2003, the SEC amended the form of the Section 302 certification to, among other things, require that the certification with respect to the effectiveness of "disclosure controls and procedures" and "internal control over financial reporting" be made as of the end of the period covered by the report and to add a statement that the certifiers are responsible for designing "internal control over financial reporting" or having such internal controls designed under their supervision. Although the new form of Section 302 certification is currently effective, the introductory portion of Item 4 of the certification that relates to the certifier's responsibility for establishing and maintaining "internal control over financial reporting", as well as Item 4(b) of the certification, are not required to be provided until the issuer's first annual report required to contain management's report on "internal control over financial reporting" (see the bolded items in attached Exhibit A) is required to be filed. The text of the Section 302 certification may not be changed in any respect even if the change would appear to be inconsequential in nature.

Unlike the Section 302 certification, the Section 906 certification is required only in periodic reports that contain financial statements. The SEC is considering, in consultation with the Department of Justice, the application of the Section 906 certification to current reports on Form 6-K. Unlike the Section 302 certification, which may only be signed by one officer, the Section 906 certification may be a single statement signed by both an issuer's CEO and its CFO. Unlike the Section 302 certification, the Section 906 certification does not contain any express knowledge qualifier indicating that the certification is based on the certifier's knowledge.

Section 302 of the S-O Act requires that the certifications thereunder be included "in" each annual report. In contrast, Section 906 requires that a certification "accompany" each periodic report containing financial statements filed by an issuer with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act. As a result, the Section 906 certification will not be deemed to be filed with the SEC, but rather "furnished", and will not be subject to liability under Section 18 of the Exchange Act or automatic incorporation by reference into an issuer's registration statements filed under the Securities Act, which are subject to liability under Section 11 of the Securities Act. However, the SEC's view is that the failure to furnish the Section 906 certification causes the annual report to be incomplete, thereby violating Section 13(a) of the Exchange Act. In addition, Section 906 of the S-O Act expressly creates new criminal penalties for a knowingly or willfully false certification.

Advice: Foreign private issuers should have in place an internal process to support the Section 302 and Section 906 certifications.

Reimbursement of Bonuses and Profits by CEO and CFO

Section 304 of the S-O Act requires the CEO and CFO of an issuer to reimburse the issuer for any profits from the sale of securities of the issuer and any bonuses, or other incentive-based or equity-based compensation received during the 12-month period following the issuance or filing of a financial report for which the issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirements under the securities laws as a result of any misconduct thereunder. The SEC has the authority to enforce Section 304, and may exempt any person from this requirement as it deems necessary and appropriate.

Personal Loans to Directors and Executive Officers

Pursuant to Section 402 of the S-O Act, issuers are prohibited from making any new extensions of credit or arranging for the extension of credit in the form of a personal loan or guarantee to any of their directors or executive officers. Maintenance of any loan in existence as of July 30, 2002 is not prohibited, provided that on or after that date, no material modifications have been made to the terms of the loan and it is not extended or renewed. To date, the SEC has not provided any interpretative guidance or exemptive relief with respect to this restriction. Any arrangement that can be viewed as a personal loan, extension of credit or guarantee by an issuer is subject to the prohibitions of Section 402 of the S-O Act. Therefore, on its face, Section 402 of the S-O Act would prohibit loans to finance personal items such as housing, moving expenses, tuition and medical expenses. It may, however, also apply to transactions not traditionally considered loans, such as the cashless exercise of stock options, depending on the circumstances.

The SEC recently proposed to extend to qualified foreign banks the exemptions to the Section 402 lending prohibitions currently available to certain U.S. consumer credit companies that provide credit in the ordinary course of their business, such as mortgage companies and credit card providers.

Advice: Foreign private issuers should review all financial arrangements with their directors and executive officers to ensure compliance with Section 402.

Insider Trading During Blackout Periods

Section 306 of the S-O Act imposes blackout periods during which directors and executive officers of an issuer may not acquire or transfer equity securities of issuers for which they act (including any derivative security or ADS) if the equity security was acquired in connection with his or her service or employment as a director or executive officer. A blackout period is deemed to occur during any period of more than three consecutive business days in which 50% or more of the participants or beneficiaries of certain employee benefit plans located in the United States are not permitted to acquire or transfer an interest in any equity security of that issuer held in such plan, and the participants and beneficiaries subject to the blackout period exceed either 15% of the total number of employees of the issuer and its consolidated subsidiaries worldwide or 50,000 affected participants or beneficiaries.

For example, if a foreign private issuer (a) has 100,000 employees worldwide who participate in individual account plans maintained by the issuer that hold equity securities of the issuer, 30,000 of whom are located in the U.S. and (b) implements a blackout period that affects 16,000 U.S. participants, then the insider trading prohibition would apply to the issuer's directors and executive officers. This is because U.S. plan participants who are subject to the blackout period comprise 50% or more of the total number of U.S. participants (16,000 / 30,000 or 53.33%), and U.S. plan participants who are subject to the blackout period comprise more than 15% of the total number of plan participants worldwide (16,000 / 100,000 or 16%). As illustrated in this example, the insider trading blackout periods are not likely to apply to many foreign private issuers, unless they have significant U.S. operations and employees.

With respect to a foreign private issuer, the term "director" is limited to those who manage employees of the issuer and the term "executive officer" is limited to the issuer's principal executive officer (CEO), principal financial officer (CFO) and principal accounting officer. An equity security is deemed to have been acquired "in connection with" an individual's service or employment as a director or executive officer for purposes of the S-O Act where the director or executive officer (i) acquires the security at a time when he/she was a director or executive officer and (ii) the acquisition occurs under a compensatory plan, contract, authorization or arrangement with the issuer or its parent, subsidiaries or affiliates. Directors' qualifying shares or other securities that a director must hold to meet minimum ownership requirements under guidelines established by the issuer are also deemed to have been acquired "in connection with" a director's or executive officer's service or employment for purposes of the S-O Act. Certain acquisitions and dispositions of equity securities during blackout periods are exempt, including:

- acquisitions pursuant to dividend or interest reinvestment plans;
- purchases or sales of equity securities pursuant to a trading plan under Section 10b5-1(c) of the Exchange Act;
- purchases or sales of equity securities, other than discretionary transactions, pursuant to certain "tax-conditioned" plans under Section 16 of the Exchange Act;
- increases or decreases in the number of equity securities held as a result of a stock split or stock dividend applying equally to all equity securities of that class;
- compensatory grants and awards of equity securities pursuant to a plan that provides for grants or awards to occur automatically

and specifies the terms and conditions of the grants or awards;

- exercises, conversions or terminations of derivative securities that were not acquired by a director or executive officer during the blackout period in question or while the director or executive officer was aware of the actual or approximate beginning or ending dates of the blackout period;

- acquisitions or dispositions of equity securities involving a bona fide gift or a transfer by will or the laws of descent and distribution;

- acquisitions or dispositions of equity securities pursuant to a domestic relations order;

- sales or other dispositions of equity securities compelled by the laws or other requirements of an applicable jurisdiction; and

- acquisitions or dispositions of equity securities in connection with a merger, acquisition, divestiture or similar transaction occurring by operation of law.

The SEC rules also require issuers to provide notice to their directors and executive officers as well as the SEC about blackout periods. The notices must specify, among other things, the length of the blackout period and be provided no later than five business days after the issuer receives notice of a blackout period from the plan administrator. If the issuer does not receive such notice, it must provide notice to directors and executive officers at least 15 calendar days before the actual or expected beginning date of the blackout period. Foreign private issuers must provide copies of all notices to directors and executive officers during the previous year as exhibits to annual reports on Forms 20-F or 40-F, unless such notices were previously provided to the SEC in a report on Form 6-K.

A violation of Section 306(a) will subject a director or executive officer to civil injunctive actions, cease-and-desist proceedings, civil penalties and, under certain circumstances, criminal liability. Any profit realized in violation of the restriction is recoverable by the issuer, irrespective of intent. If the issuer fails to initiate or diligently prosecute such an action, shareholders may bring the action in the name, and on behalf of, the issuer.

Advice: Foreign private issuers should evaluate their benefit plans to determine if the blackout restrictions apply to them and institute procedures to provide the required notices.

Part II: Provisions Related To Accounting Reforms, Auditor Independence and Audit Committees

The Public Company Accounting Oversight Board

Sections 101-109 of the S-O Act mandate the establishment of a Public Company Accounting Oversight Board (the "Board") to regulate auditors of public companies. Only public accounting firms that are registered with the Board can perform audits of public companies. Section 106 of the S-O Act specifically applies to any foreign public accounting firm that prepares or furnishes an audit report. Section 106 of the S-O Act provides that if a foreign firm issues an audit opinion, it is considered to have consented to the jurisdiction of U.S. courts for production of documents. Section 106 also authorizes the SEC to exempt foreign accounting firms from any provision of the S-O Act or any rules of the SEC if it determines that such exemption is necessary or appropriate in the public interest or for the protection of investors.

Advice: Foreign private issuers are urged to consult with their accounting firms to ensure compliance the requirements described above.

Prohibitions and Rules Related to Audit Services

Foreign private issuers must comply with a number of requirements governing financial audits, auditor independence and other audit related activities, which became effective on May 6, 2003 and are being phased-in in varying degrees through the first day of each issuer's financial year beginning after May 6, 2004. Among other things, the new rules:

- limit the non-audit services an auditing firm may provide to an audit client;

- require an issuer's audit committee to pre-approve all audit and non-audit services provided to the issuer by an independent auditor;

- prohibit an accounting firm from auditing an issuer's financial statements if certain members of management of that issuer had been members of the accounting firm's audit engagement team within the one-year period preceding the commencement of audit procedures;

- require the rotation of certain partners on the audit engagement team by prohibiting them from providing audit services to an issuer for more than five (or seven) consecutive years, depending on a partner's involvement in the audit;

- require auditors of an issuer's financial statements to report certain matters to the issuer's audit committee, including "critical" accounting policies used by the issuer; and

- require disclosures to investors of information related to audit and non-audit services provided by, and fees paid to, the auditor of the issuer's financial statements.

Registered accounting firms are prohibited from providing the following non-audit services to an issuer contemporaneously with an audit:

- bookkeeping or other services related to accounting records or financial statements of the audit client;

- financial information systems design and implementation;

- appraisal or valuation services, fairness opinions and contribution-in-kind reports;

- actuarial services;

- internal audit outsourcing services;

- management functions;

- human resources;

- broker or dealer, investment adviser, or investment banking services; and

- legal and expert services unrelated to the audit.

The Board may propose standards for independence that would result in additional services being prohibited.

Tax services are not prohibited. Non-audit services not expressly prohibited by the S-O Act may be provided if, subject to de minimis exceptions, they are pre-approved by the issuer's audit committee. Pre-approval may be obtained expressly by the audit committee prior to the engagement of the auditor to perform the services or pursuant to detailed policies and procedures adopted by the audit committee in advance of the provision of the services.

Additional sections of the S-O Act further serve to ensure auditor independence. The SEC's rules deem an audit firm not to be independent if a former partner, principal, shareholder or professional employee of the accounting firm accepts employment with a client when he or she has a continuing financial interest in the accounting firm or is in a position to influence the firm's operations or financial policies. Furthermore, an accountant would not be independent from an audit client if an audit partner received compensation based on selling engagements to that client for services other than audit, review and attestation services. Section 203 of the S-O Act provides that an accounting firm may not audit an issuer if the chief executive, controller, chief financial officer, chief accounting officer or any person serving an equivalent position for the issuer was employed by that accounting firm and participated in any capacity in the audit of the issuer during the one-year period preceding the date of the initiation of the audit.

Section 206 requires an auditing firm to rotate the lead and concurring partners auditing an issuer after five years, following which those partners may not audit the issuer for the next five years. Other audit partners on the audit engagement team who have responsibility for decision-making on significant auditing, accounting and reporting matters that affect the financial statements or who maintain regular contact with management and the audit committee are required to rotate after no more than seven years and are subject to a two-year time-out. These other audit partners include the lead partner on subsidiaries of the issuer where such subsidiaries' assets or revenues constitute 20% or more of the issuer's consolidated assets or revenues.

Section 204 of the S-O Act requires that each public accounting firm that performs an audit for an issuer must make timely reports to the audit committees of their audit clients regarding:

- critical accounting policies and practices to be used;

- alternative treatments of financial information that have been discussed with management officials, the ramifications of the use of those alternative treatments and the treatment preferred by the accounting firm; and

- other material written communications between the registered public accounting firm and the management of the issuer.

Advice: Foreign private issuers should review with their auditors the scope of services provided to ensure compliance and incorporate appropriate pre-approval procedures in their audit committees' charters by the auditors.

Audit Committees

As directed by Section 301 of the S-O Act, the SEC has adopted final rules directing national securities exchanges (such as the New York Stock Exchange and the American Stock Exchange) and The Nasdaq Stock Market, Inc. ("NASDAQ") to prohibit the initial or continued listing of any

security of an issuer that is not in compliance with minimum standards regarding audit committees set forth in the S-O Act. The minimum standards relate to:

- the independence of audit committee members;
- audit committee responsibility for the appointment, compensation, retention and oversight of the work of independent auditors;
- the establishment by the audit committee of procedures for handling complaints regarding accounting, internal accounting controls and auditing matters;
- audit committee authority to engage independent counsel and other advisors; and
- the funding of the audit committee by the issuer.

The standards must not conflict with, or affect the application of, any requirement or ability under a foreign private issuer's governing law or documents or other home country legal or listing provisions that require or permit shareholders to vote on, approve or ratify the subject matter of such requirements. If local law or other requirements vest shareholders with these voting, approval or ratification rights, the audit committee must be responsible for making the recommendation or nomination to the shareholders. The standards are also not intended to conflict with any legal or listing requirement in the issuer's home jurisdiction that prohibits the full board from delegating these responsibilities to the audit committee or limits the degree to which it can delegate or that vests these responsibilities with a governmental entity. With respect to limitations on delegation, the SEC's instructions state that the audit committee must be granted such responsibilities which can include advisory powers with respect to such matters to the extent permitted by law, including the power to submit nominations or recommendations to the full board of directors.

National securities exchanges and NASDAQ must provide to the SEC proposed rules and amendments that comply with these general standards. The proposed rules and amendments are scheduled to be approved by the SEC by December 1, 2003. However, because the SEC has only set forth minimum standards, national securities exchanges and NASDAQ are free to adopt additional standards beyond those listed above. National securities exchanges and NASDAQ must require issuers to notify them after any executive officer becomes aware of any material noncompliance by the issuer with the audit committee standards. However, national securities exchanges and NASDAQ must have procedures allowing issuers the opportunity to cure any material noncompliance with these standards prior to de-listing their securities. Foreign private issuers must comply with the new listing rules beginning with reports covering periods ending on or after July 31, 2005.

There is a general exemption from the audit committee listing standards for foreign private issuers that have an alternative auditor oversight structure. The exemption is available if the issuer meets the following requirements:

- the foreign private issuer has a board of auditors (or similar body), or has statutory auditors (collectively, a "Board of Auditors"), established and selected pursuant to home country legal or listing provisions expressly requiring or permitting such a board or similar body;
- the Board of Auditors is required to be either separate from the board of directors, or composed of one or more members of the board of directors and one or more members that are not also members of the board of directors;
- the Board of Auditors are not elected by management of the issuer and no executive officer of the issuer is a member of the Board of Auditors;
- home country legal or listing provisions set forth or provide for standards for the independence of the Board of Auditors from the issuer or the management of the issuer;
- the Board of Auditors, in accordance with any applicable home country legal or listing requirements or the issuer's governing documents, is responsible, to the extent permitted by law, for the appointment, retention and oversight of the work of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attestation services for the issuer (including to the extent permitted by law, the resolution of disagreements between management and the auditor regarding financial reporting); and
- the remaining requirements in the rule, such as the complaint procedures requirement, advisors requirement and funding requirement, apply to the Board of Auditors, to the extent permitted by law.

To avoid duplicative and conflicting regulations, the new requirements provide that so long as an issuer has any class of securities listed on a national securities exchange or NASDAQ, it will be exempt from the audit committee requirements with respect to all other listings of its securities. In addition, listings of non-equity securities by a direct or indirect subsidiary that is consolidated or at least 50% beneficially owned by an issuer are exempt if the issuer is subject to the requirements as a result of the listing of a class of its equity securities.

Advice: Foreign private issuers should review their audit committee charters to ensure compliance with the new rules.

Audit Committee Member Independence

The SEC's new rules under Section 301 of the S-O Act require the national securities exchanges and national securities associations to adopt new rules providing that all audit committee members must be independent. Foreign private issuers must be in compliance with the new rules by July 31, 2005.

In order to be considered independent under the SEC's final rules, an audit committee member cannot, subject to certain exceptions, accept, directly or indirectly, any consulting, advisory or other compensatory fee, from the issuer or its subsidiaries other than in the member's capacity as a member of the board or any board committee. This prohibition on indirect acceptance of compensatory fees includes acceptance of payments by spouses, minor children or stepchildren or children or stepchildren sharing a home with the member. Indirect acceptance also includes payments accepted by an entity in which such member is a partner, member, officer (such as a managing director occupying a comparable position) or executive officer, or occupies a similar position (except limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity) and which provides accounting, consulting, legal, investment banking or financial advisory services to the issuer or any of its subsidiaries. In addition, an audit committee member may not be an affiliated person[4] of the issuer or any of its subsidiaries.

The SEC has adopted a non-exclusive safe harbor under which a person will not be deemed to control another person, and thus be an affiliated person, if he or she neither beneficially owns, directly or indirectly, more than 10% of any class of voting equity securities nor is an executive officer of such person. However, the safe harbor does not in any way specify or imply that a certain level of share ownership automatically creates a presumption that a person controls any entity or is an affiliate thereof.

The SEC has provided the following exemptions from the audit committee independence requirements:

- for the first 90 days after an issuer's first registration statement becomes effective, all but one of the members of the listed issuer's audit committee may be exempt from the independence requirements. For one year from the date of effectiveness of that registration statement, a minority of the members of the listed issuer's audit committee may be exempt from the independence requirements;

- an audit committee member that sits on the board of directors of a listed issuer and of an affiliate of the listed issuer is exempt from the independence requirements if the member, except for being a director on each such board of directors, otherwise meets the independence requirements for each entity, including the receipt of only ordinary course compensation for serving as a member of the board of directors, audit committee or any other board committee of each entity;

- an employee who is not an executive officer of a foreign private issuer is exempt from the independence requirements, if the employee is elected or named to the board of directors or audit committee of the foreign private issuer pursuant to the issuer's governing law or documents, an employee collective bargaining or similar agreement or other home country legal or listing requirements;

- an audit committee member of a foreign private issuer may be exempt from the requirements if that member (1) is an affiliate of the foreign private issuer or a representative of such affiliate, (2) has only observer status on the audit committee and is not a voting member or chair and (3) neither the member nor the affiliate is an executive officer of the issuer; and

- an audit committee member of a foreign private issuer may be exempt from the independence requirements if that member is a representative or designee of a foreign government or foreign governmental entity that is an affiliate of the foreign private issuer and is not an executive officer of the foreign private issuer.

In addition, the SEC may grant exemptions from the audit committee independence requirements as it determines appropriate in light of the circumstances.

The SEC clarified that in the case of foreign private issuers with two-tiered board systems, the term "board of directors" means the supervisory

or non-management board. The SEC also provided an accommodation for issuers that operate under a dual holding company structure in which each holding company is a foreign private issuer organized in a different jurisdiction. Please consult your contact at Paul Hastings, regarding the details of this accommodation.

Advice: Foreign private issuers should determine whether their audit committee members meet the criteria established by the new rules. We note again that the national securities exchanges and NASDAQ are free to adopt additional requirements relating to audit committee member independence. Please consult your contact at Paul Hastings for an update as to the existing proposals.

Audit Committee Financial Expert

Pursuant to Section 407 of the S-O Act, if a foreign private issuer is a listed issuer, the foreign private issuer must disclose in its annual report on Form 20-F or 40-F whether or not its audit committee has at least one member who is a financial expert and whether he or she is independent of management, as that term is defined by the national securities exchanges' and national securities associations' listing standards applicable to that issuer. If a foreign private issuer is not a listed issuer, it must choose one of the national securities exchanges' or national securities associations' definitions of audit committee member independence that have been approved by the SEC in determining whether its audit committee financial expert, if it has one, is independent. The issuer must also disclose which definition was used. Foreign private issuers need not comply with these disclosure requirements until July 31, 2005. If an issuer does not have a financial expert, it must disclose why it does not.

Pursuant to the SEC's rules, an audit committee financial expert must have all of the following attributes:

- an understanding of GAAP and financial statements (with respect to foreign private issuers, the audit committee financial expert's understanding must be of the GAAP used by the foreign private issuer in preparing its primary financial statements filed with the SEC); an understanding of reconciliation to U.S. GAAP is not required;
- an ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
- experience in preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer's financial statements, or experience in actively supervising one or more persons engaged in those activities;
- an understanding of internal controls and procedures for financial reporting; and
- an understanding of audit committee functions.

A person must acquire these attributes through:

- education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;
- experience in actively supervising a person who functions as a principal financial officer, principal accounting officer, controller, public accountant, auditor or person who performs similar functions;
- experience in overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or
- other relevant experience (the issuer does not need to disclose the basis for the board's determination that a person has relevant experience, but must briefly list that person's experience).

The SEC does provide a safe harbor for designating or identifying a board member as an audit committee financial expert. Audit committee financial experts will not be:

- rendered an "expert" for any purpose, including for purposes of Section 11 of the Securities Act;
- subject to any duties, obligations or liabilities greater than those that the person has in the absence of such designation; or
- affected by the duties, obligations or liabilities of any other member of the audit committee.

Advice: Foreign private issuers should begin assessing the qualifications of the current members of the audit committee to determine whether any member qualifies as an "audit committee financial expert."

Audit Committee Disclosures

The names of each member of a foreign private issuer's audit committee must be included or incorporated by reference in the foreign private issuer's Forms 20-F or 40-F, as applicable. If a foreign private issuer wishes to avail itself of certain exemptions to the independence standards, it must disclose its reliance thereon and provide an assessment of whether, and if so, how, such reliance will materially adversely affect the ability of the audit committee to act independently and satisfy the other requirements. The disclosure must be provided by the foreign private issuer in annual reports on Forms 20-F or 40-F. As stated above, issuers are also required to make certain disclosures relating to audit committee financial experts, which is required in annual reports on Forms 20-F or 40-F, as applicable, for fiscal years ending on or after July 15, 2003.

Part III: Provisions Related to Disclosures

Financial Statement Disclosures

Section 401 of the S-O Act requires that each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) GAAP and filed with the SEC, shall reflect all material correcting adjustments that have been identified by the issuer's auditors.

Non-GAAP Financial Measures

As directed by Section 401 of the S-O Act, the SEC has adopted a new disclosure regulation, Regulation G, to address an issuer's disclosure or release of certain financial information that is calculated and presented on the basis of methodologies other than in accordance with GAAP. Regulation G requires issuers to (1) not make public a non-GAAP financial measure that, taken together with the information accompanying that measure, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the presentation of the non-GAAP financial measure, in light of the circumstances under which it is presented, not misleading; and (2) include a presentation of the most directly comparable GAAP financial measure and a reconciliation of the disclosed non-GAAP financial measure to the most directly comparable GAAP financial measure. In addition, more stringent requirements have been adopted to address the use of non-GAAP financial measures in SEC filings.

A non-GAAP financial measure is defined as a numerical measure of an issuer's historical or future financial performance, financial position or cash flows that (1) excludes amounts that are included in the most directly comparable measure calculated and presented in accordance with GAAP; or (2) includes amounts that are excluded from the most directly comparable measure so calculated and presented. In the case of foreign private issuers whose primary financial statements are prepared in accordance with non-U.S. GAAP financial measures, GAAP refers to the principles under which those primary financial statements are prepared. Where a non-GAAP financial measure is derived from or based on a measure calculated in accordance with U.S. GAAP, however, GAAP refers to U.S. GAAP for purposes of the application of the requirements of Regulation G to the disclosure of that measure.

The definition of non-GAAP financial measure is intended to capture all measures that have the effect of depicting either:

- a measure of performance that is different from that presented in the financial statements, such as income or loss before taxes or net income or loss, as calculated in accordance with GAAP; or

- a measure of liquidity that is different from cash flow or cash flow from operations computed in accordance with GAAP.

An example of a non-GAAP financial measure would be a measure of operating income that excludes one or more expense or revenue items that are identified as "non-recurring." Another example would be EBITDA, which could be calculated using elements derived from GAAP financial presentations but, in any event, is not presented in accordance with GAAP.

Non-GAAP financial measures do not include:

- operating and other statistical measures (such as unit sales, numbers of employees, numbers of subscribers, or numbers of advertisers); and

- ratios or statistical measures that are calculated using exclusively one or both of (a) financial measures calculated in accordance with GAAP; and (b) operating measures or other measures that are not non-GAAP financial measures.

Non-GAAP financial measures also do not include financial information that does not have the effect of providing numerical measures that are different from the comparable GAAP measure. Examples of measures to which Regulation G does not apply include the following:

- disclosure of amounts of expected indebtedness, including contracted and anticipated amounts;

- disclosure of amounts of repayments that have been planned or decided upon but not yet made;

- disclosure of estimated revenues or expenses of a new product line, so long as such amounts were estimated in the same manner as would be computed under GAAP; and

- measures of profit or loss and total assets for each segment required to be disclosed in accordance with GAAP.

Lastly, Regulation G will not apply to a non-GAAP financial measure included in disclosure relating to a proposed business combination, the entity resulting from the business combination transaction or an entity that is a party to the business combination transaction, if the disclosure is contained in a communication that is subject to the communications rules applicable to business combination transactions.

Foreign private issuers are able to take advantage of an exemption to Regulation G in respect of public disclosure of a non-GAAP financial measure if:

- the securities of the foreign private issuer are listed or quoted on a securities exchange or inter-dealer quotation system outside the United States;

- the non-GAAP financial measure is not derived from or based on a measure calculated and presented in accordance with U.S. GAAP; and

- the disclosure is made by or on behalf of the foreign private issuer outside the United States, or is included in a written communication that is released by or on behalf of the foreign private issuer outside the United States.

The exception for foreign private issuers will apply even where any one or more of the following circumstances are present:

- a written communication is released in the U.S. as well as outside the U.S., so long as the communication is released in the U.S. contemporaneously with or after the release outside the U.S. and is not otherwise targeted at persons located in the U.S.;

- foreign journalists, U.S. journalists or other third parties have access to the information;

- the information appears on one or more web sites maintained by the foreign private issuer, so long as the web sites, taken together, are not available exclusively to, or targeted at, persons located in the U.S.; or

- following the disclosure or release of the information outside the U.S., the information is included in a submission to the SEC made under cover of a Form 6-K.

Foreign private issuers will be subject to the same requirements as domestic issuers with respect to the use of non-GAAP financial measures in filings with the SEC on Form 20-F. Filers on Form 40-F under the Multi-Jurisdictional Disclosure System are not subject to these requirements in their filings on Form 40-F (but any public disclosure by these issuers that is not covered by the exclusion for foreign private issuers would be subject to Regulation G). Materials submitted to the SEC on Form 6-K will not be subject to the requirements of Regulation G unless the information in the Form 6-K is incorporated by reference into a registration statement, prospectus or annual report. The SEC provides a safe harbor for non-GAAP financial measures disclosed in a Form 20-F of a foreign private issuer if the measures are (1) required or expressly permitted by the standard-setter that establishes GAAP used in the foreign private issuer's primary financial statements and (2) included in the foreign private issuer's annual report or financial statements used in its home country jurisdiction or market.

Issuers using non-GAAP financial measures in SEC filings must include:

- a presentation, with equal or greater prominence, of the most directly comparable financial measure calculated and presented in accordance with GAAP;

- a reconciliation (by schedule or other clearly understandable method), which shall be quantitative for historical non-GAAP measures presented, and quantitative, to the extent available without unreasonable efforts, for forward-looking information, of the differences between the non-GAAP financial measure disclosed or released and the most directly comparable financial measure or measures calculated and presented in accordance with GAAP;

- a statement disclosing the reasons why the issuer's management believes that the presentation of the non-GAAP financial measure provides useful information to investors regarding the issuer's financial condition and results of operations; and

- to the extent material, a statement disclosing the additional purposes, if any, for which the issuer's management uses the non-GAAP

financial measure that are not otherwise disclosed.

Regulation G prohibits the following:

- excluding charges or liabilities that required, or will require, cash settlement, or would have required cash settlement absent an ability to settle in another manner, from non-GAAP liquidity measures, other than the measures EBIT and EBITDA (EBIT and EBITDA are exempt because of their wide and recognized existing use; however, issuers must reconcile these measures to their most directly comparable GAAP financial measure);

- adjusting a non-GAAP performance measure to eliminate or smooth items identified as non-recurring, infrequent or unusual, when (1) the nature of the charge or gain is such that it is reasonably likely to recur within two years, or (2) there was a similar charge or gain within the prior two years;

- presenting non-GAAP financial measures on the face of the issuer's financial statements prepared in accordance with GAAP or in the accompanying notes;

- presenting non-GAAP financial measures on the face of any pro forma financial information required to be disclosed by Article 11 of Regulation S-X; and

- using titles or descriptions of non-GAAP financial measures that are the same as, or confusingly similar to, titles or descriptions used for GAAP financial measures.

Advice: Foreign private issuers that use non-GAAP financial measures should work with their accountants to provide the most directly comparable GAAP financial measures and related reconciliations, unless it is determined that they can qualify for an exemption from Regulation G.

Off-balance Sheet Transactions

As a result of Section 401(a) of the S-O Act, issuers are required to provide an explanation of their off-balance sheet arrangements in a separately captioned subsection of the "Management's Discussion and Analysis of Financial Condition and Results of Operations" ("MD&A") section in registration statements, annual reports and information statements that are required to include financial statements for their fiscal years ending on or after June 15, 2003. Off-balance sheet transactions are defined broadly to include any transaction, agreement or other contractual arrangement to which an entity, unconsolidated with the issuer, is a party, under which the issuer has:

- any obligation under certain guarantee contracts that have any of the characteristics identified in Financial Accounting Standards Board ("FASB") Interpretation No. 45, Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others (November 2002);

- a retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to that entity for such assets;

- any obligation, including a contingent obligation, under a contract that would be accounted for as a derivative instrument, except that it is both indexed to the issuer's own stock and classified in stockholders' equity in the issuer's statement of financial position, and therefore excluded from the scope of FASB Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities (June 1998); or

- any obligation under a material variable interest (as referenced in FASB Interpretation No. 46, Consolidation of Variable Interest Entities (January 2003)), held by the issuer in an unconsolidated entity that provides financing, liquidity, market risk or credit risk support to the issuer, or engages in leasing, hedging or research and development services with the issuer.

An issuer must disclose the following information to provide investors with a clear understanding of its off-balance sheet arrangements and their material effects, if such information is reasonably likely to have a current or future material effect on the issuer's financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources:

- the nature and business purpose of such off-balance sheet arrangements;

- the importance of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits;

- the amounts of revenues, expenses and cash flows arising from such arrangements; the nature and amounts of any interests retained,

securities issued and other indebtedness incurred in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) arising from such arrangements that are or are reasonably likely to become material and the triggering events or circumstances that could cause them to arise; and

- any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the issuer has taken or proposes to take in response to any such circumstances.

In addition to the enumerated information, issuers must disclose such other information that they believe is necessary for an understanding of their off-balance sheet arrangements and the specified material effects. Consistent with the existing MD&A requirements for foreign private issuers, the disclosure about off-balance sheet arrangements must focus on primary financial statements presented in the document. If a foreign private issuer prepares these primary financial statements in accordance with non-U.S. GAAP, the issuer should include a reconciliation to U.S. GAAP, and a description of any differences between such non-U.S. and U.S. GAAP, if they would be necessary for an understanding of the financial statements as a whole.

These requirements do not apply to Form 6-K reports submitted by foreign private issuers who must provide copies of materials required to be made public in their home jurisdictions. Because a foreign private issuers is not required to file quarterly reports with the SEC, unless a foreign private issuer files a Securities Act registration statement that must include interim period financial statements and related MD&A disclosure, it will only be required to update its MD&A disclosure annually in its annual report on Form 20-F.

Disclosure Relating to Contractual Obligations

Issuers are also required to provide an overview of certain known contractual obligations in a tabular format in registration statements, annual reports or information statements that are required to include financial statements for the fiscal years ending on or after December 15, 2003. The table requires disclosure of the amounts of contractual obligations, aggregated by category of contractual obligation, for specified time periods. Issuers must provide the information as of the latest fiscal year end balance sheet date (see Table 1 for an example).

To provide flexibility for company-specific disclosure, an issuer is allowed to disaggregate the specified categories by using other categories suitable to its business, but the table must include all of the obligations that fall within specified categories. In addition, the table should be accompanied by footnotes necessary to describe material contractual provisions or other material information to the extent necessary for an understanding of the timing and amount of the contractual obligations in the table. An issuer that prepares financial statements in accordance with non-U.S. GAAP should include contractual obligations in the table that are consistent with the classifications used under the GAAP under which its primary financial statements are prepared. An issuer should also update the table from its annual report by disclosing only material changes outside of the ordinary course of business.

Safe Harbor for Disclosure of Off-Balance Sheet Arrangements and Contractual Obligations

In order to encourage the type of information and analysis necessary for investors to understand the impact of off-balance sheet arrangements and to reduce the burden of estimating the payments due under contractual obligations, the amendments include a safe harbor for forward-looking information. The safe harbor is closely linked to the statutory safe harbor protections found in Section 27A of the Securities Act and 21E of the Exchange Act. Thus, issuers are urged to prepare

Table 1

	Payments due by period				
Contractual Obligations	Total	Under 1 year	1-3 years	3-5 years	More than 5 years
[Long-Term Debt]					
[Capital Lease Obligations]					
[Operating Leases]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Registrant's Balance Sheet under GAAP]					
Total					

their disclosures with consideration of the terms, conditions and scope of the statutory safe harbors.

Advice: Foreign private issuers should identify the information they must provide in order to comply with the disclosure requirements relating to off-balance sheet arrangements and contractual obligations and ensure that the proper mechanisms are in place in order to record and maintain such information.

Disclosure of Management's Assessment of "Disclosure Controls and Procedures" and "Internal Control over Financial Reporting"

New Item 15 to Part II of Form 20-F requires issuers to disclose the conclusions of the issuer's principal executive and principal financial officers, or persons performing similar functions regarding the effectiveness of the issuer's "disclosure controls and procedures" as of the end of the period covered by the report, based on the evaluation of these controls and procedures as required by the rules promulgated under the Exchange Act. Item 15 also requires issuers to include in their annual reports a report of management's assessment of the issuer's "internal control over financial reporting" as well as the registered public accounting firm's attestation report on management's assessment. Foreign private issuers must include the internal control report of management and the independent auditor attestation in annual reports until fiscal years ending on or after April 15, 2005. Although the internal control report of management and the independent auditor attestation are not required to be included in annual reports until fiscal years ending on or after April 15, 2005, Item 15 currently requires foreign private issuers to disclose whether there have been any significant changes in their "internal control over financial reporting" during the period covered by the annual report.

The internal control report of management must include:

- a statement of management's responsibility for establishing and maintaining adequate "internal control over financial reporting" for the issuer;
- a statement identifying the framework used by management to conduct the required evaluation of the effectiveness of the issuer's "internal control over financial reporting";
- management's assessment of the effectiveness of the issuer's "internal control over financial reporting" as of the end of the issuer's most recent fiscal year, including a statement as to whether or not the issuer's "internal control over financial reporting" is effective. The assessment must include disclosure of any "material weaknesses" in the issuer's "internal control over financial reporting" identified by management. Management is not permitted to conclude that the issuer's "internal control over financial reporting" is effective if there are one or more material weaknesses in the issuer's internal control over financial reporting; and
- a statement that the registered public accounting firm that audited the financial statements included in the annual report has issued an attestation report on management's assessment of the issuer's "internal control over financial reporting".

Any material changes to the issuer's internal control over financial reporting must be reported. Since foreign private issuers are not required to file quarterly reports under Section 13(a) or 15(d) of the Exchange Act, foreign private issuer's management need only disclose in the issuer's annual report the material changes to its internal control over financial reporting that have occurred in the period covered by the annual report.

The SEC has noted that some issuers have indicated in their disclosures required by Item 15 that "disclosure controls and procedures" are designed only to provide "reasonable assurance" that the controls and procedures will meet their objectives. Although the SEC has generally not objected to this type of disclosure, the SEC has requested that issuers that include this type of disclosure state, if true, that such issuer's "disclosure controls and procedures" are, in fact, effective at the "reasonable assurance" level. In addition, the SEC has noted that other issuers have indicated in their disclosure required by Item 15 that there can be "no assurance" that "disclosure controls and procedures" of the issuer will operate effectively under all circumstances. In these instances, the SEC has requested that issuers clarify that the "disclosure controls and procedures" are designed to provide reasonable assurance of achieving their objectives and to state, if true, that the controls and procedures are, in fact, effective at the "reasonable assurance" level. The SEC is of the view that the concept of reasonable assurance is built into the definition of "internal control over financial reporting" that it has adopted.

Code of Ethics

Pursuant to Section 406 of the S-O Act, an issuer is required to disclose, in its annual reports for fiscal years ending on or after July 15, 2003, whether or not it has adopted a code of ethics that applies to the issuer's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If an issuer has failed to adopt a code of ethics, it must explain why it has not. The term "code of ethics" is defined as written standards that are reasonably designed to deter wrongdoing and to promote:

- honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

- full, fair, accurate, timely, and understandable disclosure in reports and documents that the issuer files with, or submits to, the SEC and in other public communications made by the issuer;

- compliance with applicable governmental laws, rules and regulations;

- prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and

- accountability for adherence to the code.

The SEC has acknowledged that the code of ethics will vary from issuer to issuer, and that decisions as to the specific provisions of the code, compliance procedures and disciplinary measures for ethical breaches are best left to the issuer. However, the SEC encourages companies to adopt codes that are broad and more comprehensive than necessary to satisfy the new disclosure requirements. In addition, different codes of ethics may be appropriate for different types of officers within an issuer.

An issuer may choose between the following three alternative methods of making its code of ethics publicly available:

- file a copy of its code of ethics as an exhibit to its annual report (inclusion of the issuer's website address in the annual report will not, by itself, include or incorporate by reference the information on the issuer's website into the annual report, unless the issuer otherwise acts to incorporate the information by reference);

- post the text of its code of ethics, or relevant portion thereof, on its Internet website, provided however, that the issuer choosing this option also must disclose its Internet address and intention to provide disclosure in this manner in its annual report on Form 20-F or 40-F; and

- include an undertaking in its annual report on one of these forms to provide a copy of its code of ethics to any person without charge upon request.

Foreign private issuers are not required to provide in a current report "immediate disclosure" of any change to, or waiver from, the issuer's code of ethics for its senior financial officers and principal executive officer. Instead, foreign private issuers need only disclose any such change or waiver that has occurred during the past fiscal year in its annual report. However, foreign private issuers are encouraged to disclose any changes or waivers on Form 6-K or on its website.

Advice: Foreign private issuers should consider adopting codes of ethics that are broad and comprehensive in order to satisfy the new disclosure requirements as well as determine the manner in which their ethics codes will be publicly available.

Part IV: Miscellaneous Provisions

Enhanced Criminal Penalties

Section 802 of the S-O Act imposes criminal penalties for destruction, alteration or falsification of records in U.S. Federal investigations and bankruptcy. Section 805 of the S-O Act enhances the sentencing guidelines for obstruction of justice and extensive criminal fraud. Section 807 of the S-O Act imposes criminal penalties for knowingly executing or attempting to execute a scheme or artifice to defraud shareholders of publicly traded companies.

Statute of Limitations for Securities Fraud

Pursuant to Section 804 of the S-O Act, a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws may be brought no later than two years after the discovery of the facts constituting the violation or five years after such violation (an increase from the previous rules, which prohibited private rights of action from being brought more than one year after discovery or five years from the occurrence of the violation).

Protection for Whistleblowers

Section 806 of the S-O Act prohibits issuers from retaliating against an employee for providing information or otherwise assisting in an investigation by the U.S. Congress, any U.S. Federal regulatory or law enforcement agency or the employee's supervisor regarding conduct that the employee reasonably believes violates U.S. Federal securities or antifraud laws.

* * * * *

The nature of the S-O Act and its provisions are intentionally broad in scope. As such, it will take time before all the ramifications of the S-O Act are fully understood. In addition, it is possible that further legislation will be passed in an effort to clarify the S-O Act, which can significantly alter the requirements imposed on foreign private issuers. Attention must be paid to future SEC releases in order to evaluate the extent of the S-O Act's implications on foreign private issuers.

NOTES

[1] Foreign private issuers are defined to include a corporation or other organization incorporated or organized under the laws of any foreign country unless, (a) more than 50% of its voting securities are directly or indirectly held of record by residents of the U.S. and (b) the majority of executive officers or directors are U.S. citizens or residents, more than 50% of its assets are located in the U.S., or its business is administered principally in the U.S.

[2] "Disclosure controls and procedures" are defined under the Exchange Act as controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. "Disclosure controls and procedures" include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive officer or officers and principal financial officer or officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

[3] "Internal control over financial reporting" is defined under the Exchange Act as a process designed by, or under the supervision of, the issuer's principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principals ("GAAP") and includes those policies and procedures that:

- pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the financial statements.

[4] Affiliated person in this context, refers to a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the specified person. Control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. An executive officer, a director that is also an employee of an affiliate, a general partner or a managing member of an issuer's affiliate will be deemed to be affiliated with the issuer, but the directors of an affiliate will not be deemed to be affiliated persons if they are not employees of the affiliate.

EXHIBIT A

FORM OF SECTION 302 CERTIFICATION

CERTIFICATION PURSUANT TO RULE 13a-14(a) (17 CFR 240.13a-14(a)) OR RULE 15d-14(a) (17 CFR 240.15d-14(a)), PROMULGATED UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, [identify the certifying individual], certify that:

1. I have reviewed this annual report on Form 20-F of [identify company];

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;

4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) [**and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f))**][1] for the company and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

[**(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;**][1]

(c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: _____

_____
Name:
Title:

NOTE

[1] Bracketed text not required to be provided until the first annual report required to contain the management's report on internal control over financial reporting.

EXHIBIT B

FORM OF SECTION 906 CERTIFICATION

CERTIFICATION FURNISHED PURSUANT TO RULE 13a-14(b) (17 CFR 240.13a-14(b)) OR RULE 15d-14(b) (17 CFR 240.15d-14(b)) AND SECTION 1350 OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE (18 U.S.C. 1350), PROMULGATED UNDER SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of [identify company] (the "Company") on Form 20-F for the year ending [date] (the "Report"), we, [identify CEO], Chief Executive Officer of the Company, and [identify CFO], Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, promulgated under Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Marie Censoplano and Scott R. Saks are the Co-Chairs of the Firm's International Securities Practice Group and Michael L. Zuppone is the Chair of the Firm's Securities Practice Group.

If you have any questions regarding the Sarbanes-Oxley Act and how it can impact foreign private issuers, please do not hesitate to contact any of the following attorneys, each of whom are members of our International Securities Practice Group:

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