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*To Our Clients
and Friends*

Securities Listed on the ASE, NYSE and NASDAQ Will Need to be Eligible for the Direct Registration System

On August 8, 2006, the United States ("US") Securities and Exchange Commission ("SEC") approved rule changes proposed by the American Stock Exchange ("ASE"), the New York Stock Exchange ("NYSE") and the NASDAQ Stock Market ("NASDAQ") that will require existing and new securities listed on the ASE, the NYSE or NASDAQ to be eligible for the Direct Registration System.¹

The timeline for implementation of this new requirement for ASE, NYSE and NASDAQ-listed securities is as follows:

Type of Security	Deadline
Newly-listed securities	January 7, 2007
Securities listed on ASE, NYSE or NASDAQ prior to January 7, 2007	January 7, 2008

In order to make securities Direct Registration-eligible, the issuers of the securities will need to take the following actions:

- Make sure the transfer agent for the securities in the US is a participant in the DTC Direct Registration System;² and
- Ensure that the documents governing the ASE, NYSE and NASDAQ-listed securities allow for the issuance of the securities in un-certificated form in a manner that is compatible with the Direct Registration System.

The Direct Registration System, which is currently administered by The Depository Trust Company ("DTC"), provides for paperless direct registration of securities in an investor's name on the books of the transfer agent appointed by the issuer, and allows electronic transfer of securities between a participating transfer agent and a broker-dealer that is a participant in DTC.³ As such, the Direct Registration System enables an investor to hold securities registered in his/her name directly without the need to have a securities certificate issued to him/her and to electronically transfer such securities to his/her broker-dealer in order to effect a transaction without the risks and delays associated with the transfer of securities certificates.

Investors who hold their securities in the Direct Registration System retain the rights associated with registered securities issued in certificated form without having to maintain the securities in an account established with a custodian bank or a broker-dealer that is a member of a book-entry settlement system and without the responsibility for holding or safeguarding securities certificates. The transfer of securities held in the Direct Registration System to and from brokerage accounts in settlement of purchase and sale transactions can

be effectuated in a fully streamlined electronic environment without any need for physical securities certificate issuance or delivery, and without the need to satisfy the signature guarantee requirements that are associated with the transfer and re-registration of certificated registered securities. Also, in the Direct Registration System, the cancellation of old securities and issuance of new securities in the context of corporate actions such as reverse stock splits and mergers are handled electronically with no securities certificates to be returned to or received from the transfer agent.

Potential Effect on Non-US Equity Securities

In the case of non-US equity securities that trade on the ASE, NYSE or NASDAQ in the form of American Depositary Shares, the relevant document governing the issuance of the listed securities is the Deposit Agreement between the issuer, the depositary bank, and the holders and beneficial owners of American Depositary Shares. If amending the Deposit Agreement is deemed necessary or advisable to accommodate the issuance of un-certificated American Depositary Shares in a manner that is compatible with the Direct Registration System, this may typically be achieved by means of a written agreement between the issuer and the depositary bank to amend the terms of the Deposit Agreement (including the manner in which American Depositary Shares are issued) and by providing 30 days' notice of such amendment to the holders of the existing American Depositary Shares. In this context, consideration should be given to amending the F-6 Registration Statement for the American Depositary Shares and to updating the description of the American Depositary Shares in the annual reports on Form 20-F that a SEC-reporting issuer is required to file with the SEC and in any "shelf" registration statements that such issuer has filed with the SEC.

In the case of non-US equity securities that trade directly on the ASE, NYSE or NASDAQ (*i.e.*, Shares of New York Registry), the relevant constitutive documents are typically the articles of incorporation and the bylaws of the issuer. Any amendment of these constitutive documents is subject to the corporate laws of the issuer's home country and frequently to the securities regulations applicable to publicly-traded securities. A determination should be made with counsel whether an amendment of the constitutive documents is necessary or advisable and what the appropriate amendment process would be, given the implementation deadlines noted above. In the event an amendment of the relevant constitutive documents is necessary or advisable and is implemented by the issuer, it may be necessary to update the description of the equity securities contained in the annual report on Form 20-F that an SEC-reporting issuer is required to file with the SEC and in any "shelf" registration statements that such issuer has filed with the SEC. In addition, it may be advisable for the issuer to file a Form 6-K with the SEC in such instance, since the amendment to the relevant constitutive documents may involve a "change in securities" that triggers the need to submit a Form 6-K to the SEC.

Exchange-Listed Securities and Direct Registration System

Potential Effect On Non-Equity Securities

We understand that most debt securities listed on the ASE, NYSE or NASDAQ are issued in "book-entry-only" form. Securities which are specifically permitted by the ASE, NYSE or NASDAQ to be "book-entry-only" securities will not be required to comply with the new Direct Registration System eligibility requirements.⁴ We understand that some but not all depositary instruments relating to debt securities (*i.e.*, American Depositary Notes) or warrants (*i.e.*, American Depositary Warrants) have been issued in "book-entry-only" form. We note that, even under the new rules, an investor may request to receive a physical securities certificate, if the company chooses to make such physical certificates available to the investor, subject to applicable laws and the company's constitutive documents.

Should you have any questions on the subject of these new rules, please contact Herman H. Raspé at 212.336.2301 (hhraspe@pbwt.com) or Karen M. McCarthy at 212.336.2529 (kmmccarthy@pbwt.com).

Endnotes

- ¹ The proposed rule changes were approved by the SEC for the ASE in SEC Release No. 34-54290 (August 8, 2006), for NASDAQ in SEC Release No. 34-54288 (August 8, 2006), and for the NYSE in SEC Release No. 34-54289 (August 8, 2006).
- ² The DTC rules require that a transfer agent (including an issuer acting as its own transfer agent) acting for a company issuing securities in Direct Registration must be a "Limited Participant" in the Direct Registration System. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996).
- ³ Currently, DTC is the only registered clearing agency that operates a Direct Registration System. For a detailed description of DTC's Direct Registration System, see Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), and Securities Exchange Act Release No. 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999).
- ⁴ Securities that the NYSE permits to be book-entry-only include all debt securities, securities issued pursuant to Section 703.19 of the Manual and non-convertible preferred stock. NASDAQ permits non-equity securities to be issued in "book-entry-only" form. The ASE will not require "derivative products" (as defined in Article 1, Section 3(d) of its constitution), such as standardized options, other securities which are issued by The Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities, to comply with the new Direct Registration System eligibility requirements.

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