Grant Thornton

January 26, 2004

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006-2803

Via e-mail: comments@pcaobus.org

Re: PCAOB Rulemaking Docket Matter No. 013, *Proposed Rules Relating to the Oversight of Non-U.S. Public Accounting Firms*

Dear Board Members and Staff,

Grant Thornton LLP appreciates the opportunity to comment on the Public Company Accounting Oversight Board's ("Board" or "PCAOB") *Proposed Rules Relating to the Oversight of Non-U.S. Public Accounting Firms* ("proposed rules") and commends the Board on their work in this area.

We support the Board's efforts to develop a cooperative arrangement with its foreign counterparts for the inspection, investigation and discipline of non-U.S. registered public accounting firms. We believe that establishing a framework to rely, to the maximum extent possible, on the accounting firm's home country inspection system, will allow the Board to implement the provisions of the Sarbanes-Oxley Act of 2002 ("Act") and also address some practical problems, such as the use of languages other than English. We are very much in favor of a cooperative arrangement that can reduce potential conflicts with other countries' laws and minimize duplicative regulatory costs and burdens for issuers and non-U.S. accounting firms. However, we have significant concerns with certain aspects of the approach the Board has recommended in the proposed rules.

Our concerns and our recommendations to improve the framework under which the PCAOB can place reliance on a non-U.S. system are as follows.

Board's Proposed Rule on Registration

We agree with the Board's proposal to delay the registration deadline for foreign public accounting firms. However, given the many issues of law that the foreign firms must address with regard to confidentiality, data protection, legal enforcement, employment liability and banking secrecy in preparing their registration applications, we believe that the delay of ninety days will not be sufficient to allow meaningful progress to be made on these issues.

However, it is vital that the PCAOB proceed with at least the July 19, 2004 deadline as compliance by firms with the original April 2004 deadline, in light of the legal issues, is not feasible.

Also, given the proposed registration deadline of July 19, 2004, many foreign firms may plan to file their registration application sometime during late spring 2004, to allow time for the PCAOB staff to review and provide comments. Given the time frame needed for these proposed rules to be finalized by the PCAOB, then approved by the U.S. Securities and Exchange Commission (SEC), it appears questionable whether the rules would be in place to allow a foreign firm to submit an Exhibit 99.3 petition describing their home country system with the filing of their application. [Further, as discussed in more detail below, we have concerns that few home country systems would qualify for reliance under the evaluation principles included in the proposed rules. Ninety days would not be a reasonable amount of time for countries to establish a regulatory system that would meet the Board's guidelines. We request that the Board consider a lengthier delay in the registration deadline to allow foreign firms and their home country regulators more time to fully address all of these issues.]

Board's Proposal on Inspections for Non-U.S. Registered Firms

Overview

We believe it is in the best interest of the public and for the protection of investors that an efficient and effective cooperative arrangement be established between the PCAOB and non-U.S. regulatory bodies. We believe it will also serve as one more step in restoring public confidence in audited financial statements of issuers, both U.S. and non-U.S. registrants. However, we believe that this cooperative arrangement must recognize that legal conflicts exist in almost every country around the globe. In some countries, the foreign law issues that may arise as a result of a PCAOB inspection may be overcome and in some countries there is no practical way to overcome the legal restrictions. For these reasons, we suggest that the Board continue to work with non-U.S. rule-makers such as the European Commission and other regulatory bodies, to establish a framework to harmonize the approach to home country inspections and investigations. This framework would include common principles, or objectives, that should be included in all regulatory systems. The framework could incorporate those principles noted by the Board in Paragraph B.3. of the proposed rules, but individual countries would be allowed to determine how best to achieve these objectives, taking into consideration their own legal restrictions and requirements. We believe this harmonization approach is the only reasonable way to overcome some of the practical problems that may arise as a result of an inspection or investigation by a third party such as the PCAOB. This approach would also eliminate unnecessary duplicative inspection costs and burdens for issuers and non-U.S. accounting firms.

Evaluating petitions on a firm-by-firm basis

If the final rule continues with the proposed approach, we suggest that the PCAOB work directly with the non-U.S. regulatory bodies to obtain information about their regulatory structures, funding arrangements etc. Each foreign accounting firm should not be required to file an individual petition with the SEC describing their home country system because this process may result in the submission of inconsistent or incomplete descriptions of the home system. We believe that the PCAOB should be seeking the information directly from the non-U.S. regulators. This will help to avoid potential misunderstandings or disagreements or a conclusion by the PCAOB that it cannot rely on a foreign system when, if fact, it could.

Further, decisions regarding the non-U.S. home country systems should be made on a country- by-country basis. The Board should not consider petitions on a firm-by-firm basis taking into account differences in the inspection work programs for different firms. How the home country inspections

are applied to different firms should be taken into consideration by the PCAOB in determining reliance upon a non-U.S. system. Approving petitions on an individual firm basis will result in some firms being subject to their home country inspection process and some firms being subject to both the home country and the PCAOB inspection processes. This approach will result in an unfair application of the rules, and may disadvantage the smaller firms within a country.

Assessing the level of reliance on a country-by-country basis would also allow the Board to be transparent in its own assessment process. This approach would allow the Board flexibility in disclosing the reasons behind their decision not to place reliance, or to place a low level of reliance, with regard to a certain county's home system. Understanding how reliance on a non-U.S. home country system is determined, will be important to both U.S. and non-U.S. firms for many reasons. These decisions should be made available to the public.

Principle for Determining the Independence and Rigor of a Non-U.S. System under the Proposed Rule

Establishing a framework for harmonization as described above would address some of our concerns on the proposed principles for determining the independence and rigor of a non-U.S. system. Paragraph B.3. of the release to the proposed rules lists certain principles that the Board would apply in evaluating the independence and rigor of a non-U.S. home country system. It seems appropriate that in order for a system to be considered adequate, it should demonstrate certain principles such as integrity, some independence from the auditing profession, transparency in the inspection process, and a successful history of disciplinary sanctions. Paragraph B.3. further describes the underlying characteristics and criteria that the Board will consider in evaluating the rigor and independence of a non-U.S. home country system. These characteristics and criteria parallel the oversight requirements established in the U.S. by the Act, including the establishment of the PCAOB. Suggesting that the characteristics of the newly established U.S. system is the only acceptable system under which a foreign country may provide adequate oversight of their own auditing profession is not appropriate. Further, we believe, based on discussions with other member firms of Grant Thornton located around the world, that there is only a remote possibility that the type of regulatory system described in Paragraph B.3. is in existence today outside of the U.S. For example, Canada, a country long recognized by the SEC for having accounting, auditing and regulatory oversight requirements similar to the U.S. (as evidenced by the multijurisdictional disclosure system available only to Canadian issuers), may not meet these described characteristics. Canada has recently established a new regulatory board and oversight requirements paralleling many of those introduced in the Act. However, there is concern that the new Canadian Public Accountability Board may not meet the independent funding requirements included in Paragraph B.3. and it will not have a "history of disciplinary sanctions" for some years to come.

While the concept of the Board placing reliance upon a non-U.S. oversight system, based on a sliding scale, is sound, it is impractical of the Board to believe that such systems are in existence today. Some countries may be willing to establish a home country system that would meet at least some of the characteristics noted in Paragraph B.3. but those efforts will take a considerable amount of time and certainly would not be established by the time the foreign firms must submit their registration applications in the spring of this year. Such systems may not be in place for quite some time, perhaps a year or longer.

Agreed-Upon Work Programs under the Proposed Rule

Under the proposed inspection framework, once the independence and rigor of the non-U.S. system has been assessed using the principles discussed in paragraph B.3., the PCAOB staff would work

with the appropriate staff of the non-U.S. entity to agree on an inspection work program. Paragraph B.4. of the release indicates that the

> "Board would also give great weight to the non-U.S. inspecting entity's willingness to agree to provide to the Board or its staff, upon their request, the inspecting entity's work papers or work product that document any inspection, evaluation or testing, and to provide to the Board, in a form and with a level of detail agreed upon with the PCAOB, a report relating to any inspection, evaluation or testing."

The sharing of confidential information on inspections performed by a non-U.S. home country system with the PCAOB may be problematic due to the numerous foreign law issues. Please see the Linklaters comment letter provided on the *Proposed Auditing Standard on Audit Documentation and Proposed Amendment to Interim Auditing Standards, Release No. 2003-023*, submitted to the PCAOB on January 20, 2004. This letter summarizes some of the basic legal impediments, data privacy considerations and practical disclosure problems that may exist when data may need to be disclosed to a party from or located outside of the home country. Therefore, even if the PCAOB deems a home country system adequate for full reliance upon the system, the foreign law issues may still present a significant hurdle to implementing a cooperative work program approach.

Consistency of Proposed Rules with Proposed Audit Documentation Rules

We note in the proposed rules that the "Board recognizes that certain aspects of the registration, inspection, investigation and adjudication provisions of the Act and the Board's rules raise special concerns for non-U.S. firms", and that to address these concerns a cooperative framework with non-U.S. firms will be established. However, we note an inconsistency between this acknowledgement and the requirements of the Board's *Proposed Auditing Standard on Audit Documentation and Proposed Amendment to Interim Auditing Standards, Release No. 2003-23*. The proposed rule on audit documentation does not address the implication of foreign law issues. We respectfully refer you to the comment letter on the proposed audit documentation rules submitted by Grant Thornton International on January 20, 2004.

Cooperation by the Board With Respect to its Non-U.S. Counterparts' Auditor Oversight Responsibilities

We note that the Board intends to assist in the inspection and investigation of U.S. firms that audit or play a substantial role in the audit of public companies in non-U.S. jurisdictions. We understand the Board's willingness to cooperate with non-U.S. regulators; however, we are concerned whether this level of involvement with a non-issuer would be allowable under the Board's authority as granted by the Sarbanes-Oxley Act of 2002.

In conclusion, we again commend the Board in its efforts to establish a cooperative arrangement with its non-U.S. counterparts. We would suggest that the Board adopt a framework to harmonize the approach to home country inspections and investigations. This framework would allow countries to determine how best to achieve common principles within their own legal restrictions and requirements. This approach will minimize some of the practical problems confronting the Board with regard to non-U.S. firms and at the same time allow the Board to fulfill their oversight requirements under the Act. However, this framework will need time to become established.

In the meantime, we would strongly encourage the Board to proceed with the formal approval of the July 19 deadline as a matter of urgency in order that non-US registering firms may finalise their processes for the gathering of data and submission of Form 1.

* * * *

We would be pleased to discuss our comments with you. If you have any questions, please contact Ms. Karin A. French, Partner in Charge of SEC Regulations, at (703) 847-7533.

Very truly yours,

GRANT THORNTON LLP

Karin A. French
Partner in Charge of SEC Regulations