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March 29, 2013

Re: No-Action Request -- Inclusion of Non-Reporting Issuers in Deutsche Bank Trust Company Americas' Open-Availability Dividend Reinvestment and Stock Purchase Plan

Office of International Corporation Finance
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-3628

Attention: Paul Dudek, Chief
Elliot B. Staffin, Special Counsel

Dear Messrs. Dudek and Staffin:

We are writing on behalf of our client, Deutsche Bank Trust Company Americas ("DBTCA"), to request confirmation from the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") that it will not recommend enforcement action if DBTCA expands its DB Global Direct Investor Services Program in the manner described below to permit investment in American depositary receipts ("ADRs") sponsored by foreign private issuers that are exempt from the reporting requirements of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") pursuant to Rule 12g3-2(b) promulgated thereunder.

Deutsche Bank Trust Company Americas

DBTCA, an indirect wholly-owned subsidiary of Deutsche Bank AG, is a leading depositary bank that operates over 800 American depositary receipt and global depositary receipt

("GDR") programs for foreign private issuers located in markets throughout the world. DBTCA is a state-chartered New York banking corporation, a member of the United States Federal Reserve System, and a transfer agent registered with the Board of Governors of the Federal Reserve System in accordance with Section 17A of the Exchange Act. DBTCA is a "bank" within the meaning of Section 3(a)(6) of the Exchange Act.

The DB Global Direct Investor Services Program

The DB Global Direct Investor Services Program (the "DB Plan") is a dividend reinvestment and stock purchase plan that allows investors to purchase American depositary shares ("ADSs") representing securities of foreign private issuers for which DBTCA serves as a depositary bank. The DB Plan is sponsored and administered solely by DBTCA without the participation of the relevant issuers. As such, DBTCA provides services under the DB Plan as agent only for American depositary receipt ("ADR") holders and not as an agent for the issuers of the applicable ADRs. The DB Plan has not been registered under the Securities Act of 1933, as amended (the "Securities Act") and is operated pursuant to an exemption from registration afforded to bank-sponsored open-availability stock plans under the no-action letter issued to The Securities Transfer Association on September 14, 1995 (Bank-Sponsored Investor Services Programs), as supplemented by the no-action letter to the Securities Transfer Association dated October 24, 1997 (collectively, the "STA Letters").

Participation in the DB Plan is available to any registered holder of one or more ADSs representing shares of an issuer whose securities are covered by the DB Plan, and to any person who elects to make an initial purchase of ADSs in a minimum amount of $250 through the DB Plan. Under the terms of the DB Plan, participants have the option to automatically reinvest dividends, to deposit certificates into their DB Plan accounts, and/or make cash contributions for the purchase of additional ADSs. Purchases and sales are made in the open market by broker-dealers appointed by DBTCA and will be not later than five trading days after an order is submitted. Issuers and their affiliates do not provide any of the securities purchased by DBTCA for the DB Plan. Purchased ADSs are credited by book-entry to the account of the relevant DB Plan participants unless a participant requests that such shares be certificated. Participants may instruct DBTCA at any time to sell all or any part of the ADSs credited to such participants. The foregoing features and all other operations of the DB Plan are conducted in accordance with the conditions set out in the STA Letters.

DBTCA is an "agent independent of the issuer" as defined in Rule 100(b) of Regulation M with respect to each issuer whose securities are covered by the DB Plan.

Request for No-Action Relief

We respectfully request confirmation that the Staff will not recommend enforcement action to the Commission in connection with DBTCA's proposal to include within the DB Plan, and to give DB Plan participants the opportunity to purchase, ADSs representing securities of foreign private issuers that have sponsored an ADR program and are exempt from the reporting requirements of the Exchange Act by virtue of Rule 12g3-2(b) promulgated thereunder (i.e. "Level 1 ADSs"). Currently the STA Letters do not extend to issuers whose securities are not registered under the Exchange Act. We believe, however, that the expansion of the STA Letters to encompass Level 1 ADSs would be consistent with the Staff's stated policies pertaining to dividend reinvestment and stock purchase plans, and would create additional investment opportunities for participants in such plans without compromising investor protection.

In the STA Letters, the Staff advised that it would not recommend enforcement action if certain registered bank transfer agents ("Covered Banks") operated open-availability dividend reinvestment/stock purchase plans without registration under the Securities Act ("OA Plans"). Each OA Plan offered an array of investor services essentially identical to those provided under the DB Plan, including certificated share deposits, book-entry registration of share ownership interests, certification of book-entry shares upon request, confirmation-based share purchases and sales of securities, reinvestment of dividends, and periodic preparation and mailing of account statements. Under the OA Plans, such services were available to current shareholders and employees of issuers whose securities were covered by a given plan, as well as persons making unsolicited inquiries of a Covered Bank regarding an OA Plan. All operations and service functions relating to the OA Plan were controlled by the Covered Bank, and issuer involvement was restricted to the ability to designate the applicability of certain features of the OA Plan and other limited activities. All issuers covered by the OA Plans were required to be subject to the reporting requirements of Sections 13(a) or 15(d) of the Exchange Act for at least 90 days prior to the commencement of plan operations for such issuer's securities.

In our view, there are a number of compelling reasons for the Staff to extend the STA Letters to cover securities of Rule 12g3-2(b) exempt foreign issuers, even though such issuers are not Exchange Act reporting companies. Such relief is supported by the policies underlying the exemption set out in the STA Letters (the "OA Plan Exemption") and would benefit investors without sacrificing any of the protections currently afforded under the exemption.

The STA Letters do not specifically state the reason for limiting the coverage of OA Plans to companies that have been subject to Exchange Act reporting for at least 90 days. However it appears that this requirement stems from earlier guidance issued by the Commission. In Release No. 4790 (July 13, 1965), the Commission stated that unregistered employee stock purchase plans should be limited to the securities of companies about which information is generally available. This condition was explained in terms of the need to have safeguards against violations of the antifraud provisions of the federal securities laws. In Release No. 6188 (February 1, 1980), the Commission imposed an Exchange Act reporting requirement in connection with the resale of securities purchased under an unregistered employee stock purchase plan. The Release permits non-affiliates who receive securities under an employee stock purchase plan to effect resales free of the restrictions under Rule 144, subject to certain conditions including the requirement that the issuer of the securities must be subject to the periodic reporting requirements of the Exchange Act. Although this requirement relates to resales as opposed to the initial purchase of securities under a plan, the Commission stressed the importance of adequate information being available with respect to the issuers of the subject securities.

Based on the foregoing, we believe that the STA Letters were initially limited to reporting companies in order to ensure that plan participants had access to sufficient information to assess the issuers of securities covered by the plan, and to otherwise make an informed investment decision. In the years following the issuance of the STA Letters technology has significantly changed, expanding the reach of the securities markets around the world and making it easier for investors to obtain information regarding foreign companies, particularly Level 1 ADS Issuers. As a result most, if not all, of the information an investor might require in order to make an investment decision is available online to investors. Therefore, we believe that the same degree of protection the Commission sought to ensure when the 90-day reporting condition was originally put in place will be preserved if the DB Plan is permitted to include Level 1 ADSs, given the disclosure requirements to which the issuers of such securities are currently subjected under Rule 12g3-2(b). In order to maintain consistency with the STA Letters and the 90-day reporting condition thereunder, it is proposed that the DB Plan will only include Level 1 ADSs of issuers that have maintained a foreign listing in accordance with the requirements of Rule 12g3-2(b) for a period of at least 90 days.

A fundamental purpose of Rule 12g3-2(b) is to ensure that U.S. investors have access to material information regarding issuers that claim the exemption. As a result of the 2008 amendments to Rule 12g3-2(b) the availability of such information has significantly increased, as Level 1 ADS issuers must post their material home country disclosure documents online in

English. In addition, new safeguards have been implemented to improve the overall level of protection for investors. Rule 12g3-2(b) now requires that foreign issuers maintain a listing on a foreign securities exchange, and such exchange must be the issuer's "primary trading market" by accounting for at least 55% of worldwide trading volume (either alone or together with one other foreign market).

Prior to 2008, in order to meet the requirements of Rule 12g3-2(b) an issuer had to mail certain reports and information to the Commission. With the 2008 amendments, in order to meet the continuing requirements of Rule 12g3-2(b) a foreign private issuer must make available English language versions of the same information on its website or through an electronic information delivery system generally available to the public in that issuer's primary trading market. Such information includes, without limitation, English translations or summaries of all material information that the issuer (i) has made or is required to make public under the laws of its home country, (ii) has filed or is required to file with a stock exchange that makes such information public, or (iii) has distributed or is required to distribute to its shareholders. These requirements ensure that U.S. investors can easily obtain English-language versions of the same disclosure documents that are provided to investors in an issuer's home market.

In addition, under Rule 12g3-2(b) an issuer must maintain a listing on a foreign securities exchange which constitutes its primary trading market. This condition complements the publication requirement of Rule 12g3-2(b) by ensuring that issuers claiming the exemption are in fact subject to non-U.S. disclosure requirements, and that they are complying with such requirements and actually disclosing material information in their home markets. The primary trading market requirement also ensures that the relevant foreign exchange has principal authority for regulating the issuer.

Taken together, the requirements under Rule 12g3-2(b) give the assurance that U.S. investors can obtain necessary information regarding issuers claiming the exemption thereunder, and that such issuers are established companies that trade on, and are regulated by, a bona fide foreign stock exchange. We believe this provides U.S. investors with a substantial level of protection which, for purposes of the OA Plan Exemption, is comparable to the protection afforded by Exchange Act reporting requirements. It is not possible to compare the disclosure requirements of the Exchange Act to those of each jurisdiction in which foreign private issuers are domiciled. However Rule 12g3-2(b) ensures that issuers who meet the exemption are subject to an effective set of non-U.S. disclosure obligations which will give investors a proper basis for making investment decisions.

As a matter of policy, the disclosure provided under Rule 12g3-2(b) has been deemed sufficient for purposes of allowing foreign issuers' securities (including Level 1 ADSs) to trade in the U.S. over-the-counter markets. U.S. investors can freely purchase securities of Rule 12g3-2(b) exempt issuers in open market transactions based on the information made available under the Rule. We believe participants in the DB Plan should be afforded the same ability to invest in Level 1 ADSs. This would promote one of the policies cited by the Commission when amending Rule 12g3-2(b) in 2008, which was to create new investment opportunities in foreign securities for U.S. investors. While plan participants can also purchase Level 1 ADSs on the open market, it would benefit such investors to have continued access to the advantages afforded under a plan, including potentially lower transaction costs for purchases and sales of securities, an automatic dividend reinvestment option, and safekeeping and custody of securities on behalf of plan participants.

Moreover, DB Plan participants have no greater need for protection than they have as general investors able to purchase Level 1 ADSs in the market. As most DB Plan participants enroll in the DB Plan because they already own the securities covered by such DB Plan, we do not believe the eligibility of Level 1 ADSs under the DB Plan eligible should give rise to a greater degree of protection for such investors than they had when they purchased their initial Level 1 ADSs in the open market. In our view, plan participants require heightened protection only if a plan enables them to acquire securities for which no public information is available. This would not be the case with Level 1 ADSs, since Rule 12g3-2(b) ensures that an appropriate amount of information is made public and can be readily accessed by U.S. investors. As a result, we believe there is no policy reason to restrict OA Plan participants from purchasing Level 1 ADSs where such restrictions do not apply to other investors. Additionally, no practical purpose would be served by eliminating investors' ability to purchase Level 1 ADSs through an OA Plan, as they can acquire the same securities, and likely would have acquired the same securities prior to seeking to enroll in an OA Plan, outside the plan in ordinary market transactions.

We recognize that the DB Plan involves an element not present in ordinary market purchases of Level 1 ADSs, insofar as DBTCA has a dual role as both the administrator of the DB Plan and the depositary bank for the Level 1 ADSs eligible under the DB Plan. As depositary, DBTCA would be a party to the deposit agreement applicable to each Level 1 ADR program covered by the DB Plan. However we do not believe this will have any impact on investor protection or the applicablility of the OA Plan exemption. The same situation currently exists under the DB Plan, as the plan covers securities of Exchange Act reporting foreign issuers for which DBTCA serves as depositary.

Notwithstanding its role as depositary, DBTCA is independent (within the meaning of the STA Letters) of each issuer presently covered by the DB Plan, as it is not affiliated with any such issuers. Should the requested no-action relief be granted, DBTCA will ensure that it is not affiliated with any Level 1 ADS issuers whose securities may be added to in the DB Plan. In addition, DBTCA currently implements, and will continue to implement, the operational safeguards required under the STA Letters to protect against the possibility of issuers engaging in solicitations of offers to buy their securities, including limitations on marketing activities and restrictions on issuer involvement in the plan. Thus DBTCA's dual role has not prevented it from complying with all requirements relating to the operation of the DB Plan, and in our view the inclusion of Level 1 ADS issuers in the DB Plan would not create any greater compliance risk. The existing protections and safeguards under the DB Plan would have equal effectiveness with respect to both reporting issuers and those that are exempt under Rule 12g3-2(b).

We also recognize that if the DB Plan is expanded to include Level 1 ADS issuers, this may open up the plan to de-registered companies. To the extent any Exchange Act reporting companies covered by the DB Plan decide to de-register (i.e., terminate their Exchange Act registration and reporting obligations), they would continue to be eligible under the plan as non-reporting issuers so long as they comply with Rule 12g3-2(b). In such cases, DB Plan participants would no longer have access to Exchange Act reports for such issuers. However we do not believe such result should warrant the exclusion of de-registered issuers from the DB Plan. Following de-registration, Rule 12g3-2(b) will afford investors with access to information that adequately protects investors and is likely to be similar to the disclosure provided pursuant to Exchange Act reporting requirements (for reasons discussed above). Accordingly, it is our view that the de-registration of any issuers covered by the DB Plan would not significantly diminish the quality of information available to plan participants.

Thus allowing DB Plan participants to purchase Level 1 ADSs would not result in a lack of information with respect to the securities offered under the plan, and consequently investors would not be exposed to a materially greater risk of investing in fraudulent enterprises than is currently the case. Moreover, from the standpoint of investors, the inclusion of Level 1 ADSs in the DB Plan would provide a significant benefit by giving them the option to acquire a broader range of securities at the potentially lower transaction costs available under the plan and with the convenience of the additional investor services offered thereunder. In addition, existing DB Plan participants who wish to invest in Level 1 ADSs would no longer be faced with the potential complications of having to purchase and hold such securities outside of the DB Plan.

Allowing the DB Plan to include Level 1 ADSs would not raise any issues from the standpoint of ensuring that no "offers" of securities will occur within the meaning of the Securities Act. The Commission's no-offer analysis relating to OA Plans has its genesis in guidance issued with respect to employee stock purchase plans. Such plans were deemed not to involve an offer to sell or the solicitation of an offer to buy securities, and were therefore exempt from the registration requirements of the Securities Act, provided certain restrictions were met. In an unregistered employee stock purchase plan, an independent agent not affiliated with the issuer must act as administrator, stock can be acquired only through open market purchases and not directly from the issuer, the issuer must have limited involvement in the administration and promotion of the plan, and the plan must be operated under essentially the same set of rights and obligations that exist in an ordinary brokerage account. See Employee Stock Purchase Plans, Release No. 33-4790 (July 13, 1965); Interpretation of the Division of Corporation Finance Relating to Dividend Reinvestment and Similar Plans, Release No. 33-5155 (July 22, 1974); and Employee Benefit Plans, Release No. 33-6188 (February 1, 1980), Section III.B.I.

These restrictions were subsequently amplified in the STA Letters, which extended to open-availability plans the exemption that had been established for employee plans under the prior releases. The STA Letters added the limitation that only securities of reporting companies can be covered under an OA Plan, but as discussed above we believe this condition should be expanded to include securities of Rule 12g3-2(b) exempt issuers. In all other respects the STA Letters are based on the same fundamental criteria that are set out in the earlier guidance relating to employee stock purchase plans. The DB Plan is currently operated in full compliance with these criteria, and the inclusion of Level 1 ADSs under the DB Plan would not adversely affect DBTCA's ability to maintain such compliance, nor would this modification otherwise have any bearing on the question of whether transactions by the DB Plan would constitute an offer with respect to the securities of any issuer covered under the plan.

To ensure that the inclusion of Level 1 ADSs under the DB Plan will not create any procedural concerns in terms of determining an issuer's compliance with the Rule 12g3-2(b) exemption, the coverage of the DB Plan will be restricted only to those Level 1 ADSs for which DBTCA serves as depositary bank. Thus, despite the fact that the Rule 12g3-2(b) exemption is self-executing and does not require any filing or formal notification in order for an issuer to claim the exemption, in its capacity as depositary DBTCA will have assurances regarding an issuer's exempt status.

Conclusion

We believe it would be consistent with the Commission's guidance and criteria relating to OA Plans if the DB Plan were to give participants the opportunity to invest in Level 1 ADSs for which DBTCA serves as depositary. The informational requirements to which issuers of Level 1 ADSs are subject under Rule 12g3-2(b) give U.S. investors meaningful protections which effectively address any concerns related to the non-reporting status of such issuers. Therefore we respectfully request the Staff to confirm that it will not recommend enforcement action if the DB Plan is modified to permit investment in Level 1 ADSs in the manner described above, and that such modification will not preclude the DB Plan from continuing to operate without registration under the Securities Act.

If you have any questions or require further information in connection with this request, please call the undersigned at 212-319-7600. If you do not agree with any of the views expressed in this letter, we respectfully request an opportunity to confer with you prior to any written response.

Very truly yours,

George E. Boychuk
Ziegler, Ziegler & Associates LLP

cc: Jeff Margolick
Tom Murphy
Deutsche Bank Trust Company Americas