1933 Act -- Section 5 (Issues outside U.S.)

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May 14, 1985

Division of Corporation Finance
Securities and Exchange Commission
Washington, D.C. 20549.

Attention: Mr. John H. Huber, Director

Re: Concurrent Offerings of Fixed-Rate Debt Securities in the Eurodollar Market and the U.S. Public Market

Dear Sirs:

We are writing on behalf of Goldman, Sachs & Co. ("Goldman Sachs") and Goldman Sachs International Corp. ("GSIC") as prospective lead managers of concurrent securities offerings of the type described in this letter. The purpose of this letter is to request a "no-action" response from the Division of Corporation Finance with respect to an offering in the Eurodollar market by either a United States or foreign issuer of fixed-rate nonconvertible debt securities, without registration of such debt securities under the 1933 Act or qualification of an indenture under the 1939 Act, which is made concurrently with a registered U.S. public offering by such issuer of substantially similar debt securities.

Description of Proposed Offerings

Goldman Sachs and GSIC believe it would be desirable under present market conditions for certain issuers, in order to obtain needed funds at a favorable overall cost, to be able to offer their securities concurrently in the Eurodollar market and the U.S. public market. The proposal contemplates a conventional U.S. registered public offering of debt securities which would frequently, although not necessarily, be taken down from a pre-existing shelf registration. The securities offered in the U.S. market would have customary terms including being issued solely in registered form with interest payable semi-annually or more frequently.

In the Eurodollar offering, the terms of the securities and the offering procedures and restrictions would be conventional in terms of that market, except that certain additional procedures would be followed as discussed in greater detail below.

There would be separate syndicates in the United States and in the Eurodollar market for the two transactions. It is anticipated that the U.S. underwriters would be represented by Goldman Sachs together in certain cases with other managing underwriters. The Eurodollar underwriters would be represented by GSIC together in most cases with other managers. GSIC, which has its principal office in London, is an affiliate of Goldman Sachs. The Eurodollar syndicate would probably include affiliates of other United States investment banking firms although ordinarily substantially all of them would be firms organized and headquartered outside the United States.

As in most Eurodollar offerings, there would be some use of the instrumentalities of interstate commerce in connection with the offering of the securities in the Eurodollar market.

Requirements for Eurodollar Offering

It is our opinion that the Eurodollar offering need not be integrated with the registered U.S. public offering provided that the procedures described below are followed in the Eurodollar offering and therefore that, insofar as the Eurodollar offering is concerned, registration of the securities under the 1933 Act and qualification of an indenture under the 1939 Act would not be required.

The procedures, which GSIC would ensure are followed, are that:

1. All normal securities law and tax law restrictions applicable to Eurodollar issues by U.S. corporate issuers would be set forth in the relevant documentation. These customarily include, among other things: (a) appropriate notifications in the invitation telexes and the offering circular of the restrictions on offers

and sales of the securities in the United States or to U.S. persons* as part of the distribution thereof; (b) contractual undertakings by all managers, underwriters and selling group members to observe such restrictions and to deliver confirmations imposing similar restrictions (including this confirmation requirement) on dealers purchasing the securities from them; and (c) delivery at closing of a temporary global security in bearer form without interest coupons which would be exchangeable for definitive securities only (i) 90 days after completion of the distribution as certified by the lead manager and (ii) upon certification as to non-U.S. beneficial ownership. The Eurodollar offering agreements and documents would not include any provision permitting the private placement in the United States of a portion of the securities being offered in the Eurodollar market.

2. Interest on the Eurodollar securities would be payable annually, and there would be a provision permitting the redemption of such securities prior to maturity in the event of certain changes in applicable tax laws. Thus investors could never treat the Eurodollar securities as fungible with the registered securities offered in the United States.

3. The Eurodollar securities would not be available in registered form until one year after completion of the distribution as certified by the lead manager and prior to that time would be available only in bearer form. In this regard we note that any U.S. person who holds such a bearer security will be subject to limitations

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* For purposes of this letter the term "United States" means the United States and its territories and possessions (including the Commonwealth of Puerto Rico), and the term "U.S. person" means any national or resident of the United States, any corporation, partnership or other entity created or organized in or under the laws of the United States or any political subdivision thereof, or any estate or trust which is subject to United States federal income taxation regardless of the source of its income.

under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code, and a legend on the bearer securities will so state. These limitations provide that losses on the sale of the bearer securities are not deductible for federal income tax purposes and gains are taxable as ordinary income rather than as capital gain. However, bearer securities may be owned without application of these limitations by a U.S. broker/dealer which holds the securities for sale to customers in connection with its trade or business conducted outside the United States, by a U.S. financial institution which holds the securities in connection with its trade or business conducted outside the United States or by any U.S. person so long as the bearer securities are held on such person's behalf by a financial institution which observes certain reporting requirements with respect to interest on and sales of the securities.

4. The all-in interest cost to the issuer in the Eurodollar offering (after giving effect to underwriting discounts and commissions but without regard to other issuer's expenses, including any reimbursement of underwriters' expenses) would not be greater than its all-in interest cost (similarly defined) in the U.S. offering. For convenience a formula for and a hypothetical calculation of such all-in interest cost is attached to this letter.

Items 3 and 4 above would not ordinarily be conditions to a Eurodollar offering although under current market conditions issuers' borrowing costs are frequently lower in the Eurodollar market.

Discussion of Legal Issues

In its Release No. 33-4708 dated July 9, 1964 the Commission stated that it had traditionally taken the position that the registration requirements of the 1933 Act are primarily intended to protect United States investors, and accordingly the Commission had not taken any action for failure to register securities of U.S. corporate issuers distributed abroad to foreign nationals, even though use of jurisdictional means may be involved in the offering. The Release stated that it was assumed in such situations that the distribution was to be effected in a manner which would

result in the securities coming to rest abroad, and also indicated that (apart from certain situations not relevant here) registration would not be required so long as the offering was made under circumstances reasonably designed to preclude distribution or redistribution of the securities in the United States or to U.S. persons. We believe that the procedures described above are reasonably designed under the circumstances to preclude any such distribution or redistribution of Eurodollar securities offered in accordance with such procedures.

With respect to the question of integration of the U.S. offering and the Eurodollar offering we note the following.

Release 33-4708 explicitly established the principle that an exempt U.S. private placement of securities need not be integrated with a simultaneous Eurodollar offering made in accordance with such Release, and this principle has since been reaffirmed by Regulation D. See the note to Rule 502(a) under Regulation D.

In addition, the Staff has taken no-action positions with respect to nonintegration of (1) an intrastate offering of common stock exempt under Section 3(a)(11) and Rule 147 in conjunction with an offering of such common stock made outside the United States to non-U.S. persons (Scientific Manufacturing, Inc., available 6/13/83); (2) a registered public offering of condominium securities made substantially contemporaneously with an offering of condominium securities made outside the United States to non-U.S. persons, under circumstances where the securities in both offerings would be nontransferable until 90 days after the sale of all securities to the public (Williams Island Associates, Ltd., available 6/3/83); and (3) a registered public offering of oil and gas limited partnership interests made substantially contemporaneously with an offering of similar interests (although in a separate partnership participating to some extent in different oil and gas properties) made outside the United States to non-U.S. persons; in this case the non-U.S. offering was made under restrictions as to transferability of the limited partnership interests to U.S. persons including a 12-month prohibition of such transfers (Forrest Oil Corp., available 8/11/80).

It is conceded that the Eurodollar offering and the U.S. offering discussed in this letter would be integrated if the five factors set forth in the note to Rule 502(a) under Regulation D were deemed to be applicable. However, it is our view, and the above no-action letters support this position, that such factors should not be applicable in the context of a Eurodollar offering made in compliance with the principles of Release 33-4708. The note to Rule 502(a) states: "Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States effected in a manner that will result in the securities coming to rest abroad." (Citing Release 33-4708.) We believe the same conclusion should be applicable to a registered U.S. public offering and a concurrent Eurodollar offering of fixed-rate nonconvertible debt securities made under circumstances reasonably designed to preclude distribution or redistribution in the United States or to U.S. persons of the securities offered in the Eurodollar market.

Opinion and Request for No-Action Position

We are of the opinion that the offer and sale of fixed-rate nonconvertible debt securities in the Eurodollar market by managers, underwriters and selling group members in the manner contemplated by the procedures described above will not require registration of such securities under the Securities Act of 1933 or qualification of an indenture under the Trust Indenture Act of 1939, notwithstanding a concurrent registered U.S. public offering of substantially similar securities. We would appreciate being advised whether the Division of Corporation Finance concurs in our opinion and whether it would recommend any action to the Commission if, in reliance upon our opinion, an offer and sale of such securities were made in the manner outlined above without such registration or qualification.

If you have any questions in connection with the foregoing, please communicate with William J. Williams, Jr., Benjamin F. Stapleton or Frank H. Golay, Jr. of this firm.

Very truly yours,

SULLIVAN & CROMWELL

FORMULA FOR ALL-IN COST COMPARISONS

Step 1 Calculate semi-annual internal rate of return for Domestic Note based on assumed price to Company of 99.375% and 11% semi-annual coupon over 10 year period = 11.1051%.

Step 2 Calculate annual internal rate of return for European Note based on assumed price to Company of 97.625% and 11% annual coupon over 10 year period = 11.4086%.

Step 3 Convert rate per step 1 to annual basis using formula:

$$\left(\left(\frac{RS}{200} + 1\right)^2 - 1\right) \times 100 = RA$$

where RS = semi-annual rate = 11.1051% and where RA = annual rate = 11.4134%.

Step 4 Convert rate per step 2 to semi-annual basis using formula:

$$\left(\left(\sqrt{\frac{RA}{100} + 1}\right) - 1\right) \times 200 = RS$$

where RA = annual rate = 11.4086% and where RS = semi-annual rate = 11.1005%.

COMPANY NAME
$XXX MM
10-YR NOTE
MDY/SP/DF

ALL-IN COST CALCULATOR, SIMULTANEOUS OFFERINGS IN THE U.S. AND EUROPE

	DOMESTIC (semi-annual)	EUROPE (annual)
Coupon:	11.000%	11.000%
Maturity:	10	10
Offering Price:	100.000	99.500
Gross Spread:	0.625%	1.875%
Price to Company:	99.375	97.625
Semi-Ann All-in:	11.1051% (step 1)	11.1005% (step 4)
Annual All-in:	11.4134% (step 3)	11.4086% (step 2)

Note: Step 4 result may not exceed step 1 result and step 2 result may not exceed step 3 result.