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भारतीय प्रतिभूति
और विनियम बोर्ड

**Securities and Exchange
Board of India**

CFD/DIL/AKD/PM/36977/2014
December 24, 2014

Ms. Geetika Anand Talwar
Company Secretary & Compliance Officer
Pantaloons Fashion & Retail Ltd
701-704, 86-92, Skyline Icon Business Park,
7th Floor, Off. Andheri Kurla Road,
Marol Village, Andheri (East),
Mumbai - 400059

Dear Sir,

Sub: Request for Informal Guidance in relation to proposed restructuring by way of scheme of arrangement under Sections 391 - 394 of the Companies Act, 1956

1. Please refer to your letter dated December 4, 2014 seeking no-action letter under the SEBI (Informal Guidance) Scheme 2003.
2. In your letter under reference you have, inter-alia, represented as follows:
 - a) Pantaloons Fashion & Retail Limited (hereinafter referred to as PFRL) is listed on BSE on NSE, proposing restructuring through scheme of arrangement. Indigold Trade & Services Limited (hereinafter referred to as Indigold) is the Promoter of PFRL holding approximately 72.62% share capital as on the date of the application.
 - b) Aditya Birla Nuvo Limited (hereinafter referred to as ABNL), is listed on BSE and NSE. Promoters of ABNL, referred to as Aditya Birla Group, hold approximately 58.30% of share capital as on the date of the application. Madura Fashion & Lifestyle (hereinafter referred to as Madura), is a division of ABNL, which shall be demerged into PFRL.
 - c) Aditya Birla Retail Limited (hereinafter referred to as ABRL), is an unlisted company and is entirely held by Aditya Birla Group. The retail business of ABRL, hereafter referred to as ABRL Retail Undertaking, shall be demerged into PFRL.
 - d) Madura Garments Lifestyle Retail Company Limited (hereinafter referred to as MGL), is an unlisted company, wholly owned (directly and indirectly) by ABNL. The retail business of MGL, hereafter referred to as MGL Retail Undertaking, shall be demerged into PFRL.



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- e) Investors: The proposed scheme of arrangement envisages investment by one or more Investors by way of subscription to equity shares of PFRL pursuant to effectiveness of the Composite Scheme.
- f) A composite scheme of arrangement between ABNL, ABRL, MGL, PFRL and their respective shareholders and creditors under section 391-394 of the Companies Act, 1956 shall, inter alia, involve the following steps:
 - i. Step 1: Demerger of Madura from ABNL into PFRL. In consideration for the demerger, PFRL shall issue equity shares to shareholders of ABNL.
 - ii. Step 2: Demerger of MGL Retail Undertaking from MGL into PFRL, in consideration of which ABNL (being shareholder of MGL) shall be issued equity shares of PFRL.
 - iii. Step 3: Demerger of ABRL Retail Undertaking from ABRL into PFRL, in consideration of which Aditya Birla Group (being shareholder of ABRL) shall be issued equity shares of PFRL.
 - iv. Step 4: Preferential allotment to the Investors, subject to maximum of 10% of total expanded share capital (post restructuring) issued to each investor.
- g) The share entitlement ratio for demerger of Madura, MGL Retail Undertaking and ABRL Retail Undertaking, will be determined by the respective Board of Directors of relevant companies, based on, inter alia, valuation report/s from independent chartered accountant/s and confirmed by fairness opinion/s from independent merchant banker/s, as required under applicable laws.
- h) The appointed date under the composite scheme for the Madura Demerger, the MGL Demerger and the ABRL Demerger shall be April 1, 2014.
- i) The issuance of shares by PFRL to Investors will be integral part of the composite scheme and will occur pursuant and subject to effectiveness of the composite scheme.
- j) The key terms of preferential allotment as per the application are as follows:
 - i. Special resolution: The preferential allotment to each Investor shall be subject to a special resolution of the shareholders of PFRL being passed at a separate shareholders meeting convened to approve such preferential allotment. Further, the company has informed that Indigold shall voluntarily abstain from voting on such special resolution to approve the preferential allotment.



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- ii. Issue price: The 'relevant date' for the determination of issue price for preferential allotment shall be 30 days prior to the date of meeting of shareholders of PFRL held to consider the preferential allotment. The proposed preferential allotment shall be undertaken at a price based on the consolidated valuation of PFRL pursuant to composite scheme, and, as such, will be proforma tested against the valuation reports obtained for the purposes of the composite scheme. The issue price will thus be determined upfront, and will not be less than price determined as on the relevant date as per SEBI ICDR Regulations.
- iii. Conditions precedent: The preferential allotment shall be subject to conditions of effectiveness of composite scheme, which inter alia include sanction of the scheme by Hon'ble High Court and approval of such other regulatory authorities as may be required. Accordingly, the allotment to Investors will be completed within a period of 15 days from the date of receipt of last of the approvals from the requisite regulatory authority in respect of the composite scheme. It is proposed that preferential allotment will occur upon effectiveness of the composite scheme and immediately after issuance and allotment of shares pursuant to the demerger of Madura, MGL Retail Undertaking and ABRL Retail Undertaking into PFRL.
- iv. Lock-in: The equity shares so allotted to the Investors shall remain locked in for a period of 1 year from the date of receipt of trading approval received for such shares.
- k) To crystallize the commitment of Investors, simultaneously with the announcement of composite scheme, an agreement will be entered into between, inter alia, the Investors and PFRL. The key terms of such agreement are as follows:
 - i. The investors will not have any control or veto rights in PFRL and there will be no inter se voting arrangements between the Promoters, ABNL or Indigold and the Investors and each shall be entitled to exercise its respective voting rights in PFRL as it deems fit;
 - ii. Each of the investors may have the right to appoint such number of directors on the board of directors (and committees thereof) of PFRL as will be proportionate to their respective shareholding in PFRL, with a minimum of one director on the board for each investor.



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- iii. The agreement with the Investors will provide for rights and obligations of the Investor vis-a-vis Indigold or ABNL in relation to transfer of the Investor's shares in PFRL and a restriction on the investor from selling its shareholding in PFRL to a competitor and accordingly will provide for a "right of first offer", right of first refusal", "put option" or "call option", only;
 - iv. The conditions precedent to investor subscribing to shares of PFRL are - composite scheme being made effective, there not being a breach of a representation, warranty, undertaking or covenant by one of the other parties to the agreement, no force majeure event having occurred and no event having occurred which has a "materially adverse effect" on PFRL or the business undertakings being transferred under the composite scheme. The investor will not be obligated to subscribe to the shares of PFRL if the conditions precedent are not satisfied.
 - v. The agreement with the Investors will also include an obligation on Indigold to undertake to exercise its rights as a shareholder in PFRL, to vote in favor of the composite scheme at the court convened meeting of the shareholders and to ensure fulfillment of the obligations of PFRL, such as making the requisite issuances and allotments, for the purposes of the preferential allotment and the composite scheme.
3. In light of the above submission, you have requested no-action letter as per the provisions of the SEBI Informal Guidance Scheme, if the proposed transaction is consummated in the manner referred in your letter, based on your understanding about the legal provisions in respect of the following:
- a) That the proposed Preferential Allotment being undertaken in the manner set out in para 2 above, will be in compliance with requirement of Chapter VII of the SEBI ICDR Regulations, including Regulation 74.
 - b) That the Investors be treated as 'public' and their shareholding will be part of the 'public shareholding' under the SCRR and for the purposes of disclosures under the Listing Agreement.
 - c) The Preferential Allotment to each Investor will be subject to a special resolution of the shareholders of PFRL being passed at a separate shareholders meeting convened to approve such Preferential Allotment. The fact of the Composite Scheme being undertaken, the broad contours of the restructuring being undertaken there under and the inter linkage between the Preferential Allotment and the Composite Scheme will all be disclosed in the explanatory statement sent to the shareholders in advance of such shareholders meeting. Further, as set out



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in paragraph 3.2.5 of the Application, while not required under applicable laws, the promoter shareholder of PFRL, i.e. Indigold shall voluntarily abstain from voting on such special resolution to approve the Preferential Allotment. Accordingly, the Preferential Allotment will be subject to approval by a special resolution of the [public] shareholders of PFRL.

The Composite Scheme will separately be subject to the approval of the requisite majority of public shareholders of PFRL, and will be acted upon only if the votes cast by the public shareholders of PFRL in favour of the proposal are more than the number of votes cast by the public shareholders of PFRL against it, in compliance with SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 and modified by SEBI Circular No. CIR/CFD/DIL/8/2013 dated May 21, 2013. It is submitted that PFRL will not be required to obtain a special resolution of their respective shareholders for approval of the Composite Scheme, for reasons set out in our Application.

That obtaining resolutions of the shareholders of PFRL as above is sufficient compliance with all applicable SEBI regulations, including Clause 49 of the Listing Agreement.

4. We have considered the submission and representation made by you and without necessarily agreeing with your analysis, our views on the issue are as under:

a) Regulation 70(1) of SEBI (ICDR) Regulations, 2009, inter-alia, states that -

The provisions of this Chapter (VII) shall not apply where the preferential issue of equity shares is made:

(a)

(b) pursuant to a scheme approved by a High Court under section 391 to 394 of the Companies Act, 1956;

(c)

The provisions of regulation 74, allotment pursuant to special resolution, is part of Chapter VII and accordingly would not apply in case of preferential issue of equity shares pursuant to scheme approved by a High Court under section 391 to 394 of the Companies Act, 1956.

b) Considering that the Investors will not be promoters, members of the promoter group and their investment through preferential issue, as informed, is in the nature of financial investment in the company, such Investors may be treated as 'public shareholders' in PFRL.



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- c) Considering that in the special resolution of shareholders obtained for preferential allotment to investor/s, the broad facts pertaining to composite scheme of arrangement shall be disclosed in the explanatory statement sent to the shareholders in advance of such shareholders meeting and that related party shall abstain from voting in such special resolution, the same shall be sufficient compliance with the requirements laid down under Clause 49 of the Listing Agreement.
5. In view of the above, "no action" letter is being issued subject to the condition that the proposed transaction is consummated in the manner referred to in your letter.
6. This position is based on the representation made to the division in your aforesaid letter under reference. Different facts or condition might require different results. This letter does not express a decision of the Board on the questions presented.
7. Vide your letter dated December 4, 2014 you have sought confidentiality treatment in respect, of your request for this letter. Acceding to your request, it has been decided that this "no action" letter issued to you will not be available to the public for a period of 90 days from the date of its issuance.
8. Please note that the above position is expressed only with respect to the clarifications sought on the applicability of the SEBI (ICDR) Regulations, 2009 and SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 read with SEBI Circular No. CIR/CFD/DIL/8/2013 dated May 21, 2013 as referred above and does not affect the applicability of any law and other SEBI Regulations, Guidelines and circulars administered by SEBI or the requirements of Listing Agreement.

Yours faithfully,

Anindya K Das