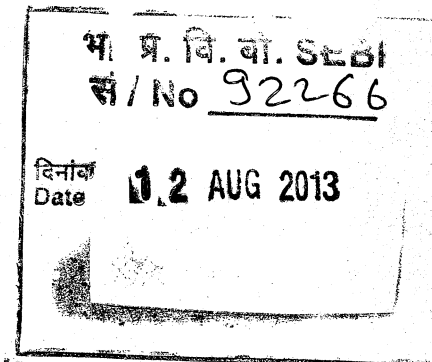


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M. J. Sub  
12.8.13  
DEM(SM) - on leave  
AGMCM/A

August 6, 2013

Executive Director  
Securities and Exchange Board of India,  
Investment Management Department,  
Division of Collective Investment Scheme,  
SEBI Bhavan, 'G' Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400051



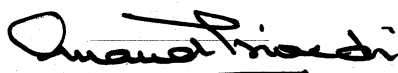
**Sub: Request for Interpretative Letter w.r.t. applicability/non-applicability of Section 11AA of the Securities and Exchange Board of India Act, 1992 on proposed business activity of MMTC-PAMP India Pvt. Ltd.**

Dear Sir,

1. Please refer to application dated 17.05.2013 ("Application") made under the SEBI (Informal Guidance Scheme), 2003 ("Informal Guidance Scheme") requesting for an interpretative letter w.r.t. applicability/non-applicability of section 11AA of the SEBI Act to the proposed business activity of MMTC-India Private Limited ("MPIPL"). In this connection, it is submitted that MPIPL is a joint venture company formed by MMTC Limited ("MMTC") and PAMP SA, Switzerland. Mr. Rajesh Khosla, former director of MMTC has been appointed as Managing Director of MPIPL. Board of MPIPL also has two nominee directors of MMTC.
2. MMTC, as a joint venture partner, is very keen that MPIPL may reach out to online customers for selling gold as per the proposal given by it to SEBI. We, therefore, request SEBI to provide its guidance at the earliest. MMTC is a premier public sector company incorporated on 26.09.1963 under the laws of India and having its shares listed on the BSE and NSE. Being a listed company, MMTC is eligible for seeking guidance from SEBI as per Para 4 of the Informal Guidance Scheme and requests that it may be deemed as applicant in place of MPIPL in the aforesaid Application. We do hope that for the sake of expeditious disposal of the Application, SEBI will consider our request favorably.

Thanking you in anticipation. Please also let us know if you require any further information in this regard.

Yours faithfully,



Anand Trivedi  
Director (Mktg)



SEBI/IW/P/20130812/0000092266

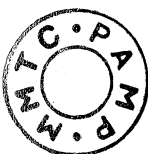
**"हिन्दी में लिखे पत्रों का स्वागत है"**

कोर-1, "स्कोप कॉम्प्लेक्स", 7 इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली-110 003 भारत  
Core-1, "SCOPE COMPLEX", 7 Institutional Area, Lodhi Road, New Delhi-110 003 INDIA

दूरभाष / Tel. : 011- 24362200

E-mail : mmtc@mmtclimited.com Website : www.mmtclimited.com

**PAN No. : AAACM1433E**



E/1  
22/5

Corporate Office :

**MMTC-PAMP INDIA PVT. LTD.**

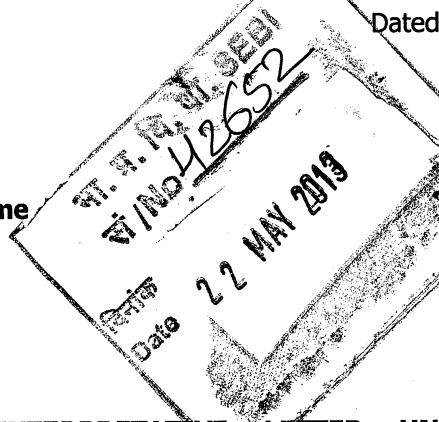
C-27, 3rd. Floor, QUTAB INSTITUTIONAL AREA,  
NEW DELHI 110 016, INDIA

TEL. : +91 11 4968 4200 FAX.: +91 11 4968 4201

E-MAIL : info@mmtspamp.com

Dated: 17.05.2013

**Executive Director,  
Securities and Exchange Board of India  
Investment Management Department  
Division of Collective Investment Scheme  
SEBI Bhavan, 'G' Block  
Bandra Kurla Complex, Bandra (East)  
Mumbai – 400051.**



ED(SYMDR)

CGM(VSS)-OD  
DGM(AT)-OD

**REGARDING: REQUEST FOR INTERPRETATIVE LETTER UNDER SEBI  
(INFORMAL GUIDANCE SCHEME), 2003 REGARDING  
APPLICABILITY/NON-APPLICABILITY OF SECTION 11AA OF  
THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992  
ON THE PROPOSED BUSINESS ACTIVITY OF MMTC-PAMP INDIA  
PRIVATE LIMITED (A JOINT VENTURE BETWEEN MMTC LIMITED  
AND PAMP SA).**

Dear Sir,

The matter relates to the applicability/non-applicability of Section 11AA of the Securities and Exchange Board of India Act, 1992 (the "**SEBI Act**") on the business proposed to be undertaken by MMTC-PAMP India Private Limited.

For your convenience and clarity, this document is segregated into the following 3 parts and further divided into the following 6 chapters:

**Part – I: Background**

**1. Introduction of Parties:**

- 1.1. Introduction of MMTC-PAMP India Private Limited ("**MPIPL**");
- 1.2. Introduction of MMTC Limited ("**MMTC**");
- 1.3. Introduction of PAMP SA ("**PAMP**").

**2. Business of MMTC-PAMP India Private Limited:**

- 2.1. Sector and scope of existing business;
- 2.2. Approximate investment made into existing business;
- 2.3. Type of customers currently being served;
- 2.4. Approximate revenue generated in the last financial year;

2.5. Existing product quality management measures undertaken.

**3. Structure of Management of MMTC-PAMP India Private Limited:**

3.1. Constitution of the Board;

3.2. Notable Directors on the Board;

3.3. Audit controls, checks, and safeguards undertaken in due course of business.

**Part – II: Proposed Business Activity**

**4. Structure and details of the business proposed to be conducted by MMTC-PAMP India Private Limited.**

**5. Checks and balances to be implemented in due course of the proposed business.**

**Part – III: Clarification Sought**

**6. Issue on which interpretation letter is sought from SEBI with a request for confidentiality.**

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## **PART – I**

### **1. INTRODUCTION OF PARTIES**

#### **1.1. MMTC-PAMP India Private Limited ("MPIPL"):**

1.1.1. MPIPL is a joint venture company incorporated on 18.01.2008 under the laws of India (the Companies Act, 1956) and established by MMTC, New Delhi and PAMP Switzerland and has its registered office at Rojka Meo Industrial Estate, Tehsil Nuh, District Mewat, Haryana – 122103, India. The shareholding pattern in MPIPL is as follows:

<b>Sr. No.</b>	<b>Name of the Shareholder</b>	<b>Status</b>	<b>No. of Equity Shares</b>	<b>Shareholding %</b>
1.	PAMP Holding Mauritius Limited (wholly owned subsidiary of MKS Holding, the holding company of PAMP)	Non-resident	4,87,44,840	72.65%
2.	MMTC Limited	Resident	1,74,46,000	26%
3.	MMTC Employees Mutual Benefit Trust	Resident	9,09,160	1.35%
	<b>TOTAL</b>		<b>6,71,00,000</b>	<b>100%</b>

1.1.2. MPIPL has been incorporated as a private limited liability company, and pursuant to the equity infusion by PAMP Holding Mauritius Limited (a wholly owned subsidiary of MKS Holding, the holding company of PAMP), MPIPL has a 72.65% foreign direct investment in its share capital.

1.1.3. Authorised Share Capital: The authorized share capital of MPIPL is Rs.67,10,00,000.00 (Indian Rupees Sixty Seven Crores and Ten lakhs only) divided into 6,71,00,000 (Six Crores and Seventy One Lakhs) equity shares having a face value of INR10.00 (Indian Rupees Ten only) each.

1.1.4. Issued, Subscribed and Paid Up Share Capital: The Issued, Subscribed and Paid Up Share Capital of MPIPL is INR 67,10,00,000.00 (Indian Rupees Sixty Seven Crores and Ten lakhs only) divided into 6,71,00,000.00 (Six Crores and Seventy One Lakhs) equity shares having a face value of INR 10.00 (Indian Rupees Ten only) each.

1.1.5. A copy of Memorandum and Articles of Association of MPIPL is enclosed herewith as Annexure "A".

## 1.2. **MMTC Limited:**

1.2.1. MMTC is a premier public sector company incorporated on 26.09.1963 under the laws of India (the Companies Act, 1956) and established by the Government of India under the aegis of the Ministry of Commerce, Government of India. MMTC has its registered office at Core – 1, Scope Complex, 7 Institutional Area, Lodhi Road, New Delhi.

1.2.2. The Government of India is the largest shareholder in MMTC, holding as much as 99.3312% of the total paid-up share capital of MMTC. MMTC has an authorized share capital of INR 100,00,00,000.00 (Indian Rupees One Hundred Crore Only) and a paid up share capital of INR 100,00,00,000.00 (Indian Rupees One Hundred Crore Only).

1.2.3. MMTC is schedule 'A'/Mini Navratna Category -1 Central Public Enterprise. It is the first Public Sector Enterprise to be accorded the status of "FIVE STAR EXPORT HOUSE" by Government of India for long standing contribution to exports. It is also one of the largest non-oil importer in India and among the highest foreign exchange earners for India.

1.2.4. MMTC is an authorised agency of the Government Of India for import of gold, silver, platinum, palladium, rough diamonds & coloured stones. It is one of the leaders in the Indian bullion trade accounting for 24.36% share of India's gold trade during 2011-12. MMTC supplies gold on loan and outright basis to the exporters, bullion dealers and jewellery manufacturers on all India basis.

1.2.5. MMTC retails jewellery and branded Sterling Silverware (Sanchi) from showrooms in all the major metro cities of India. MMTC also supplies branded hallmarked gold and studded jewellery. Assay and hallmarking units have been set up at New Delhi, Ahmedabad, Jaipur & Kolkata for testing the purity of gold and gold articles duly accredited with Bureau of Indian Standards.

## 1.3. **PAMP SA:**

1.3.1. PAMP SA is a subsidiary of MKS Switzerland SA, a private company. Its international headquarters is located in Geneva. PAMP, a company duly registered under the laws of Switzerland, having its registered office at 6874, Castel San Pietro, Switzerland, is a major international precious metal refiner and is the world's largest manufacturer of minted gold bars under 50.00 grams and has a global presence in the international market.

1.3.2. Established in 1977, PAMP is one of only three "Approved Good Delivery Referee" of the London Bullion Market Association (LBMA) and the London Platinum & Palladium Market (LPPM). PAMP's products are accepted as "Good Delivery" in all major markets worldwide viz., Swiss

National Bank; The London Bullion Market Association (LBMA); The New York Commodity Exchange (COMEX); The Tokyo Commodity Exchange (TOCOM); Chicago Board of Trade (CBOT); Dubai Gold and Commodity Exchange (DGCEX); The London Platinum and Palladium Market (LPPM).

1.3.3. In addition to Switzerland, PAMP has offices in 11 countries: established in Dubai (1996), Thailand (1996), Kuala Lumpur (1996), Australia (1998), USA and China (2002), Vietnam, Netherlands and India (2008), Singapore (2009) and Istanbul (2010). Apart from gold, PAMP also refines silver, platinum, palladium, rhodium and ruthenium, producing bars and other products for the silver and platinum group metal industries.

## **2. BUSINESS OF MMTC-PAMP INDIA PRIVATE LIMITED**

2.1. MPIPL is India's largest gold and precious metal refiner. The Main Objects of MPIPL as provided in its Memorandum of Association are as follows:

2.1.1. To carry on the business of buying, selling, wholesale trading, exchanging, importing, exporting, minting, extracting, purifying, refining, manufacturing of all kinds of metals and alloys including Gold, Silver and Platinum Group Metals, ferrous and non-ferrous metals, iron ores, scraps and finished or semi-finished materials of every nature, kind and description.

2.1.2. To carry on the business of general wholesale traders, importers, exporters, distributors, stockiest, agents, brokers, consultants, designers, manufacturers and dealers in all manner of goods or merchandise of any description and to act as international suppliers, commission agents, brokers, dealers and wholesale traders in articles of Gold, Silver, bullion, Platinum, precious and semi-precious metals, stones, jewelry, coins, medals, medallions, and other related articles made of metals and alloys including but not limited to Gold, Silver, Platinum and other precious and semi precious metals and alloys.

2.1.3. To act as agent and broker for sellers, buyers, exporters, importers, merchants, tradesmen, insurer and otherwise to undertake and carry out International or domestic agency work on any kind and transact all manners of agency and commission business.

2.2. MPIPL has set up and is currently operating a state-of-art precious metals (gold & silver) refinery and mint ("**Project**"), under the direct technical supervision (design, engineering and know-how) of PAMP. MPIPL has invested INR 224,00,00,000.00 (Indian Rupees Two Hundred and Twenty Four Crores only) in this Project. The production of precious metals from the refinery started in April 2012.

2.3. The Project is located at the Rojka-Meo Industrial Estate, Tehsil Nuh, District Mewat, in the state of Haryana, just 40 kms from New Delhi International

Airport. The plot area of the Project is 43,800 sq. meters, of which approximately one-third is built-up and the balance is for planned expansion.

- 2.4. This refinery is the largest of its kind in Asia with a refining capacity of 100 metric tons of gold, 600 metric tons of silver and minting 27,50,000 pieces of gold and silver per annum. It has an in-built provision for doubling the current capacity as and when such need arises. Utility services include an independent 11 KV feeder from the grid, 3500 KVA standby diesel power generation units, Effluent & Sewage Treatment Plant, Water recharge pits, Photo-voltaic generation, wet scrubbers for treating discharge air, underground water storage tank, ecology treatment, etc. Security systems installed include iris scanners, full body metal profiling, CCTVs, 2.4m high boundary wall topped by a five-strand high voltage fencing and CCTVs with video analytics, etc.
- 2.5. MPIPL is also equipped with a highly sophisticated assay laboratory functioning under the direct supervision and control of PAMP. It is a state-of-art laboratory, equipped with ICP, Spark Spectrometer, XRF, accurate & precise wet lab & quality control instrumentation, handheld XRF, fire assay furnace, etc. and is manned by experienced Chemistry Masters trained extensively at PAMP assay laboratory in Switzerland.
- 2.6. MPIPL currently exports to Australia, Malaysia, Singapore and Switzerland. It is minting personalized coins in gold & silver for corporates and financial institutions. Its patented design, the Lotus, is a potent symbol of transcendence and purity. The Company's bullion is widely distributed across India and is widely recognised as India's finest bullion produce, complying with all relevant international standards.
- 2.7. Recently, MPIPL has signed an agreement with the Royal Mint (UK) to mint the 2013 gold sovereign under license from the Royal Mint (UK). In terms of the licence, MMTC-PAMP India will strike the Royal Mint's gold Sovereign commemorative coins in India for the first time in nearly a century. This significant development will allow the Indian public to purchase genuine versions of the Sovereign, one of the world's most famous coins and a lasting symbol of beauty and integrity. These commemorative Sovereigns, struck in India by MMTC-PAMP using tools and techniques developed by The Royal Mint in South Wales, UK, are now uniquely available to the Indian market and will carry the special mintmark "I" to show that they have been manufactured in India.
- 2.8. The wholesale customers of MPIPL include MMTC, Religare Finvest Limited, Trustline Securities Limited, The Australian Bullion Company, among others.
- 2.9. In its first year of commercial operation (F.Y. 2012-13), MPIPL will have a gross turnover of approx. INR 1,25,00,00,00,000.00 (Indian Rupees Twelve Thousand Five Hundred Crores) with a profit of approximately INR 40,00,00,000.00 (Indian Rupees Forty Crores). In the F.Y. 2012-13, MPIPL will have refined over 45 tons of gold, 20 tons of silver and minted over 150,000 pieces of gold & silver coins.
- 2.10. The product quality consistency of the MPIPL products have been acknowledged by MCX, India's leading commodity exchange, which has launched contracts

where the Company's one-kilo 999 purity silver bullion bar and an 8gm 9999 purity minted gold coin are notified as good delivery on MCX. ***This is the first instance where products manufactured by a domestic refinery-cum-mint are listed as deliverable on the Exchange.***

### 3. STRUCTURE OF MANAGEMENT OF MMTC-PAMP INDIA PRIVATE LIMITED

3.1. Constitution of the Board: The Board of MPIPL consists of 8 directors, out of which MMTC has appointed 2 directors and PAMP has appointed 6 directors. The following are the directors appointed by the respective shareholders and who are currently on the Board of MPIPL:

Sr. No.	Name of the Director	Name of Father / Spouse	Date of Birth	Address	Email	Nationality	Passport No.
1.	Mr. Mehdi Barkhordar (nominee of PAMP & Managing Director PAMP)	Mr. Mohammad Ali	18/02/1962	Ch. Byron 4, 1233 Cologny, Switzerland	mehdi@mks.ch	Switzerland	X0516424
2.	Mr. Rajesh Khosla (nominee of PAMP)	Mr. Amar Chand Khosla	14/08/1942	B 1/18, Ground Floor, Vasant Vihar, New Delhi	rajesh.khosla@mmtcpamp.com	Indian	K 8047502
3.	Mr. Marwan Shakarchi (nominee of PAMP & Chairman of the Global MKS group)	Mr. Mahmoud Shakarchi	02/12/1961	32, Route De Corsinge, 1252 Meinier, Switzerland	marwan@mk s.ch	Switzerland	X3786151
4.	Mr. Rohit Tandon (nominee of PAMP & legal counsel)	Mr. Jagmohan Lal Tandon	18/02/1960	A-124, Shivalik, Near Malviya Nagar, New Delhi 110017	rtandco@vsnl .com	Indian	K2932026
5.	Mr. Venkatasubramanian	Mr. Gopalakrishnan	07/03/1968	De Vriendschap 13, 1188 GJ Amstelveen,	venkata@mk sholding.nl	Switzerland	X2903671



Sr. No.	Name of the Director	Name of Father / Spouse	Date of Birth	Address	Email	Nationality	Passport No.
	Gopalakrishnan (nominee of PAMP & Group Financial Controller)	Subramania		Amstelveen, Netherlands 1188			
6.	Mr. Bhaskara Nageswara Rao Mandavilli (nominee of PAMP ; former Chairman of Canara Bank)	Mr. Hanumantha Rao Mandavilli	19/06/1948	Flat No. A906, Purva Heights, 14, Bannerghatta Road, Bilekahalli, Bangalore 560 076	mbnrao@gmail.com	Indian	K2623510
7.	Mr. Manga Ram (nominee of MMTC)	Mr. Gribu Ram	01/01/1954	1097, Sector 17, Faridabad – 121002	mram@mmtc limited.com	Indian	J9506567
8.	Mr. Rajender Prasad (nominee of MMTC)	Mr. Badle Ram	21/06/1959	31, DDA SFS Flats, Gautam Nagar, New Delhi 110049	rajenderp@mmtclimited.com	Indian	F5149823

### 3.2. Details of selected Directors:

3.2.1. **Mr. Mehdi Barkhordar** graduated from the Wharton School, University of Pennsylvania with a BSc in Finance and Decision Sciences. In 1983, Mehdi joined the MKS Group, which includes MKS (Switzerland) S.A., a leading precious metals and financial services company, and PAMP S.A., one of the world's foremost precious metals refiners and fabricators. He is the Managing Director of PAMP Switzerland and Chairman of MMTC-PAMP India.

Active throughout the precious metals industry, Mr. Mehdi Barkhordar is widely respected for his comprehensive trading, marketing and fabrication expertise. He has been instrumental in significantly broadening the MKS Group's reach, range of services and productivity over the course of 30-years. He has contributed greatly to widening the perceptions of the value of precious metals worldwide through innovative product and marketing concepts. And, throughout his

career, he has been one of the industry's most visible proponents of products and services quality standards, best practices and ethics, as well as environmental sustainability.

- 3.2.2. **Mr. Rajesh Khosla** has been associated with the Indian base and precious metals industry for over 20 years. He has pioneered various innovative schemes for domestic bullion operations and widely respected for his in-depth knowledge and understanding of commercial realities of the Indian bullion trade.

Commencing December 1964, Mr. Rajesh Khosla began a thirteen-year stint in manufacturing units and operating establishments of Northern Railway, with consistent outstanding record of performance. In 1977, he moved to Projects & Equipment Corporation of India (PEC), as in-charge project marketing and implementation. He was elevated to a Board Member in August 1989. In April 1992, Mr. Rajesh Khosla was selected as Board member, MMTC Ltd., India's largest international trading corporation. In 1998, he set up a professionally managed company for developing Indian business interests for base metal and precious metal operations, both physical supply and Exchange traded/OTC risk management activities. Since 2001, Mr. Rajesh Khosla has been the India representative of MKS/PAMP, Switzerland for its precious metal activities in India. In 2008 Mr. Rajesh Khosla was appointed the Managing Director of MMTC-PAMP India Private Limited the joint venture between MMTC, India's largest international trading company and PAMP Switzerland, world's largest privately owned precious metals processing facility.

- 3.2.3. **Mr. Bhaskara Nageswara Rao** has extensive in-depth knowledge and experience in Banking & Finance, Economics, Foreign Exchange, International Finance & Banking, Forex, Money & Capital Markets, Risk Management, Treasury & Funds Management, Asset & Liability Management, Advisory Services, Accountancy, Information Technology & Technology in Banking, Credit Management, Project Finance, Industrial & Infrastructure Finance, International Trade Finance, Priority Sector Lending, Social Banking, Entrepreneurial Development, Lending to Agriculture and SMEs, Financial Inclusion, Retail Banking, NPA Management, Human Resource Management, Marketing, Internal Control, Inspection & Audit, Vigilance, Taxation and Administration, having been a Banker with over 42 years of hands on experience, with over 9 years of overseas experience and as the Board level appointee for about 8 years and at Chairman level for about 5 years.

Mr. Bhaskara Nageswara Rao has been the Chairman and Managing Director, Canara Bank; Vice Chairman, Commercial Bank of India (Moscow); Chairman, Indian Banks' Association; Chairman and Managing Director, Indian Bank. Mr. Bhaskara Nageswara Rao has also served as a member on the Committee on Financial Inclusion formed

by the Government of India, Ministry of Finance; and Primary Market Advisory Committee (PMAC) set up by SEBI.

3.3. Responsible Sourcing and Audits: MPIPL follows stringent compliance norms of its Swiss parent. These include the following:

3.3.1. London Bullion Market Association (LBMA) Responsible Gold Guidance for any type of Precious Metals it handles. This includes the OECD Due Diligence Guidance for Responsible Supply Chain of minerals from Conflict-Affected and High Risk Areas;

3.3.2. Complying with high standards of anti money laundering (AML) and combating terrorism financing (CFT);

3.3.3. Follows the Groups elaborate Responsible Precious Metals Guidance policy (attached for ready reference);

3.3.4. Board appointed internal audit committee with Protiviti, the internationally reputed firm of internal auditors, conducting internal audit every quarter with direct reporting to the Board;

3.3.5. Ernst & Young (E&Y) are the statutory auditors, who also audit the compliance with Group internal controls (E&Y are the global Group auditors).

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## **PART – II**

### **4. STRUCTURE AND DETAILS OF THE BUSINESS PROPOSED TO BE CONDUCTED BY MMTC-PAMP INDIA PRIVATE LIMITED.**

- 4.1 MPIPL is in the business of refining precious metals (both gold & silver, primarily gold) and selling the same to wholesalers located across India; it has offices in over twelve states in India. Currently, MPIPL does not sell gold directly to end customers.
- 4.2 As a major refiner and producer of gold in India, MPIPL intends to secure and grow its market share and enhance its sales by also reaching out to end customers directly, particularly customers who aspire to purchase gold but have limited financial resources for an outright purchase.
- 4.3 It is well known that the price at which gold is currently available limits the ability of the end customer to purchase it on an outright basis. Recognising the financial limitation of end customers to incur such expense at one time, some jewelers have come up with various schemes where customers can purchase gold ornaments by making periodical payments. However such schemes are limited to purchasing gold jewellery, or redeeming sums paid against gold jewellery. In such cases, additional charges, such as mark-ups, making charges etc. usually significantly play up the end price of the purchase.
- 4.4 MPIPL proposes to present to end customers the flexibility to purchase and accumulate fractional amounts of gold, rather than spending large sums of money to purchase it in one go. Under the scheme being considered by MPIPL, a customer may purchase gold of value as little as INR 1000.00 (Indian Rupees One Thousand Only). The quantity of gold that the customer intends to buy is entirely at customer's discretion. The timing and frequency of his purchase is also at the customer's discretion. The customer is not required to make any fixed or periodic payments. The price, quantity, and timelines, delivery of the physical is entirely at the discretion of the customer.
- 4.5 Since it is not be physically possible to deliver a fractional quantity of gold, the customer also has the option to instruct for a physical delivery as low as one gram of gold; correspondingly the option can be exercised no sooner the cumulative purchased quantity reaches a minimum of 1.00 grams of gold. All quantity of gold of 1.00 grams and multiples thereof shall be considered gold in deliverable form, and MPIPL shall at the direction of the customer deliver such quantity of gold to the customer. A customer is free to purchase as much gold, at any time as he may so desire. As a matter of abundant caution, and with a view to restrict unfair use of the options made available, the customer shall be required to take at least one physical delivery of its gold (of 1.00 grams and multiples thereof) purchased within 365 calendar days from the date of his first purchase. Customer also has the option to close its account after the expiry of one year, whereby any residual fractional weight of gold from the amount purchased by the customer, left after the delivery, may be bought back by MPIPL and the value returned to the customer.

- 4.6 Thus, whatever whole number weight of gold has been accumulated by the customer is deliverable as physical and only a small fractional entitlement is redeemable as a purchase by MPIPL. For example, if the customer has accumulated 18.230 grams of gold and wishes to close its account, MPIPL shall deliver 18.00 grams of gold (10.00 grams + 5.00 grams + 3 x 1.00 gram) and the remaining 0.230 gram shall either remain in the customers metal account, or bought back by MPIPL at the prevalent gold price and the amount remitted to the customer's bank account, both at the option of the customer.
- 4.7 In the event only a fractional weight of gold has been accumulated or remains in the customer's account, and thereafter no activity is conducted by the customer during the entire period of customer selected payment duration, the account will stand automatically closed on the expiry of the payment duration and the gold bought back by MPIPL and the value credited to the customer after deduction of all the charges (VAT, etc.) incurred by the Company. For reopening of any account at any time, fresh KYC norms/ disclosures shall have to be followed by the customer. The customer may also at any time at his free will close any account with MPIPL. Payment duration can be for a period of 12 months / 18 months / 24 months, at customer's declaration.
- 4.8 Thus, the only limiting factors in the scheme are (i) the minimum amount of a single purchase, which has been kept at INR 1000.00 (Indian Rupees One Thousand Only) or multiples thereof, and (ii) the 12 / 18 / 24 month timeframe for taking delivery, which has been so kept since the scheme is strictly that of a sale transaction, and physical delivery is an essential component of such scheme.
- 4.9 Additionally, as a matter of abundant precaution and with a view of controlling unscrupulous dealings and speculation by persons who intend to misuse the scheme, MPIPL proposes to maintain strict watch over all irregular activities involving the scheme. Heavy fees are built-in to the scheme to prevent misuse.
- 4.10 Customers opting to purchase gold under the scheme shall be required to register and open a metal account with MPIPL. A customer only can open metal account after it has successfully complied with a stringent KYC norm designed to obtain requisite and adequate information about the customer and thereby prevent misuse of the scheme. A well-defined procedure for on-line customer account opening shall be prescribed. All remittances shall be through net-banking, credit cards, and debit cards only, and payments shall be extensively documented. The sale transaction occurs only when the amount is actually credited to MPIPL's account. Against each purchase of gold, MPIPL shall raise the necessary invoices and pay the VAT on each such sale.
- 4.11 The scheme does not contemplate the hiring, or making use of agents at any stage whatsoever. In order to maintain transparency, accountability, and ~~control fraudulent activities~~, MPIPL shall be dealing directly with end customers on a one-to-one basis. The retail sale of gold occurs online, and no

cash consideration is accepted. Gold cannot be exchanged for cash. Delivery of gold of weight 1.00 grams and multiples thereof will be delivered by MPIPL to the customer. The value of the fractional amount of gold leftover in the customer's account is credited directly to the customer's bank account.

- 4.12 The scheme does not contemplate any form of fund accumulation, fund mobilization, or taking of deposit from customers. No interest is accrued on any payments made by the customer as the sale of gold occurs as soon as the funds are credited to the MPIPL account.
- 4.13 MPIPL proposed business transaction incorporates a full range of checks and balances to assure complete transparency and accountability. The customer-purchases of gold are set-aside in an allocated enclosure within its secured vault at its plant, with full insurance cover and security. It is to be noted that MPIPL metal security cover while at its plant is for an amount of \$250 million, which also covers a terrorism risk for the same amount. Further a monthly audit certification of the cumulative allocated physical holding shall be prominently displayed on its web site in the public domain, for all to see.

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### PART – III

#### 5. Clarification Sought:

The clarification pertains to the non-applicability or otherwise of Section 11AA (1) and (2) of the SEBI Act – specifically related to Collective Investment Scheme – on MPIPL if it were to proceed with the Business Transaction it proposes to transact in the manner outlined in Chapter 4 of Part – II above.

5.1. Section 11AA of the SEBI Act provides what constitutes a Collective Investment Scheme. It states:

**11AA** (1) *Any scheme of arrangement which satisfies the conditions referred to in sub-section (2) shall be a collective investment scheme.*

(2) *Any scheme or arrangement made or offered by any company under which, --*

(i) *the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;*

(ii) *the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether moveable or immovable, from such scheme or arrangement;*

(iii) *the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;*

(iv) *the investors do not have day-to-day control over the management and operation of the scheme or arrangement.*

(3) .....

5.2. The whole scheme is only a transaction of purchase and sale of the gold and as per our understanding the business proposed to be conducted (in Part – II) does not fall within the ambit of Collective Investment Scheme i.e. Section 11AA for the following reasons:

S. No.	Provision	Our Position
1	<i>The contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;</i>	<p>MPIPL utilizes its own resources to procure gold ore, the input raw material for the refining process. It sells this refined gold to customers against their individual purchase and immediately allocates such gold in a set aside enclosure within a secured vault, and declares on a public domain the physical stock thus set aside and secured. MPIPL shall sell the gold equivalent to the money received from the customer / investor. Gold shall be sold on outright basis to the customer. MPIPL shall retain actual gold stock in its vaults (which shall be rounded off to the nearest 100 gm on the positive side) against all gold sold by it to the end Customers. Such gold stock shall be available for verification. The stock shall be regularly audited and reports posted on the website of MPIPL. Daily tally of stocks (sold and stored) shall be available on the MPIPL's website.</p> <p>Since there is no pooling and utilization of the customer funds for running the scheme, the provisions of this sub-section are not attracted.</p>
2	<i>The contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether moveable or immoveable, from such scheme or arrangement;</i>	<p>MPIPL will sell the gold (movable property) to the customer for the payments received. Each investor will pay for the amount of gold it wishes to purchase. The transaction is one of an outright sale.</p> <p>Thus the provisions of this sub-section are not attracted.</p>
3	<i>The property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;</i>	<p>The customer can opt for physical delivery of its purchased gold of a quantity as low as 1.00 gm of gold. Further, the cumulative physical stock is held by MPIPL in a secured vault, with full insurance and stand alone audit of such holding. Till such time the customer opts for a physical delivery, MPIPL shall hold the gold for and on behalf of the customer as a bailee. The delivery is deferred only because it is not physically possible to deliver gold less than 1.00 gram. If a client were to purchase a 1.00 gram gold at one go, the same is immediately deliverable.</p> <p>Thus the provisions of this sub-section are not attracted.</p>
4	<i>The investors do not have day-to-day control over the management and operation of the scheme or arrangement.</i>	<p>The cumulative quantity of gold purchase is separately vaulted by MPIPL as bailee because it is not physically possible to deliver gold of less than 1.00 gram weight. The customers has the complete freedom to purchase any quantity of gold, at any time, as and when it so</p>



S. No.	Provision	Our Position
		determines; no fixed payment plans are envisaged.  Thus the provisions of this sub-section are not attracted.

5.3. Further, the preamble to the Securities and Exchange Board of India Act, 1992 provides that SEBI was established to protect the interests of investors of securities and to promote the development of, and to regulate, the securities market. The term 'Securities' has been defined in Section 2(h) of the Securities Contracts (Regulation) Act, 1956. Upon perusal of the same we are of the view that the business proposed to be conducted (in Part – II) does not contemplate dealing in or creation of 'Securities' as defined in Section 2(h) of the Securities Contracts (Regulation) Act, 1956 for the reasons provided in the table below. Briefly, our position is that the proposed business is that of a sale transaction of actual products (being gold); and no speculative transactions are intended, no interest or returns of any kind are given or guaranteed. Due to its inherent nature as a straightforward sale transaction nothing therein resembles 'security' within the definition provided in the aforesaid Regulation. No unit, bond certificate or any instrument in the form of securities is issued. Pursuant thereto we understand that the proposed business is outside the purview of SEBI.

	Definition of Securities	Our Position
	<b><i>Securities include:</i></b>	
1.	<i>Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;</i>	Not applicable to us as we are not issuing any shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature. Only gold is being sold, and delivered in its physical form.
2.	<i>Derivatives;</i>	Not applicable to us as no form of derivatives are issued to the customers. The proposed business contemplates a simple sale transaction of actual goods (gold).
3.	<i>Units or any other instrument issued by any collective investment scheme to the investors in such schemes;</i>	Not applicable to us as described in Paragraph 5.2 above.
4.	<i>Security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest</i>	Not applicable, as only gold is sold against actual sale-purchase arrangement. MPIPL is not a securitization company or reconstruction company, and is not issuing any security to any qualified institutional buyer. It is merely undertaking a simple sale of gold to end customers.

	Definition of Securities	Our Position
	<p><i>Act, 2002;</i></p> <p><i>[S. 2(zg): "Security receipt" means a receipt or other security, issued by a securitization company or reconstruction company to any qualified institutional buyer pursuant to a scheme, evidencing the purchase or acquisition by the holder thereof, of an undivided right, title or interest in the financial asset involved in securitization.]</i></p>	
5.	<i>Units or any other such instrument issued to the investors under any mutual fund scheme;</i>	Not applicable, as the proposed business does not relate to mutual funds. And only gold is sold against actual sale-purchase arrangement.
6.	<i>Any certificate or instrument (by whatever name called), issued to an investor by an issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be.</i>	Not applicable, as only gold is sold against actual sale-purchase arrangement. There is no investor involved in the proposed business. MPIPL is a manufacturing company which is proposing to sell its products to end customers.
7.	<i>Government securities</i>	Not applicable as the proposed business does not entail dealing with securities of any nature, let alone government securities. Only gold is sold under an actual sale-purchase arrangement.
	<i>Rights or interest in securities</i>	Not applicable, as no right or interest in any security in any form is created or contemplated. The proposed transaction pertains solely to a sale of gold to customers upon an actual sale-purchase arrangement.

#### 5.4. CLARIFICATIONS SOUGHT

Based on the above facts and the information, we seek your interpretative letter with respect to whether the proposed scheme for sale and purchase of Gold would be treated as Collective Investment Scheme (CIS) as per section 11AA of SEBI Act, 1992.

#### 5.5. REQUEST FOR CONFIDENTIALITY

Giving the sensitivities involved in a transaction of this nature, we request you to keep this request letter and your response confidential in accordance with para 11 of the SEBI (Informal Guidance) Scheme, 2003 for the maximum period possible.


As per SEBI (Informal Guidance) Scheme, 2003, demand draft No. 340779 dated 16.05.2013 drawn on "Securities and Exchange Board of India" for INR 25,000.00 (Indian Rupees Twenty Five Thousand Only) payable at Mumbai, towards fee payable for seeking interpretative letter under SEBI (Informal Guidance) Scheme, 2003 is enclosed herewith.

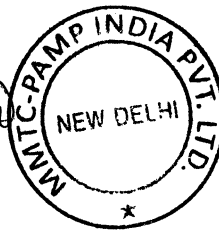
We will be pleased to provide any additional information on hearing from you and will be available for personal discussion. We would appreciate your early action in the matter.

Thanking You,

Yours faithfully,

**For MMTC-PAMP India Private Limited**

  
**Director**



Encl: *As above*

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