

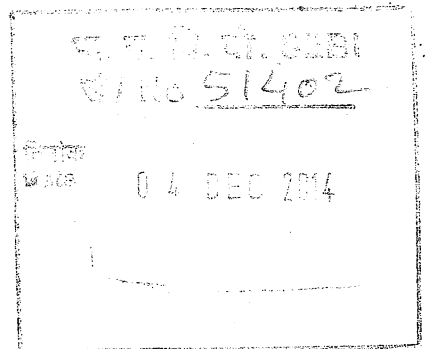
PRIVATE AND CONFIDENTIAL

December 4, 2014

Executive Director
Corporation Finance Department
Division of Corporate Restructuring/ Division of Issue and Listing
Securities and Exchange Board of India
SEBI Bhawan, C 4-A, G Block
Bandra Kurla Complex
Bandra (East), Mumbai 400051

Attn: Shri S. Ravindran

Dear Sir,



Re: Request for a No-Action Letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 (the "Informal Guidance Scheme"), in relation to a proposed restructuring by way of a scheme of arrangement under Sections 391-394 of the Companies Act, 1956 ("Composite Scheme")

1. INTRODUCTION

- 1.1 We, Pantaloons Fashion & Retail Limited (the "Applicant" or "PFRL"), a listed Indian company, are proposing to undertake a corporate restructuring by way of a scheme of arrangement under Sections 391-394 of the Companies Act, 1956 (as may be amended or replaced from time to time) (the "Companies Act") pursuant to which the apparel and retail businesses of the Applicant and certain other companies of the Aditya Birla Group are proposed to be consolidated in the Applicant. As part of such consolidation it is proposed that one or more financial investors (the "Investors") will invest in the post restructuring share capital of the Applicant holding the consolidated business (the "Potential Transaction"). The Potential Transaction is currently under consideration and will be subject to the necessary approvals, including approvals of the board of directors and shareholders of the relevant companies, sanction of the relevant jurisdictional High Courts and approval of relevant regulatory authorities.

1

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Pantaloons Fashion & Retail Ltd.



1.2 In order to obtain clarity and certainty on certain aspects of the Potential Transaction, the Applicant is making this application under paragraph 5(i) of the Informal Guidance Scheme, seeking a no-action letter in relation to:

- (i) confirmation on compliance of the Potential Transaction with the Securities and Exchange Board of India (“SEBI”) (Issue of Capital and Disclosure Requirements) Regulations, 2009 (the “SEBI ICDR Regulations”), including Regulation 74 thereof;
- (ii) the definitions of “public” and “public shareholding” under the Securities Contracts (Regulation) Rules, 1957 (“SCRR”) and consequently, the definitions of “promoter” and “promoter group” under the SEBI ICDR Regulations; and
- (iii) confirmation that the requirement to obtain a special resolution of shareholders pursuant to the provisions of Clause 49(VII)(E) of the revised listing agreements with Stock Exchanges (“Listing Agreement”) vide SEBI Circular No. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 and SEBI Circular No. CIR/CFD/POLICY CELL/7/2014 dated September 15, 2014, is not applicable with respect to the Composite Scheme.

2. BRIEF DESCRIPTION OF THE PARTIES

2.1 About PFRL:

2.1.1 Pantaloons Fashion & Retail Limited (“PFRL”) is a company incorporated under the Companies Act. PFRL is engaged in the apparel and retail business and is among the top large format fashion retailers in India, whose equity shares are listed on the BSE Limited (“BSE”) and the National Stock Exchange of India Limited (“NSE”) (BSE and NSE, collectively “the Stock Exchanges”).

2.1.2 As on the date of this application, 72.62% of the total issued and paid up share capital of PFRL is owned by Indigold Trade & Services Limited (“Indigold”), a company incorporated under the Companies Act and a wholly owned subsidiary of ABNL (as defined herein). The remaining 27.38% of the share capital of PFRL is held by public shareholders.

2.2 About ABNL:

2.2.1 Aditya Birla Nuvo Limited (“ABNL”) is a company incorporated under the Companies Act and is one of the flagship companies of the Aditya Birla Group.



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ABNL is a diversified conglomerate with various business interests including manufacturing, financial services, telecom and fashion & lifestyle. ABNL's equity shares are listed on the Stock Exchanges. The global depositary receipts ("GDRs") of ABNL are listed on the Luxembourg Stock Exchange.

- 2.2.2 As on the date of this application, 58.30% of the total issued and paid up equity share capital of ABNL is held by persons and entities forming part of the promoter and promoter group ("**Promoters**"), and the remaining 42.70% is held by public shareholders.
- 2.2.3 Madura Fashion & Lifestyle ("**Madura**") is a division of ABNL which is engaged in the manufacturing and retailing of branded apparels and is one of the leading premium branded apparel players in India.
- 2.3 About ABRL:
- 2.3.1 Aditya Birla Retail Limited ("**ABRL**") is a company incorporated under the Companies Act and is part of the Aditya Birla Group.
- 2.3.2 ABRL is engaged in the retail sector and operates supermarkets and hypermarkets under the brand "*more*" and has other activities including holding investments, owning and leasing properties. The retail business of ABRL is hereinafter referred to as the "**ABRL Retail Undertaking**".
- 2.3.3 ABRL is an unlisted company and its shareholders comprise entirely of persons and entities forming part of the Promoters.
- 2.4 About Madura Garments Lifestyle:
- 2.4.1 Madura Garments Lifestyle Retail Company Limited ("**Madura Garments Lifestyle**") is a company incorporated under the Companies Act and is a wholly owned subsidiary of ABNL, i.e. 99.95% of its total issued and paid up equity share capital is held by ABNL with the remaining 0.05% being held (for the beneficial interest of ABNL) by ABNL Investments Limited a wholly owned subsidiary of ABNL. Madura Garments Lifestyle is engaged in the business of apparel retail and holding investments. The retail business of Madura Garments Lifestyle is hereinafter referred to as the "**MGL Retail Undertaking**".

A diagrammatic representation of the holdings between PFRL, ABNL, ABRL and Madura Garments Lifestyle as on the date of this application is attached as **Annexure A**.





2.5 About the Investors:

- 2.5.1 The Potential Transaction contemplates an investment by one or more Investors (being financial investors) by way of subscription to the shares of PFRL pursuant to the effectiveness of the Composite Scheme.
- 2.5.2 The Potential Transaction is still at an exploratory stage. Whilst discussions are ongoing with various parties, the Investors are yet to be identified.

3. SALIENT FEATURES OF THE POTENTIAL TRANSACTION

- 3.1 The objectives of the Potential Transaction are: (i) to consolidate the retail and apparels businesses of the Aditya Birla Group within one single company, which is PFRL, to unlock value and accrue synergy benefits for the business; and (ii) to enable raising additional capital in multiple tranches, the first of which is being sought from the Investors.

The various parts of the Potential Transaction described in paragraph 3.2 below are integrally linked, and the proposed restructuring including the necessary approvals to be sought for the same can be commenced and undertaken only once Investors have been identified and a binding commitment is made by them to undertake the investment. Clarity on the matters raised in this letter is critical to our ability to attract potential investors and to provide the necessary comfort and clarity to enable them to make a commitment.

- 3.2 The Potential Transaction involves the following salient aspects:

Composite scheme of arrangement

- 3.2.1 A Composite Scheme between ABNL, ABRL, Madura Garments Lifestyle, PFRL and their respective shareholders and creditors under Sections 391-394 of the Companies Act (or Sections 230-232 of the Companies Act, 2013, as may be applicable) which shall, *inter alia*, provide for the following steps:
- (i) the demerger of Madura from ABNL to PFRL. In consideration for the demerger, the shareholders of ABNL (i.e. Promoters and public shareholders of ABNL) will be issued equity shares in PFRL, based on a share entitlement ratio, ("**Madura Demerger**");
 - (ii) the demerger of the MGL Retail Undertaking from Madura Garments Lifestyle to PFRL, in consideration for which the shareholders of Madura





Garments Lifestyle will be issued equity shares in PFRL, based on a share entitlement ratio ("**MGL Demerger**");

- (iii) the demerger of the ABRL Retail Undertaking from ABRL to PFRL, in consideration for which the shareholders of ABRL will be issued equity shares in PFRL, based on a share entitlement ratio ("**ABRL Demerger**"); and
- (iv) preferential allotment to the Investors, subject to a maximum of 10% of the total expanded (post restructuring) issued and paid-up equity share capital of PFRL being issued to each Investor; (the "**Preferential Allotment**").

3.2.2 The share entitlement ratios for the Madura Demerger, the MGL Demerger and the ABRL Demerger will be determined by the respective board of directors of the 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.

3.2.3 The 'appointed date' under the Composite Scheme for the Madura Demerger, the MGL Demerger, and the ABRL Demerger will be April 1, 2014.

Preferential Allotment to the Investors

3.2.4 The issuance of shares by PFRL to the Investors will be an integral part of the Composite Scheme and will occur pursuant and subject to the effectiveness of the Composite Scheme. The key terms on which the Preferential Allotment will be undertaken are set out below.

3.2.5 *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.

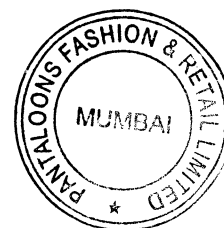
Further, while not required under applicable laws, the promoter shareholder of PFRL, i.e. Indigold shall voluntarily abstain from voting on such special resolution to approve the Preferential Allotment. It is to be noted in this regard that neither the relevant SEBI regulations nor other applicable laws require any person to abstain from voting on a special resolution approving a preferential allotment, however such measure is being undertaken voluntarily by Indigold, for the present instance only, considering that the Preferential Allotment is an integral part of an 'all or nothing' transaction carried out under the Composite Scheme





(which is separately subject to the approval of the majority of the public shareholders, as specifically required under the Scheme Circulars).

- 3.2.6 *Issue Price:* The “relevant date” for the determination of the issue price for the Preferential Allotment shall be the date which is 30 (thirty) days prior to the date on which the meeting of shareholders of PFRL is 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 the 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 the SEBI ICDR Regulations.
- 3.2.7 *Conditions Precedent:* Since the Preferential Allotment is an integral part of the Composite Scheme, the Preferential Allotment to each Investor shall, *inter alia*, be subject to the conditions to effectiveness of the Composite Scheme, which *inter alia* include the sanction of the jurisdictional High Courts and approval of such other regulatory authorities as may be required. Accordingly the allotment of equity shares by PFRL to the Investors will be completed within a period of 15 (fifteen) days from the date of receipt of the last of the approvals from requisite regulatory authorities in respect of the Composite Scheme including the sanction of the jurisdictional High Court under Section 391-394 of the Companies Act. It is proposed that the Preferential Allotment will occur upon effectiveness of the Composite Scheme and immediately after the issuance and allotment of shares pursuant to the Madura Demerger, MGL Demerger and ABRL Demerger, as provided for in the Composite Scheme.
- 3.2.8 *Lock in:* The equity shares so allotted to the Investors shall remain locked in for a period of 1 (one) year from the date of trading approval for such shares being received.
- 3.2.9 To crystallize the commitment of the Investors, simultaneously with the announcement of the Composite Scheme, an agreement will be entered into between, *inter alia*, the Investors and PFRL, setting out the agreement of the Investors to subscribe to the shares of PFRL in terms of the Preferential Allotment pursuant to the Composite Scheme. The key terms of such agreement with the Investors are set out below:
- (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 (“**Board**”) as will be proportionate to their respective shareholding in PFRL, with a minimum of one director on the Board for each Investor;
- (iii) the agreement with the Investors will provide for rights and obligations of the Investor *vis-à-vis* Indigold or ABNL in relation to transfer of the Investors’ shares in PFRL and a restriction on the Investors 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) as is customary in transactions of this nature, the agreement will provide that the investment will be subject to certain conditions precedent such as the 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 favour 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.

3.2.10 Based on the structure of the Potential Transaction described herein and the management estimates of valuations, the shareholding pattern of PFRL prior to and post the effectiveness of the Composite Scheme and issuance and allotment of shares thereunder (including to the Investors), is expected to be as follows:

[Note: Please refer to table provided in the following page. Remainder of the page is intentionally left blank.]





Shareholder(s)	Pre-Scheme Holding (%)	Stage1- Demerging MFL Holding (%)	Stage2- Demerging MFL, ABRL and MG Holding (%)	Stage3: Post 1 Investor Holding (%)	Stage 4: Post 2 Investors Holding (%)
A.) Promoter and Promoter Group					
Indigold	72.62%	14.04%	13.6%	12.2%	10.9%
ABNL	Nil	Nil	2.74%	2.46%	2.19%
Promoters of ABNL	Nil	47.03%	46.14%	41.54%	36.97%
Total (A)	72.62%	61.07%	62.43%	56.21%	50.02%
B.) Public shareholders					
Public shareholders of PFRL	27.38%	5.29%	5.11%	4.60%	4.09%
Public shareholders of ABNL	Nil	33.64%	32.47%	29.23%	26.02%
Investor/s	Nil	Nil	Nil	9.96%	19.87%
Total (B)	27.38%	38.93%	37.58%	43.80%	49.98%
GRAND TOTAL (A + B)	100.00%	100.00%	100.00%	100.00%	100.00%

**The shareholding pattern of PFRL post effectiveness of the Composite Scheme as set out herein is merely indicative in nature, and may undergo a change based on the final share entitlement ratios determined by the respective board of directors of the relevant companies, based inter alia on valuation report/s from independent valuers. Also, please note that the break up of Investor holdings is for information purposes only, and as such, the issuance to both will occur simultaneously such that the aggregate holding of each will be calculated on the overall expanded share capital of PFRL.*

4. NO ACTION LETTER REQUESTED FROM SEBI

8

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4.1 No Action Letter

The Applicant requests for a **no-action letter** in respect of the following:

- 4.1.1 That, the Preferential Allotment being undertaken in the manner set out in paragraphs 3.2.4 to 3.2.9 above, including the determination of “relevant date” as indicated in paragraph 3.2.6, the regulatory approvals required for the effectiveness of the Composite Scheme being treated as pending approvals for the purpose of the Preferential Allotment and accordingly, allotment of equity shares by PFRL to the Investors within a period of 15 (fifteen) days from the receipt of the last of the approvals from requisite regulatory authorities in respect of the Composite Scheme (including the sanction of the jurisdictional High Court), will be in compliance with the requirements of Chapter VII of the SEBI ICDR Regulations, including Regulation 74.

In this regard, for the reasons set out in paragraph 1 of **Annexure B**, it is our understanding that the proposed Preferential Allotment will be in accordance with Chapter VII of the SEBI ICDR Regulations, including Regulation 74.

Further, it is our understanding in this regard that in terms of Chapter VII of the SEBI ICDR Regulations and other applicable regulations there is no requirement for the promoter shareholders to abstain from voting on a special resolution approving a preferential allotment, and the same is being undertaken by Indigold on a voluntary basis only for the present transaction.

- 4.1.2 That, the Investors will 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.

In this regard, for the reasons set out in paragraph 2 of **Annexure B**, it is our understanding that the Investors will be ‘public’ shareholders.

- 4.1.3 That, given that the Composite Scheme will be approved by the requisite majority of public shareholders as specifically required under the 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, (collectively, the “**Scheme Circulars**”), a special resolution of shareholders pursuant to the provisions of Clause 49(VII)(E) of the Listing Agreement¹ is not required.

¹ As revised vide SEBI Circular No. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 and SEBI Circular No. CIR/CFD/POLICY CELL/7/2014 dated September 15, 2014

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In this regard, for the reasons set out in paragraph 3 of **Annexure B**, it is our understanding that PFRL will not be required to obtain a separate special resolution of it shareholders pursuant to the provisions of Clause 49(VII)(E) of the revised Listing Agreement.

5. LEGAL PROVISIONS, ANALYSIS AND SUBMISSIONS

In reference to the requests set out in paragraphs 4.1, please refer to **Annexure B** for the analysis of the relevant legal provisions and the submissions in relation thereto.

6. REQUEST FOR CONFIDENTIALITY

6.1 Given the sensitivity of the matters contained herein, including the price sensitivity, the Applicant requests that this letter and its contents be kept strictly confidential for the maximum period possible, i.e. until 90 days after the response to this letter has been tendered.

6.2 In this regard, please note that the Potential Transaction is still at an exploratory stage and is, *inter alia*, subject to identification of the Investors (which will only be completed based upon confirmation of the matters set out herein), and the approval of the board of directors of the ABNL, PFRL, Madura Garments Lifestyle and ABRL.

7. COMPLIANCE WITH PARAGRAPH 6 OF THE SEBI INFORMAL GUIDANCE SCHEME, 2003

7.1 This request for a no action letter is accompanied by a cheque for Rs. 25,000/- (Rupees Twenty Five Thousand Only) in favour of the SEBI, bearing number 046715 drawn on Axis Bank, payable at Mumbai, dated 3rd December, 2014.

7.2 All material facts, circumstances and legal provisions which, in our opinion, are relevant for the purposes of determination of this request are stated herein.

The Applicant is pleased to furnish any additional information as may be required in support of this application for informal guidance in the form of a no-action letter.

Any request for further information may be addressed to:

Geetika Anand Talwar,



ADITYA BIRLA



Company Secretary,
701-704, 7th Floor, Skyline Icon Business Park,
86-92, Off A.K.Road,
Marol Village, Andheri (East),
Mumbai 400059
Phone: +8652905000, ext 5014
E-mail: geetika.anand@adityabirla.com
Fax: +8652905400

We sincerely trust that the above information meets your requirements and look forward to your early consideration of this matter.

Yours sincerely,

For ~~Pantaloons~~ Fashion & Retail Limited

Name: GEETIKA ANAND TALWAR
Designation: COMPANY SECRETARY & COMPLIANCE OFFICER
Enclosed: a/a



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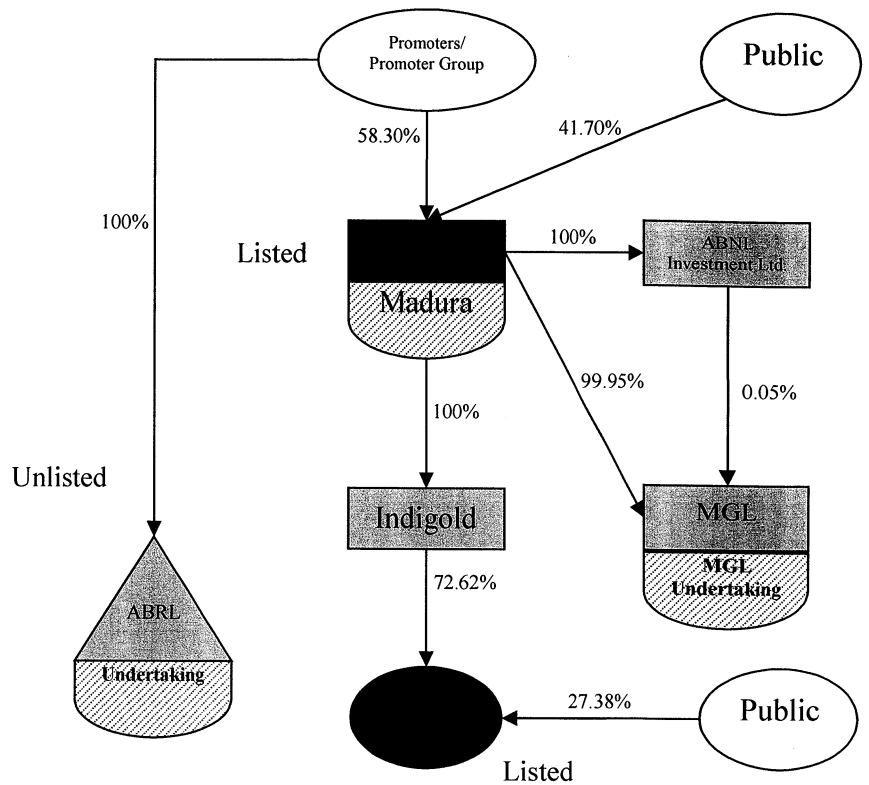
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ANNEXURE A
Diagrammatic Representation of Holdings



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Pantaloons Fashion & Retail Ltd.

**ANNEXURE B****LEGAL PROVISIONS, ANALYSIS AND SUBMISSIONS**

Legal Provisions, Analysis and Submissions in respect of the Interpretative/No Action requests in paragraph 4.1 of this application

1. Request I: *That, the Preferential Allotment being undertaken in the manner set out in paragraphs 3.2.4 to 3.2.9 above, including the determination of “relevant date” as indicated in paragraph 3.2.6, the regulatory approvals required for the effectiveness of the Composite Scheme being treated as pending approvals for the purpose of the Preferential Allotment and accordingly, allotment of equity shares by PFRL to the Investors within a period of 15 (fifteen) days from the receipt of the last of the approvals from requisite regulatory authorities in respect of the Composite Scheme (including the sanction of the jurisdictional High Court), will be in compliance with the requirements of Chapter VII of the SEBI ICDR Regulations, including Regulation 74.*

- 1.1 Regulation 74 of the SEBI ICDR Regulations, *inter alia*, provides as follows:

“74. Allotment pursuant to special resolution – (1) Allotment pursuant to the special resolution shall be completed within a period of fifteen days from the date of passing of such resolution:

Provided that where any application for exemption from the applicability of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 or any approval or permission by any regulatory authority or the Central Government for allotment is pending, the period of fifteen days shall be counted from the date of order on such application or the date of approval or permission as the case may be:” (emphasis supplied)

- 1.2 It is submitted that the Investors shall be issued shares in PFRL pursuant to the effectiveness of and as an integral part of the Composite Scheme. The Madura Demerger, the MGL Demerger, the ABRL Demerger and the Preferential Allotment will be intrinsically linked being part of an ‘all or nothing’ transaction carried out under the Composite Scheme.
- 1.3 Accordingly, the Preferential Allotment is conditional on the Composite Scheme coming into effect in accordance with its terms. The coming into effect of the Composite Scheme is conditional, *inter alia*, upon various regulatory approvals

13

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including the sanction order of the jurisdictional High Court, the post-sanction approval of SEBI and other such governmental approvals and sanctions as may be required by law.

- 1.4 Since the Preferential Allotment is an integral part of and conditional on the Composite Scheme coming into effect, it is submitted that the sanction order of the jurisdictional High Court, the post-sanction approval of SEBI and other such governmental approvals and sanctions as may be required by law for the effectiveness of the Composite Scheme would be approvals or permissions required for the allotments pursuant to the Preferential Allotment and accordingly the period of 15 (fifteen) days for allotment of shares to the Investors would be counted from the date of the last of the approvals from requisite regulatory authorities in respect of the Composite Scheme.
- 1.5 Accordingly, it is submitted that the allotments under the Preferential Allotment pursuant to the Composite Scheme would be in compliance with Regulation 74 of Chapter VII of the SEBI ICDR Regulations if they are made within 15 days from the date of the last of the approvals from requisite regulatory authorities in respect of the Composite Scheme.

2. Request II: *That, the Investors will be treated as 'public' and their shareholding will be part of the 'public shareholding', under the SCRR and for purposes of disclosures under the Listing Agreement.*

- 2.1 Rule 2(d) of the SCRR defines "public" as follows:

"public" means persons other than-

- (i) *the promoter and promoter group;*
- (ii) *subsidiaries and associates of the company.*

Explanation – For the purpose of this clause the words "promoter" and "promoter group" shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations 2009."

- 2.2 Rule 2(e) of SCRR defines "public shareholding" as follows:





““public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.”

2.3 As such, in order to determine whether a person will be deemed to be ‘public’, and its shareholding in the company will be deemed to be ‘public shareholding’, one would need to establish that such person does not fall in either of the following categories:

- (a) promoter, or
- (b) promoter group.

2.4 Reg. 2(za) of the SEBI ICDR Regulations defines “promoter” as follows:

“(za) “promoter” includes:

- (i) the person or persons who are in control of the issuer;*
- (ii) the person or persons who are instrumental in the formulation of a plan or programme pursuant to which specified securities are offered to public;*
- (iii) the person or persons named in the offer document as promoters:*

Provided that a director or officer of the issuer or a person, if acting as such merely in his professional capacity, shall not be deemed as a promoter:

Provided further that a financial institution, scheduled bank, foreign institutional investor and mutual fund shall not be deemed to be a promoter merely by virtue of the fact that ten per cent or more of the equity share capital of the issuer is held by such person;

Provided further that such financial institution, scheduled bank and foreign institutional investor shall be treated as promoter for the subsidiaries or companies promoted by them or for the mutual fund sponsored by them;”

2.5 Reg. 2(zb) of the SEBI ICDR Regulations defines “promoter group” as follows:

“(zb) “promoter group” includes:

- (i) the promoter;*
- (ii) an immediate relative of the promoter (i.e., any spouse of that person, or any parent, brother, sister or child of the person or of the spouse); and*





- (iii) *in case promoter is a body corporate:*
- (A) *a subsidiary or holding company of such body corporate;*
 - (B) *any body corporate in which the promoter holds ten per cent or more of the equity share capital or which holds ten per cent. or more of the equity share capital of the promoter;*
 - (C) *any body corporate in which a group of individuals or companies or combinations thereof which hold twenty per cent or more of the equity share capital in that body corporate also holds twenty per cent. or more of the equity share capital of the issuer; and:*
- (iv) *in case promoter is an individual:*
- (A) *any body corporate in which ten per cent or more of the equity share capital is held by the promoter or an immediate relative of the promoter or a firm or Hindu Undivided Family in which the promoter or any one or more of his immediate relative is a member;*
 - (B) *any body corporate in which a body corporate as provided in (A) above holds ten per cent or more, of the equity share capital;*
 - (C) *any Hindu Undivided Family or firm in which the aggregate shareholding of the promoter and his immediate relatives is equal to or more than ten per cent of the total; and*
- (v) *all persons whose shareholding is aggregated for the purpose of disclosing in the prospectus under the heading "shareholding of the promoter group":*

Provided that a financial institution, scheduled bank, foreign institutional investor and mutual fund shall not be deemed to be promoter group merely by virtue of the fact that ten per cent or more of the equity share capital of the issuer is held by such person:

Provided further that such financial institution, scheduled bank and foreign institutional investor shall be treated as promoter group for the subsidiaries or companies promoted by them or for the mutual fund sponsored by them;"





2.6 Considering that the Investors will not be promoters, members of the promoter group as defined above, it is submitted that the Investors would be 'public' and their shareholding would be regarded as 'public shareholding' in PFRL.

3. Request III: *That, given that the Composite Scheme will be approved by the requisite majority of public shareholders as specifically required under the Scheme Circulars, a special resolution of shareholders pursuant to the provisions of Clause 49(VII)(E) of the Listing Agreement is not required.*

3.1 Clause 49(VII)(E) of the revised Listing Agreement, *inter alia*, provides as follows:

"all material Related Party Transactions shall require approval of the shareholders through special resolution and the related parties shall abstain from voting on such resolutions..."

3.2 In relation to PFRL, it is submitted that the Composite Scheme will provide that the scheme shall be acted upon only if the votes cast by their respective public shareholders in favour of the proposal are more than the number of votes cast by the public shareholders against it, as specifically required under the Scheme Circulars for court based schemes involving listed companies and any other entity involving promoter / promoter group.

3.3 Paragraph 2 of General Circular No. 30/2014 dated July 17, 2014 issued by the Ministry of Corporate Affairs clarifies that *"transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/Companies Act, 2013, will not attract the requirements of Section 188 of the Companies Act, 2013."*

3.4 Accordingly it is submitted that PFRL will not be required to obtain a special resolution of their respective shareholders pursuant to the provisions of Clause 49(VII)(E) of the revised Listing Agreement vide SEBI Circular No. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 and SEBI Circular No. CIR/CFD/POLICY CELL/7/2014 dated September 15, 2014, since (i) the changes to Clause 49(VII)(E) have been brought in with the stated purpose of aligning the same to Section 188 of the Companies Act, 2013, and the Ministry of Corporate Affairs' clarification, vide General Circular No. 30/2014 dated July 17, 2014, exempts transactions arising out of compromises, arrangements and amalgamations dealt with under specific provisions of the Companies Act from the requirements of Section 188 of the Companies Act, 2013; and (ii) in any event, the SEBI Circular specifically deals with the requirements for





shareholders' vote on a scheme or arrangement involving a promoter entity, which will apply overriding the general requirement.

- 3.5 For reasons mentioned in the foregoing paragraphs, it is submitted that the requirement to obtain a special resolution of shareholders pursuant to the provisions of Clause 49(VII)(E) of the revised Listing Agreement vide SEBI Circular No. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 and SEBI Circular No. CIR/CFD/POLICY CELL/7/2014 dated September 15, 2014 is not applicable in relation to PFRL, considering that the specific requirements under the SEBI Circular will be followed in respect of the Composite Scheme.

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18



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