



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

Securities Exchange Act of 1934
Rule 14e-1(a)
Rule 14e-1(c)

Exemptive and No-Action Letter: Partial tender offer by Marble II Pte. Ltd *et al* for shares of Mphasis Limited

Response of the Office of Mergers and Acquisitions
Division of Corporation Finance

June 28, 2016

Via E-mail

Michael O. Wolfson
Simpson Thacher & Bartlett LLP
CityPoint
One Ropemaker Street
London EC2Y 9HU

Re: Partial tender offer by Marble II Pte. Ltd *et al* for shares of Mphasis Limited

Dear Mr. Wolfson:

We are responding to your letter dated June 28, 2016, addressed to Ted Yu and Christina Chalk, as supplemented by telephone conversations with the staff, in regard to the Purchaser's exemptive and no-action request. To avoid having to recite or summarize the facts set forth in your June 28, 2016 letter, we include a copy of your letter with this response, as well as a copy of the accompanying letter from Indian counsel, Shardul Amarchand Mangaldas & Co. Unless otherwise noted, capitalized terms in this response letter have the same meaning as in your June 28, 2016 letter.

On the basis of the representations and the facts presented in your letter, the Division of Corporation Finance, acting for the Commission pursuant to delegated authority, hereby grants an exemption from Rule 14e-1(a) under the Exchange Act. The exemption from Rule 14e-1(a) is granted to permit the Purchaser and its affiliated entities as enumerated in your letter to make a tender offer that will be open for only 10 Working Days. In granting this relief, we note your representations that:

- the offer is mandatory under Indian law because the Purchaser entered into a Purchase Agreement whereby it will purchase 60.47% percent of the Undiluted Share Capital of Mphasis from the Sellers, who are all U.S. holders;
- other than Shares held by Sellers (who are prohibited from participating in the offer under Indian law) and whose Shares are being purchased through the Purchase Agreement, U.S. holders own only approximately 5.5 percent of the Undiluted Share Capital of Mphasis;
- Indian Takeover Regulations mandate a fixed 10 Working Day offer period which cannot be reduced or increased;
- Indian rules require the offer to be made on the same terms to all Mphasis shareholders and do not permit the offer to U.S. holders to be open for a longer period than the offer to Indian shareholders;
- the Purchaser requested an exemption from the SEBI to extend the tender offer beyond the mandated fixed 10 Working Day offer period, which the SEBI did not grant;
- the offer materials approved by the SEBI will be disseminated to all Mphasis shareholders within 5 Working Days of clearance by SEBI, as mandated by applicable Indian Takeover Regulations. The tender offer will commence no earlier than 5 Working Days from the date the offer materials are disseminated. Therefore, 15 Working Days (approximately 21 calendar days) will elapse from the date the offer materials are first disseminated to Mphasis shareholders and the closure of the Tendering Period;
- in accordance with Indian rules, the offer materials will be sent via e-mail to all Mphasis shareholders who elected to provide their e-mail addresses to Mphasis. All other shareholders in the U.S. will receive the offer materials via expedited commercial courier service. For those who receive the offer materials via courier service, delivery is expected within four days of dispatch of the materials;
- on or about the date the offer materials are disseminated to Mphasis shareholders, the Purchaser will publish a legal notice in the U.S. national edition of the Wall Street Journal, which will disclose basic terms of the offer, including the terms and the price, and notifies holders of the dissemination of the offer materials and where they may be found on the official SEBI website;
- under Indian Takeover Regulations, a third party may make a competing offer within 15 Working Days of the date the Detailed Public Statement is published in an Indian newspaper. The time period during which a competing party could have made a competing bid for Shares of Mphasis has expired; and

- except for the exemptive and no-action relief granted herein, the offer will comply with all applicable Exchange Act rules.

Further, the staff of the Division of Corporation Finance will not recommend enforcement action pursuant to Rule 14e-1(c) under the Exchange Act if payment for the tendered Shares is made in accordance with Indian law and practice, as described in your letter. In this regard, the Purchaser will pay for the tendered Shares as promptly as practicable, and in any case within 10 Working Days after the closure of the Tendering Period, as required by Indian Takeover Regulations applicable to third party offers such as this one.

The foregoing exemptive and no-action relief is based solely on the representations and the facts presented in your letter, as supplemented by telephone conversations with the Commission staff. This relief is strictly limited to the application of the rules listed above to the offer. The Purchaser should discontinue the offer pending further consultations with the staff if any of the facts or representations set forth in your letter change. In addition, this position is subject to modification or revocation if at any time the Commission or the Division of Corporation Finance determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act.

We also direct your attention to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 9(a), 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws rests with the participants in the offer. The Division of Corporation Finance expresses no view with respect to any other questions that the offer may raise, including, but not limited to, the adequacy of the disclosure concerning, and the applicability of any other federal or state laws to, the offer.

Sincerely,

For the Commission,

By the Division of Corporation Finance
pursuant to delegated authority,

/s/ Ted Yu

Ted Yu
Chief, Office of Mergers and Acquisitions
Division of Corporation Finance

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Securities Exchange Act of 1934
Rules 14e-1(a) and 14e-1(c)

June 28, 2016

Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
United States of America

Attn: Ted Yu, Chief, Office of Mergers and Acquisitions
Christina Chalk, Senior Special Counsel, Office of Mergers and Acquisitions

Re: Partial Tender Offer for Shares of Mphasis Limited

Ladies and Gentlemen:

We are writing on behalf of Marble II Pte. Ltd., a private limited liability company incorporated under the laws of Singapore (the “**Purchaser**”), along with the Purchaser’s direct and indirect parent companies, Marble I Pte. Ltd., a private limited liability company incorporated under the laws of Singapore, and Blackstone Capital Partners (Cayman II) VI L.P., a limited partnership formed under the laws of the Cayman Islands, to request exemptive relief from the staff of the Division of Corporation Finance (the “**Staff**”) of the Securities and Exchange Commission (the “**Commission**”) and to confirm that the Staff will not recommend that the Commission take enforcement action in respect of certain rules under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), by reason of a mandatory cash tender offer, referred to as an open offer under Indian law¹ (the “**Open Offer**”), to purchase shares of Mphasis Limited, a public limited company organized under the laws of India (“**Mphasis**”).

Under Regulation 3(1) and Regulation 4, read with Regulation 7(1) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as amended (the “**Takeover Regulations**”), a mandatory tender offer for at least 26% of the total shares of Mphasis outstanding as of the 10th Working Day (as defined below) from the closure of the tendering period of the Open Offer (the “**Maximum Offer Size**”), needs to be made by a person upon such person agreeing to acquire 25% or more of the outstanding shares of

¹ The statements in this letter as to matters of Indian law have been made on the basis of advice provided by Shardul Amarchand Mangaldas & Co, an Indian law firm.

a listed company in India or control over a listed company in India. On April 4, 2016, the Purchaser entered into a Purchase Agreement (as defined below) with the Sellers (as defined below), and upon doing so, it became obligated to make the Open Offer under the Takeover Regulations to the public shareholders of Mphasis (other than the Sellers). Completion of the sale and purchase pursuant to the Purchase Agreement is conditioned on, among other things, the completion of the Open Offer but not on the number of Shares tendered in the Open Offer. The Sellers are parties to the Purchase Agreement and are not permitted to participate in the Open Offer pursuant to the provisions of the Takeover Regulations. The Open Offer will therefore not be made to the Sellers.

I. Background Concerning Mphasis

Mphasis is a global provider of information technology outsourcing services, such as application management, business process outsourcing and infrastructure management.

Mphasis' equity shares, with a face value of Rs. 10 each (the "**Shares**"), are listed and traded in India on the National Stock Exchange of India Limited and the BSE Limited. Mphasis is a "foreign private issuer" as defined in Rule 3b-4(c) under the Exchange Act. Mphasis does not have a class of securities registered under Section 12 of the Exchange Act.

The Purchaser has calculated the level of U.S. ownership of Mphasis in accordance with Instruction 2 of Rule 14d-1 under the Exchange Act ("**Instruction 2**"). According to Mphasis' shareholders lists dated as of April 15, 2016 (the "**Shareholders Lists**"), Mphasis had 210,187,117 Shares outstanding (which excludes 1,054,039 employee stock options granted by Mphasis to its employees and 21,000 unissued bonus shares) (the "**Undiluted Share Capital**"), including Shares held by the following shareholders that are sellers under the Purchase Agreement (collectively, the "**Sellers**"):

Shareholder	Shares	Percentage of Undiluted Share Capital
EDS Asia Pacific Holdings	83,002,201	39.49%
EDS World Corporation (Far East) LLC	44,104,064	20.98%
EDS World Corporation (Netherlands) LLC	1	less than 0.001%

EDS Asia Pacific Holdings owns an aggregate of 83,002,201 Shares (or 39.49% of the Undiluted Share Capital). EDS Asia Pacific Holdings, while legally a Mauritius company, is an investment vehicle with significant U.S. beneficial ownership and thus may be deemed a "security holder resident in the United States" within the meaning of Instruction 2. EDS World Corporation (Far East) LLC owns an aggregate of 44,104,064 Shares (or 20.98% of the Undiluted Share Capital). EDS World Corporation (Far East) LLC is an entity incorporated under the laws of Delaware and resident in the United States and thus EDS World Corporation (Far East) LLC is a U.S. holder within the meaning of Instruction 2. EDS World Corporation (Netherlands) LLC owns 1 Share (or less than 0.001% of the Undiluted Share Capital). EDS World Corporation (Netherlands) LLC is an entity incorporated under the laws of Delaware and resident in the United States and thus EDS World Corporation (Netherlands) LLC is a U.S. holder within the meaning of Instruction 2.

A review of the individual holders listed on the Shareholders Lists reveals a total of 674,539 Shares held by individuals with U.S. addresses (amounting to approximately 0.32% of the Undiluted Share Capital), and Purchaser has assumed such holders to be U.S. holders within the meaning of Instruction 2. The Shareholders Lists also disclose a number of institutional investors that, while listing the Indian address of their respective custodians, might represent beneficial ownership of the Shares by a U.S. holder. An ownership analysis of the institutional holders of Shares to determine the number of Shares owned by U.S. holders as of April 15, 2016 has been conducted and, based on information from the Shareholders Lists and from information available on the website of the Securities and Exchange Board of India (“SEBI”), it was estimated that an additional 10,992,524 Shares (or 5.23% of the Undiluted Share Capital) were held by U.S. holders.

Aggregating the shareholding percentages of (i) EDS Asia Pacific Holdings, (ii) EDS World Corporation (Far East) LLC, (iii) EDS World Corporation (Netherlands) LLC, and (iv) U.S. individual holders (based on the ownership analysis and on the assumption regarding ownership as described above), we estimate that the U.S. beneficial ownership of Shares as of April 15, 2016 was an aggregate of 138,773,329 Shares (or 66.02% of the Undiluted Share Capital). Accordingly, Mphasis is not eligible for the “Tier II” exemption under Rule 14d-1(d). We also note that the Sellers are not permitted to participate in the Open Offer and only 11,667,063 Shares (or 5.55% of the Undiluted Share Capital) held by the U.S. holders are eligible to be tendered in the Open Offer. If the shareholding of the Sellers were to be disregarded (since it is the Sellers’ proposed exit from Mphasis which has triggered the Open Offer), Mphasis would be eligible for the “Tier I” exemption under Rule 14d-1(c).

II. Purchase Agreement

The Purchaser has entered into a definitive agreement dated April 4, 2016 (the “**Purchase Agreement**”) with the Sellers to purchase Shares representing an aggregate of up to 127,106,266 Shares (or 60.47% of the Undiluted Share Capital). The purchase consideration payable to the Sellers for the Shares is the USD equivalent of Rs. 430.00 per Share, converted at a USD/Rs. exchange rate of Rs. 66.3329, which amounts to USD 6.4825 per Share.

The Purchase Agreement cannot be terminated by the Sellers if a higher offer is made by another person. The completion of the purchase of Shares under the Purchase Agreement is conditioned on, among other things, the completion of the Open Offer but not on the number of Shares tendered in the Open Offer. Presently, all conditions precedent to the purchase of Shares under the Purchase Agreement have been satisfied, except the completion of the Open Offer. The commencement of the Open Offer is presently conditioned upon the grant of the exemptive and no-action relief from the SEC, as sought under this letter, and the final observations of SEBI on the draft letter of offer, which are expected shortly.

The number of Shares to be purchased under the Purchase Agreement will depend on the number of Shares tendered under the Open Offer. The Purchase Agreement provides that the Purchaser will be required to buy from the Sellers the higher of: (i) such number of Shares so as to bring the Purchaser’s ownership in the company to up to 75.00%, subject to a maximum of 127,106,266 Shares (or 60.47% of the Undiluted Share Capital); and (ii) such number of Shares as to bring the Sellers’ aggregate ownership in Mphasis to 9.90% of the equity share capital of Mphasis at the time of consummation of the sale and purchase under the Purchase Agreement.

Furthermore, under the Indian Securities Contracts (Regulations) Rules, 1957 (“**SCRR**”) the public shareholding of an Indian listed entity must represent at least 25% of such entity’s share capital. Therefore, in the event that the Purchaser is required to buy, in the aggregate (taking into account the Shares tendered in the Open Offer and the Shares purchased pursuant to the Purchase Agreement) more than 75.0% of the shares of Mphasis outstanding post

the Open Offer, the Purchaser will have an obligation pursuant to the SCRR to sell down its stake in such manner and within such time as permitted under the SCRR such that the Purchaser's shareholding in Mphasis does not exceed 75%. This obligation has been disclosed in the offer materials furnished to public shareholders of Mphasis in connection with the Open Offer.

III. Offer Procedures under Indian Takeover Regulations

Indian counsel has advised that, as a direct consequence of entering into the Purchase Agreement, the Purchaser will be required, under the Takeover Regulations, to make a mandatory Open Offer to the public shareholders of Mphasis (other than the Sellers) to acquire up to the Maximum Offer Size, at a price per Share to be determined in accordance with the provisions of the Takeover Regulations.

The Open Offer will be structured as a single offer made worldwide, including in the United States. In the event that the public shareholders tender a number of Shares greater than the Maximum Offer Size, the Purchaser will purchase validly tendered Shares on a pro rata basis (and the total number of Shares purchased in the Open Offer will not exceed the Maximum Offer Size). The pro rata determination will be made as a single determination applicable to all tendered Shares. There is no requirement that a minimum number of Shares be tendered.

The offer price payable under the Open Offer differs from the consideration payable under the Purchase Agreement. Indian counsel has advised that, under the Takeover Regulations, the necessary offer price must be the highest of (i) the highest negotiated price per share of a target company for any acquisition under the agreement attracting the obligation to make a public announcement of an open offer, (ii) the volume-weighted average price² paid or payable for acquisitions, whether by the acquirer or by any person acting in concert with the acquirer, during the fifty-two weeks immediately preceding the date of the public announcement, (iii) the highest price paid or payable for any acquisition, whether by the acquirer or by any person acting in concert with the acquirer, during the twenty-six weeks immediately preceding the date of the public announcement, (iv) the volume-weighted average market price³ of such shares for a period of sixty trading days immediately preceding the date of the public announcement as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, provided such shares are frequently traded, or (v) where the shares are not frequently traded⁴, the price determined by the acquirer and the manager to the open offer taking into account valuation parameters including, book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies. In the present instance, the Shares are frequently traded so the calculation method mentioned in (v)

² The term "volume-weighted average price" is defined in the Takeover Regulations as "the product of the number of equity shares bought and price of each such equity share divided by the total number of equity shares bought."

³ The term "volume-weighted average market price" is defined in the Takeover Regulations as "the product of the number of equity shares traded on a stock exchange and the price of each equity share divided by the total number of equity shares traded on the stock exchange."

⁴ The term "frequently traded shares" is defined in the Takeover Regulations as "the shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the calendar month in which the public announcement is made, is at least ten per cent of the total number of shares of such class of the target company, provided that where the share capital of a particular class of shares of the target company is not identical throughout such period, the weighted average number of total shares of such class of the target company shall represent the total number of shares."

The term "weighted average number of total shares" is defined in the Takeover Regulations as "the number of shares at the beginning of a period, adjusted for shares cancelled, bought back or issued during the aforesaid period, multiplied by a time-weighting factor."

above is not applicable. The calculation methods mentioned in (ii) and (iii) above are also not applicable. The calculation method mentioned in (iv) above results in an offer price equal to Rs. 457.54 per Share, which is higher than the consideration payable under the Purchase Agreement and is therefore the price required to be offered in the Open Offer.

All purchases pursuant to the Open Offer will be paid for in Indian rupees. Shares, whether in physical form or book-entry form, can be tendered to the registrar to the Open Offer (the “**Registrar**”). Physically certificated Shares must be sent to the Registrar in order to be tendered. Shares in book-entry form that are tendered will be held in an escrow account maintained by the Registrar (the “**Registrar Escrow Account**”). Holders of Shares must deliver appropriate documentation to the Registrar for it to validly accept the Shares tendered under the Open Offer. Such information primarily consists of a validly executed and completed form of acceptance, a delivery instruction slip (or, in case of physical shares, the share certificates and share transfer forms (duly executed and stamped)), a copy of the PAN card issued by the Indian income tax authorities, a power of attorney, a corporate authorization (including board resolution/specimen signature), a no objection certificate/tax clearance certificate from Indian income tax authorities and broker contract notes (in case of unregistered owners). Foreign portfolio investors need to submit a copy of the registration certificate issued by SEBI. In connection with the Open Offer, the Registrar will examine the submitted documentation, maintain the Registrar Escrow Account, determine the Shares to be accepted subject to proration, if necessary, and return unaccepted Shares.

We are informed by Indian counsel that:

- (1) The Open Offer commences, for purposes of Indian law, with the formal public announcement of the Open Offer by the Purchaser in accordance with the Takeover Regulations.
- (2) The Purchaser is required to make a formal public announcement of the Open Offer on the same day on which it enters into the Purchase Agreement (the “**Public Announcement**”). Such Public Announcement was made on April 4, 2016.
- (3) Within 5 Working Days (a “**Working Day**” means any day that SEBI is open for business, which is Monday through Friday except for designated Indian public holidays) of the Public Announcement, the Purchaser is required to publish a detailed public statement (“**Detailed Public Statement**”) in all editions of any one English national daily, any one Hindi national daily, any one regional language daily with wide circulation at the place where the registered office of the target company (Mphasis) is situated and any one regional language daily with wide circulation at the place of the stock exchange where the maximum volume of trading in the shares of the target company are recorded during the 60 trading days preceding the date of the Public Announcement. The Detailed Public Statement contains details in relation to the Open Offer including the nature of the proposed acquisition, the details of the Purchaser, the size of the Open Offer, the price payable for the shares tendered under the Open Offer and the basis for calculation of the offer price in accordance with the provisions of the Takeover Regulations. The Detailed Public Statement was published on April 12, 2016 in the following newspapers: Business Standard (English, All Editions), Business Standard (Hindi, All Editions), Hosa Digantha (Kannada, Bangalore Edition) and Mumbai Lakshdeep (Marathi, Mumbai Edition). The Detailed Public Statement was amended by a corrigendum published on April 22, 2016 and another corrigendum published on June 3, 2016 in the same newspapers as the Detailed Public Statement. The Open Offer has also been the subject of

coverage by various news agencies and newspapers, including Bloomberg, Reuters and The Wall Street Journal, which are accessible in the United States.

- (4) Within 5 Working Days from the date of the Detailed Public Statement, the Purchaser is required to submit a draft letter of offer for the Open Offer (the “**Draft Letter of Offer**”) to SEBI for review and comment by SEBI. The Draft Letter of Offer was submitted to SEBI on April 22, 2016.⁵
- (5) The Public Announcement, the Detailed Public Statement and the Draft Letter of Offer are all uploaded on the website of SEBI and stock exchanges for the information and review of the public shareholders.
- (6) After the issue of final observations on the Draft Letter of Offer by SEBI, the Purchaser is required to incorporate those observations into the final letter of offer (“**Letter of Offer**”) and dispatch the final Letter of Offer to all the public shareholders of Mphasis. The final Letter of Offer is required to be dispatched to all the public shareholders whose names appear in the register of members of Mphasis as of the Identified Date⁶, not later than 7 Working Days from the date of receipt of observations from SEBI on the Draft Letter of Offer. If there are delays in the SEBI review process, or if the mandatory approvals to which the Open Offer is subject (namely, anti-trust approvals in the United States, Germany, Austria and India, obtaining the approval of the shareholders of Mphasis in relation to entering into an amended and restated master services agreement, as well as obtaining the no-action relief requested by this letter) are not received prior to 7 Working Days from the date of receipt of SEBI’s observations on the Draft Letter of Offer, the timeline outlined above would be commensurately delayed.
- (7) If the mandatory approvals to which the Open Offer is subject (as set out above) are not received prior to 7 Working Days from the date of receipt of SEBI’s observations on the Draft Letter of Offer, then the Purchaser will need to make an application to SEBI for a request to extend the date for dispatching the Letter of Offer and opening of the Open Offer. SEBI may, where it is satisfied that such non-receipt was not attributable to any willful default, failure or neglect on the part of the Purchaser to diligently pursue such approvals, grant extension of time subject to the Purchaser agreeing to pay interest to the public shareholders for the delay at such rate as may be specified by SEBI. As of the date of this letter the only outstanding mandatory approval is the no-action relief requested by this letter.
- (8) For the present instance the Purchaser will undertake to dispatch the Letter of Offer within 5 Working Days from the later of the date of receipt of SEBI’s observations on the Draft Letter of Offer or such other date as may be permitted by SEBI pursuant to the application for extension, as mentioned under paragraph (7) above. The Takeover Regulations do not specifically regulate the manner in which a letter of offer or materials relating to an open offer must be dispatched to shareholders. In the case of the Open Offer, the Letter of Offer will be dispatched

⁵ It is typical for the SEBI comment letter (referred to in India as an “observation letter”) in respect of a draft letter of offer to require that all comments from SEBI be incorporated into the final letter of offer prior to its distribution to shareholders.

⁶ “**Identified Date**” means the date falling on the 10th Working Day prior to the date of the commencement of the opening of the offer to the Shareholders to tender their Shares. The Identified Date serves as a cut-off date for the purposes of determining the shareholders to whom the Letter of Offer shall be sent.

to public shareholders of Mphasis as of the 10th Working Day prior to the commencement of the Tendering Period (as defined below) by post and also via e-mail, if shareholders have elected to provide their email addresses to the registrar and transfer agent of Mphasis.⁷ The Letter of Offer will therefore be dispatched via e-mail to U.S. holders, who have made this election and whose e-mail addresses are therefore available in the Shareholders Lists. For illustrative purposes, an analysis was done which showed that as of June 17, 2016 there were 71 U.S. shareholders holding Shares directly, 64 (or approximately 90.1%) of whom had provided their e-mail addresses. Public shareholders holding their Shares via India-based custodians that were found to be U.S. shareholders in the shareholder analysis outlined under Part I above have not provided their e-mail addresses. The custodians holding the Shares for such shareholders are based in India, and therefore should obtain the Letter of Offer without undue delay, as a physical copy of the Letter of Offer will also be sent to the public shareholders of Mphasis (including custodians) by registered post. Any physical copies of the Letter of Offer to be sent to public shareholders of Mphasis in the U.S. will also be delivered by expedited commercial courier, with delivery expected within four days from the date of dispatch. The Purchaser will open the Tendering Period (as defined below) for the Open Offer no earlier than 5 Working Days from the dispatch of the Letter of Offer. Therefore, between the dispatch of the letter of offer and closure of the Tendering Period a total of at least 15 Working Days (or approximately 21 calendar days) will lapse.

- (9) On or about the date the letter of offer is dispatched to the shareholders, the Purchaser undertakes to publish a legal notice in the U.S. national edition of The Wall Street Journal disclosing the price per Share of the Open Offer, the maximum number of Shares sought in the Open Offer, the 10 Working Days during which the Open Offer will be open and that the Letter of Offer has been sent to shareholders and is available on the official website of SEBI.
- (10) In 2011, SEBI shortened the period for which an Open Offer must be held open from 20 days to 10 Working Days.⁸ Now, under Regulation 18(8) of the Takeover Regulations, the Open Offer must remain open for public shareholders to accept and tender for a fixed period of 10 Working Days (“**Tendering Period**”). The Purchaser’s representative has discussed with the staff of SEBI a possible exemption from this requirement in order to be able to extend this period to 20 business days and by letter dated June 22, 2016 has sought such exemption. SEBI’s powers to grant exemptions under the Takeover Regulations are set out in Regulation 11. According to this Regulation, SEBI may only either: (i) grant exemptions from the obligation to make a tender offer (Regulation 11.(1)), or (ii) grant relaxation from strict compliance with certain procedural requirements in case the central government of India or an Indian state government has superseded the board of directors of the target company (Regulation 11.(2)). Neither (i) nor (ii) is applicable to the Open Offer. The Takeover Regulations do not grant any further powers to SEBI to grant any procedural exemptions and there is no legal process in place that would require SEBI to grant, reject or react to an application for an exemption not contemplated by the Takeover Regulations. Accordingly, while the staff of SEBI

⁷ We understand that such election enables Mphasis to use these e-mail addresses for communications with such shareholders and that Mphasis regularly does so.

⁸ The Takeover Regulations were notified on 23 September 2011 and came into force on 23 October 2011, replacing the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

may consider the request the Purchaser's representative made regarding an exemption, no assurance can be given that a response will be forthcoming or as to the timing of any such response. The exemption has not been granted.

Indian counsel has advised that, since the Open Offer is a statutorily mandated tender offer under Indian law, the Purchaser is prohibited from reducing the price offered or the number of Shares it will accept. The Takeover Regulations do not contemplate changes to the terms of an open offer during the Tendering Period, extensions of the Tendering Period or, in the circumstances applicable to the Open Offer, exemptions to permit such changes or extensions.

IV. Discussion of Exemptive and No-Action Relief Requested

Indian law permits all public shareholders (except the sellers under the sale and purchase agreement that triggered the open offer) of a target company throughout the world to tender their shares in an open offer. Accordingly, all public shareholders of Mphasis except the Sellers, including those resident in the United States, will be able to tender their Shares in the Open Offer. As the Purchaser will be unable to exclude U.S. residents from the Open Offer, the Open Offer will be subject to both the Takeover Regulations and the Exchange Act. We note that only 5.55% of the Undiluted Share Capital held by U.S. holders are eligible to participate in the Open Offer. Due to differences between relevant legal and regulatory requirements and customary tender offer practices in India and the United States, we request on behalf of the Purchaser, exemptive relief and confirmation that the Staff will not recommend that the Commission take enforcement action with respect to certain of the Commission's regulations as described more fully below. Except for the Rules from which exemptive relief is being sought, the Open Offer will comply with the applicable Rules under the Exchange Act.

A. *Rules 14e-1(a) — Minimum Period for a Tender Offer*⁹

Rule 14e-1(a) under the Exchange Act provides that "... no person who makes a tender offer shall...hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent to security holders..." The Takeover Regulations require the Open Offer to remain open for acceptance for a fixed period of 10 Working Days, which cannot be reduced or increased. Accordingly, the Purchaser would be prohibited under Indian law from holding the Open Offer open for more than 10 Working Days. Absent exemptive relief, the Purchaser will face the choice of either violating the requirements of the Takeover Regulations or violating the requirements of Rule 14e-1(a).

We respectfully submit that the purpose of requiring a minimum period of 20 business days under Rule 14e-1(a) is not implicated in this situation but rather is adequately addressed by the Takeover Regulations' requirements. Specifically:

- (1) In accordance with the Takeover Regulations, the Purchaser must make the Public Announcement, publish the Detailed Public Statement, a Draft Letter of Offer must be submitted to SEBI for review and comment and all the observations of SEBI must be incorporated into the final Letter of Offer before the Letter of Offer can be dispatched to the public shareholders and the 10 Working Day period of the Open Offer can commence. In view of the time

⁹ The Staff has previously granted exemptive relief from Rule 14e-1(a) under the Exchange Act in a tender offer for an Indian company. See letter from Tech Mahindra Limited regarding an open public offer for the shares of Satyam Computer Services Limited, a public limited company organized under the laws of India (avail. April 28, 2009) (the "**Satyam Letter**"), letter from Pan-Asia iGATE Solutions regarding an open public offer for the shares of Patni Computer Services Limited, a public limited company organized under the laws of India (avail. February 9, 2011) (the "**Patni Letter**") and letter from Just Dial Limited, a public limited company incorporated under the laws of India, regarding an issuer tender offer for cash (avail. January 29, 2016).

needed for SEBI to perform its review, the time between the date on which the purchase price (i.e., the key term of the Open Offer since it is an all-cash open public offer) and other material terms of the Open Offer are made publicly available (published in newspapers and uploaded on the website of SEBI and the stock exchanges) (April 12, 2016 with corrigenda published on April 22, 2016 and June 3, 2016) and the time that the Open Offer expires will exceed 20 business days by a significant amount, thereby providing public shareholders with more than 20 business days to consider their response to the Open Offer. We currently estimate that the time between the date on which the purchase price and other material terms of the Open Offer have been made publicly available (April 12, 2016) and the expiration of the Open Offer will be at least 78 calendar days. We believe that this period for review and public shareholder decision-making is consistent with the objectives of Rule 14e-1(a).

- (2) Under the Takeover Regulations, a third party may make a competing offer within 15 Working Days of the date of the Detailed Public Statement. The time period within which a competing offer could have been made is over, and therefore a third party cannot launch a competing offer under the Takeover Regulations. Thus, it is likely that each holder of Shares will only be determining whether the price offered by the Purchaser represents the price at which the holder is willing to sell its Shares, or whether it prefers to retain its Shares.

For the foregoing reasons, we respectfully request the Staff to grant exemptive relief with respect to Rule 14e-1(a) to permit the Open Offer to be held open for a period of 10 Working Days in accordance with applicable Indian laws and regulations.

*B. Rule 14e-1(c) — Payment in Compliance with Indian Law and Regulation and in Accordance with Indian Practice*¹⁰

Rule 14e-1(c) under the Exchange Act states that "... no person who makes a tender offer shall ... fail to pay the consideration offered ... promptly after the termination ... of a tender offer." While "promptly" has not been defined by the SEC, under market practice "promptly" has generally meant within three business days of the expiration of the tender offer.

We understand from Indian counsel that Regulation 18(10) under the Takeover Regulations requires that payment for tendered shares be made within 10 Working Days of the expiration of a tender offer with respect to the shares that have been accepted by the Purchaser under the Open Offer.¹¹ Within this timeframe, the forms of acceptance along with all the accompanying documents will need to be reviewed and verified and the signatures of the authorized signatories will need to be tallied to ascertain whether the Shares (including physical shares) have been validly tendered. Proration calculations may also be required. In addition, the tax residency status of the non-resident public shareholders will need to be ascertained on the basis of the documents provided so that appropriate withholding taxes may be applied to the consideration being paid to such public shareholders. Finally, payments need to be made to public shareholders using means of payment including electronic transfers/cheques/demand drafts. We understand that these procedures will likely cause a delay in the payment of the offer

¹⁰ The Staff has previously not recommended that the Commission take enforcement action in respect of the prompt payment requirements of Rule 14e-1(c) under the Exchange Act in a tender offer for an Indian company. See the Patni Letter and the letter from Panatone Finvest Ltd. regarding an open public offer for the shares of Videsh Sanchar Nigam Limited, a company organized under the laws of India (avail. May 6, 2002).

¹¹ In contrast, in case of an issuer tender offer under the SEBI (Buy Back of Securities) Regulations, 1998 (the "Buyback Regulations"), an issuer would, according to Regulation 11(2) of the Buyback Regulations, be required to make payments for tendered shares within seven Working Days from closure of such tender offer.

consideration beyond the three business days following expiration of the Open Offer. The Purchaser intends to make payment to each public shareholder as promptly as practicable and as soon as the procedures described above are completed for such individual public shareholder, and in any case within the mandatory period of 10 Working Days after the closure of the Tendering Period, as required under the Takeover Regulations.

For the foregoing reasons, we respectfully request the Staff to grant no-action relief with respect to Rule 14e-1(c) to permit the payment of the offer consideration under the Open Offer to be made in accordance with Indian law within 10 Working Days, and in any case as promptly as practicable, from closure of the Open Offer.

Conclusion

Exemptive relief and a confirmation that the Staff will not recommend that the Commission take enforcement action are necessary with regard to certain rules under the Exchange Act that will apply to the Open Offer in the United States, which conflict with Indian laws relating to any mandatory cash tender offer, including the following requirements under the Exchange Act rules: (a) the 20-business day minimum tender offer period requirement; and (b) the prompt payment requirement. As the Purchaser undertakes not to change the offer price per Share or to increase or change the percentage of the Shares being sought from what is set out in the Letter of Offer, the Purchaser is not seeking exemptive relief from Exchange Act Rule 14e-1(b).

For the reasons discussed above, we respectfully request the Staff to grant the exemptive relief requested and we ask for confirmation that the Staff will not recommend that the Commission take enforcement action. The exemptive relief requested and the confirmation that the Staff will not recommend that the Commission take enforcement action will also enhance comity between SEBI and the SEC. Accommodation by the Staff through exemptive relief and the confirmation that the Staff will not recommend that the Commission take any enforcement action will enable the Purchaser to complete the Open Offer as contemplated, while at the same time enabling the U.S. holders of Shares to have a liquidity opportunity at the same price and on otherwise the same terms as provided to non-U.S. holders.

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If you have any questions or require any additional information, please do not hesitate to contact the undersigned at +44 20 7275-6580 of Simpson Thacher & Bartlett LLP.

Thank you for your consideration of these matters.

Very truly yours,



Michael O. Wolfson

CC: Raghubir Menon
Anirban Bhattacharya

June 28, 2016

Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
United States of America

Attn: Ted Yu, Chief, Office of Mergers and Acquisitions
Christina Chalk, Senior Special Counsel, Office of Mergers and Acquisitions

Re: Partial Tender Offer for Shares of Mphasis Limited

Ladies and Gentlemen:

We are acting as the Indian legal advisers to Marble II Pte. Ltd., a private limited company incorporated under the laws of Singapore (the "Purchaser") along with the Purchaser's direct and indirect parent companies, Marble I Pte. Ltd., a private limited liability company incorporated under the laws of Singapore, and Blackstone Capital Partners (Cayman II) VI L.P., a limited partnership formed under the laws of the Cayman Islands, in connection with a mandatory cash tender offer to purchase the shares of Mphasis Limited, a public limited company organized under the laws of India (the "Company"), referred to as a public offer under Indian Law (the "Open Offer").

In such capacity, we have been requested to review the letter, dated June 28, 2016, prepared by Simpson Thacher & Bartlett LLP on behalf of the Purchaser requesting certain relief in connection with the Open Offer (the "Letter") and to provide you this letter to support the description of Indian law, regulation and practice, and in particular to support the statements relating to the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, described in the Letter (the "Support Letter").

For the purposes of this Support Letter, we have only examined an electronic copy of the Letter and no documents have been reviewed by us in connection with this Support Letter other than the Letter. Accordingly, we shall limit the views expressed in this Support Letter to the Letter and certain Indian legal matters described therein.

Based on the foregoing and subject to the qualifications set out below, we confirm that, in our opinion, the descriptions of Indian law and regulations in the Letter are fair, accurate and, as regards the aspects of the Open Offer described in the Letter for which relief has been requested therein, complete in all material respects and, in our view, the descriptions of Indian practice in the Letter are fair, accurate and, as regards the aspects of the Open Offer described in the Letter for which relief has been requested therein, complete in all material respects.

This Support Letter is confined to and given on the basis of the laws and regulations of India in force on the date hereof. Such laws and regulations are subject to interpretation by the competent authorities, including the Securities and Exchange Board of India. Such interpretation is subject to change without advance notice and the competent authorities may disregard past precedents.

Furthermore, many provisions in the law are principle based and application thereof implies discretion. In the absence of explicit statutory law, we base our opinion and view solely on our independent professional judgment. This Support Letter is further confined to the matters

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stated herein and the Letter, and is not to be read as extending, by implication or otherwise, to any other matter.

We are writing you this Support Letter as of the date hereof and we assume no obligation to advise you of any changes in fact or in law that are made or brought to our attention hereafter.

The lawyers of our firm are members of the Indian bar and do not hold themselves out to be experts in any laws other than the laws of India. Accordingly, we are expressing herein views as to Indian law only and we express no view with respect to the applicability or the effect of the laws of any other jurisdiction to or on or in connection with the matters covered herein.

This Support Letter is governed by and shall be construed in accordance with the laws of India.

Sincerely yours,



Shardul Amarchand Mangaldas & Co
Advocates & Solicitors
Amarchand Towers
216, Okhla Industrial Estate Phase III
New Delhi – 110 020, India