**Deputy General Manager
Corporation Finance Department
Division of Corporate Restructuring**

SEBI/CFD/DCR/OW/P/2017/15182/1
July 03, 2017

**Dr. Christoph Hammerl
Head of Group Legal & Compliance
Linde AG
Klosterhofstr 1,
80331, Munich
Germany**

Dear Sir,

**Request for informal guidance by way of "Interpretive Letter" under the SEBI (Informal Guidance) Scheme, 2003 {Scheme} in relation to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 {SAST Regulations} in the matter of M/s. Linde India Limited {Target Company}**

1. This has reference to your letter dated April 28, 2017 received on May 04, 2017 on the captioned subject.

2. In respect of the same, you have, inter alia, represented as under:

   a) Linde AG ("Linde") is a company founded in 1897 in Munich, Germany. Linde holds directly or indirectly 100% of Linde UK Holding Limited (UK), which holds; together with other (wholly owned) Linde Group entities, 100% of the BOC Group Limited (UK), which in turn directly holds 75% of the shares in Linde India Limited ("Linde India").
   b) Linde India is a company incorporated in India under the Companies act, 1956 and has its registered office at Oxygen House, P-43 Taratala Road Kolkatta, 700 088. Linde India is listed on the Calcutta Stock Exchange (CSE), the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE).
   c) Praxair, Inc ("Praxair") is an American industrial gases company that was founded in 1907 by Cal von Linde, who was also the founder of Linde, and became an independent publicly traded company in 1992. The registered office of Praxair is located at Riverview Dr. Danbury, CT 06810 USA.

**Proposed Merger**

   d) It is proposed that Linde and Praxair will enter into a merger of equals transaction effected by way of a business combination through an all-Stock transaction. The combination would create a company with a current market value in excess of 65 billion US dollars.

e) It is intended that a new company ("New HoldCo"), incorporated under the law of Ireland, will become the parent company of the Group of the companies following the proposed transaction.

f) The target structure intended in the proposed transaction is to be achieved through two parallel and coordinated measures.
   i. New HoldCo shall acquire the share of Linde by means of a voluntary exchange offer to the shareholders of Linde pursuant to the German Securities Acquisition and takeover Act. As consideration, the Linde shareholders accepting the exchange offer shall receive share in New HoldCo following which Linde will become a subsidiary of New HoldCo.
   ii. By way of a reverse triangular merger under the law of the state of Delaware, a wholly owned indirect subsidiary of New HoldCo shall be merged with and into Praxair following a vote of at least a majority of the outstanding shares of Praxair in favour of the merger, Praxair would thereby become a wholly owned indirect subsidiary of New Hold Co. All Praxair shareholders would become shareholders of New HoldCo as a result of the merger.

g) The shareholders of Linde and Praxair are expected to each hold 50% of the shares of New HoldCo after the completion of the proposed Transaction assuming that 100% of the Linde shares are tendered in the exchange offer.

h) In case of a successful implementation of proposed transaction, both Linde and Praxair would become subsidiaries of New HoldCo.

**Implementation of the Proposed Transaction and other key aspects:**

i) Following the completion of the Proposed Transaction"
   i. Linde will continue to exist and will become an indirect subsidiary of New HoldCo.
   ii. The Linde shareholders will then hold 50% of the share of New HoldCo and will in turn, become indirect shareholders of Linde.

j) The proposed transaction is structured as a share-for-share transaction and there is no cash consideration being paid to any of the shareholders of Linde and Praxair, other than cash in lieu of any fractional shares.

k) Following the signing of the BCA (Business Combination Agreement):
   i. Concerning Linde : New HoldCo will offer New HoldCo share to all Linde shareholders in exchange for their Linde shares by means of a voluntary takeover offer pursuant to the German Securities Acquisition and Takeover Act. The exchange offer documents will be extensively reviewed and approved in Germany by the Federal Financial Supervisory Authority ("BaFin") prior to publication. In this respect, the BaFin's Securities Supervision Directorate will monitor the

takeover procedures, undertake a formal scrutiny of completeness of the offer documents and check that the offer documents does not contain infringements of the relevant laws.

ii. Concerning Praxair: In order to obtain the requisite approval by a majority of outstanding Praxair shares, Praxair is required by Delaware law and applicable U.S. Federal Securities Laws to deliver a proxy statement/ prospectus to its shareholders to solicit their votes. The proxy statement / prospectus will be included in a registration statement on Form S-4, which will be filed by the parties with the U.S. Securities and Exchange Commission ("SEC") after the BCA is signed. The SEC will review the disclosures contained in the Form S-4 and may issue one or more rounds of comments, to which the parties will be required to respond. Only after completion of such review will the SEC advice the company that its review is complete and the parties may request the SEC to declare the registration statement effective. Further, in order to effectuate the merger, under Delaware Law, the parties must file a certificate of merger with the Secretary of State of the State of Delaware. The merger will become effective by operation of law upon the filing of the certificate of merger.

l) The proposed transaction itself does not require the approval or order of any court or competent authority under the laws of each of the foreign jurisdiction, other than the BaFin and SEC review process, and other than the granting of antitrust and potential foreign investment clearance in various jurisdictions.

**Applicable law in USA and Germany vs. Applicable Law in India:**

m) The aspects of the proposed Transaction being undertaken in USA will be effected pursuant to Section 251 of the Delaware General Corporation Law. Under Delaware law, unlike in India, mergers are not required to be approved by any court or competent authority. Instead, under the applicable provision of Delaware law, a majority of the shares of outstanding Praxair common stock are required to vote in favour of the merger.

In relation to the German aspect of the proposed Transaction, BaFin also undertakes an extensive review of the exchange offer documents in relation to New HoldCo's exchange offer to Linde's shareholders. On the basis of the exchange offer, each Linde shareholder will be able to make an independent and direct decision as to whether to accept the exchange offer and become a shareholder of New HoldCo in the course of the proposed Transaction. The proposed Transaction will take effect only if a qualified majority (currently anticipated to be 75%, but which may be amended by the parties) of the Linde shares are tendered in such offer.

Under the laws of Delaware and Germany, unlike in an Indian scenario (where High Courts/ Tribunals sanction a scheme of arrangement involving merger), mergers are not required to be itself approved by any court or competent authority.

भारतीय प्रतिभूति
और विनिमय बोर्ड
***Securities and Exchange Board of India***

3. In view of the above, you have sought interpretive letter from SEBI, whether the exemption under regulation 10(1)(d)(iii) of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011 would be applicable for the purpose of the proposed Transaction.

4. We have considered the submissions made by you in your letter under reference. Without necessarily agreeing with your analysis, based on the facts submitted, our view is as under:

   i. Regulation 10(1)(d)(iii) of SAST Regulations exempts any acquisition pursuant to a scheme, of arrangement not directly involving the target company as a transferor company or as a transferee company, or reconstruction not involving the target company's undertaking, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign, subject to certain conditions.

   ii. The proposed transaction has not been approved by a court or competent authority, and therefore the said acquisition shall not be exempted from the obligation to make an open offer u/r 10(1)(d)(iii) of SAST Regulations.

5. Further, your request for confidentiality for a period of 90 days has been acceded to.

6. The above position is based on the information furnished in your letter under reference. Different facts or conditions might lead to a different result. Further, this letter does not express a decision of the Board on the questions referred.

7. You may also note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,

Tandon

**Amit Tandon**