

January 18, 2011

Via e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)  
Ms. Florence E. Harmon  
Deputy Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090

Re: SEC Release No. 34-63207 (October 28, 2010); File No. SR-NASDAQ-2010-134

Dear Ms. Harmon,

Please let me introduce myself. I am Edward H. Smith, Jr., a retired electrical engineer and shareholder in SMG Indium Resources Ltd. (“SMG”). I spent 40+ years in various engineering and management capacities in the Nuclear Power Industry, both with the military in the U.S. Navy Naval Reactors Group as a civilian designer, operator instructor and maintenance manager and in civilian nuclear power, starting up, testing and maintaining power reactors. I have been an investor for over 60 years. I appreciate the opportunity to comment on the referenced NASDAQ proposed rule change.

I understand the referenced NASDAQ rule change would establish new listing standards for Commodity Stockpiling Companies (“CSCs”) such as SMG, whereby SMG must meet such standards on top of the existing initial listing standards of the NASDAQ Stock Market. I applaud and appreciate these new listing standards to assure appropriate investor protection for the listing of CSCs such as SMG. Approval of the proposed rule changes will support making the market for commodities, such as Indium, more efficient and transparent by providing investors, like me, with an easier and more cost-effective alternative for investing in such commodities. For the reasons I cite in this letter, I believe the listing of SMG under the new standards will be good for public investors by providing protections of a superlative listed marketplace and its attendant rules and regulations.

The proposed CSCs listing standards are well thought out and provide an important adjunct to listing standards established for listing of Commodity-Based Trust Shares (“CTSs”), the latter, which were designed along the lines of an Exchange Trading Fund or ETF structure. CTSs have relatively complex structures and offer commodity spot exposure for very liquid and actively traded commodities, which have extensive pricing mechanisms for spot and derivative market transactions. The precious metals, particularly gold and silver, are characteristic of the types of metal commodities suitable for CTS structured instruments. In contrast to CTSs, CSCs provide investment exposure to select strategic and commercial commodities which do not have substantial liquid and active trading markets nor extensive and well developed derivative and/or spot markets and pricing mechanisms. Indium, a minor metal, reflects the latter characteristics and is one such commodity that would be appropriate for the CSC rather CTS instrument

structure. Other prime CSC candidates are cobalt, rhodium and uranium. These metals, while extremely important to the world economy, have lesser developed and less active spot trading, minimal and poorly developed futures and forward markets, which are not typically quoted daily as there is little demand or need for more frequently published prices by market participants.

The reason I invested in SMG is because I wanted investment exposure to Indium and felt SMG was the most efficient mechanism available to gain this exposure. SMG's strategy, as disclosed in its SEC disclosure filings, is to achieve long-term appreciation in the value of its Indium stockpile, and not to actively speculate with regard to short-term fluctuations in Indium prices. SMG's disclosure filings state that "purchasing shares in our company [SMG] is currently the only way for investors to participate in the price appreciation of Indium other than physical delivery of the metal itself." SMG's SEC disclosures further state that "the purpose of our company is to permit a simple and efficient mechanism by which an investor may benefit from the appreciation in the price of Indium."

A brief background of this minor metal is warranted in this letter. I first became familiar with Indium many years ago because it is used in the control rods of nuclear power plants. Indium's current primary commercial application is in coatings for the flat panel display industry and in the liquid crystal display (LCD) industry on electronic devices such as television sets, computers, cell phones and digital cameras. Indium is also increasingly being used as an important raw material in the solar energy industry, where it is mainly used for high-efficiency photovoltaic cells in the form of thin-film photovoltaic's (CIGS Solar). Other uses of Indium are in high-speed semiconductors, light emitting diodes (LEDs), electrical components, energy efficient glass, alloys and solders. Indium is produced mainly from residues generated during zinc ore processing, but is also found in tin, lead, and copper ores. World refinery production was estimated by the U.S. Geological Survey ("USGS") at approximately 600 metric tons in 2009. The total size of the primary Indium market was approximately \$237 million in 2009 based on the USGS's estimated production figure and Metal Bulletin's (a primary independent third-party pricing source detailed below) figures for the average price for Indium of \$397.55 per kilogram in 2009. The spot price of Indium on January 14, 2011 was \$562.50 per kilogram.

I do not have the sophistication or purchasing power to efficiently purchase and safe-keep Indium to obtain my desired investment exposure to this important commodity. I, therefore, am interested in a management team I believe has the experience and skills to deftly acquire Indium through open spot market transactions completed domestically and internationally and manage the purchased Indium's secure storage and accountability in the U.S. The huge benefit of a CSC, like a CTS, is that with a cheap and simple on-line brokerage transaction, I can obtain instant exposure to Indium in my investment portfolio by purchasing shares in SMG. I believe Indium will be of increasing importance to the world's economy, as this metal has increasing and important commercial applications, such as being a key manufacturing input in touchscreens and liquid crystal displays. I also believe a large portion of the global ready availability of Indium will contract in the future, should China, a major producer, prohibit its export and hoard Indium

for its insatiable domestic uses. Of course, should my investment views change after SMG's NASDAQ listing, I can unwind all or some of my exposure to Indium by one or more simple on-line trades. Without SMG and the CSC structure in place, I may have to forego my intended investment exposure to Indium or engage in more cumbersome spot trades and costly safe-keeping of physical ingots, which are entirely inefficient for even a relatively sophisticated investor.

As a public company, the SEC has assured that SMG has disclosed all of the risks of investing in Indium through a CSC structure. Having read these risk disclosures, I am very comfortable in buying SMG shares to obtain exposure to Indium. Furthermore, I believe the proposed NASDAQ listing standards will provide enhanced investor protection through requiring the CSC, such as SMG, to utilize third-party storage facilities that provide services consistent with those provided by custodians and to “publish, or otherwise facilitate access to (at no-cost in an easily accessible manner), regular pricing information in the raw material or other commodity from a reliable, independent source at least as frequently as current industry practice for pricing of such raw material or other commodity, and no less frequently than twice per week.” This pricing information will be the basis for creating further transparency in calculation of the Net Market Value (“NMV”), which “is determined by multiplying the volume of the raw material or other commodity held in inventory by the last spot price published, plus cash and other assets, less any liabilities.” SMG will be required by the new listing standards to publish its revised NMV within one business day of “the event that the spot price of the raw material or other commodity fluctuates by more than 5%.”

In the case of Indium, SMG has engaged a leading reputable independent firm, Metal Bulletin PLC (“MB”), to be the pricing source. MB was founded in 1913 with headquarters located in London, England, and U.S. staff sites in New York, Pittsburgh, Philadelphia, Los Angeles, Washington DC, and Detroit; and international staff sites in Toronto, Shanghai, Singapore, Sao Paulo, Santiago, Mumbai, and Mangalore. MB’s mission is to provide timely information, including pricing, for the global non-ferrous metals and steel markets. MB publishes Indium prices twice weekly, on Wednesdays and Fridays. MB’s underlying pricing sources break-down evenly across producers, consumers and traders. MB considers any entity regularly involved in buying and/or selling Indium as a potential spot pricing source. Sources are drawn from Asia, Europe and North America and include, at this time, five major producers, four major consumers and three large trading houses. MB requests detailed trade information from these sources: price, quantity, date of transactions and location/origin of material. MB often reviews contracts, redacted contracts or given information. MB uses MMTA specifications as the basis of calculating prices. MB’s final published price takes into account the range and volume of trades (with outliers removed) for the period for which the calculation is made. MB provides the published Indium pricing on the basis that it has a minimum of 6 sources providing trading information.

MB is a very reliable source for obtaining Indium price information in order that investors like me can adequately monitor spot Indium pricing relative to the NMV of the SMG shares. Dissemination of the MB prices and the NMV will facilitate transparency with respect to SMG shares and diminish the risk of manipulation or unfair information advantage.

With the periodic dissemination of MB pricing through SMG, I fully expect the listing of SMG and the quoting and transaction reporting of its shares on the NASDAQ Stock Market to result in increased transparency and more efficient market pricing of Indium, with SMG's public stock price serving as a new source of price discovery. In the current Indium market environment, I am personally comfortable with twice weekly pricing of Indium in connection with my SMG share holding. I have investments in many U.S. listed securities with far less public price transparency. For example, REITS, which are publicly traded, own real-estate assets, which by their nature are highly illiquid and subject to asset price valuation uncertainties. One cannot expect to value buildings and land on a daily, weekly or monthly basis. These assets are far less liquid and price transparent than Indium. Other publicly traded investment instruments hold an inventory of various goods which only get valued quarterly through backward looking Form 10-Q reports; yet people make investment decisions on buying and selling shares in these securities daily. For many investments, I must wait for the quarterly reports from the companies in which I invest for a clearer evaluation picture. Therefore, I am quite comfortable in making my SMG investment decisions and evaluating my position with SMG listed as a CSC pursuant to the proposed enhanced listing rules.

I also note there are examples of companies with the same structure as SMG, trading on seasoned international exchanges without any evidence of market pricing impropriety. Specifically, there is Uranium Participation Corp (UPC), a Canadian company with a structure virtually identical to SMG. UPC, which is listed and trades on the Toronto Stock Exchange, stockpiles uranium. Uranium is priced only once per week by UX Consulting and UPC only reports its NAV once per month. I note there has never been any regulatory or market disruption issues in the five years since UPC's IPO and listing on the Toronto Stock Exchange. In this regard, many of the largest U.S. based mutual funds have chosen to be significant shareholders in UPC. These include Fidelity, Blackrock, Van Eck Associates, Nuveen and Hartford Investments. Thus, UPC has provided a pricing and investment outlet for thousands of investors looking to receive investment exposure to uranium.

The pricing protections, coupled with the proposed listing standards provide additional investor protections for CSCs, i.e., (i) use of 85% of the offering proceeds to purchase the commodity within 18 months; (ii) periodic inventory reporting; (iii) standards for independent third-party storage facilities; (iv) an independent director committee to review purchasing activities and their impact on price of the commodity; and (v) Audit Committee requirements to review and manage potential conflicts of interest, including changes in the CSC's manager's compensation.

Lastly, listing SMG on NASDAQ pursuant to the new CSC listing standards will provide investors like me the protections afforded directly by FINRA and NASDAQ rules, specifically the regulations governing trading halts, responsibilities of NASDAQ market makers and other market participants, customer suitability rules, among other customer protection and marketplace integrity rules and regulations.

I believe the listing standards and the trading of CSCs for such commodities as Indium is good for our country, good for our markets and good for investors. It will increase market transparency in an increasingly essential commodity, while also providing an above ground stockpile of material, almost entirely, produced from outside of our country. In the end, CSCs listed on NASDAQ will provide investors such as me an easier and more cost-effective alternative for investing in Indium and other CSC commodities. A transparent marketplace for Indium will allow for a more accurate representation of supply and demand for Indium, and therefore, a more accurate market price. In the form of a discrete CSC for Indium and with the independent committee to review open market purchases by SMG, there should be no material disruptions to Indium in the marketplace. In this regard, SMG will have approximately \$40 million to purchase Indium in the 18 month period from the close of its offering. Based upon the spot price of \$562.50 per kilogram on January 14, 2011 for Indium, this translates to a purchase of approximately 71 metric tons, which is only about 8% of the world's 18 month production based on 2009's production numbers. Therefore, the existence of SMG as a listed NASDAQ issue, the trading of its shares should not cause any serious liquidity problems in the Indium market, particularly when purchases are spread over an 18 month span, such that approval of the proposed rule change is consistent with the Exchange Act.

Based on the above, I strongly believe the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act, which require a registered exchange such as NASDAQ to have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trades, and to protect investors and the public interest.

Very truly yours,

Edward H. Smith, Jr.