

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28083; 812-13464]

Millennium India Acquisition Company Inc.; Notice of Application

December 21, 2007

Agency: Securities and Exchange Commission (“Commission”).

Actions: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) granting an exemption from section 12(d)(3) of the Act.

Applicant: Millennium India Acquisition Company Inc. (“Applicant”).

Summary of Application: Applicant seeks an order under section 6(c) of the Act to permit Applicant to invest in the securities of two issuers that each derives more than 15% of its gross revenues from securities related activities as defined in rule 12d3-1(d)(1) under the Act, in excess of the limitations in rule 12d3-1(b).

Filing Dates: The application was filed on December 18, 2007, and amended on December 21, 2007.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2008, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues

contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

Addresses: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC, 20549-1090. Applicant, c/o Mr. F. Jacob Cherian, Millennium India Acquisition Company Inc., 330 East 38<sup>th</sup> Street, New York, NY 10016.

For Further Information Contact: Jean E. Minarick, Senior Counsel, at (202) 551-6811, or Janet M. Grossnickle, Branch Chief, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

Supplementary Information: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE, Washington, DC, 20549-0102 (tel. 202-551-5850).

Applicant's Representations:

1. Applicant, a Delaware corporation, is registered as a non-diversified, closed-end management investment company under the Act. Applicant was formed in March 2006 as a special purpose acquisition company to serve as a vehicle to effect a merger, asset acquisition or other business combination with one or more businesses that have operations primarily in India.

2. SMC Global Securities Limited ("SMC") and SAM Global Securities Limited ("SAM"), together with their respective subsidiaries, comprise the SMC Group of Companies (the "SMC Group"). The SMC Group, which is based in New Delhi, India, provides various financial services, including equities and commodities brokerage, mutual fund and initial public offering distribution, and depository and clearing services.

More than 15% of SMC's and SAM's gross revenues are derived from "securities related activities" as defined in rule 12d3-1(d)(1) under the Act.<sup>1</sup>

3. On May 12, 2007, Applicant entered into two substantially identical share subscription agreements (the "Subscription Agreements") to invest in 14.9% of the equity securities of each of SMC and SAM, subject to shareholder approval and other conditions (the "Acquisition Transaction").<sup>2</sup> In addition, Applicant has entered into a set of substantially identical option agreements that grant Applicant an option, exercisable within 30 days of the closing date of the corresponding Acquisition Transaction and subject to applicable law, to require SMC or SAM or both to begin regulatory approval proceedings that would permit it to issue global depositary shares to Applicant, which upon conversion into equity shares, represent an additional 6% of the equity share capital of SMC or SAM, as the case may be.

4. The Applicant will not actively manage a portfolio. Rather, after the Acquisition Transaction closes, the Applicant intends to invest at least 80% of its assets in the securities of the SMC Group, U.S. government securities and other short-term instruments, unless or until such time as it raises additional capital. Upon consummation of the Acquisition Transaction and the related global depositary share acquisition, over 90% of Applicant's assets would be invested in the SMC Group. If the Applicant raises additional capital it may, if then permitted by Indian law and other regulatory requirements, make additional investments in the SMC Group or it may invest in one or

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<sup>1</sup> Subparagraph (d)(1) of rule 12d3-1 defines "securities related activities" to mean a person's activities as a broker, dealer, underwriter, or investment adviser to a registered investment company.

<sup>2</sup> As described more fully in the application, Applicant does not seek to acquire more than 14.9% of the equity securities of SMC or SAM due to certain restrictions and lack of clarity in the regulatory approval process and timelines under Indian law.

more other Indian companies. Applicant does not seek an exemption from section 12(d)(3) of the Act for investment in the securities of any company other than the SMC Group.

5. Applicant's certificate of incorporation requires that the holders of a majority of Applicant's publicly-listed common stock approve the Acquisition Transaction at a stockholders' meeting convened to consider proposals to approve such transactions. Moreover, shareholders who do not approve of the transactions may elect to have their publicly-traded shares converted into cash. Applicant will be precluded from proceeding with the Acquisition Transaction if more than 19.99% of Applicant's shareholders vote against the Acquisition Transaction and exercise their right to convert their shares to cash. Applicant filed definitive proxy materials on December 21, 2007, and expects to mail them to its shareholders on or about December 27, 2007. The shareholders' meeting is scheduled for January 10, 2008.

6. Applicant believes that permitting Applicant to invest in the equity securities of SMC and SAM in excess of the quantitative limitations set forth in rule 12d3-1(b) would benefit Applicant and be in the best interests of shareholders. Applicant will comply with all other requirements of rule 12d3-1.

Applicant's Legal Analysis:

1. Section 12(d)(3) of the Act, with limited exceptions, prohibits a registered investment company from purchasing or otherwise acquiring any securities issued by any person who is a broker, a dealer, is engaged in the business of underwriting, or is either an investment adviser of a registered investment company or a registered investment adviser. Rule 12d3-1 under the Act exempts the acquisition of securities of an issuer that

derived more than 15% of its gross revenues in its most recent fiscal year from “securities related activities,” provided that, among other things, immediately after such acquisition, (i) the acquiring company has invested not more than five percent of the value of its total assets in securities of the issuer and (ii) the acquiring company owns not more than 5% of the outstanding securities of that class of the issuer’s equity securities. Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicant requests an order pursuant to section 6(c) of the Act exempting Applicant from the provisions of section 12(d)(3) of the Act to the extent necessary to permit Applicant to invest in the equity securities of SMC and SAM, each an issuer that derives more than 15% of its gross revenues from “securities related activities,” in excess of the quantitative limitations set forth in rule 12d3-1(b).

3. Applicant states that section 12(d)(3) was intended (a) to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, (b) to prevent potential conflicts of interest and to eliminate certain reciprocal practices between investment companies and securities related businesses, and (c) to ensure that investment companies maintain adequate liquidity in their portfolios.

4. Applicant believes that its investment in the SMC Group does not raise the same type of entrepreneurial risks that may have concerned Congress in enacting section 12(d)(3). Applicant states that the ownership structure of most securities related

businesses has changed since the time of enactment from partnership to a corporate form resulting in the limited liability status of these entities. In this case, Applicant argues that shareholders choosing to invest in Applicant have sought exposure to a vehicle that provides a non-diversified investment in one or more businesses with operations primarily in India,<sup>3</sup> and Applicant's shareholders will have the opportunity to approve or reject the proposed investment after full disclosure of the transactions and the attendant risks.

5. Applicant also believes that the Acquisition Transaction will not create potential conflicts of interest for Applicant or its shareholders. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant notes that, as a condition to the granting of exemptive relief, the SMC Group and its affiliated persons within the meaning of section 2(a)(3) of the Act and affiliated persons of such affiliated persons (collectively, "Affiliates") will not sell any securities issued by Applicant and will not act as agent or as broker in connection with the sale of any shares of Applicant.<sup>4</sup>

6. Applicant states that another potential conflict of interest is that a broker-dealer could be influenced to recommend to its clients certain investment companies that invest in such broker-dealer, thereby using the assets of the investment companies to

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<sup>3</sup> The information that Applicant's shareholders will receive after the Acquisition Transaction demonstrates Applicant's role as a vehicle for U.S. investors to invest in an Indian company. As described more fully in the application, Applicant generally will file Forms 8-K furnishing the quarterly and annual financial statements translated into U.S. GAAP of SMC and SAM within five business days of their receipt from SMC and SAM and also file promptly Forms 8-K furnishing any material information publicly disclosed by SMC or SAM under the Indian securities regulatory scheme or that would be required if the underlying securities were being registered under the Securities Act of 1933, as amended.

<sup>4</sup> The terms and conditions of the application will be made binding on SMC Group through an undertaking by the SMC Group or amendments to the Subscription Agreements.

boost the price of the broker-dealer. Applicant notes that, as a condition to the requested order, the SMC Group and its Affiliates will not sell any securities issued by Applicant as an underwriter, will not make a market in any securities issued by Applicant and will not act as agent or a broker in connection with the sale of any shares of the Applicant.

7. Applicant states that another purpose of section 12(d)(3) is to prevent investment companies from directing brokerage to a broker-dealer in which the investment company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. Applicant represents that it is not a trading vehicle and will not actively trade in securities of SAM, SMC or securities of other issuers. Further, as a condition to the requested order, Applicant and its Affiliates will not use the SMC Group or its Affiliates as a broker-dealer for the purchase or sale of any portfolio securities.

8. Applicant also believes that section 12(d)(3) reflects a concern with respect to the liquidity of an investment company's portfolio. Because shareholders invested in Applicant for the specific purpose of buying and holding a vehicle that would provide a non-diversified investment in an Indian enterprise, liquidity of the Applicant's portfolio is not a concern for Applicant's shareholders. Moreover, Applicant is a closed-end investment company that does not offer redeemable securities; therefore, there are no minimum liquidity standards applicable to Applicant under the Act.

9. Applicant believes that the Acquisition Transaction does not present the potential for the risks and abuses section 12(d)(3) is intended to eliminate, including the risk of reciprocal practices. Applicant believes that the standards set forth in section 6(c) have been met.

Applicant's Conditions:

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. The Acquisition Transaction will not be consummated unless it is approved by the holders of a majority of the Applicant's publicly-listed shares of common stock present in person or by proxy at a stockholders' meeting convened to consider proposals to approve the Acquisition Transaction and unless holders of less than 20% of the Applicant's publicly-listed shares of common stock seek to convert their shares to cash.

2. Applicant will not invest in any financial services companies other than the SMC Group. Applicant will not actively trade in securities of SAM, SMC or securities of other issuers.

3. The SMC Group and its Affiliates will not sell any securities issued by Applicant as an underwriter, will not make a market in any securities issued by Applicant and will not act as agent or as a broker in connection with the sale of any shares of the Applicant.

4. Applicant and its Affiliates will not use the SMC Group or its Affiliates as a broker-dealer for the purchase or sale of any portfolio securities.

5. The SMC Group and its Affiliates will not act as custodian for Applicant and its Affiliates nor will they provide any other services to Applicant and its Affiliates.

6. No officer of Applicant or member of Applicant's board of directors ("Board") shall be affiliated with the SMC Group or its Affiliates (other than as a result of the Acquisition Transaction discussed herein).

7. Applicant's Chief Compliance Officer will monitor and report to Applicant's Board no less than annually on compliance with these conditions.

8. Applicant will comply with the provisions of rule 12d3-1 under the Act, except for paragraph (b) solely to the extent necessary to permit Applicant to have more than 5% of the value of its total assets invested in more than 5% of the outstanding securities of the classes of SMC Group's equity securities that are described in this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris

Secretary