



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

DIVISION OF
CORPORATION FINANCE

November 2, 2021

Denis Klimentchenko, Esq.
Skadden, Arps, Slate, Meagher & Flom (UK)
40 Bank Street
Canary Wharf
London E14 5DS

Re: **Nokia Corporation - Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act of 1933**

Dear Mr. Klimentchenko:

This is in response to your letter dated October 26, 2021, written on behalf of Nokia Corporation (“Nokia”) and constituting an application for relief from Nokia being considered an “ineligible issuer” under clause (1)(vi) of the definition of ineligible issuer in Rule 405 of the Securities Act of 1933 (“Securities Act”). Nokia requests relief from being considered an ineligible issuer under Rule 405, due to a criminal conviction by the Paris Court of Appeals on May 15, 2020 against Alcatel-Lucent S.A.S. (“ALU”), a subsidiary of Nokia, finding it guilty of corruption in connection with the bribery of foreign public officials (“Judgment”).

Assuming that ALU complies with the Judgment, we have determined that Nokia has made a showing of good cause under clause (2) of the definition of ineligible issuer in Rule 405 and that Nokia will not be considered an ineligible issuer by reason of the entry of the Order. Accordingly, the relief described above from Nokia being an ineligible issuer under Rule 405 of the Securities Act is hereby granted. Any different facts or circumstances from those represented in the letter or failure to comply with the terms of the Judgment would require us to revisit our determination that good cause has been shown and could constitute grounds to revoke or further condition the waiver. The Commission reserves the right, in its sole discretion, to revoke or further condition the waiver under those circumstances.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Sincerely,

/s/

Tim Henseler
Chief, Office of Enforcement Liaison
Division of Corporation Finance

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October 26, 2021

BY EMAIL

Timothy B. Henseler, Esq.
Office Chief, Office of Enforcement
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U.S. Securities and Exchange
Commission
100 F Street, N.E.
Washington, DC 20549

RE: Nokia Corporation – Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act of 1933

Dear Mr. Henseler:

This request letter is submitted on behalf of our client, Nokia Corporation (“Nokia”), a Securities Exchange Act of 1934 (the “Exchange Act”) reporting company. Nokia respectfully requests a waiver from the Securities and Exchange Commission (“Commission”) or the Division of Corporation Finance (“Division”), acting pursuant to its delegated authority, determining that Nokia would not be an “ineligible issuer,” as defined under Rule 405 promulgated under the Securities Act of 1933 (“Securities Act”), as a result of the entry of the Judgment (as defined below) against Alcatel Lucent, S.A.S., formerly known as Alcatel Lucent S.A., (“ALU”), a French subsidiary of Nokia which was acquired by Nokia in 2016.

Consistent with the framework set forth in the Division’s *Revised Statement on Well-Seasoned Issuer Waivers* (April 24, 2014)¹ (“Revised

¹ See Division of Corporation Finance “Revised Statement on Well-Known Seasoned Issuer Waivers,” April 24, 2014.

Statement”), Nokia believes that there is good cause for the Commission or the Division, acting pursuant to its delegated authority, to grant a waiver determining that it is not necessary under the circumstances that Nokia be an “ineligible issuer” as defined in Rule 405 of the Securities Act, including but not limited to: (i) the fact that the conduct in question in the Judgment (as defined below) was undertaken by ALU and certain of its subsidiaries between 2001 and 2004 which was well before Nokia’s acquisition of ALU; (ii) the conduct did not pertain to activities undertaken by Nokia or its subsidiaries in connection with Nokia’s role as issuer of securities or any related disclosure; and (iii) ALU took extensive remedial steps including, prior to Nokia’s acquisition, enhancing its anti-corruption training, compliance program and internal controls, under the supervision of a compliance monitor, and, since its acquisition by Nokia, ALU has been integrated into, and benefited from, Nokia’s robust anti-corruption and compliance programs and controls. Furthermore, a denial of this waiver request would amount to a second removal of an issuer’s WKSI status on the basis of the same facts. ALU previously lost its WKSI status and was an ineligible issuer for three years (fiscal years 2011, 2012 and 2013) on the basis of the same facts at issue in the Judgment.

I. BACKGROUND

1. US Settlement

In December 2010, the Department of Justice charged ALU with violations of the Foreign Corrupt Practices Act (“FCPA”) arising from ALU, through its subsidiaries and their agents, paying bribes to foreign government officials from 2001 to at least 2006, in multiple jurisdictions, including Costa Rica.² As set out in the DOJ Settlement (as defined below), from December 2001 to October 2004, through three of its subsidiaries, Alcatel-Lucent France, S.A., then known as Alcatel CIT, S.A. (“AL France”), Alcatel-Lucent Trade International, A.G. (f/k/a Alcatel Standard A.G., “AL Switzerland”) and Alcatel Centroamérica, S.A. (“AL Costa Rica” and, together, the “ALU Costa Rican Subsidiaries”), ALU entered into contracts with consultants in Costa Rica and wired those consultants at least \$14.5 million through consulting agreements for use in a bribery scheme, where various high-level government officials in Costa Rica received at least \$7 million and, as a result, ALU was rewarded three contracts in Costa Rica worth a combined total of more than \$300 million

² Although in the DOJ Settlement covered conduct in Costa Rica, Honduras, Malaysia and Taiwan, only Costa Rica is relevant to the French proceeding and therefore, this letter.

and reaped a profit of more than \$23 million (these activities, together, are referred to as the “Conduct”).³

In 2010, in addition to the FCPA violation, as a result of the Conduct, the Commission charged in a federal district court proceeding that ALU violated (i) Section 30A of the Exchange Act by making illicit payments to foreign government officials, through its subsidiaries and agents, in order to obtain or retain business, (ii) Section 13(b)(2)(B) of the Exchange Act by failing to have adequate internal accounting controls to detect and prevent the payments, (iii) Section 13(b)(2)(A) of the Exchange Act by improperly recording the payments in its books and records, and (iv) Section 13(b)(5) of the Exchange Act when its subsidiaries knowingly failed to implement a system of internal accounting controls and knowingly falsified their books and records to camouflage bribes as consulting payments. Without admitting or denying the Commission’s allegations, ALU agreed to pay more than \$45 million in penalties and consented to a court order permanently enjoining ALU from future violations of certain Exchange Act provisions (the “SEC Settlement”).

With respect to the charges brought by the Department of Justice relating to the Conduct, ALU and the ALU Costa Rican Subsidiaries agreed to pay a combined penalty of \$92 million in disgorgement and prejudgment interest. ALU entered into a deferred prosecution agreement relating to internal accounting controls and books and record provisions of the FCPA, and the ALU Costa Rican Subsidiaries entered into a plea agreement under which the ALU Costa Rican Subsidiary admitted to participating in a criminal association in order to commit offenses against the United States in violation of the FCPA (the “DOJ Settlement” and, together with the SEC Settlement, the “US Settlement”).

As part of the US Settlement, ALU agreed to implement a company-wide corporate compliance and ethics program to detect FCPA and other anti-corruption law violations, review its internal accounting controls and policies regarding compliance with such regulations, and retain an independent compliance monitor to oversee this process. The US Settlement also involved the settlement of corruption charges brought in Costa Rica against ALU and certain of the ALU Costa Rican Subsidiaries, and ALU paid \$10 million in penalties to Costa Rican authorities.

As wholly owned subsidiaries of ALU, the guilty pleas entered into by the ALU Costa Rican Subsidiaries in connection with the US Settlement resulted in

³ See the DOJ Settlement (Attachment A paragraphs 39 to 53) (<https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2011/02/16/12-20-10alcatel-lucent-dpa.pdf>), for a more detailed description of the Conduct.

ALU becoming an ineligible issuer, as defined under Rule 405 of the Securities Act in 2011. As a result, ALU was an ineligible issuer for a period of three years. During this period, ALU did not request or obtain a waiver of its ineligible issuer status, and ALU did not act or hold itself out as a WKSI. ALU's three years of ineligible issuer status related to the Conduct and ended in 2014. In 2015, ALU filed its annual report for the fiscal year ended December 31, 2014, on Form 20-F as a WKSI.

2. French Proceeding

In October 2004, law enforcement authorities in France commenced their own investigation into the same conduct which was the basis for US Settlement in 2010. In 2011, AL France was formally placed under examination by the French authorities. In 2013, AL France was merged into Alcatel Lucent International ("AL International"), and AL France ceased to exist. In 2014, ALU and AL International were formally placed under examination.

In May 2016, the French investigation led to an indictment in France against ALU and two former ALU executives on charges of bribery of foreign public officials. These proceedings related to the same Conduct, and relied on substantially the same facts, as was investigated and formed the basis of the settlement and plea agreements ALU and the ALU subsidiaries, respectively, entered into with the Department of Justice in 2010 as part of the DOJ Settlement. In August 2017, the Paris Criminal Court, a court of first instance, heard a case against ALU and its two former executives. The Paris Criminal Court dismissed all charges against ALU and the individuals.

Following an appeal from the French Prosecutor, on May 15, 2020, the Paris Court of Appeals overturned the earlier trial court decision, thereby finding ALU guilty of making, to a public official of a foreign state, an offer, promise, gift or other benefit to such official to obtain the performance by such official of an action within his or her duties as a public official of such foreign state, with respect to payments by the ALU Costa Rican Subsidiaries to governmental officials in Costa Rica, as described above (the "Judgment"). The Judgment is a criminal conviction under French law. The Court of Appeals imposed a fine of €150,000 on ALU. The Paris Court of Appeals acquitted the two individuals charged alongside ALU.

On June 16, 2021, the French Supreme Court upheld the Court of Appeals' judgement.

3. Acquisition by Nokia

Nokia, which at the time was, and remains, subject to the Exchange Act registration and reporting provisions via its Section 12(b) registration and New

York Stock Exchange listing, acquired control of ALU pursuant to an exchange offer on January 5, 2016 and acquired ownership of 100% of ALU on November 2, 2016. As a result, since November 2, 2016, ALU has been a wholly-owned subsidiary of Nokia.

ALU ceased to be an Exchange Act reporting company on or about February 8, 2017.

II. DISCUSSION

A well-known seasoned issuer (“WKSI”), as defined in Rule 405 of the Securities Act, is eligible to take advantage of many significant reforms in the securities offering and communication processes that the Commission adopted in 2005. Among other things, a WKSI can register indeterminate amounts of securities for offer and sale under automatically effective Securities Act registration statements, and file post-effective amendments to register new classes of securities. Importantly, a WKSI is able to communicate more freely during the offering process, including through the use of free writing prospectuses.

A company cannot be a WKSI if it is an ineligible issuer as defined under Rule 405.

An issuer is an ineligible issuer if “[w]ithin the past three years, the issuer or any entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934.” Included in section 15(b)(4)(B) of the Exchange Act, in paragraph (i), is “bribery” or “any substantially equivalent activity” of the laws of a foreign government.⁴ Nokia understands that the entry of the Judgment against ALU has made Nokia, as ALU’s parent company, an ineligible issuer under Rule 405 for three years from the date of the Judgment.

The Commission retains the authority under Rule 405 to determine “upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer.” The Commission has delegated the authority to the Division to make such a determination. For the reasons set forth below, Nokia believes a review of all of the facts and circumstances should lead the Commission or the Division, acting pursuant to its delegated authority, to conclude, as set forth in the Revised Statement, “that granting the waiver would be consistent with the public interest and the protection of investors.”

⁴ Rule 405, 17 CFR 230.405(1)(v) (definition of “ineligible issuer”).

Nokia respectfully submits that granting Nokia a waiver from ineligible issuer status is in the public interest and further that ineligible issuer status for Nokia is not necessary for the protection of investors. In making this request, Nokia has carefully considered the Revised Statement and, as discussed in more detail below, believes that a waiver would be consistent with the policy statement.

1. What is the nature of the violation or conviction, does it involve disclosure for which the issuer or any of its subsidiaries was responsible, and does it call into question the ability of the issuer to produce reliable disclosure currently and in the future?

As discussed above, ALU was convicted under French criminal law of making, to a public official of a foreign state, an offer, promise, gift or other benefit to such official to obtain the performance by such official of an action within his or her duties as a public official of such foreign state, with respect to payments by the ALU Costa Rican Subsidiaries to governmental officials in Costa Rica from 2001 to 2004.

As acknowledged in the SEC Settlement, ALU's disclosure was affected by the Conduct which underlies both the Judgment and the SEC Settlement. However, as the Judgment concerns ALU's conduct well before Nokia's acquisition of ALU, Nokia's disclosure as an issuer of securities and in its filings with the Commission have never been compromised or otherwise rendered unreliable on the basis of the Conduct. Moreover, for the reasons discussed below, including the remedial measures undertaken by ALU and the fact that Nokia's own robust internal controls have replaced those of ALU, the Judgment and Conduct do not call into question the ability of Nokia to produce reliable disclosure currently and in the future.

In addition, as described below, the actors involved in the Conduct are not, and were never, employed by Nokia or its subsidiaries, and the actors do not have any influence or control over any current or future operations of Nokia or its disclosure. As such, there is no concern that the actors involved or the current circumstances could affect Nokia's ability to file reliable reports with the Commission.

2. Did the conduct involve a criminal conviction or scienter-based violation?

The Conduct involved a criminal conviction.

3. Who Was Responsible for the Misconduct?

At the time of the Conduct and US Settlement, ALU was an independent Exchange Act reporting company and Nokia did not have any interest in ALU. As such, none of Nokia's current management or directors were charged with any wrongdoing in connection with the Conduct.

Hugh Barras, president of AL Switzerland during the relevant period, and Alfredo Redondo Iglesias, who led the Alcatel-Lucent Group's Latin American division during the relevant period, are named with ALU in the French proceeding. In addition, certain other individuals are named in the US Settlements, including Christian Sapsizian, who eventually became AL France's Director for Latin America, and Edgar Valverde Acosta, who was president of AL Costa Rica. All these individuals are not, and were never, employed by Nokia or its subsidiaries; therefore, they have no influence or control over any current or future operations of Nokia or Nokia's disclosure.

4. *What Was the Duration of the Misconduct?*

The Conduct at issue in the Judgment against ALU exclusively concerned ALU, its subsidiaries and its agents, and occurred between 2001 and 2004.

5. *What Remedial Steps Did the Issuer Take?*

The US Settlement required ALU to take significant remedial steps,⁵ including implementing an enhanced compliance program and putting in place an independent compliance monitor for three years following the date of the US Settlement.

The deferred prosecution agreement made under the US Settlement provided that, if any breach of the deferred prosecution agreement, including any failure to adhere to the compliance controls requirements or any new violations of the anticorruption laws, occurred within three years of the entry into the agreements, the Department of Justice would have the right to prosecute ALU for such criminal violation. However, the criminal proceedings against ALU were dismissed with prejudice by the court at the request of the Department of Justice on February 9, 2015 upon a determination that ALU had successfully complied with the terms of the settlement and plea agreements by paying the monetary penalties owed, cooperating, implementing an enhanced compliance program, and successfully completing the compliance monitorship.

Nokia acquired ALU in 2016 following the end of the three-year monitoring period imposed upon ALU as part of the US Settlement. In connection with the acquisition, Nokia conducted extensive compliance due

⁵ The details of the compliance program ALU put in place following the US Settlement and the independent compliance monitor are set out in Attachments C and D of the US Settlement.

diligence on ALU and upon completion of the acquisition, expanded its robust anti-corruption policies and compliance program to cover ALU and its subsidiaries, which have now been fully integrated into Nokia.

Although Nokia regularly reviews and updates its compliance policies, as Nokia acquired ALU following the occurrence of the Conduct, no changes to Nokia's own preexisting compliance policies or internal controls were necessary in light of the Judgment.

Nokia has, and applies at each of its subsidiaries, including ALU, its robust compliance policies, internal controls and procedures in order to ensure investors can rely on its financial reports and disclosures. Nokia's compliance program includes:

- Nokia's code of conduct ("Code") which sets out four principles: (i) follow the laws where Nokia does business, (ii) set an example for one another by being honest and fair; (iii) promote a culture of integrity through mutual respect and trust; and (iv) hold employees other accountable to adhere to the Code and report potential violations.
- Nokia has clear and unequivocal policies concerning improper payments, facilitation payments, gifts and hospitality, sponsorships and donations, and other areas of risk for public and private corruption and conducts regular trainings for its employees on these policies and on compliance risks.
- Nokia also has a compliance controls framework through which bottom-up assessments to identify gaps in Nokia's compliance program are conducted, as well as the Anti-Corruption Center of Excellence which is a dedicated group within Nokia's compliance team that assesses and monitors risks associated with commercial third parties.
- Nokia's board of directors, audit committee and executive leadership all provide oversight of Nokia's ethics and compliance program, and Nokia runs the global Ombuds program to help employees 'speak up' about any grievances, including potentially corrupt behavior.

6. *Impact If the Waiver Request Is Denied.*

Disqualification under the "ineligible issuer" provisions could create a hardship for Nokia as Nokia may rely on its WKSI status and its ability to use the automatic shelf registration process in its capital management and capital

management planning. Nokia issued \$1 billion in notes on June 6, 2017, under an automatic shelf registration statement filed on May 30, 2017. The automatic shelf registration process facilitates efficient and flexible access to the capital markets. As Nokia is an ineligible issuer, it has lost this flexibility.

III. CONCLUSION

Nokia was not involved in the conduct underlying the Judgment because it occurred more than ten years prior to Nokia's acquisition of ALU. Furthermore, as a result of the US Settlements and prior to Nokia's acquisition of ALU, ALU took extensive remediation steps, under the supervision of a compliance monitor, to enhance its compliance program and internal controls. As a result of the US Settlements and guilty pleas by its subsidiaries, ALU was an ineligible issuer for three years (fiscal years 2011, 2012 and 2013). As a result, the Conduct and the Judgment have not and will not impact Nokia's disclosure as an issuer of securities nor its filings with the Commission.

In light of these considerations, we believe that subjecting Nokia to ineligible issuer status is not necessary under the circumstances, either in the public interest or for the protection of investors, and good cause for the Commission or the Division, acting pursuant to its delegated authority, exists to determine that Nokia should not to be considered an ineligible issuer as a result of the Judgment.

If you have any questions regarding any of the foregoing, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Klimentchenko". The signature is fluid and cursive, with a long horizontal stroke at the end.

Denis Klimentchenko

cc: Scott Simpson
Brian Breheny
Andrew Brady