



Transitional Services =

Business A =

Business B =

Business C =

Business D =

Business E =

A =

B =

C =

D =

E =

F =

G =

H =

X =

Y =

Z =

a =

b =

c =

d =

e =

f =

g =

h =

i =

Country A =

Country B =

Date 1 =

Dear :

This letter responds to your representative's letter dated July 15, 2011, requesting rulings as to the Federal income tax consequences of a proposed transaction. Additional information was submitted in a letters dated August 8, 2011, and September 12, 2011. The material information submitted for consideration is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the proposed transaction: (i) satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations; (ii) is

used principally as a device for the distribution of the earnings and profits of the distributing corporation and/or the controlled corporation (see §355(a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see §355(e) and §1.355-7).

### Summary of Facts

Distributing is a publically traded Country A limited liability company that is treated as an association taxable as a corporation for Federal income tax purposes. Distributing has outstanding two classes of stock: publicly traded ordinary shares of a single class (“Distributing Common Stock”) and a single share of a separate class (the “A Share”). The Distributing Common Stock is listed on the X, the Y, and (in the form of American Depositary Shares (“ADSs”)) the Z. Distributing wholly owns Sub 1 and Sub 2, each a company organized under the laws of Country A.

Distributing, through its separate affiliated group as defined in Section 355(b)(3)(B) (the “Distributing SAG”) is engaged in the conduct of a separate business segments, including Business A (the “Controlled Business”), Business B, Business C (the “Distributing Business”), Business D, and Business E. The Distributing SAG has conducted the Distributing Business and the Controlled Business throughout the five-year period ending on the date of the Distribution (as defined below).

Financial information has been submitted that indicates that each of the Distributing Business and the Controlled Business has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

### Proposed Transaction

For what are represented to be valid business purposes and to effect the Distribution, Distributing proposes the following steps which have been partially consummated (the “Proposed Transaction”):

- (i) On Date 1, Distributing formed Controlled for nominal consideration.
- (ii) On Date 1, Controlled formed Controlled Sub for nominal consideration.
- (iii) The A Share will be converted into a single share of Distributing Common Stock.
- (iv) Distributing will contribute approximately b (in Country A currency) to Controlled in exchange for additional shares of Controlled Common Stock. The total number of shares of Controlled Common Stock outstanding immediately after this exchange is expected to be determined based on the number of shares necessary to facilitate an expected exchange ratio

- of c share of Controlled Common Stock for every d shares of Distributing Common Stock outstanding at the time of the Distribution.
- (v) Controlled will contribute the approximately b (in Country A currency) received from Distributing in Step (iv) to Controlled Sub in exchange for additional shares of Controlled Sub stock.
  - (vi) Controlled will borrow approximately e (in Country A currency) (subject to the adjustments in Step (ix)) from one or more third-party lenders under a bank bridge facility that is expected to take the form of an f-day bank bridge facility.
  - (vii) Controlled will lend the amounts borrowed in Step (vi) to Controlled Sub.
  - (viii) Controlled Sub will purchase all of the assets utilized in the Controlled Business, and assume certain liabilities associated with the Controlled Business, and certain assets relating to Business B from Sub 1 (and certain affiliates of Sub 1) in exchange for the approximately g (in Country A currency) received from Controlled in Steps (v) and (vii). Sub 1 and its affiliates will use all or a portion of the cash received from Controlled in connection with such transfer to execute the transactions described in Step (ix) below.
  - (ix) Sub 2 will enter into certain restructuring arrangements with holders of various tranches of its outstanding bonds (the "Sub 2 Securities") on or around the date of the transfer described in Step (viii) above. Sub 2 will repay its B-denominated Sub 2 Securities and invoke its redemption rights with regard to its C-denominated Sub 2 Securities. Distributing will also request an early redemption of the D-denominated Sub 2 Securities from their holders at a price corresponding to the prevailing yield on appropriate Country B bonds. Sub 2 will exchange, in part or in full, its E-denominated Sub 2 Securities for newly issued bonds of Controlled (the "Controlled Securities"); the portion of such E-denominated Sub 2 Securities not exchanged will remain outstanding obligations of Sub 2. The amount of the E-denominated Sub 2 Securities exchanged for Controlled Securities, to the extent the exchange is settled on the same date as the acquisition in Step (viii) above, will result in a corresponding reduction in the net amount paid by the Controlled SAG to the Distributing SAG in Step (viii) above and a corresponding reduction in the amount otherwise borrowed by Controlled from third-party lenders. To the extent that the exchange is not settled on the same date as such acquisition, Distributing or Sub 2 will make a corresponding cash payment to Controlled or Controlled Sub with respect to the amount of Sub 2 Securities exchanged for Controlled Securities.
  - (x) Distributing will make a pro rata distribution to holders of Distributing Common Stock and Distributing ADSs pursuant to a demerger transaction under Country A law. Each distributee will receive an entitlement to a

number of shares of Controlled Common Stock based on the number of shares necessary to facilitate an expected exchange ratio of c share of Controlled Common Stock for every d outstanding shares of Distributing Common Stock. In general, this entitlement will be automatically applied on each distributee's behalf to acquire such number of shares of Controlled Common Stock or Controlled ADSs from Distributing (the "Distribution"). If any holder of Distributing Common Stock or Distributing ADSs would otherwise receive a fractional share of Controlled Common Stock or fractional interest in a Controlled ADS pursuant to the Distribution, the number of shares of Controlled Common Stock or Controlled ADSs to be received by such holder will be rounded (up or down) to the nearest whole number of shares or ADSs. Certain public shareholders of Distributing (the "Ineligible Shareholders") will not receive any shares of Controlled Common Stock or Controlled ADSs in the Distribution. Such shareholders are expected to represent less than h percent of the outstanding shares of Controlled Common Stock and are not expected to include any U.S. persons. Instead, Distributing will transfer the shares of Controlled Common Stock that would otherwise have been distributed to the such shareholders to an independent exchange agent, which in turn will sell such shares on the X as soon as reasonably practicable after the Distribution. Upon completion of this sale facility, the exchange agent will make a cash payment to each such shareholder equal to the shareholder's pro rata portion of the aggregate sale proceeds.

- (xi) Following the Distribution, Third Party, an investment vehicle wholly owned by E and organized under the laws of Country A, will make cash contributions to Controlled in exchange for stock, securities, and warrants at such times, on such terms and in such amounts as set forth in the G.

Following the Distribution, Controlled, through its separate affiliated group as defined in Section 355(b)(3)(B) (the "Controlled SAG"), will conduct the Controlled Business, and the Distributing SAG will continue to conduct the Distributing Business.

The preceding Steps (iii) through (x) will only occur upon receiving the required approval of holders of Distributing Common Stock and the High Court of Country A or will be contingent upon one or more other steps receiving such approval.

In connection with the Distribution, Distributing and Controlled (and/or their subsidiaries, as applicable) will enter into agreements to provide for Transitional Services during the Transition Period.

### **Representations**

The following representations have been made with respect to the Distribution:

- (a) The indebtedness owed by Controlled to Distributing after the Distribution will not constitute stock or securities.
- (b) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (c) The 5 years of financial information submitted on behalf of the Distributing Business is representative of its present operation, and with regard to the Distributing Business, there have been no substantial operational changes since the date of the last financial statements submitted, other than changes made in the ordinary course of business.
- (d) The 5 years of financial information submitted on behalf of the Controlled Business is representative of its present operation, and with regard to the Controlled Business, there have been no substantial operational changes since the date of the last financial statements submitted, other than changes made in the ordinary course of business.
- (e) Following the Distribution, each of the Distributing SAG and the Controlled SAG will continue the active conduct of its business, independently and with its separate employees, provided that certain employees of the Distributing SAG or the Controlled SAG are expected to provide certain transitional services to the other, for a period of up to i months following the Distribution.
- (f) The Distribution is being carried out for the following corporate business purposes: (i) to separate the Controlled Business and certain assets relating to Business B from Distributing's businesses in order to facilitate F's investment in the Controlled Business and certain assets relating to Business B in furtherance of, and in connection with, the H initiative, which is expected to provide meaningful long-term benefits by allowing Controlled to deploy the assets related to the Controlled Business and certain assets relating to Business B in the construction of the H network infrastructure in Country A, and (ii) to allow Distributing and Controlled to manage and operate their respective businesses with less complexity than presently exists under Distributing's current corporate structure. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (g) The Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (h) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution, other than debt incurred in connection with transactions entered into between Distributing and Controlled in the ordinary course of business.

- (i) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length (other than access to certain assets held by Distributing or Controlled and used by the other corporation after the Distribution and Transitional Services during the Transition Period).
- (j) Neither Distributing nor Controlled will be a controlled foreign corporation (within the meaning of § 957(a)) or a passive foreign investment company (within the meaning of § 1297(a)) immediately before or after the Distribution.

### **Rulings**

Based solely on the information submitted and the representations set forth above, we rule as follows on the Distribution:

- (1) No gain or loss will be recognized by, and no amount will otherwise be included in the income of, the shareholders of Distributing on the receipt of shares of Controlled Common Stock or Controlled ADSs in the Distribution. Section 355(a)(1).
- (2) The holding period of the shares of Controlled Common Stock or Controlled ADSs received by each shareholder of Distributing in the Distribution will include the holding period of the shares of Distributing Common Stock or Distributing ADSs with respect to which such shares of Controlled Common Stock or Controlled ADSs were received. Section 1223(1).
- (3) Each Shareholder's basis in a share of Distributing stock will be allocated between the share of Distributing stock with respect to which the Distribution is made and the share of Controlled stock received with respect to that share in proportion to their relative fair market values. Sections 358(a), 358(b), 358(c) and §1.358-2(a).
- (4) Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with §312(h) and §1.312-10(a).

### **Caveats**

Except as expressly provided herein, no opinion is expressed about the tax treatment of the Proposed Transaction or any other transaction or item mentioned in this letter under other provisions of the code or regulations, or about the tax treatment of any conditions existing at the time of, or effects resulting from, the foregoing that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether the Distribution satisfies the business purpose requirement of §1.355-2(b); (ii) whether the Proposed Transaction is used principally as a device for

the distribution of earnings and profits of Distributing; Controlled or both; or (iii) whether the Distribution is part of a plan (or series of related transactions) under §355(e)(2)(A)(ii).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

### **Procedural Statements**

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Isaac W. Zimbalist  
Senior Technical Reviewer, Branch 5  
Office of Associate Chief Counsel (Corporate)