

**Corporation Finance Department**  
**Securities and Exchange Board of India**  
Plot No. C 4-A, G Block  
Bandra Kurla Complex, Bandra East  
Mumbai, Maharashtra 400051

**28 April 2017**

**Dear Sir / Madam,**

**Sub: Request for interpretive letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in connection with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011**

**1. BACKGROUND**

- 1.1 Linde AG ("**Linde**") is a company founded in 1879 in Munich, Germany. Linde is one of the largest gases and engineering companies worldwide and manufactures a range of compressed and liquefied gases and chemicals. Linde is also active in the sale of products in the field of medical gases and of other products in the healthcare industry. Linde also has an engineering business which includes the technology, engineering, procurement, project management and construction of industrial plants. The registered office of Linde is located at Klosterhofstr 1, 80331 Munich, Germany. Linde holds directly or indirectly 100% of Linde UK Holdings 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**").
- 1.2 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 Association Ltd. (CSE), the Bombay Stock Exchange Ltd. (BSE) and the National Stock Exchange of India Ltd. (NSE).
- 1.3 Praxair, Inc. ("**Praxair**") is an American industrial gases company that was founded in 1907 by Carl 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 10 Riverview Dr. Danbury, CT 06810 USA.
- 1.4 **Proposed Merger of Equals:**
- 1.4.1 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 ("**Proposed Transaction**"). The combination would create a company with a current market value in excess of 65 billion U.S. dollars. The press release made by Linde in this regard on 20 December 2016 is attached hereto as **Annexure A**.
- 1.4.2 It is intended that a new company ("**New HoldCo**"), incorporated under the laws of Ireland, will become the parent company of the group of companies following the Proposed Transaction.



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- 1.4.3 The target structure intended in the Proposed Transaction is to be achieved through two parallel and coordinated measures (*two legs of the transaction*):
- (i) New HoldCo shall acquire the shares 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 shares in New HoldCo following which Linde will become a subsidiary of New HoldCo. The exchange offer is proposed to be subject to, inter alia, the condition that at least 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.
  - (ii) By way of a *reverse triangular merger* under the laws 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 favor of the merger. Praxair would thereby become a wholly owned indirect subsidiary of New HoldCo. All Praxair shareholders would become shareholders of New HoldCo as a result of the merger.
- 1.4.4 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.
- 1.4.5 In case of a successful implementation of the Proposed Transaction, both Linde and Praxair would become subsidiaries of New HoldCo.
- 1.4.6 New HoldCo would adopt the globally-recognized Linde name and be listed on both the New York Stock Exchange (NYSE) and the Frankfurt Stock Exchange (Prime Standard segment). New HoldCo will also seek inclusion in the S&P 500 and DAX 30 indices.
- 1.5 **Implementation of the Proposed Transaction and other key aspects:**
- 1.5.1 The implementation of the Proposed Transaction is subject to Linde and Praxair agreeing on the details of the transaction, the execution of a binding business combination agreement ("**BCA**") and, subsequently, the tender in the exchange offer of at least a qualified majority (presumably 75 %) of the Linde shares, the requisite approval of the merger by the Praxair shareholders, the receipt of necessary regulatory and other approvals and the satisfaction of certain other conditions.
- 1.5.2 Following the completion of the Proposed Transaction:
- (i) Linde will continue to exist and will become an indirect subsidiary of New HoldCo.
  - (ii) The (current) Linde shareholders will then hold 50% of the shares of New HoldCo (assuming that 100% of the Linde shares are tendered in the exchange offer) and will, in turn, become indirect shareholders of Linde.



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- 1.5.3 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 or Praxair, other than cash in lieu of any fractional shares.
- 1.5.4 Following the signing of the BCA:
- (i) Concerning Linde: New HoldCo will offer New HoldCo shares 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 document 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 document and check that the offer document 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 advise 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.
- 1.5.5 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 jurisdictions, other than the BaFin and SEC review process as described above, and other than the granting of antitrust and potential foreign investment clearances in various jurisdictions.
- 1.6 Applicable law in USA and Germany vs. Applicable law in India:
- 1.6.1 The aspects of the Proposed Transaction being undertaken in USA will be effected pursuant to Section 251 of the Delaware General Corporation Law ("Delaware Law"). Under Delaware Law, unlike in India (where High Courts / Tribunals sanction a scheme of arrangement involving merger), mergers are not required to be approved by any court or competent authority (such as the Registrar of Companies in India, which is given an opportunity to present objections before the High Court / Tribunal sanctions the scheme). Instead, under the applicable provisions of the Delaware Law, a majority of the shares of outstanding Praxair common stock are required to vote in favour of the merger. If the merger is not approved by the requisite majority, then the Proposed Transaction



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may not be effected. In the Proposed Transaction, the solicitation of shareholder votes must be effected pursuant to a proxy statement / prospectus that has been reviewed by the SEC. Therefore, under the applicable provisions of Delaware Law, Praxair's public shareholders are required to vote on the Proposed Transaction before the Proposed Transaction may be consummated (similar to the regime in India, except that the shareholders vote is conducted under instructions of the High Court / Tribunal in India, rather than following a satisfactory review of the proxy statement / prospectus by the SEC).

- 1.6.2 In addition to the extensive review by the SEC described above, as mentioned, in relation to the German aspects of the Proposed Transaction, BaFin also undertakes an extensive review of the exchange offer document in relation to New HoldCo's exchange offer to Linde's shareholders. Further, BaFin's Securities Supervision Directorate also monitors the takeover procedures. 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.

## 2. INFORMAL GUIDANCE BEING SOUGHT

Whether the exemption under Regulation 10(1)(d)(iii) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**Takeover Regulations**") would be applicable for the purpose of the Proposed Transaction?

## 3. RELEVANT PROVISIONS OF THE TAKEOVER REGULATIONS

- 3.1 The term "acquisition" under Regulation 2(1)(b) is defined as:

*"... directly or indirectly, acquiring or agreeing to acquire shares or voting rights in, or control over a target company".*

- 3.2 The term "control" under Regulation 2(1)(e) is defined as:

*"... includes the right to appoint majority of the directors; or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of shareholding or management rights or shareholders agreements or voting agreements or in any other matter".*

- 3.3 Regulation 5(1) states that:

*"For the purposes of regulation 3 and regulation 4, acquisition of shares or voting rights in, or control over, any company or other entity, that would enable any person and persons acting in concert with him to exercise or direct the exercise of such percentage of voting rights in, or control over, a target company, the acquisition of which would otherwise attract the obligation to make a public announcement of an open offer for acquiring shares under these regulations, shall be considered as an indirect acquisition of shares or voting rights in, or control over the target company."*



3.4 Regulation 3(1) states that:

*"No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations".*

3.5 Regulation 4 states that:

*"Irrespective of acquisition or holding of shares or voting rights in a target company, no acquirer shall acquire, directly or indirectly, control over such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations."*

3.6 Regulation 10(1)(d)(iii) states that:

*"10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfilment of the conditions stipulated therefor,—*

- (a)...*
- (b)...*
- (c)...*

*(d) acquisition pursuant to a scheme,—*

- (i)...*
- (ii)...*

*(iii) 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,—*

*(A) the component of cash and cash equivalents in the consideration paid being less than twenty-five per cent of the consideration paid under the scheme; and*

*(B) where after implementation of the scheme of arrangement, persons directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme."*

**4. PREVIOUS SEBI INFORMAL GUIDANCE ON THIS MATTER**

In a SEBI informal guidance dated December 12, 2007 in the matter of Akzo Nobel, the Corporation Finance Department of SEBI gave its views on an overseas transaction in the United Kingdom occurring pursuant to a scheme of arrangement being approved by the relevant court under the laws of the United Kingdom. This informal guidance is not of entire relevance to the aforesaid background / facts and queries.



5. SUBMISSIONS

- 5.1 At the outset, it may be noted that after the Proposed Transaction, the “immediate” (although indirect) shareholder of Linde India will remain Linde AG, and further it may be noted that the parties do not currently intend to make any changes to the composition of the board of directors of Linde India. It may further be noted that the shares of both Linde and Praxair are publically traded with both companies being controlled by their respective board of directors and having diversified shareholder structure. Further, there are certain common institutional shareholders that collectively hold approximately 19% of Linde's share capital and approximately 24% of Praxair's share capital. Upon completion of the Proposed Transaction, assuming that 100% of the Linde shares are tendered in the exchange offer, shareholders of Linde, including the said common shareholders will hold 50% of New HoldCo. Additionally, the common shareholders will also hold approximately 24% in New HoldCo as a result of the reverse triangular merger of the wholly owned indirect subsidiary of New HoldCo with and into Praxair. It is therefore submitted that existing shareholders of Linde, after taking into account the common shareholders, will continue to hold more than 50% in New HoldCo.
- 5.2 We understand that the intent of the exemption under Regulation 10(1)(d)(iii) is to exempt acquisitions pursuant to a scheme of arrangement (including amalgamation, mergers or demergers) occurring offshore (or domestically) not directly involving the Indian target company from mandatory open offer obligations.
- 5.3 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. We have set out in further detail below the regulatory process under each of such jurisdictions.
- Delaware Laws:**
- 5.4 As mentioned in paragraph 1.5.4 above, subsequent to the execution of the BCA, under Delaware Law, for the merger contemplated in the Proposed Transaction to be effected, a majority of the outstanding shares of Praxair must be voted in favor of the merger. As mentioned, in order to obtain the requisite approval, Praxair is required by law to deliver a proxy statement/prospectus to its shareholders to solicit their votes.
- 5.5 The proxy statement/prospectus is required to be submitted in the format prescribed, i.e. Form S-4 to the SEC, and is subject to any comments by the SEC on the contents therein, to which New HoldCo will be required to respond. The Form S-4 is required to disclose information in relation to the Proposed Transaction and the businesses of the parties, among other matters. Only following the completion of the SEC's review can a request be made to the SEC to declare the registration statement as effective. After the requisite approvals are obtained from the shareholders of Praxair, a certificate of merger is required to be filed with the Secretary of State of Delaware in order for the merger to become effective.
- 5.6 Therefore, from the process set out above, it is clear that a majority of Praxair's outstanding shares are required to be voted in favour of the merger prior to the consummation of the same, which is similar to the position in India, except that the shareholders vote is conducted under instructions of the High Court/ Tribunal in India.



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### German Laws:

- 5.7 In addition to the extensive review by the SEC described in paragraph 4.4, 4.5 and 4.6 above, as mentioned, BaFin also undertakes an extensive review of the exchange offer document in relation to New HoldCo's exchange offer to Linde's shareholders. Further, BaFin's Securities Supervision Directorate also monitors the takeover procedures. 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
- 5.8 While the Proposed Transaction itself does not require the approval or order of any court or competent authority under the laws of US or Germany, it is submitted that Linde and Praxair will need to go through the extensive review process described above with BaFin and SEC, and therefore there is significant oversight and review by the relevant regulators in each of the foreign jurisdictions on various aspects of the Proposed Transaction, in addition to antitrust clearances in various jurisdictions.
- 5.9 The Takeover Regulations Advisory Committee which was constituted under the chairmanship of Mr. C. Achuthan ("**TRAC Committee**") to examine and review the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, in its report dated July 19, 2010, concluded, while deliberating whether to remove the exemption for all schemes of arrangement or mergers or demergers where the target company was not a party, that "*such elimination of the exemption may not be equitable in the case of transactions that are genuine mergers (which several other laws including the Income Tax Act also recognize as deserving special treatment).*"
- 5.10 Further, the TRAC Committee arrived at a consensus that "*in cases of re-organization not involving the target company where 25% or more of the consideration under the scheme were offered by way of cash or cash equivalents (and hence the transaction was not just a merger), or where the existing body of shareholders of the parent retain less than 33% of the combined entity, the shareholders of the target company ought to get an opportunity to get an exit as well.*"
- 5.11 We respectfully submit that it can be deduced from the views of the TRAC Committee set out above that a fair assessment can be made on whether a merger is intended to be a genuine merger if: (i) the cash component is less than 25% of the consideration with respect to such merger; and (ii) the existing shareholders retain more than 33% in the combined entity. Further, it may be noted that the TRAC Committee has not discussed during its deliberations the strict application of the requirement of a scheme to be approved by a court or any other authority to avail the exemption provided under Regulation 10, but has instead emphasized on the genuineness of the merger, the cash component and retained shareholding by existing shareholders.
- 5.12 It is evident from a reading of Regulation 10(1)(d)(iii) that the views of the TRAC Committee have been reflected in the exemption concerning schemes of arrangement not involving the target company under the Takeover Regulations. Regulation 10(1)(d)(iii) explicitly stipulates the requirements regarding the cash component and existing shareholder's holding post merger holding discussed by the TRAC Committee in Regulation 10(1)(d)(iii)(A) and Regulation 10(1)(d)(iii)(B), respectively.



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- 5.13 It may be noted that there is no cash component as part of the consideration in the Proposed Transaction, other than cash in lieu of fractional shares. In addition, pursuant to the merger contemplated by the Proposed Transaction, the shareholders of Linde will hold more than 33% in the New HoldCo (they will hold at least 41%, assuming a 75% minimum acceptance condition). Therefore, both the conditions prescribed in Regulation 10(1)(iii)(d)(A) and 10(1)(iii)(d)(B) would be satisfied by the Proposed Transaction.
- 5.14 It is respectfully submitted that if SEBI were to adopt a strict and technical interpretation (instead of a harmonious and purposive interpretation of the said exemption), this would in effect create significant road-blocks/ challenges for transactions executed in the USA, Germany (and other jurisdictions where corporate arrangements/ reconstructions are not required to be effected pursuant to an order of a court/ competent authority) indirectly affecting Indian listed companies.

We look forward to receiving your views at the earliest. Many thanks in advance for taking the time to consider our application. Please do not hesitate to get in touch with us at the coordinates mentioned below for any clarifications. Should you prefer a personal hearing to further discuss this letter, we and our advisors would be happy to visit your offices.

Given the sensitivities involved in a transaction of this nature, we also request you to treat this letter and your response to it strictly confidential in terms of the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.

We would be grateful if you could confirm the receipt of this letter in good order by way of an email to the undersigned.

Sincerely,

Dr. Christoph Hammerl  
Head of Group Legal & Compliance  
Christoph.Hammerl@linde.com

Dr. Henning Asche, LL.M.  
Head of Legal - Corporate & Finance  
Henning.Asche@linde.com



## Linde and Praxair Announce Intention to Merge

### Corporate News

#### Strategic Highlights

- Combination leverages unique strengths of each company: Linde's long-standing leadership in technology with Praxair's operational excellence
- Brings together strong, complementary positions in key geographies, creates a more diverse and balanced end market portfolio
- Enhanced ability to provide innovative, reliable and cost-efficient solutions for customers
- Combined pro forma revenues of approximately \$30 billion (EUR 28 billion) and current market value in excess of \$65 billion (EUR 61 billion)
- Transaction expected to create considerable value, resulting in approximately \$1 billion (EUR 0.9 billion) in annual synergies
- Robust balance sheet and strong cash flow generation, with financial flexibility to invest in future growth

#### Transaction Highlights

- All-stock transaction: Linde shareholders would receive 1.540 shares in a new holding company for each Linde share and Praxair shareholders would receive one share in the new holding company for each Praxair share, resulting in Linde and Praxair shareholders each owning approximately 50% of the new holding company
- Governed by a single Board of Directors with equal representation from Linde and Praxair
- The combined company would be named Linde, retaining the globally recognized brand and would be listed on both the New York Stock Exchange and Frankfurt Stock Exchange

**Munich, Germany and Danbury, Connecticut , 20 December 2016** – Linde AG (Xetra: LIN) and Praxair Inc. (NYSE: PX) today announced that the companies intend to combine in a merger of equals under a new holding company through an all-stock transaction. The companies have signed a non-binding term sheet

and expect to execute a definitive Business Combination Agreement as soon as practicable. Based on 2015 reported results, the combination would create a company with pro forma revenues of approximately \$30 billion (EUR 28 billion), prior to any divestitures, and a current market value in excess of \$65 billion (EUR 61 billion).

The proposed merger would bring together two leading companies in the global industrial gas industry, leveraging the proven strengths of each. The transaction would unite Linde's long-held leadership in technology with Praxair's efficient operating model, creating a global leader. The combined company would enjoy strong positions in all key geographies and end markets and create a more diverse and balanced global portfolio. Additionally, it would enable the development and delivery of more innovative products and services to customers.

"The strategic combination between Linde and Praxair would leverage the complementary strengths of each across a larger global footprint and create a more resilient portfolio with increased exposure to long-term macro growth trends," said Steve Angel, Praxair's Chairman and CEO. "We consider this to be a true strategic merger, as it brings together the capabilities, talented people and best-in-class processes of both companies, creating a unique and compelling opportunity for all of our stakeholders."

"Under the Linde brand, we want to combine our companies' business and technology capabilities and form a global industrial gas leader. Beyond the strategic fit, the compelling, value-creating combination would achieve a robust balance sheet and cash flow and generate financial flexibility to invest in our future," said Professor Dr Aldo Belloni, CEO of Linde.

### **Value creation from the combination**

The merged company would create significant value for shareholders through the realization of approximately \$1 billion (EUR 0.9 billion) in annual synergies, driven by scale benefits, cost savings and efficiency improvements.

### **Governance and Leadership**

The combined company would be governed by a single Board of Directors with equal representation from Linde and Praxair. Linde's Supervisory Board Chairman, Professor Dr. Wolfgang Reitzle, would become Chairman of the new company's Board. Praxair's Chairman and CEO, Steve Angel, would become CEO and a member of the Board of Directors.

The combined company would adopt the globally-recognized Linde name and be listed on both the New York Stock Exchange (NYSE) and the Frankfurt Stock Exchange (Prime Standard segment). The new company will seek inclusion in the S&P 500 and DAX indices.

The new holding company would be formed and domiciled in a neutral member state of the European Economic Area ("EEA"), with the CEO based in Danbury, Connecticut USA. Corporate functions would be appropriately split between Danbury, Connecticut and Munich, Germany to help achieve efficiencies for the combined company.

### **Proposed Merger Structure**

Under the proposed terms of the transaction, Linde shareholders would receive 1.540 shares in the new holding company for each Linde share exchanged in the German offer, and Praxair shareholders would receive one share in the new holding company for each Praxair share. As a result, current Linde and Praxair shareholders would each own approximately 50% of the combined company assuming a 100% share exchange in the German offer.

### **Next Steps and Timing**

The parties expect to complete their internal approvals and execute the definitive Business Combination Agreement in the coming months. Execution of a definitive Business Combination Agreement remains subject to confirmatory due diligence, further negotiations and board approvals of both Linde and Praxair. There is no assurance that a binding definitive agreement will be reached between the parties, and the consummation of any binding transaction will be subject to shareholder and regulatory approvals and other customary closing conditions. Linde and Praxair are confident that any required regulatory approvals, including any required divestitures, could be obtained in a timely manner following the execution of a definitive Business Combination Agreement.

### **Advisors**

Perella Weinberg Partners and Morgan Stanley are acting as financial advisors and Hengeler Mueller, Cravath, Swaine & Moore LLP and Linklaters LLP (regulatory) serving as legal counsel to Linde. Credit Suisse is acting as exclusive financial advisor and Sullivan & Cromwell LLP is serving as legal counsel to Praxair.

### **About Linde**

In the 2015 financial year, The Linde Group generated revenue of EUR 18 billion, making it one of the leading gases and engineering companies in the world, with approximately 65,000 employees working in more than 100 countries worldwide. The strategy of The Linde Group is geared towards long-term profitable growth and focuses on the expansion of its international business with forward-looking products and services. Linde acts responsibly towards its shareholders, business partners, employees, society and the environment in every one of its business areas, regions and locations across the globe. The company is committed to technologies and products that unite the goals of customer value and sustainable development.

For more information, see The Linde Group online at [www.linde.com](http://www.linde.com) (<http://www.linde.com/en/index.html>)

### **About Praxair**

Praxair, Inc., a Fortune 300 company with 2015 sales of \$11 billion, is a leading industrial gas company in North and South America and one of the largest worldwide. The company produces, sells and distributes atmospheric, process and specialty gases, and high-performance surface coatings. Praxair products, services and technologies are making our planet more productive by bringing efficiency and environmental benefits to a wide variety of industries, including aerospace, chemicals, food and beverage, electronics, energy, healthcare, manufacturing, primary metals and many others.

More information about Praxair, Inc. is available at [www.praxair.com](http://www.praxair.com) (<http://www.praxair.com/>).

## Disclaimer

### Additional Information and Where to Find It

Should Praxair, Inc. ("Praxair") and Linde AG ("Linde") proceed with the proposed business combination transaction, Praxair and Linde expect that a newly formed holding company ("New Holdco") will file a Registration Statement on Form S-4 or Form F-4 with the U.S. Securities and Exchange Commission ("SEC") that will include (1) a proxy statement of Praxair that will also constitute a prospectus for New Holdco and (2) an offering prospectus of New Holdco to be used in connection with New Holdco's offer to acquire Linde shares held by U.S. holders. When available, Praxair will mail the proxy statement/prospectus to its stockholders in connection with the vote to approve the merger of Praxair and a wholly-owned subsidiary of New Holdco, and New Holdco will distribute the offering prospectus to Linde shareholders in the United States in connection with New Holdco's offer to acquire all of the outstanding shares of Linde. Should Praxair and Linde proceed with the proposed business combination transaction, Praxair and Linde also expect that New Holdco will file an offer document with the German Federal Financial Supervisory Authority (Bundesanstalt fuer Finanzdienstleistungsaufsicht) ("BaFin"). There can be no assurance that a binding definitive agreement will be reached between Praxair and Linde, and the consummation of any binding transaction will be subject to regulatory approvals and other customary closing conditions.

**INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS AND THE OFFER DOCUMENT REGARDING THE PROPOSED BUSINESS COMBINATION TRANSACTION AND PROPOSED OFFER IF AND WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION.** You may obtain a free copy of the proxy statement/prospectus (if and when it becomes available) and other related documents filed by Praxair, Linde and New Holdco with the SEC on the SEC's Web site at [www.sec.gov](http://www.sec.gov) (<https://www.sec.gov/>). The proxy statement/prospectus (if and when it becomes available) and other documents relating thereto may also be obtained for free by accessing Praxair's Web site at [www.praxair.com](http://www.praxair.com). Following approval by the BaFin, the offer document will be made available at BaFin's Web site at [www.bafin.de](http://www.bafin.de). The offer document (if and when it becomes available) and other documents relating thereto may also be obtained for free by accessing Linde's Web site at [www.linde.com](http://www.linde.com).

This document is neither an offer to purchase nor a solicitation of an offer to sell shares of New Holdco, Praxair or Linde. The final terms and further provisions regarding the public offer will be disclosed in the offer document after the publication has been approved by the BaFin and in documents that will be filed with the SEC. No money, securities or other consideration is being solicited, and, if sent in response to the information contained herein, will not be accepted. The information contained herein should not be considered as a recommendation that any person should subscribe for or purchase any securities.

No offering of securities shall be made except by means of a prospectus meeting the requirements of the U.S. Securities Act of 1933, as amended, and applicable European and German regulations. The distribution of this document may be restricted by law in certain jurisdictions and persons into whose possession any document or other information referred to herein come should inform themselves about and observe any such restrictions. Any failure to comply with these restrictions may constitute a violation of the securities laws of any such jurisdiction. No offering of securities will be made directly or indirectly, in or into any jurisdiction where to do so would be inconsistent with the laws of such jurisdiction.

## Participants in Solicitation

Praxair, Linde, New Holdco and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from Praxair's stockholders in respect of the proposed business combination. Information regarding the persons who are, under the rules of the SEC, participants in the solicitation of the stockholders of Praxair in connection with the proposed transaction, including a description of their direct or indirect interests, by security holdings or otherwise, will be set forth in the proxy statement/prospectus if and when it is filed with the SEC. Information regarding the directors and executive officers of Praxair is contained in Praxair's Annual Report on Form 10-K for the year ended December 31, 2015 and its Proxy Statement on Schedule 14A, dated March 18, 2016, which are filed with the SEC and can be obtained free of charge from the sources indicated above.

## Forward-looking Statements

This communication includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements are based on our beliefs and assumptions on the basis of factors currently known to us. These forward-looking statements are identified by terms and phrases such as: anticipate, believe, intend, estimate, expect, continue, should, could, may, plan, project, predict, will, potential, forecast, and similar expressions. These forward-looking statements include, but are not limited to, statements regarding benefits of the proposed business combination, integration plans and expected synergies, and anticipated future growth, financial and operating performance and results. Forward-looking statements involve risks and uncertainties that may cause actual results to be materially different from the results predicted or expected. No assurance can be given that these forward-looking statements will prove accurate and correct, or that projected or anticipated future results will be achieved. Factors that could cause actual results to differ materially from those indicated in any forward-looking statement include, but are not limited to: the expected timing and likelihood of the entry into, or the completion of the contemplated business combination, including the timing, receipt and terms and conditions of any required governmental and regulatory approvals of the contemplated business combination that could reduce anticipated benefits or cause the parties not to enter into, or to abandon the transaction; the occurrence of any event, change or other circumstances that could give rise to the termination of the proposed business combination agreement; the ability to successfully complete the proposed business combination and the exchange offer; regulatory or other limitations imposed as a result of the proposed business combination; the success of the business following the proposed business combination; the ability to successfully integrate the Praxair and Linde businesses; the possibility that Praxair stockholders may not approve the proposed business combination agreement or that the requisite number of Linde shares may not be tendered in the public offer; the risk that the parties may not be able to satisfy the conditions to closing of the proposed business combination in a timely manner or at all; risks related to disruption of management time from ongoing business operations due to the proposed business combination; the risk that the announcement or consummation of the proposed business combination could have adverse effects on the market price of Linde's or Praxair's common stock or the ability of Linde and Praxair to retain customers, retain or hire key personnel, maintain relationships with their respective suppliers and customers, and on their operating results and businesses generally; the risk that New Holdco may be unable to achieve expected synergies or

that it may take longer or be more costly than expected to achieve those synergies; state, provincial, federal and foreign legislative and regulatory initiatives that affect cost and investment recovery, have an effect on rate structure, and affect the speed at and degree to which competition enters the industrial gas, engineering and healthcare industries; outcomes of litigation and regulatory investigations, proceedings or inquiries; the timing and extent of changes in commodity prices, interest rates and foreign currency exchange rates; general economic conditions, including the risk of a prolonged economic slowdown or decline, or the risk of delay in a recovery, which can affect the long-term demand for industrial gas, engineering and healthcare and related services; potential effects arising from terrorist attacks and any consequential or other hostilities; changes in environmental, safety and other laws and regulations; the development of alternative energy resources; results and costs of financing efforts, including the ability to obtain financing on favorable terms, which can be affected by various factors, including credit ratings and general market and economic conditions; increases in the cost of goods and services required to complete capital projects; the effects of accounting pronouncements issued periodically by accounting standard-setting bodies; conditions of the debt and capital markets; market acceptance of and continued demand for Linde's and Praxair's products and services; changes in tax laws, regulations or interpretations that could increase Praxair's, Linde's or New Holdco's consolidated tax liabilities; and such other factors as are set forth in Linde's annual and interim financial reports made publicly available and Praxair's and New Holdco's public filings made with the SEC from time to time, including but not limited to those described under the headings "Risk Factors" and "Forward-Looking Statements" in Praxair's Form 10-K for the fiscal year ended December 31, 2015, which are available via the SEC's website at [www.sec.gov](http://www.sec.gov). The foregoing list of risk factors is not exhaustive. These risks, as well as other risks associated with the contemplated business combination, will be more fully discussed in the proxy statement/prospectus and the offering prospectus that will be included in the Registration Statement on Form S-4 or Form F-4 that will be filed with the SEC and in an offering document and/or any prospectuses or supplements to be filed with BaFin in connection with the contemplated business combination. In light of these risks, uncertainties and assumptions, the events described in the forward-looking statements might not occur or might occur to a different extent or at a different time than Linde, Praxair or New Holdco has described. All such factors are difficult to predict and beyond our control. All forward-looking statements included in this document are based upon information available to Linde, Praxair and New Holdco on the date hereof, and each of Linde, Praxair and New Holdco disclaims and does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

## Downloads

 [Linde and Praxair Announce Intention to Merge](#)

(PDF 172 KB)

[\(/internet.global.thelindegrouppublic.com/en/images/201216\\_Linde\\_Press%20release\\_Term%20Sheet\\_ENG14\\_392900.pdf?v=2.0\)](http://internet.global.thelindegrouppublic.com/en/images/201216_Linde_Press%20release_Term%20Sheet_ENG14_392900.pdf?v=2.0)

 [The Linde Group Logo small](#)

(Image 37 KB)

[\(/internet.global.thelindegrouppublic.com/en/images/TLG\\_Logo\\_Blue\\_RGB\\_Small14\\_167936.jpg?v=1.0\)](http://internet.global.thelindegrouppublic.com/en/images/TLG_Logo_Blue_RGB_Small14_167936.jpg?v=1.0)

 [The Linde Group Logo medium](#)

(Image 75 KB)

[\(/internet.global.thelindegroupp.global/en/images/TLG\\_Logo\\_Blue\\_RGB\\_Medium14\\_167937.jpg?v=1.0\)](/internet.global.thelindegroupp.global/en/images/TLG_Logo_Blue_RGB_Medium14_167937.jpg?v=1.0)

 [The Linde Group Logo large](#)

(Image 159 KB)

[\(/internet.global.thelindegroupp.global/en/images/TLG\\_Logo\\_Blue\\_RGB\\_Large14\\_167938.jpg?v=1.0\)](/internet.global.thelindegroupp.global/en/images/TLG_Logo_Blue_RGB_Large14_167938.jpg?v=1.0)

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