

# COVER SHEET

A 1 9 9 8 1 3 7 5 4

SEC Registration Number

PUREGOLD PRICE CLUB, INC.

(Company's Full Name)

NO. 900 ROMUALDEZ ST., PACO,

MANILA

(Business Address: No. Street City/Town/Province)

CANDY DACANAY-DATUON

(Contact Person)

(02) 524-4451/ 523-3055

(Company Telephone Number)

1 2

Month

3 1

Day

M I S C / L E T T E R

(Form Type)

0 5

Month

0 8

Day

(Secondary License Type, If Applicable)

Dept. Requiring this Doc

Amended Articles Number/Section

Total No. of Stockholders

Total Amount of Borrowing

Domestic

Foreign

To be accomplished by SEC Personnel concerned

File Number

LCU

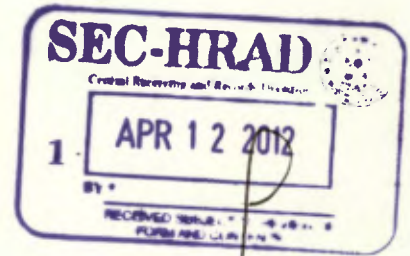
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Cashier



12 April 2012

**SECURITIES AND EXCHANGE COMMISSION**  
**Corporation Finance Department**  
SEC Building  
Epifanio delos Santos Avenue  
1550 Mandaluyong City  
Metro Manila



Attention: **ATTY. JUSTINA F. CALLANGAN**  
Director

Re: **Notices and Communications of Company to  
Its Stockholders, such as Notices of Meeting  
and Definitive Information Statements**

**Gentlemen:**

We write to request for confirmation that **Puregold Price Club Inc.** (the "Company") may send to its stockholders of record notices and communications such as Notices of Stockholders' Meetings ("Notice/s"), Definitive Information Statements ("DIS"), Management's Reports, including all the attachments thereto, in electronic format.

#### **A. BACKGROUND**

The Company is a duly registered domestic corporation incorporated on 8 September 1998. It is a public company, as defined under Rule 3(1)(M) of the Amended Implementing Rules and Regulations of the Securities Regulation Code, and is currently listed with the Philippine Stock Exchange, Inc. As of 31 December 2011, the Company has six stockholders of record with at least one board lot each with 100 shares but the Company intends to send the abovesited reports to as many brokers and subscribers and Puregold shares.

The Company is planning to hold its first Annual Stockholders meeting as a publicly traded company. As part of the Company's effort to contribute to the conservation of the environment and reduction of its Carbon Foot Print, the Company wants to reduce the amount of paper used for sending to its stockholders of record notices and communications, such as Notices, DIS, Management's Reports, and the attachments thereto.

#### **B. ELECTRONIC FORMAT**

Due to the large number of stockholders of the Company, we will dramatically reduce its paper consumption and, consequently, its environmental footprint if it sends its notices and communications, such as Notices, DIS, Management's Reports, including the attachments thereto, in electronic format.

Thus, with the permission of the Honorable Commission, The Company is proposing to send to its stockholders of record notices and communications, such as the Notices, DIS, Management's Reports, and the attachments thereto, in electronic format for the Annual Stockholders' Meeting for 2012 and for all subsequent notices/communications with the Company's stockholders. Specifically, the documents will be in "Portable Document Format" ("PDF") and stored in a CD. The CD containing the PDF will be transmitted to the stockholders of record by courier.

The foregoing notwithstanding, the Company intends to allow a stockholder of record to still request for a printed copy of the notices and communications. Thus, when a CD containing the PDF is sent to the stockholders of record, there will be an accompanying printed sheet stating that a stockholder may request the Company for a printed copy of the Notice, DIS, Management's Report, and the attachments thereto. Such notice shall state the name and contact number of the person who will be handling such type of requests. Upon receipt of a request for a printed copy of the said documents, the Company shall immediately send a printed copy to the stockholder requesting the same.

Additionally, a stockholder, instead of asking for printed notices or communications from Company, may opt to receive the notices by electronic mail by sending instructions to this effect to the Company.

Aside from being environmentally friendly, the proposed manner of sending notices and communications, such as the Notices, DIS, Management's Reports, and the attachments thereto, in electronic format is expressly recognized under Philippine law.

The Implementing Rules and Regulations of the Securities Regulation Code ("SRC Rules") provide that the DIS and Notice have to be in writing. In particular, SRC Rule 20(3)(A), provides:

"A. In connection with an annual or other meetings of stockholders, **the registrant shall transmit a written information statement** and proxy form (in case of proxy solicitation) containing the information specified under SEC Form 20-IS, **and a management report** under paragraph (4) of this Rule, if applicable, to every security holder of the class that is entitled to vote." [Emphasis supplied]

The SRC Rules, under Section 20(11)(a)(iii), further state:

\*iii. **Written notice**, stating the date, time and place of the annual meeting **shall be sent to all stockholders of record** at least two (2) weeks prior to the scheduled annual stockholders' meeting, unless a different period is required by the by-laws. The distribution to stockholders of information statement (SEC Form 20-IS) within the prescribed period under this Rule shall be sufficient compliance with the notice requirement." [Emphasis supplied]

Additionally, the By-Laws of the Company reads:

**"Sec. 4. Notice of Meeting.** - Notices for regular or special meetings of stockholders may be sent by the Secretary by personal delivery or by mail at least two (2) weeks prior to the date of the meeting to each stockholder of record at his last known address. The notice shall state the place, date and hour of the meeting, and the purposes for which the meeting is called.



When the meeting of stockholders is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. At the reconvened meeting, any business may be transferred that might have been transacted on the original date of the meeting."

From the foregoing, the only requirement under the SRC Rules and Company's By-Laws is for the DIS, Notice, and Management Report to be **in writing** and **not in a printed paperback hard copy format as opposed to an electronic PDF copy.**

Moreover, the Implementing Rules and Regulations of Republic Act No. 8792, otherwise known as the Electronic Commerce Act ("E-Commerce IRR"), expressly provides that a document that is required to be in writing can be complied with if it is an electronic data message or electronic document. The law states to wit;

**"SECTION 7. *Legal Recognition of Electronic Data Messages and Electronic Documents.*** - Information shall not be denied validity or enforceability solely on the ground that it is in the form of an electronic data message or electronic document, purporting to give rise to such legal effect. Electronic data messages or electronic documents shall have the legal effect, validity or enforceability as any other document or legal writing. In particular, subject to the provisions of the Act and these Rules:

a) A requirement under law that information is in writing is satisfied if the information is in the form of an electronic data message or electronic document.

**b) A requirement under law for a person to provide information in writing to another person is satisfied by the provision of the information in an electronic data message or electronic document.**

c) A requirement under law for a person to provide information to another person in a specified non-electronic form is satisfied by the provision of the information in an electronic data message or electronic document if the information is provided in the same or substantially the same form.

d) Nothing limits the operation of any requirement under law for information to be posted or displayed in specified manner, time or location; or for any information or document to be communicated by a specified method unless and until a functional equivalent shall have been developed, installed, and implemented." [Emphasis supplied]

Based on the foregoing, the Electronic Commerce Act of 2000 clearly provides that any requirement to provide information in writing, such as the Notice and the DIS, is satisfied if the same is given in electronic format stored by electronic, **optical** or similar means. The E-Commerce IRR defines an Electronic Data Message as follows:

"(e) 'Electronic data message' refers to **information generated, sent, received or stored by electronic, optical or similar means**, but not limited to, electronic data interchange (EDI), **electronic mail**, telegram, telex or teletype. Throughout these Rules, the term "electronic data message" shall be equivalent to and be used interchangeably with "electronic document."<sup>1</sup> [Emphasis supplied]

Thus, the Company, by sending notices and communications, such as the DIS, Notices, Management's Reports, and the attachments thereto, as a PDF file contained in a CD or, if requested, by email to its stockholders of record, is doing its part in protecting the environment and is, at the same time, compliant with the Securities Regulation Code and the SRC Rules.

We note that there is nothing in the Company's By-Laws that actually prohibits Company from implementing the foregoing manner of sending notices and communications via electronic means as the By-Laws does not limit the sending of notices in paperback printed format.

This conclusion is reasonable considering that in interpreting a Company's business purpose, the SEC has ruled that a Company has the authority to perform all acts or enter in contracts that have a logical relation to the business purpose stated in the AOI.<sup>2</sup> In another SEC opinion, the SEC further opined that a company is authorized to perform a business that is not just stated in its primary purpose but may also perform a business that is necessary for the accomplishment of the purpose of the corporation or incidental to it. The company may even "stretch" the meaning of the purpose clause to cover new and unexpected situations.<sup>3</sup>

Hence, it can be seen that an interpretation that the Bylaws does not prohibit electronic communications is in tune with the SEC's liberal approach in interpreting a Company's Constituent documents as long as the interpretation is not expressly prohibited by the express wordings of the document being interpreted.

The Company therefore, submits that it can send its notices via electronic means as the law or the Company Bylaws does not expressly prohibit this and that the sending of notices via electronic means is a logical way of communicating in light of the recent developments in electronic commerce.

### **C. OMB Certification**

In addition to the sending of the notices in electronic format, we have been informed by the SEC that we are required to secure a clearance and replication permit from the Optical Media Board ("OMB") relating to our replication of our Notice, DIS, management report and Attachments. (Hereinafter referred to us the "CD")

In this regard, it is our position that such clearance and permit is not required. The Company is not engaged in the business of replicating optical media nor does it plan to engage the services of a replication Company to produce the CD. The Company is planning to use its in house MIS team who will do the duplication in-house.

It bears stressing that the law only requires the clearance and permit from entities that are engaged in the Optical Media Business, which the Company is not.

<sup>1</sup> Implementing Rules and Regulations of the Electronic Commerce Act, Part II, Chapter I, § 6(e).

<sup>2</sup> Villanueva, The Corporation Code of the Philippines, p. 162

<sup>3</sup> SEC Opinion No. 24-08, October 22, 2008

Puregold will not derive any income from the sending of the CD that is required by law to be sent to its stockholders. R.A. 9239 clearly states as follows:

**Section 13. Licensing and Registration.** - Any person, establishment or entity shall, prior to engaging in one or more of the business or activities enumerated hereunder, register with, and secure the appropriate licenses from the OMB:

(a) Importation, exportation, acquisition, sale or distribution of optical media, manufacturing equipment, parts and accessories and manufacturing materials used or intended for use in the mastering, manufacture or replication of optical media;

(b) Possession or operation of manufacturing equipment, parts and accessories, or the possession acquisition, sale or use of manufacturing materials for the mastering, manufacture or replication of optical media; and

(c) The mastering, manufacture, replication, importation or exportation of optical media.

With respect to the preceding paragraph (c), the licenses issued by the OMB are conditions precedent for securing the necessary business permits, licenses, or registration from the appropriate authorities, and shall also be necessary requirement for the release of manufacturing equipment, parts and accessories, and materials intended for use in mastering and/or manufacturing optical media, from customs or economic zones exercising independent custom laws.

Those engaged or intending to engage in more than one of the above mentioned activities and/or conduct or intend to conduct business in more than one location shall separately register with and secure the license from the OMB for every business activity at each place of business.  
(Emphasis supplied)

As can be seen, the law makes constant reference to the word business, which as we all know refers to a continued commercial activity. By using this word, it is clear that the license requirement only applies to those entities that are engaged in earning money from distributing, replicating, manufacturing, importation or the exportation of optical media or optical media machines. This is not a business of the Company as clearly stated in its AOI. As such, we submit that the OMB clearance is not necessary anymore.

#### **D. Conclusion**

We therefore kindly request the following:

- a.) Confirmation that the Company may send to its stockholders of record notices and communications, such as the Notices, DIS, Management's Reports, and the attachments thereto, in electronic format for the Annual Stockholders' Meeting for 2013 and for all subsequent notices and communications with the Company's stockholders;



- b.) Confirmation that the Company By-Laws does not prohibit communications by electronic means and that it does not need to amend it By-Laws to send notices and communications to its stockholders of record by electronic means.
- c.) Confirmation that the Company is not required to secure an OMB certification considering that the reproduction of the CD shall be done by the Company's in-house MIS staff.

With respect to item (b) and (c): if the Honorable Commission is of the opinion that the By-Laws of Company needs to be amended and that an OMB certification is procured, so that Company may send notices and communications to its stockholders of record by electronic means, the Company undertakes to propose this amendment to its Board of Directors in its next meeting and to submit the amendment to its stockholders of record for approval at the next Annual Stockholders' Meeting in 2013. While for the OMB certification the Company undertakes to secure this certification or clearance on or before the May 8 Stockholders meeting.

In the meantime, Company requests that it be allowed to send the Notice, DIS, Management's Report, and the attachments thereto, to its stockholders of record in electronic format for the 2012 Annual Stockholders' Meeting, as it is physically impossible now to print all the paper versions of the Notice, DIS, Management report and the Attachments in time for the May 8, 2012, stockholders meeting.

If you have any questions on the foregoing, please do not hesitate to contact us. For your perusal we have attached herewith the draft notice of the meeting, which shall be in printed paperback version that will be distributed with the CD.

Thank you for your kind consideration.

Very truly yours,



**ATTY. GANDY H. DACANAY-DATUON**  
Assistant Corporate Secretary

## NOTICE OF ANNUAL STOCKHOLDERS' MEETING

To All Stockholders:

Please be advised that the **ANNUAL STOCKHOLDERS' MEETING OF PUREGOLD PRICE CLUB, INC.** will be held on the 8<sup>th</sup> day of May 2012, 2 pm, at the Manila Golf & Country Club, Harvard Road, Forbes Park, Makati City.

IN RELATION TO THIS, WE ARE SENDING HERewith IN ELECTRONIC FORMAT THE NOTICE OF MEETING, DEFINITIVE INFORMATION STATEMENT, MANAGEMENT REPORT AND ATTACHMENTS REQUIRED BY LAW TO BE GIVEN TO ALL STOCKHOLDERS OF RECORD. (PLEASE SEE ATTACHED CD)

IF YOU WISH TO RECEIVE A PRINTED COPY OF THE NOTICE, DIS, MANAGEMENT'S REPORT, AND THE ATTACHMENTS, PLEASE CONTRACT:

Office of the Corporate Secretary  
Puregold Price Club, Inc.  
No. 900 Romualdez St., Paco, Manila

PLEASE ALLOW US FIVE (5) BUSINESS DAYS TO SEND THIS NOTICE TO YOU.

IF ON THE OTHER HAND YOU WISH TO RECEIVE THE NOTICES BY ELECTRONIC MAIL PLEASE SEND AN EMAIL REQUEST TO [candy.dacanay@puregold.com.ph](mailto:candy.dacanay@puregold.com.ph) AND ATTENTION: STOCKHOLDERS MEETING KIT.

Lastly please take note that the Agenda of the stockholders meeting shall be as follows:

1. Call to order
2. Certification of service of notice and existence of quorum
3. Annual Report of the Chairman
4. Approval of Chairman's Annual Report and ratification of all other acts and resolutions of the Board of Directors and Management from the date of the previous Stockholders' Meeting
5. Presentation of the audited financial statements for the period ended 31 December 2011
6. Election of seven (7) directors inclusive of two (2) independent directors
7. Appointment of External Auditor
8. Approval of the acquisition by the Company of 1,703,125 shares of Kareila Management Corporation through a share for share swap of 766,406,250 shares of the Company with the Co Family, and the waiver by at least a majority of the outstanding shares held by the minority stockholders of PGOLD of the rights or public offering requirement provided in Section 5,



Part A of Article V of the Revised Listing Rules of the Philippine Stock Exchange.

9. Approval of the Stock Option Plan
10. Other Matters
11. Adjournment

Only Stockholders of record as of the close of business on 4 April 2012 are entitled to notice of, and to vote at such meeting. The stock and transfer book of the company will be closed from 24 April 2012 to 7 May 2012.

If you do not expect to attend the annual meeting, you may execute and return the proxy form in the envelope provided for that purpose to the office of the company at: **No. 900 Romualdez St., Paco, Manila, 1007**. The deadline for the submission of proxies is on **27 april 2012**.

On the day of the meeting, you or your duly designated proxy are hereby required to bring this Notice and any form of identification such as driver's license, passport, company I.D., voter's I.D., or TIN Card to facilitate registration. Registration shall start at 1:00 p.m and will close at 1:45 p.m.

Manila, Philippines.

**BABY GERLIE I. SACRO**  
Corporate Secretary