India Globalization Capital, Inc. Form 10-K/A November 03, 2011

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM 10-K/A Amendment No. 2

- h Annual report under Section 13 or 15(d) of the Securities Exchange Act of 1934. For the fiscal year ended March 31, 2011
- o Transition report under Section 13 or 15(d) of the Exchange Act.

Commission file number 1-32830

INDIA GLOBALIZATION CAPITAL, INC. (Name of small business issuer in its charter)

Maryland
(State or other jurisdiction of incorporation or organization)

20-2760393 (I.R.S. Employer Identification No.)

4336 Montgomery Ave. Bethesda, Maryland 20814 (Address of principal executive offices)

(301) 983-0998 (Issuer's telephone number) Securities registered under Section 12(b) of the Exchange Act:

Title of Each Class

Name of exchange on which registered

Units, each consisting of one share of Common

NYSE Amex

Stock

and two Warrants

Common Stock

NYSE Amex

Common Stock Purchase Warrants

NYSE Amex

Securities registered under Section 12(g) of the Exchange Act: None.

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

oYes bNo

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

o Yes b No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

b Yes o No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Indicate by check mark disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. b

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

o Yes b No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: \$12,570,784.

As of June 15, 2011 there were 19,758,771 shares of common stock issued and outstanding.

Explanatory Note to Amendment No. 2

This Amendment No. 2 to the Annual Report on Form 10-K/A ("Form 10-K/A") amends our Annual Report on Form 10-K for the year ended March 31, 2011, which was filed with the Securities and Exchange Commission ("SEC") on July 14, 2011, as amended by Amendment No. 1 to the Annual Report on Form 10-K/A, which was filed with the SEC on July 27, 2011 ("Form 10-K").

This Form 10-K/A is being filed to supplement the following sections of the Form 10-K for the purpose of providing additional disclosure in response to comments received from the Staff of the SEC in connection with a review of our Form 10-K:

Part I – Item 1A. Risk Factors

We included a new risk factor regarding the lack of availability of timely and sufficient financial information on Sricon India Private Limited ("Sricon"), a company in which we own a 22% stake.

Part II – Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Selling, General and Administrative expenses: we revised our disclosure to indicate how a \$1.52 million bad debt write-off that was considered to be irrecoverable arose, and the facts and circumstances that resulted in our determination that such amounts are irrecoverable.

Impairment loss – goodwill: we revised our disclosure to delete a reference to the market potential for the infrastructure business in India.

Liquidity and capital resources: we revised our disclosure to discuss the impact on liquidity if either (1) the NHAI or Cochin Airport receivables were classified as long term assets or (2) the receivables were not collected in the 2012 fiscal year.

Part II - Item 8. Financial Statements and Supplementary Data

Consolidated Balance Sheets: we amended the financial statements to present non-controlling interest as part of the stockholders' equity on the balance sheets, such that the total on the balance sheet is the same as the statement of stockholders' equity. It was previously presented as a separate line item after stockholders' equity. We also added a line to show the equity of the parent company. These changes do not change the aggregate of total liabilities and stockholders' equity.

Consolidated Statements of Operations: we removed the subtotal revenue less cost of revenues (excluding depreciation) for all periods presented and included impairment loss - goodwill as a component of operating income (loss).

Note 11 - Goodwill: we expanded our disclosure to present the facts and circumstances that led to the impairment of our goodwill.

Note 20 - Income Taxes: we restated our rate reconciliation as of March 31, 2010 so that the effective tax rate in our financial statements is in line with the effective tax rate computed in our statement of operations.

Note 25 – Impairment: we expanded our disclosures to: (a) describe the nature of the available information about Sricon that we used when recording an impairment of \$2.2 million related to our investment in Sricon, (b) to include a detailed explanation of the methodology as well as an explanation of the information available to us at the time the

impairment tests were carried out, (c) to identify the Sricon financial information we relied on, and (d) to disclose the methodology used to determine the recoverability of our receivable and investment in Sricon.

Note 27 – Certain Aged Receivables: we added a new Note 27 to the financial statements explaining why the accounts receivable due from the National Highway Authority of India ("NHAI") and the Cochin International Airport are booked as current as of March 31, 2011 and 2010. We also added a discussion of the arbitration process and specified when the receivables were first booked.

Note 28 - Re-Classifications to Consolidated Balance Sheets and Consolidated Statements of Operations: we added a new Note 28 to address the re-classifications made to the Consolidated Balance Sheets and Consolidated Statement of Operations, changes that do not affect the total assets and liabilities or net income/loss attributable to common stock holders, respectively.

Effects of Restatement

The restated items are re-classifications that do not impact the Company's operations.

Except as stated herein, this Form 10-K/A does not change our previously reported financial statements or the other financial disclosures contained in the Form 10-K. Except as stated herein, this Form 10-K/A does not reflect events occurring after the filing of the Form 10-K and no attempt has been made in this Form 10-K/A to modify or update other disclosures as presented in the Form 10-K. Accordingly, this Form 10-K/A should be read in conjunction with our filings made with the SEC subsequent to the filing of the Form 10-K.

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Explanatory Note

Overview of Restatement

In this Annual Report on Form 10-K, India Globalization Capital, Inc.:

- (a) Restates its consolidated statements of operations and consolidated cash flows for the year ended March 31, 2010;
 - (b) Amends its management discussion and analysis as it relates to the year ended March 31, 2010; and
 - (c) Restates its unaudited quarterly financial data for the quarter ended December 31, 2009

Background of the restatement:

As previously disclosed in the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission ("SEC") on June 15, 2011, the Company's management, in consultation with the Company's independent registered public accounting firm, concluded that the financial statements for the year ended March 31, 2010 (the "2010 Annual Financial Statements") included in the Company's Annual Report on Form 10-K for the year then ended, as amended (the "2010 Annual Report") and in the quarterly Form 10-Q for the period ended December 31, 2009 should no longer be relied upon.

The changes described above are non-cash items and do not impact the Company's operations.

The financial statements have been restated to reflect:

- (i) A Reclassification in the Company's Statement of Cash Flows: Sricon India Private Limited (SIPL), a subsidiary of IGC Inc., had been deconsolidated effective October 1, 2009. Upon deconsolidation, the cash flows of SIPL for the six months ended September 30, 2009 were re-classified and presented as equity in earnings of affiliates. The cash flows for the year ended 31 March, 2010 have now been restated to contain transactions relating to SIPL up until the date of deconsolidation; and
- (ii) Computation of diluted earnings per share: The effect of dilution was inadvertently considered while computing the Earnings Per Share (EPS) although there was a loss by IGC Inc. The restatement now rightly shows the EPS taking into consideration the loss.

Effects of Restatement

The restated items are non-cash and do not impact the Company's operations.

The adjustments made as a result of the restatement are more fully discussed in Note 3, Restatement of Previously Issued Financial Statements, of the Notes to Consolidated Financial Statements included in this Annual Report. To further review and understand the restatement adjustments, see Part II—Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations included in this Annual Report. For a description of the deficiencies in internal control over financial reporting identified by management as a result of the investigation and our internal reviews, and management's plan to remediate those deficiencies, see Part II—Item 9A—Controls and Procedures.

The previously filed Annual Reports for the period ended March 31, 2010 filed on Form 10-K and quarterly report for the period ended December 31, 2009 filed on Form 10-Q were affected by the restatement and have not been amended. Instead, the amended statements are presented here. Accordingly, investors should no longer rely upon the

Company's previously released financial statements for these periods and any earnings releases or other previous communications relating to these periods.

All amounts in this Annual Report for the period ended March 31, 2010 are the amounts as restated.

PART I

Item 1. Business

Background of India Globalization Capital, Inc. (IGC)

IGC, a Maryland corporation, was organized on April 29, 2005 as a blank check company formed for the purpose of acquiring one or more businesses with operations primarily in India through a merger, capital stock exchange, asset acquisition or other similar business combination or acquisition. On March 8, 2006, we completed an initial public offering. On February 19, 2007, we incorporated India Globalization Capital, Mauritius, Limited (IGC-M), a wholly owned subsidiary, under the laws of Mauritius. On March 7, 2008, we consummated the acquisition of 63% of the equity of Sricon Infrastructure Private Limited (Sricon) and 77% of the equity of Techni Bharathi Limited (TBL). We acquired Sricon by purchasing a 63% interest for approximately \$29 million (based on an exchange rate of 40 INR for \$1 USD). Subsequently, we borrowed, through an intermediary company, approximately \$17.9 million (based on 40 INR for \$1 USD) from Sricon. The shares of the two Indian companies, Sricon and TBL, are held by IGC-M. Effective October 1, 2009, we reduced our stake in Sricon from 63% to 22% in consideration for the set off of the loan owed by IGC approximating \$17.9 million.

On February 19, 2009 IGC-M beneficially purchased 100% of IGC Mining and Trading Private Limited (IGC-IMT) based in Chennai, India. IGC-IMT was formed on December 16, 2008 as a privately held start-up company engaged in the business of mining and trading. Its current activity is to operate shipping hubs and to export iron ore to China from India. On July 4, 2009, IGC-M beneficially purchased 100% of IGC Materials, Private Limited (IGC-MPL based in Nagpur, India), which conducts IGC's quarrying business, and 100% of IGC Logistics, Private Limited (IGC-LPL) based in Nagpur, India, which is involved in the transport and delivery of ore, cement, aggregate and other materials. Each of IGC-IMT, IGC-MPL and IGC-LPL were formed by third parties at the behest of IGC-M to facilitate the creation of the subsidiaries. The purchase price paid for each of IGC-IMT, IGC-MPL, and IGC-LPL was equal to the expenses incurred in incorporating the respective entities with no premium paid. India Globalization Capital, Inc. (the Registrant, the Company, or we) and its subsidiaries are engaged in the sale of construction materials, mining, quarrying and construction.

IGC's organizational structure is as follows:

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Unless the context requires otherwise, all references in this report to the "Company", "IGC", "IGC Inc.", "we", "our", and "us' refer to India Globalization Capital, Inc., together with its wholly owned subsidiary IGC-M, and its direct and indirect subsidiaries (TBL, IGC-IMT, IGC-MPL and IGC-LPL) and Sricon, in which we hold a non-controlling interest.

Overview

IGC Materials, Private Limited ("IGC-MPL") and IGC Logistics, Private Limited ("IGC-LPL") are based in Nagpur India and were incorporated in June 2009. The two companies focus on infrastructure materials like rock aggregate, bricks, concrete and other building materials, as well as, logistical support for the transportation of infrastructure materials. IGC India Mining and Trading ("IGC-IMT") was incorporated in December 2008 in Chennai, India. IGC-IMT is focused on the export of iron ore to China as well as the sale of iron ore to customers in India. IGC-MPL, IGC-LPL and IGC-IMT are all wholly-owned subsidiaries of IGC-M.

Techni Bharathi Limited ("TBL") was incorporated as a public (but not listed on the stock exchange) limited company on June 19, 1982 in Cochin, India. TBL is an engineering and construction company engaged in the execution of civil construction, structural engineering projects and trading. TBL has a focus in the Indian states of Kerala, Karnataka, Assam and Tamil Nadu. Its present and past clients include various Indian government organizations.

Our approach is to offer integrated solutions to our customers such as construction services combined with the sale and transportation of materials.

Core business competencies

As the infrastructure in India is built out and modernized, the demand for basic raw materials like stone aggregate and iron ore (steel) is expected to increase. We offer an integrated set of services to our customers based upon several core competencies. This integrated approach provides us with an advantage over our competitors.

Our core business competencies are:

- 1. A sophisticated, integrated approach to project modeling, costing, management, and monitoring.
- 2. In-depth knowledge of southern and central Indian infrastructure development.
- 3. Knowledge of low cost logistics for moving commodities across long distances in specific parts of India.
- 4. In-depth knowledge of the licensing process for mines and quarries in southern and central India.
- 5. Strong relationships with several important construction companies and mine operators in southern and central India.

Our core business areas are:

1. Mining and trading. Our mining and trading activity currently centers on the export of iron ore to China and the resale of iron ore to traders in India. India is the fourth largest producer of iron ore. The Freedonia Group projected in May 2010 that China's \$1.15 trillion construction industry would grow 9.1% every year until 2014. This growth will increase China's already large demand for steel. China, which accounted for 648 million metric tons of steel production in 2010, is expected to produce between 690 million and 710 million metric tons in 2011. As The Wall Street Journal reported, this production is expected to be almost half of total global output. We believe that IGC is well positioned to provide some Chinese steel mills with the iron ore needed to meet their demand. Our subsidiary IGC Mining and Trading Private Limited (IGC-IMT), based in Chennai, India, is engaged in the iron ore

business. The subsidiary has relationships and in some cases agreements with mine owners in Orissa and Karnataka, two of the largest ore mining belts in India. In addition, it operates facilities at seaports on the west coast of India and to a lesser extent on the east coast of India. The facilities consist of an office and a plot of land within the port to store iron ore. Our staff is experienced in delivering and managing the logistics of ore transport. Our subsidiary services a customer in China by buying ore from Indian mine owners, transporting it to seaports and then subcontracting stevedores to load the ships. Our share of the export market for iron ore is less than 1%.

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2. Quarrying rock aggregate. As Indian infrastructure modernizes, the demand for raw materials like rock aggregate, iron ore and similar resources is projected to greatly increase. In 2009, according to the Freedonia Group, India was the third largest stone aggregate market in the world. The report projected that Indian demand for crushed stone will increase to 770 million metric tons in 2013 and 1.08 billion metric tons in 2018. Our subsidiary, IGC Materials Private Limited ('IGC-MPL'), is responsible for our rock aggregate production. The subsidiary currently has two quarrying agreements with two separate partners. The two quarries being mined near Nagpur, a city in the state of Maharashtra, India, have approximately 10 million to 11 million metric tons of rock aggregate, or about \$40,000,000 of reserves at current prices. With the production of these two quarries, our subsidiary is one of the largest suppliers in the immediate area. Our share of the overall market in India is currently less than 1%. However, IGC-MPL has a growing regional presence in the Nagpur area.

All quarrying or mining activities in India require a license. IGC and its subsidiaries do not directly hold any mining or quarrying licenses and therefore there are no licenses or expenses in connection with acquiring the same being reflected in the consolidated financial statements. However, Sricon holds licenses and we quarry under licenses held by our partners. For all quarries, the licenses are granted for two years. The licenses are automatically renewed for additional periods of two years, provided that all royalty payments and taxes to the Indian government are paid up to date. IGC-MPL has applied, on its own, for licenses for mining and quarrying. The process of obtaining a quarrying license is difficult and typically takes between 12-18 months. The process involves a competitive application process. As such, while we have applied for licenses, there is no assurance that we will be granted these licenses. IGC-MPL is also in active negotiations with other land and license owners to expand the number of producing quarries available to it.

- 3. Highway and heavy construction. The Indian government has developed a plan to build and modernize Indian infrastructure. The Wall Street Journal reported on March 23, 2010 that the government plans to double infrastructure spending from \$500 billion to \$1 trillion. It will pay for the expansion and construction of rural roads, major highways, airports, seaports, freight corridors, railroads and townships. A significant number of our customers are engaged in highway and heavy construction. Our subsidiary Techni Bharathi Limited ('TBL'), a small road building company, is engaged in highway and heavy construction activities. TBL has constructed highways, rural roads, tunnels, dams, airport runways, and housing complexes, mostly in southern states. TBL, because of its successful execution of contracts, is pre-qualified by the National Highway Authority of India (NHAI) and other agencies. TBL's share of the overall Indian construction market is very small. However, TBL's prequalification and prior track record provides a way to grow the company in highway and heavy construction. Currently, TBL is engaged in the recovery of construction delay claims that it is pursuing against NHAI, the Airport Authority of Cochin, and the Orissa State Works. Our share of the overall market in India is significantly less than 1%.
- 4. Construction and maintenance of high temperature plants. Through our unconsolidated, minority interest in Sricon Infrastructure Private Limited (Sricon), we engage in the civil engineering, construction and maintenance of high temperature plants. Sricon also has the specialized skills required to build and maintain high temperature chimneys and kilns. Sricon's share of this market in India is less than 1%. We currently hold equity in Sricon.

The following table sets out the revenue contribution from our subsidiaries:

	Year ended March 31,	Y N	l	
Subsidiary	2011	2010		
TBL	2	%	22	%
Sricon*	-		17	%
IGC-IMT	53	%	56	%
IGC-MPL	44	%	3	%

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IGC-LPL	1	%	2	%
Total	100	%	100	%

* - De-consolidated effective October 1, 2009

According to the global market researcher eMpulse, the construction industry's total market size in India is approximately \$53 Billion. According to Reuters, India exports about 100 million tons of iron ore per year. Prices for iron ore have averaged around \$140 per metric ton. The rock aggregate market is India is approximately \$3 billion. As noted above, our share of these markets is less than 1%.

Customers.

Our present and past customers include the National Highway Authority of India, several state high way authorities, the Indian railways, private construction companies in India and several steel mills in China.

Construction contract bidding process.

In order to create transparency, the Indian government has centralized the contract awarding process for building inter-state roads. The new process is as follows: At the "federal" level, NHAI publishes a Statement of Work for an interstate highway construction project. The Statement of Work has a detailed description of the work to be performed, as well as, the completion time frame. The bidder prepares two proposals in response to the Statement of Work. The first proposal demonstrates technical capabilities, prior work experience, specialized machinery, manpower required, and other qualifications required to complete the project. The second proposal includes a financial bid. NHAI evaluates the technical bids and short-lists technically qualified companies. Next, the short list of technically qualified companies are invited to place a detailed financial bid and show adequate financial strength in terms of revenue, net worth, credit lines, and balance sheets. Generally, the lowest bid wins the contract. Additionally, contract bidders must meet several requirements to demonstrate an adequate level of capital reserves:

- 1) An earnest money deposit between 2% to 10% of project costs,
 - 2) A performance guarantee of between 5% and 10%,
 - 3) An adequate overall working capital, and
 - 4) Additional capital available for plant and machinery.

Bidding qualifications for larger NHAI projects are set by NHAI and are imposed on each contractor. As the contractor actually executes larger highway projects, then the contractor may qualify for even larger projects.

Growth strategy and business model.

Our growth strategy and business model are to:

- 1) Deepen our relationships with our existing construction customers by providing them infrastructure materials like iron ore, rock aggregate, concrete, coal and associated logistical support.
 - 2) Expand our materials offering by expanding the number of rock aggregate quarries and other materials.
- 3) Leverage our expertise in the logistics and supply of iron ore by increasing the number of shipping hubs we operate from and continue to expand our offering into China and other Asian countries in order to take advantage of their expected strong infrastructure growth.
- 4) Expand the number of recurring contracts for infrastructure build-out to customers that can benefit from our portfolio of offerings.

Competition.

We operate in an industry that is competitive. However, the industry is fragmented and while a number of our competitors are well qualified and better financed than we are, we believe that the demand for contractors in general will permit us to compete for projects and contracts that are appropriate for our size and capabilities. Large domestic and international firms compete for jumbo contracts over \$250 million in size, while locally based contractors vie for contracts worth less than \$5 million. We seek to compete in the gap between these two ends of the competitive spectrum. The recent capital markets crisis has made it more difficult for smaller companies to grow to mid-sized companies because their access to capital has been restrained. While we are also constrained by capital we believe that we are in a better position to secure capital than a number of small, purely local competitors. Our construction

business is positioned in the \$5 million to \$50 million contract range, above locally based contractors and below the large firms, creating a distinct technical and financial advantage in this market niche assuming that we can maintain access to capital. Rock aggregate is generally supplied to the industry through small crushing units, which supply low quality material. Frequently, high quality aggregate is unavailable, or is transported over large distances. We fill this gap by providing high quality material in large quantities. We compete on price, quantity and quality. Iron ore is produced in India, where our core assets are located, and exported to China. While this is a fairly established and relatively efficient market, we compete by aggregating ore from smaller suppliers who do not have direct access to customers in China. Further, we expect to install a large iron ore crusher that can grind ore pebbles into fine ore particles, providing a value added service to the smaller mine owners.

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Seasonality.

The road building and construction industries typically experience naturally recurring seasonal patterns throughout India. The Northeast monsoons historically arrive on June 1, followed by the Southwest monsoons which usually continue intermittently until September. Historically, the business in the monsoon months is slower than in other months because of the heavy rains. Activities such as engineering and maintenance of high temperature plants are less susceptible to weather delays, while the iron ore export business slows down somewhat due to the rough seas. Flooding in the quarries can slow production in the stone aggregate industry during the monsoon season. However, our quarries build stone reserves prior to the monsoon season. The monsoon season has historically been used to bid and win contracts for construction and for the supply of ore and aggregate in preparation for work activity when the rains abate.

Employees and consultants.

As of March 31, 2011 we employed a work force of approximately 130 employees and contract workers worldwide. Employees are typically skilled workers including executives, welders, drivers, and other specialized experts. Contract workers require less specialized skills. We make diligent efforts to comply with all employment and labor regulations, including immigration laws in the many jurisdictions in which we operate. In order to attract and retain skilled employees, we have implemented a performance based incentive program, offered career development programs, improved working conditions, and provided United States work assignments, technology training, and other fringe benefits. We hope that our efforts will make our companies more attractive.

Environmental regulations.

India has strict environmental, occupational, health and safety regulations. In most instances, the contracting agency regulates and enforces all regulatory requirements. We internally monitor and manage regulatory issues on a continuous basis. We believe that we are in compliance with all the regulatory requirements of the jurisdictions in which we operate. Furthermore, we do not believe that compliance will have a material adverse effect on our business activities.

Current Chinese currency revaluation.

Bloomberg News reported on December 21, 2010 that U.S. senators are strongly encouraging China to hold up to their promise to re-institute a "managed floating exchange rate." Also, they reported that the yuan is the best performer of the BRIC countries and has appreciated 24% to the dollar in the past decade. If a similar appreciation occurs, it will increase the purchasing power of Chinese steel mills buying iron ore, which is traded in USD. Chinese firms could buy more ore, even at a higher price, and IGC would benefit from an appreciation of the yuan.

Information and timely financial reporting.

Our operations are located in India where the accepted accounting standard is the Indian GAAP, which, in many cases, is not congruent with the U.S. GAAP. Indian accounting standards are evolving toward IFRS (International Financial Reporting Standards). We engage an independent public accounting firm registered with the U.S. PCAOB to conduct an annual audit of our financial statements. The process of producing financial statements is at times cumbersome and places significant demands upon our existing staff. We believe we are still some time away from having processes and adequately trained personnel in place to meet the reporting timetables set out by U.S. reporting requirements. Until then we may, on occasion, have to file for extensions to meet U.S. reporting timetables and it is possible that we may fail to meet these time tables. Failure to file our reports in a timely fashion can result in severe consequences including the potential delisting of our securities. In addition, our access to capital may become more

difficult or limited if we fail to meet reporting deadlines. We will make our annual reports, quarterly reports, proxy statements, and up-to-date investor presentations available on our Web site, www.indiaglobalcap.com as soon as they are available. Our SEC filings are also available, free of charge, at www.sec.gov.