

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI (COURT-II)
COMPANY SCHEME APPLICATION NO.200 OF 2022**

In the matter of the Companies
Act, 2013
And
In the matter of Sections 230-232
and other Applicable provisions
of the
Companies Act, 2013
And
In the matter of Composite
Scheme of Amalgamation
among
HDFC Investments Limited
(Transferor Company No.1)
And
HDFC Holdings Limited
(Transferor Company No.2)
And
Housing Development Finance
Corporation Limited
*(Transferee Company/
Amalgamating Company)*
And
HDFC Bank Limited
(Amalgamated Company)
and their respective shareholders
and creditors

HDFC Investments Limited
[CIN: U65990MH1994PLC083933]

Applicant No.1/
...Transferor Company No.1

HDFC Holdings Limited
[CIN: U65993MH2000PLC123680]

Applicant No.2/
...Transferor Company No.2

Housing Development Finance Corporation Limited

[CIN: L70100MH1977PLC019916]

...Applicant No.3/

...Transferee Company/
Amalgamating Company

HDFC Bank Limited
[CIN: L65920MH1994PLC080618]

Applicant No.4/
...Amalgamated Company

Order delivered on: 14.10.2022

Coram:

Justice P.N. Deshmukh (Retd.) : Member (Judicial)
Shyam Babu Gautam : Member (Technical)

Appearances (via videoconferencing):

**For the Applicants : Mr. Janak Dwarkadas,
Senior Advocate, Mr.
Zal Andhrayujina,
Senior Advocate, Mr.
Karan Bhide, Mr.
Sandeep Singhi, Ms.**

Bindi Dave, Mr. Aayesh
Gandhi i/b. M/s. Singhi
& Co., Advocates and
M/s. Wadia Ghandy &
Co., Advocates

ORDER

Per: Shyam Babu Gautam, Member Technical

1. The Bench is convened through video conference.
2. This joint Company Scheme Application is filed by HDFC Investments Limited (hereinafter referred to as the “**Transferor Company No. 1**” or the “**Applicant No. 1**”, as the context may admit), HDFC Holdings Limited (hereinafter referred to as the “**Transferor Company No. 2**” or the “**Applicant No. 2**”, as the context may admit), Housing Development Finance Corporation Limited (hereinafter referred to as the “**Transferee Company/Amalgamating Company**” or the “**Applicant No. 3**”, as the context may admit) and HDFC Bank Limited (hereinafter referred to as the “**Amalgamated Company**” or the “**Applicant No. 4**”, as the context may admit) seeking, *inter alia*, the following:
 - (a) dispensation of the meeting of the equity shareholders of the Transferor Company No. 1;

- (b) dispensation of the meeting of the equity shareholders of the Transferor Company No. 2;
- (c) convening of the meeting of the equity shareholders of the Transferee Company/Amalgamating Company through Video Conference (“VC”);
- (d) dispensation of the meeting of the secured creditors and unsecured creditors of the Transferee Company/Amalgamating Company;
- (e) convening of the meeting of the equity shareholders of the Amalgamated Company through VC; and
- (f) dispensation of the meeting of the unsecured creditors of the Amalgamated Company;

in respect of the arrangement embodied in the Composite Scheme of Amalgamation among the Transferor Company No. 1 and the Transferor Company No. 2 and the Transferee Company/Amalgamating Company and the Amalgamated Company and their respective shareholders and creditors (hereinafter referred to as the “**Scheme**”), pursuant to the provisions of Sections 230-232, and other relevant provisions of the Companies Act, 2013 (hereinafter referred to as the “**Act**”) and in compliance with the provisions of the Income Tax Act, 1961.

3. The Ld. Senior Advocate for the Applicants states that the Scheme, *inter alia*, provides for the (a) amalgamation of the Transferor Company No. 1 and the Transferor Company No. 2 (together referred to as the “**Transferor Companies**”) with and into the Transferee Company/Amalgamating Company, with effect from the Appointed Date 1 (*as defined in the Scheme*), and the consequent dissolution of the Transferor Companies without being wound up; and (b) amalgamation of the Transferee Company/Amalgamating Company with and into the Amalgamated Company, with effect from the Appointed Date 2 (*as defined in the Scheme*), and the consequent dissolution of the Transferee Company/Amalgamating Company without being wound up, and the issuance of the New Equity Shares (*as defined in the Scheme*) to the equity shareholders of the Transferee Company/Amalgamating Company as on the Record Date (*as defined in the Scheme*) in accordance with the Share Exchange Ratio (*as defined in the Scheme*).
4. The Ld. Senior Advocate for the Applicants states that the Transferor Companies are wholly-owned subsidiaries of the Transferee Company/ Amalgamating Company and the entire paid-up share capital of the respective Transferor Companies are held by the Transferee Company/ Amalgamating Company.
5. The Ld. Senior Advocate for the Applicants states that the Transferor Companies and Transferee Company/

Amalgamating Company are promoter companies of the Amalgamated Company.

6. The Ld. Senior Advocate for the Applicants states that the Transferor Company No.1 is a Systemically Important Non-Deposit Taking Non-Banking Financial Company registered with the Reserve Bank of India (hereinafter referred to as “RBI”) and is primarily engaged in the business of making investments in equity shares, preference shares, venture funds, mutual funds and other securities.
7. The Ld. Senior Advocate for the Applicants states that Transferor Company No. 2 is also a Systemically Important Non-Deposit Taking Non-Banking Financial Company registered with the RBI and is primarily engaged in the business of making investments in equity shares, preference shares, venture funds, mutual funds and other securities.
8. As regards the Transferee Company/ Amalgamating Company, the Ld. Senior Advocate for the Applicants states that it is principally engaged in the business of providing finance to individuals, corporates and developers for the purchase, construction, development and repair of houses, apartment and commercial properties in India through its branches in India and overseas offices supported by network of agents for sourcing loans as well as deposits.

9. The Ld. Senior Advocate for the Applicants states that the Amalgamated Company is registered with RBI as a banking company under the provisions of the Banking Regulation Act, 1949.
10. The Ld. Senior Advocate for the Applicants states that the Board of Directors of the Transferor Company No. 1, the Transferor Company No. 2, the Transferee Company/ Amalgamating Company and the Amalgamated Company in their respective meetings held on 3rd April 2022, 3rd April 2022, 4th April 2022 and 4th April 2022 have approved the proposed Scheme. The respective Board Resolutions approving the Scheme for the Applicants are annexed as Exhibits “O”, “Q”, “V”, and "Z” to the Company Scheme Application.
11. The Ld. Senior Advocate states that the Transferee Company/ Amalgamating Company and the Amalgamated Company are both listed on BSE Limited (“BSE”) and National Stock Exchange Limited (“NSE”). BSE and NSE by their separate letters both dated 2nd July 2022 have respectively given their “no adverse observation/ no-objection” to the Transferee Company/ Amalgamating Company and the Amalgamated Company to file the Scheme with this Tribunal.
12. The Ld. Senior Advocate further states that the Applicants had jointly filed the necessary notification form with the Competition Commission of India on 20th June 2022. The Competition

Commission of India *vide* its letter dated 12th August 2022 has provided its approval to the Scheme.

13. The Ld. Senior Advocate further states that pursuant to the application made by the Amalgamated Company to the RBI, RBI by its letter dated 4th July 2022 has granted its 'no-objection' to the Scheme.
14. The Ld. Senior Advocate submits that the Scheme would, *inter alia*, have the following benefits:
 - a. the Amalgamation, through the Scheme, shall enable the Amalgamated Company to build its housing loan portfolio and enhance its existing customer base;
 - b. the Amalgamation is based on leveraging the significant complementarities that exist amongst the parties to the Scheme. The Amalgamation would create meaningful value for various stakeholders including respective shareholders, customers, employees, as the combined business would benefit from increased scale, comprehensive product offering, balance sheet resiliency and the ability to drive synergies across revenue opportunities, operating efficiencies and underwriting efficiencies, amongst others;
 - c. the Amalgamated Company is a private sector bank and has a large base of over 6.8 Crore customers. The bank platform will provide a well-diversified low cost funding base for

growing the long tenor loan book acquired by the Amalgamated Company pursuant to the Amalgamation;

- d. the Amalgamated Company is a banking company with a large distribution network that offers product offerings in the retail and wholesale segments. The Amalgamating Company is a premier housing finance company in India and provides housing loans to individuals as well as loans to corporates, undertakes lease rental discounting and construction finance apart from being a financial conglomerate. A combination of the Amalgamating Company and the Amalgamated Company is entirely complementary to, and enhances the value proposition of, the Amalgamated Company;
- e. the Amalgamated Company would benefit from a larger balance sheet and networth which would allow underwriting of larger ticket loans and also enable a greater flow of credit into the Indian economy;
- f. the Amalgamating Company has invested capital and developed skills and has set up approximately 464 (Four Hundred and Sixty Four) offices across the country. These offices can be used to sell the entire product suite of both the Amalgamating Company and the Amalgamated Company;
- g. the loan book of the Amalgamating Company is diversified having cumulatively financed over 90 lakh dwelling units.

With the Amalgamating Company's leadership in the home loan arena, developed over the past 45 years, the Amalgamated Company would be able to provide to customers flexible mortgage offerings in a cost-effective and efficient manner;

- h. the Amalgamated Company has access to funds at lower costs due to its high level of current and savings accounts deposits (CASA). With the amalgamation of the Amalgamating Company with the Amalgamated Company, the Amalgamated Company will be able to offer more competitive housing products;
- i. the Amalgamating Company's rural housing network and affordable housing lending is likely to qualify for Amalgamated Company as priority sector lending and will also enable a higher flow of credit into priority sector lending, including agriculture;
- j. the Amalgamation will result in reducing the Amalgamated Company's proportion of exposure to unsecured loans;
- k. the Amalgamating Company has built technological capabilities to evaluate the credit worthiness of customers using analytical models and has developed unique skills in financing various customer segments. The models have been tested and refined over the years at scale and the

Amalgamated Company will benefit from such expertise in underwriting and financing of mortgage offerings;

1. the Amalgamated Company can leverage on the loan management system, comprising rule engines, IT tools and rules, agents connected through a central system;
- m. the Amalgamation is expected to result in bolstering the capital base and bringing in resiliency in the balance sheet of the Amalgamated Company;
- n. the Transferor Companies are Systemically Important Non - Deposit Taking Non - Banking Financial Companies and are also wholly owned subsidiaries of the Amalgamating Company. The Amalgamation shall result in a simplified corporate structure.

It is further submitted that the Amalgamation would therefore be in the best interest of the shareholders of the respective parties to the Scheme and shall not in any manner be prejudicial to the interests of the concerned shareholders or the creditors or general public at large.

The Transferee Company/Amalgamating Company and the Amalgamated Company had entered into an Implementation Agreement dated April 4, 2022, setting out the manner of effecting the Scheme and the rights and obligations of the

respective parties in relation to the Scheme. The principal objective of the Implementation Agreement is to (a) set out the agreement between the parties in relation to the Scheme; (b) provide the detailed mechanism for giving effect to the Scheme and the related matters upon the Scheme coming into effect or being terminated/withdrawn; and (c) provide appropriate representations and warranties by the parties.

Transferor Company No. 1

15. The Ld. Senior Advocate for the Applicants states that as set out in the joint Company Scheme Application, there are 7 (seven) equity shareholders of the Transferor Company No. 1. The list of the equity shareholders of the Transferor Company No. 1 is produced at *Exhibit "WW"*. The Transferor Company No. 1 has already filed the original affidavits of its equity shareholders giving their consent to the proposed Scheme and the same are produced at *Exhibit "XX (Colly)"*. It is under these circumstances that the Transferor Company No. 1 prays for direction from this Tribunal for dispensing with publishing of an advertisement and convening and holding of the meeting of the equity shareholders of the Transferor Company No. 1.
16. Accordingly, in view of the aforesaid consent affidavits of the equity shareholders of the Transferor Company No. 1, the meeting of the equity shareholders of the Transferor Company No. 1, for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme, is dispensed with.

17. It is further stated that there are no secured creditors in the Transferor Company No. 1. The certificate in this regard is produced at *Exhibit "YY"* of the joint Company Scheme Application. The question of conducting any meeting of the secured creditors of the Transferor Company No.1, therefore, does not arise.
18. It is stated that there are no unsecured creditors in the Transferor Company No. 1. The certificate in this regard is produced at *Exhibit "ZZ"* of the joint Company Scheme Application. The question of conducting any meeting of the unsecured creditors of the Transferor Company No.1, therefore, does not arise.
19. It is also stated that there are no preference shareholders in the Transferor Company No. 1. The certificate in this regard is produced at *Exhibit "AAA"* of the joint Company Scheme Application.

Transferor Company No. 2

20. The Ld. Senior Advocate for the Applicants states that as set out in the joint Company Scheme Application, there are 7 (seven) equity shareholders of the Transferor Company No. 2. The list of the equity shareholders of the Transferor Company No. 2 is produced at *Exhibit "BBB"*. The Transferor Company No. 2 has already filed the original affidavits of its equity shareholders

giving their consent to the proposed scheme and the same are produced at *Exhibit “CCC (Colly)”*. It is under these circumstances that the Transferor Company No. 2 prays for direction from this Tribunal for dispensing with publishing of an advertisement and convening and holding of the meeting of the equity shareholders of the Transferor Company No. 2.

21. Accordingly, in view of the aforesaid consent affidavits of the equity shareholders of the Transferor Company No.2, the meeting of the equity shareholders of the Transferor Company No. 2, for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme is dispensed with.
22. It is further stated that there are no secured creditors in the Transferor Company No. 2. The certificate in this regard is produced at *Exhibit “DDD”* of the joint Company Scheme Application. The question of conducting any meeting of the secured creditors of Transferor Company No.2, therefore, does not arise.
23. It is stated that there are no unsecured creditors in the Transferor Company No. 2. The certificate in this regard is produced at *Exhibit “EEE”* of the joint Company Scheme Application. The question of conducting any meeting of the unsecured creditors of Transferor Company No.2, therefore, does not arise.

24. It is also stated that there are no preference shareholders in the Transferor Company No. 2. The certificate in this regard is produced at *Exhibit “FFF”* of the joint Company Scheme Application.

Transferee Company/Amalgamating Company

25. In the joint Company Scheme Application, the Transferee Company/Amalgamating Company, has prayed for holding the meeting of the equity shareholders of the Transferee Company/Amalgamating Company, through VC for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme and for issuing appropriate directions incidental for holding of such meeting.
26. Accordingly, a meeting of the equity shareholders (including Public Shareholders) of the Transferee Company/Amalgamating Company shall be convened and held through VC, on Friday, November 25, 2022 at 11:00 a.m. (1100 hours), for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
27. In light of the circulars issued by the Ministry of Corporate Affairs (“**MCA Circulars**”), it is directed that the voting by the equity shareholders of the Transferee Company/Amalgamating

Company to the Scheme, shall be carried out through remote e-voting and e-voting during VC convened meeting.

28. At least 1 (one) month before VC meeting, an advertisement about convening of the said meeting, indicating the day, the date and time, shall be published in Business Standard (All editions) in the English language and Marathi translation thereof in Navshakti (Mumbai edition). The publication shall indicate time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Transferee Company/Amalgamating Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230-232 of the Act can be obtained free of charge at the registered office of the Transferee Company/Amalgamating Company or at the office of its Advocates, i.e. M/s. Singhi & Co., Singhi House, 1, Magnet Corporate Park, Near Sola Flyover, S. G. Highway, Ahmedabad-380 059 in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the “**Rules**”).
29. At least 1 (one) month before the aforesaid meeting of the equity shareholders, a notice convening the said meeting, indicating the day, the date and time aforesaid containing instructions with regard to remote e-voting and e-voting during VC meeting,

together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules, shall be sent (i) through electronic mode to those equity shareholders of the Transferee Company/Amalgamating Company whose e-mail IDs are registered with the Registrar and Share Transfer Agent/ concerned depository participants /Transferee Company/Amalgamating Company; and (ii) through Registered Post or Speed Post or by Courier, physically, to those equity shareholders, on their respective registered or last known addresses, whose email IDs are not registered. The notice shall be sent to those equity shareholders of the Transferee Company/Amalgamating Company whose names appear in the register of members/list of beneficial owners on Friday, September 30, 2022. Further, it is directed to fix Friday, November 18, 2022, being the cut-off date as prescribed under Rule 20 of the Companies (Management and Administration) Rules, 2014 for determining eligibility of shareholders entitled to vote through remote e-voting and e-voting during the meeting. The equity shareholders of the Transferee Company/Amalgamating Company holding shares either in physical form or in a dematerialized form, as on the cut-off date, would be entitled to cast their vote by remote e-voting and e-voting during VC meeting.

30. Mr. Gautam Doshi, Chartered Accountant, having address at 201/A, Bldg Peninsula Business Park, Lower Parel, Senapati

Bapat Marg, Mumbai, Mobile No. 9322310000, 022-30327933 is appointed as the Chairman of the meeting of the equity shareholders of the Transferee Company/Amalgamating Company including for any adjournment or adjournments thereof. The Chairman shall be paid Rs. Two-Lakhs Fifty Thousand fee for conducting and convening the aforesaid meeting.

31. Mr. Dhawal Gadda, Company Secretaries (Membership No. F8955), Mobile No. :- 9967682228 is appointed as the Scrutinizer for the meeting of the equity shareholders (including Public Shareholders) of the Transferee Company/Amalgamating Company. The Scrutinizer shall be paid a fee of Rs. One-Lakh Fifty Thousand for conducting the aforementioned meeting.
32. The Chairman appointed for the aforesaid meeting shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman is free to avail the services of the Transferee Company/Amalgamating Company or any agency for carrying out the aforesaid directions. The Chairman of the meeting shall have all powers under the Articles of Association of the Transferee Company/Amalgamating Company and also under the Rules in relation to conduct of meeting, including for deciding any procedural questions that may arise at the meeting or at adjournment or adjournments thereof proposed at the said meeting, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and also

procedural questions in respect of proposed amendment(s) to the aforesaid Scheme or resolution, if any, and to ascertain the outcome of the meeting of the equity shareholders (including Public Shareholders) by remote e-voting and e-voting during VC meeting.

33. The quorum for the meeting of the equity shareholders shall be 30 (thirty) persons. Equity shareholders attending the meeting through VC shall be counted for the purpose of reckoning the quorum under Section 103 of the Act.
34. Authorised Representative shall be permitted to vote either through remote e-voting and e-voting during the VC meeting, provided that the certified copy of the board resolution/authorisation, etc. authorizing its representative to attend the meeting is sent to the Scrutinizer through electronic mode. Since the meeting would be held through VC, the facility for appointment of proxies will not be available.
35. The number and value of the equity shares of the equity shareholders, shall be in accordance with the records or registers of the Transferee Company/Amalgamating Company and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be, for purposes of the meeting and his decision in that behalf shall be final.

36. Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report to this Tribunal that the directions regarding the issue of notices and the advertisement of the meeting, have been duly complied with as per Rule 12 of the Rules.
37. It is further ordered that the Chairman shall report to this Tribunal on the result of the said meeting in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meeting. The report of Chairman shall be filed before this Tribunal by the Chairman himself.
38. SEBI Circular dated November 23, 2021 requires that the Scheme shall be approved by the public shareholders of the Transferee Company/Amalgamating Company. The voting in respect of the same is to be carried out through remote e-voting and e-voting during the VC meeting. Since the Transferee Company/Amalgamating Company is directed to convene the meeting of the equity shareholders, which includes Public Shareholders, and voting in respect of equity shareholders which includes Public Shareholders is through remote e-voting and e-voting at the time of the VC meeting, it is sufficient compliance of SEBI Circular. Even otherwise, there are no promoters of the Transferee Company/Amalgamating Company. However, the scrutinizer appointed for the said meeting of the equity shareholders shall also submit his separate report, to the

Chairman of the Transferee Company/ Amalgamating Company or to the person so authorised by him, with regard to the result of the remote e-voting and e-voting during the VC meeting in respect of the public shareholders. The said report to be submitted by the scrutinizer shall be in addition to the report submitted by the scrutinizer to the Chairman/Chairperson of the meeting with regard to the result of the remote e-voting and e-voting during the VC meeting in respect of the equity shareholders.

39. It is submitted that under the Scheme no arrangement or compromise is offered to any of the secured creditors or the unsecured creditors of the Transferee Company/ Amalgamating Company in respect of their claims and no liability of the secured creditors or the unsecured creditors under the Scheme is being reduced or extinguished.

It is further submitted that as per the financial position as at March 31, 2022, in the case of the Transferor Company No. 1, there is an excess of assets over liabilities to the tune of Rs. 279 Crore. In the case of the Transferor Company No. 2, there is an excess of assets over liabilities to the tune of Rs. 245.94 Crore as per the financial position as at March 31, 2022. As per the financial position as at March 31, 2022, in the case of the Transferee Company/Amalgamating Company, there is an excess of assets over liabilities to the tune of Rs. 1,20,251 Crore. Further, as per the financial position as at March 31, 2022, in the

case of the Amalgamated Company, there is an excess of assets over liabilities to the tune of Rs. 2,40,093 Crore. In addition to the aforesaid, there will also be an excess of assets over liabilities to the tune of Rs. 3,32,650 Crore in the Amalgamated Company upon effectiveness of the Scheme (expected, based on March 31, 2022). The certificates in this regard are annexed at *Exhibit "KKK Colly"* to the joint Company Scheme Application.

It is submitted that under the Scheme, any Encumbrance (*as defined in the Scheme*) existing prior to the Effective Date, which may have been created on the assets of the Transferee Company/ Amalgamating Company (being a housing finance company) shall, after the Effective Date, will be automatically released, if such Encumbrance is not permitted under the regulatory/statutory requirements applicable to the Amalgamated Company (being a banking company) under the Applicable Law. In terms of Paragraph A.2.(k) of Part-I of the SEBI Circular dated November 23, 2021 read with Circular dated February 1, 2022, under reference no. SEBI/HO/CFD/DIL2/CIR/P/2022/11 issued by SEBI, the Transferee Company/Amalgamating Company has obtained No Objection Certificates to the Scheme from 96.15% of the secured creditors (comprising of lending scheduled commercial banks/ financial institutions/ debenture trustees), in value terms.. The No Objection Certificates issued by the secured creditors of the Transferee Company/Amalgamating Company are annexed at *Exhibit "DD"* and *Exhibit "BB Colly"* to the

Additional Affidavit dated 1st September 2022. It is submitted that under the circumstances, the meetings of the secured creditors and the unsecured creditors of the Transferee Company/Amalgamating Company are not required to be called for as the interest of the secured creditors and the unsecured creditors of the Transferee Company/Amalgamating Company is not affected in view of what is stated above. It is therefore, prayed by the Transferee Company/Amalgamating Company that this Hon'ble Tribunal be pleased to hold that no meetings of the secured creditors and the unsecured creditors of the Transferee Company/Amalgamating Company are required to be held or convened to consider the Scheme.

In this regard, the Ld. Senior Advocate, appearing for the Applicants, have relied upon the following judgments/orders of the National Company Law Appellate Tribunal, the co-ordinate benches of this Tribunal and that of the High Courts, i.e. (i) DLF Phase – IV Commercial Developers Limited and Ors.; (ii) Dr. Naresh Trehan & Associates Health Services Private Limited and Anr.; (iii) HDFC Ergo Health Insurance Limited and Anr.; (iv) Sodexo Facilities Management Services India Private Limited and Ors.; (v) Piramal Enterprises Limited (vi) Satlon Enterprise Private Limited and Anr.; (vii) Brahmi Tracks Management Services Private Limited and Ors.; (viii) JB Designers Private Limited and Anr.; (ix) Ansal Properties & Industries Limited and Anr. [ILR (1977) I Delhi 444]; (x) Union of India and Ors. vs Ambalal Sarabhai Enterprises Limited

[(1984) 55 Comp Cas 623]; (xi) Bengal Tea Industries Limited and Ors. vs Union of India [MANU/WB/0451/1987]; (xii) Nav Chrome Limited and Anr. [(1997) 89 Comp Cas 285]; (xiii) *Re. ICICI Bank Limited*; (xiv) *Re. Gujarat Bottling Company Private Limited*; (xv) *Re. Cadila Healthcare Limited*; (xvi) *Re. Rajnidhi Finance Limited.*; (xvii) *Re. Mysore Cements Ltd.* (2009) 149 Comp Cas 50 (xviii) *Re. Shaharsh Infrastructure Pvt. Ltd.*; (xix) *Re. DCPL Foundries Limited*; and (xx) *Re. Goldenarch Estate Pvt. Ltd.*.

40. In light of the submissions made by the Ld. Senior Advocate and as recorded in the above paragraphs, the convening and holding of the meetings of the secured creditors and unsecured creditors of the Transferee Company/Amalgamating Company are dispensed with.
41. It is stated that there are no preference shareholders in the Transferee Company/Amalgamating Company. The certificate in this regard is produced at *Exhibit "MMM"* of the joint Company Scheme Application.

Amalgamated Company

42. In the joint Company Scheme Application, the Amalgamated Company, has prayed for holding the meeting of the equity shareholders of the Amalgamated Company, through VC, for the

purpose of considering and, if thought fit, approving with or without modification(s), the Scheme and for issuing appropriate directions incidental for holding of such meeting.

43. Accordingly, a meeting of the equity shareholders (including Public Shareholders) of the Amalgamated Company shall be convened and held through VC, on Friday, November 25, 2022 at 2.30 p.m. (1430 hours), for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
44. In light of the MCA Circulars, it is directed that the voting by the equity shareholders of the Amalgamated Company to the Scheme, shall be carried out through remote e-voting and e-voting during the VC convened meeting.
45. At least 1 (one) month before VC meeting, an advertisement about convening of the said meeting, indicating the day, the date and time, shall be published in Business Standard (All editions) in the English language and Marathi translation thereof in Navshakti (Mumbai edition). The publication shall indicate time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Amalgamated Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230-232 of the Act can be obtained free of charge at the registered office of the

Amalgamated Company, in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Rules.

46. At least 1 (one) month before the aforesaid meeting of the equity shareholders, a notice convening the said meeting, indicating the day, the date and time aforesaid containing instructions with regard to remote e-voting and e-voting during VC convened meeting, together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules, shall be sent (i) through electronic mode to those equity shareholders of the Amalgamated Company whose email IDs are registered with the Registrar and Share Transfer Agent/concerned depository participants; and (ii) through Registered Post or Speed Post or by Courier, physically, to those equity shareholders, on their respective registered or last known addresses, whose email IDs are not registered. The notice shall be sent to those equity shareholders of the Amalgamated Company whose names appear in the register of members/list of beneficial owners on Friday, September 30, 2022. Further, it is directed to fix Friday, November 18, 2022, being the cut-off date as prescribed under Rule 20 of the Companies (Management and Administration) Rules, 2014 for determining eligibility of shareholders entitled to vote through remote e-voting and e-voting during the meeting. The equity shareholders of the Amalgamated Company holding shares either in physical form or in a dematerialized form, as on the cut-off date, would be

entitled to cast their vote by remote e-voting and e-voting during the VC meeting.

47. Mr. Gautam Doshi, Chartered Accountant, having address at – 201/A, Bldg. Peninsula Business Park, Lower Parel, Senapati Bapat Marg, Mumbai, Mobile No. 9322310000 is appointed as the Chairman of the meeting of the equity shareholders of the Amalgamated Company including for any adjournment or adjournments thereof. The Chairman shall be paid Rs. Two-Lakhs Fifty Thousand fee for conducting and convening the aforesaid meeting.
48. Mr. Dhawal Gadda, Practicing Company Secretaries (Membership No. F8955) is appointed as the Scrutinizer for the meeting of the equity shareholders (including Public Shareholders) of the Amalgamated Company. The Scrutinizer shall be paid a fee of Rs. One-Lakh Fifty Thousand for conducting the aforementioned meeting.
49. The Chairman appointed for the aforesaid meeting shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman is free to avail the services of the Amalgamated Company or any agency for carrying out the aforesaid directions. The Chairman of the meeting shall have all powers under the Articles of Association of the Amalgamated Company and also under the Rules in relation to conduct of meeting, including for deciding any procedural questions that

may arise at the meeting or at adjournment or adjournments thereof proposed at the said meeting, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and also procedural questions in respect of proposed amendment(s) to the aforesaid Scheme or resolution, if any, and to ascertain the outcome of the meeting of the equity shareholders (including Public Shareholders) by remote e-voting and e-voting during VC meeting.

50. The quorum for the meeting of the equity shareholders shall be 30 (thirty) persons. Equity shareholders attending the meeting through VC shall be counted for the purpose of reckoning the quorum under Section 103 of the Act.
51. Authorised Representative shall be permitted to vote either through remote e-voting and e-voting during VC convened meeting, provided that the certified copy of the board resolution/authorisation, etc. authorizing its representative to attend the meeting is sent to the Scrutinizer through electronic mode. Since the meeting would be held through VC, the facility for appointment of proxies will not be available.
52. The number and value of the equity shares of the equity shareholders, shall be in accordance with the records or registers of the Amalgamated Company and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be, for

purposes of the meeting and his decision in that behalf shall be final.

53. Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report to this Tribunal that the directions regarding the issue of notices and the advertisement of the meeting, have been duly complied with as per Rule 12 of the Rules.
54. It is further ordered that the Chairman shall report to this Tribunal on the result of the said meeting in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meeting. The report of Chairman shall be filed before this Tribunal by the Chairman himself.
55. SEBI Circular dated November 23, 2021 requires that the Scheme shall be approved by the public shareholders of the Amalgamated Company. The voting in respect of the same is to be carried out through remote e-voting and e-voting during the VC meeting. Since the Amalgamated Company is directed to convene the meeting of the equity shareholders, which includes Public Shareholders, and voting in respect of equity shareholders which includes Public Shareholders is through remote e-voting and e-voting during the VC meeting, it is sufficient compliance of SEBI Circular. However, the scrutinizer appointed for the said meeting of the equity shareholders shall also submit his separate

report, to the Chairman of the Amalgamated Company or to the person so authorised by him, with regard to the result of the remote e-voting and e-voting during the VC meeting in respect of the public shareholders. The said report to be submitted by the scrutinizer shall be in addition to the report submitted by the scrutinizer to the Chairman/Chairperson of the meeting with regard to the result of the remote e-voting and e-voting during the VC meeting in respect of the equity shareholders.

56. It is further stated that there are no secured creditors in the Amalgamated Company. The certificate in this regard is produced at *Exhibit "OOO"* of the joint Company Scheme Application. The question of conducting any meeting of secured creditors, therefore, does not arise.

57. It is submitted that under the Scheme no arrangement or compromise is offered to any of the unsecured creditors of the Amalgamated Company and no liability of the secured creditors or the unsecured creditors of the Amalgamating Company under the Scheme is being reduced or extinguished. The Ld. Senior Advocate have relied upon the certificates of the Chartered Accountants showing the excess of assets over liabilities of the Applicants as stated in the earlier paragraphs. It is submitted that the Transferee Company/ Amalgamating Company and the Amalgamated Company, both are profitable entities. Upon the Scheme becoming effective, the profitability of the Amalgamated Company will increase substantially. Upon the Scheme

becoming effective, the Amalgamated Company's Capital shall increase substantially in relation to its risk weighted assets and current liabilities. Hence, the capital adequacy ratio of the Amalgamated Company, which is already highly positive, shall further improve. Further, currently the Amalgamating Company and the Amalgamated Company both are *inter alia* in retail housing loan. The proposed amalgamation would result in higher mix of retail housing loan. The proposed amalgamation is based on leveraging the significant complementarities that exist amongst the Transferee Company/ Amalgamating Company and the Amalgamated Company. The combined business would benefit from increased scale and combination of already existing distribution network of the Transferee Company/ Amalgamating Company and the Amalgamated Company, well-diversified low-cost funds, comprehensive product offerings, balance sheet resiliency, product know-how and underwriting expertise and the ability to drive synergies across revenue opportunities, operating and credit cost efficiencies, amongst others. Thus, upon the effectiveness of the Scheme, the Amalgamated Company's financial position shall be enhanced and the Amalgamated Company would benefit from a larger balance sheet and net worth of the Transferee Company/Amalgamating Company. The Ld. Senior Advocate have also relied upon the judgments/orders as stated in the earlier paragraphs. It is therefore, prayed by the Amalgamated Company that this Hon'ble Tribunal be pleased to hold that no meeting of the unsecured creditors of the Amalgamated

Company is required to be held or convened to consider the Scheme.

58. In light of the submissions made by the Ld. Senior Advocate and as recorded in the above paragraphs, the convening and holding of the meeting of the unsecured creditors of the Amalgamated Company is dispensed with.
59. It is stated that there are no preference shareholders in the Amalgamated Company. The certificate in this regard is produced at *Exhibit "QQQ"* of the joint Company Scheme Application.

OTHER DIRECTIONS

60. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Rules, the Transferor Company No. 1 shall send the notice under Section 230 (5) of the Act to (i) Central Government through the Regional Director, Western Region, Ministry of Corporate Affairs; (ii) Registrar of Companies, Mumbai; (iii) Income tax office range - Deputy Commissioner of Income Tax - 1(1)(1), Room no. 533, 5th floor, Aaykar Bhavan, Maharishi Karve Marg, New Marine lines, Mumbai – 400020 (PAN: AAACH1462L); (iv) GST Authorities; (v) Official Liquidator; (vi) Competition Commission of India (“CCI”); and (vi) Reserve Bank of India (“RBI”), stating that representations, if any, to be made by them shall be made within a period of 30

days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The aforesaid authorities, who desire to make any representation under Section 230(5) of the Act, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

61. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Rules, the Transferor Company No. 2 shall send the notice under Section 230 (5) of the Act to (i) Central Government through Regional Director, Western Region, Ministry of Corporate Affairs; (ii) Registrar of Companies, Mumbai; (iii) Income tax office range - Deputy Commissioner of Income Tax - 1(1)(1), Room no. 533, 5th floor, Aaykar Bhavan, Maharishi Karve Marg, New Marine lines, Mumbai – 400020 (PAN: AAACH8757J); (iv) Official Liquidator; (v) CCI; and (vi) RBI, stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The aforesaid authorities, who desire to make any representation under Section 230(5) of the Act, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

62. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Rules, the Transferee Company/Amalgamating Company shall send the notice under Section 230 (5) of the Act to (i) Central Government through Regional Director, Western Region, Ministry of Corporate Affairs; (ii) Registrar of Companies, Mumbai; (iii) Income tax office range - Deputy Commissioner of Income Tax - 1(1)(1), Room no. 533, 5th floor, Aaykar Bhavan, Maharishi Karve Marg, New Marine lines, Mumbai – 400020 (PAN: AAACH0997E); (iv) GST Authorities; (v) Official Liquidator; (vi) SEBI; (vi) BSE Limited (“BSE”); (vii) CCI; (viii) RBI; (ix) Pension Fund Regulatory and Development Authority (“PFRDA”); (x) National Housing Bank (“NHB”); (xi) Insurance Regulatory and Development Authority of India (“IRDAI”); and other sectoral regulators, if any, as applicable, stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The aforesaid authorities, who desire to make any representation under Section 230(5) of the Act, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.
63. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Rules, the Amalgamated Company shall send the notice under Section 230 (5) of the Act to (i) Central Government

through Regional Director, Western Region, Ministry of Corporate Affairs; (ii) Registrar of Companies, Mumbai; (iii) RBI; (iv) concerned Income-Tax Authorities – Circle 2(3)(1), Mumbai – (PAN - AAACH2702H); (v) GST Authorities; (vi) CCI; (vii) SEBI; (viii) IRDAI; (ix) PFRDA; (x) BSE; (xi) NSE; (xii) Metropolitan Stock Exchange; (xiii) Indian Clearing Corporation Limited (xiv) NSE Clearing Limited; (xv) Metropolitan Clearing Corporation of India Limited; and other sectoral regulators, if any, as applicable, stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The aforesaid authorities, who desire to make any representation under Section 230(5) of the Act, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

64. Further, Notices to be served upon the Official Liquidator by the Transferor Company No. 1, the Transferor Company No. 2 and the Transferee Company/Amalgamating Company, pursuant to Section 230(5) of the Act. If no representation/ response is received by the Tribunal from the Official Liquidator within a period of 30 (thirty) days from the date of receipt of such notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme.

65. The Applicant Companies shall also host the notices on their respective website(s), if any.
66. The Applicant Companies shall file a compliance report with the Registry in regard to the directions given in this Order.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

JUSTICE P.N. DESHMUKH
MEMBER (JUDICIAL)