IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 803 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 811 OF 2014

IDFC Primary Dealership Company Limited

………. Petitioner/(Transferor Company I)

COMPANY SCHEME PETITION NO 804 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 812 OF 2014

IDFC Project Equity Company Limited

………. Petitioner/(Transferor Company II)

AND

COMPANY SCHEME PETITION NO 805 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 813 OF 2014

IDFC Housing Finance Company Limited

…..…. Petitioner/(Transferor Company III)

In the matter of the Companies Act, 1956 (1 of 1956); (re-enactment thereof upon effectiveness of the companies Act, 2013)

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956;
(Or any corresponding provisions of the Companies Act, 2013 as may be notified)

AND

In the matter of Scheme of Amalgamation of IDFC Primary Dealership Company Limited (Transferor Company I) and IDFC Project

Equity Company Limited (Transferor Company II) AND IDFC Housing Finance Company Limited (Transferor Company III) with IDFC Alternatives Limited ("Transferee Company ") and their Respective Shareholders

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner.

Mr.M.S. Bharadwaj, i/b Mr. H.P. Chaturvedi for Regional Director.

Mr. S. Ramakantha Official Liquidator.

CORAM: S. J. Kathawalla, J.

DATE: 30th January 2015

1. Heard the learned counsel for the Petitioner. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of IDFC Primary Dealership Company Limited, (Transferor Company I) and IDFC Project Equity Company Limited (Transferor Company II) AND IDFC Housing Finance Company Limited (Transferor Company III) with IDFC Alternatives Limited ("Transferee Company ") and their Respective Shareholders.

3. The Transferor Companies I & III are presently not engaged in any business. The Transferor Company II is acting as an Investment Manager of the India Infrastructure Fund, a domestic venture capital

fund registered under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996.

4. The rational for Arrangement is that Transferor Companies are wholly-owned subsidiaries of IDFC Alternatives Limited. Consolidation of these Companies into Transferee Company pursuant to this Scheme would result in streamlining the IDFC group structure. The consolidation will further enable to reduce the number of entities that require to be administered and also help realize operational synergies which would also result in simplification of structure and operations. The amalgamation of the Transferor Companies with the Transferee Company would inter alia also have the benefits such as Greater integration and greater financial strength and flexibility for the amalgamated entity, which would result in maximising overall shareholder value, and will improve the competitive position of the combined entity. Greater efficiency in cash management of the amalgamated entity, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value. Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses. Achieving economies of scale.

5. The Transferor Company and Transferee Company had approved the said Scheme of Amalgamation by passing the Board Resolution which are annexed to the Company Scheme Petition filed by the Petitioner Company.

6. Learned Advocate for the Petitioner further states that since the Petitioner/Transferor Companies are wholly owned subsidiaries of the Transferee Company and all the shares of the Transferor Companies are presently held by the Transferee Company, IDFC Alternatives Limited and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Transferor Companies by the Transferee Company and there would be no reorganization of the Share Capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme Petition by IDFC Alternatives Limited, the Transferee Company was dispensed with, by order dated 14th November 2014 passed in Company Summons for Directions Nos. 811, 812 & 813 of 2014.

7. The learned counsel for the Petitioner state that Petitioner Company has complied with all directions passed in Company Summons for Direction and that the Scheme has been filed in consonance with the orders passed in Company summons for Direction.

8. Counsel appearing on behalf of the Petitioner has stated that they have complied with all requirements as per directions of this Court and they have filed necessary Affidavit of compliance in the Court. Moreover, Petitioner Company undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Company is accepted.

9. The Official Liquidator has filed his report on 28th January 2015 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that Transferor Companies may be ordered to be dissolved.

10. The Regional Director has filed an Affidavit on 21st January, 2015 , stating therein, save and except as stated in paragraph 6(a), 6(b), 6(c) and 6(d), it appears that the scheme is not prejudicial to the interest of shareholders and public.

In paragraphs 6(a),6(b),6(c) and 6(d), of the said affidavit it is stated that:-

(a) *With respect to clause 13.5 of the Scheme, it is submitted that surplus, if any arising out of this Scheme be transferred Capital Reserve Account and deficit if any be transferred to Goodwill Account of Transferee company.*

(b) *Clause 13.6 of the scheme provide for adjustment for differences in Accounting Policies between Transferor*

company and transferee Company. In this regard, it is submitted that in addition to the compliance of Accounting -14, the Transferee Company shall pass such Accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting standard such as AS-5 etc..

(c) It is observed that the 2nd Transferor Company and Transferee Company are engaged in the business of domestic venture capital fund which are regulated under the Securities and Exchange Board of India (Venture Capital Fund) Regulation 1996. In this regard it is submitted that approval if any is required from Regulatory Authority may also be obtained by the Transferee Company.

(d) That the deponent further submits that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed the petitioner Company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.

11. In so far as observation made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Transferee Company through their counsel undertakes to follow the accounting treatment provided in the scheme and credit the surplus, if any arising to the Capital Reserve Account and deficit if any arising, shall be debited to Goodwill Accounts of the Transferee Company.

12. As far as the observations made in paragraph 6(b) of the Affidavit of the Regional Director is concerned, the Transferee Company through its advocate undertakes that in addition to accounting treatment given in the Scheme, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with any other accounting standards.

13. In so far as observation made in paragraph 6(c) of Affidavit of the Regional Director is concerned, the Transferee Company through their counsel undertakes that the Transferee Company shall take such approvals from the Regulatory Authority to the extent required.

14. In so far as observations made in paragraph 6(d) of the Affidavit of Regional Director is concerned, the Amalgamated Company is bound to comply with all applicable provisions of Income Tax Act, 1961 and all tax issues arising out of scheme will be met and answered in accordance with law.

15. The Learned Counsel appearing for the Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director (Legal) in the office of the Regional Director states that they are satisfied with the undertaking given by the Petitioner Companies . The said undertaking given by Petitioner Companies is accepted.

16. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.

17. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition filed by the Petitioner Companies is made absolute in terms of prayer clause (a) of the respective Petitions.

18. Petitioners are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy as per the relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

19. The Petitioner Companies to lodge a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court, Bombay, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

20. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay.

21. Costs to be paid within four weeks from today.

22. Filing and issuance of the drawn up order is dispensed with.

23. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court, Bombay.

(S. J. KATHAWALLA, J.)