IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 178/2015

Reserved on 9th October, 2015
Date of pronouncement: 6th November, 2015

In the matter of
The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

Petition under Sections 391 to 394 of the Companies Act, 1956

Scheme of Amalgamation of:

Almondz Re-Insurance Brokers Private Limited
Petitioner/Transferor Company
WITH

Almondz Insurance Brokers Private Limited
Petitioner/Transferee Company

Through Mr. Satwinder Singh, Advocate for the petitioners
Ms. Aparna Mudiam, Assistant Registrar of Companies for the Regional Director
Mr. Raj Pal Singh, Dy. Official Liquidator

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391 to 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of Almondz Re-Insurance Brokers Private Limited (hereinafter referred to as the transferor company) with Almondz Insurance Brokers Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company was incorporated under the Companies Act, 1956 on 27th December, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 27th March, 2003 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of ASL Insurance Brokers Private Limited. The company changed its name to Almondz Insurance Brokers Private Limited and obtained the fresh certificate of incorporation on 23rd January, 2007.

5. The present authorized share capital of the transferor company is Rs.3,00,00,000/- divided into 30,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.2,50,00,000/- divided into 25,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the

company is Rs.1,80,00,000/- divided into 18,00,000 equity shares of Rs.10/- each.

7. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record with CA(M) 27/2015 earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, had also been filed.

8. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavit. It is claimed by the petitioners that the proposed amalgamation will provide integration of capabilities, streamlining of administration, effective management system, greater financial strength, and operational flexibility of the amalgamated entity, which would result in maximizing overall shareholder value. It is further claimed that the Scheme will also provide increased competitive size, scale, better leverages in operational planning and process optimization and higher efficiency in use of available resources and will build up a larger capital base for the future growth and continuous development of the amalgamated entity, establishing proper organization machinery and smooth process of integration.

9. So far as the share exchange ratio is concerned, the Scheme provides that, since the transferor company is a wholly owned subsidiary of the transferee company, all the equity shares held by the transferee company and its nominees in the transferor company shall be cancelled and extinguished. Accordingly, there will be no issue and allotment of equity shares of the transferee company to the members of the transferor company upon coming into effect of this Scheme.

10. It has been submitted by the petitioners that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the petitioner companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 10th November, 2014 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

12. The petitioner companies had earlier filed CA (M) No. 27/2015 seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors, which are statutorily required for sanction of the

Scheme of Amalgamation. Vide order dated 17th March, 2015, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders and creditors of the transferor and transferee companies, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

13. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 10th April, 2015, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Financial Express' (English) and 'Jansatta' (Hindi) Delhi editions. Affidavit of service has been filed by the petitioner showing compliance regarding service on the Official Liquidator and the Regional Director, Northern Region and also regarding publication of citations in the aforesaid newspapers on 16th September, 2015. Copies of the newspaper clippings containing the publications have been filed along with the said affidavit.

14. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 5th August, 2015 wherein he has stated that he has not received any complaint against the

proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor company do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

15. In response to the notices issued in the petition, Mr. A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 18th August, 2015. Relying on Clause 3.24(a) of Part-III of the Scheme, he has stated that, upon sanction of the Scheme of Amalgamation, all the employees of the transferor company shall become the employees of the transferee company without any break or interruption in their services. He has further submitted that in Clause 3.26 of Part-III of the Scheme, it has been stated that amalgamation of the transferor company shall be accounted for in accordance with 'Pooling of Interest Method' of accounting as per Accounting Standard-14. He further submitted that in Clause 4.11 of Part-IV of the Scheme, it has been stated that upon this scheme becoming effective, the transferor company shall stand dissolved without the process of winding up.

16. Although no objection has been raised by the Regional Director in his report, but in Para 11 of his report, he has submitted that the object

clause of the companies are not similar and prays that the transferee company may be asked to amend its object clause as per the provisions of the Companies Act so as to pursue the business activities of the transferor company. In response to the aforesaid observation, the petitioners have filed their reply dated 19th September, 2015 stating that the transferee company has already applied for the requisite composite license with Insurance Regulatory and Development Authority of India (IRDAI) based on the IRDAI norms in order the pursue the business activities of the transferor company, post the Scheme becoming effective. The transferee company has also undertaken to suitably amend its Memorandum of Association based on the provisions of the Companies Act, 2013. The undertaking is accepted and the transferee company shall remain bound by the same. In view of the above, the observation raised by the Regional Director stands satisfied.

17. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavit dated 7th October, 2015 of Mr. N.P.S. Chawla, Counsel of the petitioner companies, have submitted that neither the petitioner companies nor their counsel have received any objection pursuant to the citations published in the newspapers on 16th September, 2015.

18. Considering the approval accorded by the equity shareholders and creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region, and the Official Liquidator not raising any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Amalgamation, i.e. 1st April, 2014, the transferor company shall stand dissolved without undergoing the process of winding up.

19. The petition is allowed in the above terms.

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SUDERSHAN KUMAR MISRA, J.

November 06, 2015