

The Investment Trust of India Limited

(Erstwhile Fortune Financial Services (India) Limited)
Regd office: Naman Midtown, A Wing Unit No. 2103, 21st Floor
Senapati Bapat Marg, Elphinstone Road,, Mumbai - 400013



Date: 26th June, 2020

To
The Manager
The BSE Limited
Listing department
P. J. Tower, Dalal Street,
Fort, Mumbai 400 001

The Manager
National Stock Exchange of India Limited
Listing department
Exchange Plaza, Bandra Kurla Complex
Bandra (East), Mumbai 400 051

Dear Sir,

Ref.: Scrip Code – 530023

NSE Symbol: THEINVEST

Subject: NCLT Order on merger

Enclosed herewith please find the Order passed by the National Company Law Tribunal (NCLT) Mumbai Bench for approval of Scheme of Amalgamation of ITI Management Advisors Limited (formerly known as ITI Reinsurance Limited) a wholly owned subsidiary with The Investment Trust of India Limited and their respective shareholders & creditors.

Please note that the Order has been passed by NCLT on 9th June, 2020 and the Company has received the signed order from NCLT on 22nd June, 2020.

You are requested to take the above on record and acknowledge receipt.

Thanking you,

Yours faithfully,

For The Investment Trust of India Limited
(formerly known as Fortune Financial
Services (India) Limited)

Haroon Mansuri
Company Secretary



Encl : a/a

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

CP (CAA) 4417/MB/2019

Connected with

CA (CAA) 1472/MB/2019

In the matter of

The Companies Act, 2013

and

In the matter of

Sections 230 to 232 and other relevant
provisions of the Companies Act, 2013;

and

In the matter of

Scheme of Amalgamation & Arrangement
of

ITI Management Advisors Limited

(Transferor Company)

with

The Investment Trust of India Limited

(Transferee Company)

and their respective Shareholders

ITI Management Advisors Limited
CIN U74110MH2014PLC257899...

Petitioner No.1/
Transferor Company

The Investment Trust of India Limited
CIN L65910MH1991PLC062067...

Petitioner No.2/
Transferee Company

Order pronounced on: June 08, 2020

Coram:

Mr. Rajasekhar V.K.

: Member (Judicial)

Mr. V. Nallasenapathy

: Member (Technical)



IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

CP(CAA) No.4417/MB/2019
Connected with CA (CAA) No. 1472/MB/ 2019

Appearances(via videoconference):

For the Petitioners Companies : Mr. Darshan Ashar, a/w Mr. Parth Choudhary i/b Sanjay Udeshi & Co., Advocates.

For the Regional Director (WR) : Ms. Rupa Sutar, Deputy Director

ORDER

Per: V. Nallasenapathy, Member (Technical)

1. This court is convened via video conferencing.
2. Heard the Learned Counsel for the parties. No objection has come before the Tribunal to oppose the Scheme nor has any party controverted any averments made in this Petition.
3. The Sanction of the Tribunal is sought under Sections 230 to 232 of Companies Act, 2013 to the Scheme of Amalgamation and Arrangement of ITI Management Advisors Limited (formerly known as ITI Reinsurance Limited) (First Petitioner Company/ Transferor Company) with the Investment Trust of India Limited (Second Petitioner Company/ Transferee Company) and their respective Shareholders (Scheme of Amalgamation and Arrangement or Scheme).
4. The Petitioner Companies have approved the said Scheme of Amalgamation and Arrangement by passing Board Resolutions in their respective board meetings held on March 25, 2019 and the copies of the Board Resolution are annexed to the Company Petition.



5. The Tribunal had *vide* its order dated November 05, 2019 in respect of hearing held on September 06, 2019 in CA (CAA) No. 1472 / MB of 2019 ordered meetings of equity shareholders of both the Petitioner Companies and preference shareholders of the Transferee Company to be conducted. Pursuant thereto, the meetings of equity shareholders of both the Petitioner Companies and the meeting of preference shareholders of Transferee Company was held on Friday, 8th November, 2019 for the purpose of considering and if thought fit, approving with or without modifications(s) the proposed Scheme of Amalgamation and Arrangement of ITI Management Advisors Limited (formerly known as ITI Reinsurance Limited)(*First Petitioner Company/ Transferor Company*) with the Investment Trust of India Limited (*Second Petitioner Company/ Transferee Company*) and their respective Shareholders. In the said meetings, the Scheme was approved by the requisite majority of the equity shareholders of the respective Petitioner Companies and preference shareholders of the Transferee Company without any modifications. The report of the Chairperson of the meetings stating the outcome of the meetings is annexed to the Company Petition as "Exhibits E-1 to E-3".
6. There are no secured creditors in either of the Petitioner Companies.
7. Notices to all the unsecured creditors of the Petitioner Companies, as directed by the Tribunal, were ordered, sent and delivered.
8. The Learned Counsel for the Petitioner Companies states that the Transferor Company was incorporated to be engaged in the



business of Reinsurance. However, the Transferor Company had surrendered the Certificate of Registration obtained from the IRDAI. The Transferor Company is presently engaged in the business of consultancy and advisory services.

9. The Transferee Company is primarily engaged in the financial services business including stock broking, underwriting, portfolio management, corporate advisory services, financial advisory, asset management, fund mobilization, lease financing and other financial services.
10. The Learned Advocates for the Petitioner Companies submits that scheme is intended to simplify the group structure, minimize cost of administration of legal entities and for better and more economic and efficient management, control and running of the businesses of the companies, it is considered desirable and expedient to amalgamate the Transferor Company with the Transferee Company in the manner and on the terms and conditions stated in the Scheme of Amalgamation and Arrangement. Further, since the Transferor Company had surrendered its license to operate as a Reinsurance Company, the management of both the Petitioner Companies had decided to merge the Transferor Company into the Transferee Company so that the financial and other business resources of the Transferor Company can be more effectively deployed in combined business of the Amalgamated Company. Also the combined entity will have greater efficiency in overall business including economies of scale, cash management of the amalgamated entity, cost savings, higher net worth base, higher borrowing capacity and unfettered access to



cash flow generated by the combined business which can be deployed more efficiently to fund investing and financing related activities and their growth opportunities in the businesses of the Petitioner Companies, to maximize shareholder value.

11. The entire equity share capital of the Transferor Company is beneficially held by the Transferee Company and hence no shares shall be issued by the Transferee Company as part of the Scheme pursuant to the amalgamation of the Transferor Company into the Transferee Company.
12. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its Report dated May 18, 2020 stating therein, save and except as stated in paragraph IV(a) to (f) of the said Report, the Regional Director has stated that:
 - (a) *In compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5(IND AS-8) etc.*
 - (b) *As per Definition of the Scheme,*
"Appointed Date" *means April 1, 2018 or such other date as may be fixed or approved by the National Company Law Tribunal, Mumbai bench and which is acceptable to the Board of Directors of the Transferor Company and the Transferee Company;*
And
"Effective Date" *means the last of the dates on which all the conditions as referred to in Clause 21 of the Scheme has been complied including filing of certified copy of the order sanctioning this Scheme passed by the National Company Law Tribunal at Mumbai with the Registrar of Companies, Mumbai by the Transferor Company and the Transferee Company collectively. Any references in this Scheme to*



the date of "coming into effect of this Scheme" or "upon the Scheme becoming effective" shall mean "the Effective Date".

In this regard, it is submitted that Section 232 (6) of the Companies Act, 2013 states that the Scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not a date subsequent to the appointed date. However, this aspect may be decided by the Tribunal taking into account its inherent powers.

Further the Petitioners may be asked to comply with the requirements as clarified vide circular no. F. No. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.

- (c) The Tribunal may kindly seek the undertaking that this Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Act in the meetings duly held in terms of Section 230(1) read with subsection (3) to (5) of Section 230 of the Act and the Minutes thereof are duly placed before the Tribunal.*
- (d) The Petitioners under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Compromise or Amalgamation and Arrangement. Further, the approval of the scheme by this Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such Authorities is binding on the Petitioner Company(s).*
- (e) Petitioner Company have to undertake to comply with section 232(3)(i) of the Companies Act, 2013, where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee Company on its authorized capital subsequent to the amalgamation and therefore, petitioners to affirm that they comply the provisions of the section.*
- (f) The Transferor Company is also engaged in reinsurance business; therefore, the Petitioner Company may be directed to submit No Objection of IRDA being a regulatory authority.*



IN THE NATIONAL COMPANY LAW TRIBUNAL
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13. In response to the above observations made by the Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, in its Report, the point wise response of the Petitioner Companies is as under:

- (a) As far as the observation made in Paragraph IV (a) of the Report of the Regional Director is concerned, the Learned Advocate for Petitioner Companies submits that in addition to the compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc, if any.
- (b) As far as the observations made in paragraph IV (b) of the Report of the Regional Director is concerned, the Learned Advocate for Petitioner Companies submits that the Appointed Date specified under the said Scheme is 01st April 2018 and the Scheme shall be deemed to be effective from the Appointed Date on coming into effect of the Scheme, as specified in the Scheme.
- (c) It is further submitted that in compliance with the clarifications as stated in the circular No.7/12/2019/CL-I dated 21.08.2019, issued by the Ministry of Corporate Affairs, the Appointed Date is a specific calendar date i.e. 1st April 2018 from which the Scheme shall be effective. Also, the Appointed Date is not ante-dated beyond a year from the date on which the said Scheme was approved by the Board of Directors of the Petitioner Companies i.e. 25th March, 2019.
- (d) As far as the observation made in paragraph IV (c) of the Report of the Regional Director is concerned, the Learned



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Advocate for Petitioner Companies submits that the Petitioner Companies duly undertake to confirm that the Scheme is approved by the requisite majority of members of both the Petitioner Companies. In compliance of the Order of the Tribunal, the Petitioner Companies had also filed reports of the results of the meetings of the members in Form CAA-4 depicting approval of the requisite majority of the equity shareholders of the both the Petitioner Companies and preference shareholders of the Transferee Company. The reports of the chairpersons of the meetings are annexed as Exhibits "E-1 to E-3" of the Company Scheme Petition. The Learned Advocate for the Petitioner Companies further submits that upon the request of the Petitioner Companies, the Tribunal was pleased to dispense the holding of the meetings of the Unsecured Creditors of the Petitioner Companies (there being no Secured Creditors in any of the Petitioner Companies), however the Petitioner Companies were directed to issue the notice of the meeting of the Equity Shareholders to all its respective Unsecured Creditors stating that, if any of the Creditors had any objections to the Scheme then the same must be filed before the Tribunal within 30 days from the date of receipt of such notice. Accordingly, in compliance with the said directions of the Tribunal, the Petitioner Companies had served notices upon all its creditors and so far no objector has come before the Tribunal or the Petitioner Companies to oppose the said Scheme of Amalgamation. Also the rights and interests of the creditors of the Petitioner Transferor Company will not be prejudicially affected by the Scheme, as no sacrifice or waiver is, at all, called from them nor are their rights are sought to be modified in any manner and post Scheme becoming effective, all the creditors / liabilities of the Transferor Company will get transferred to the Transferee Company and the Transferee Company will discharge all such



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liabilities in the normal course of business without jeopardizing the rights of the creditors.

- (e) As far as the observations made in paragraph IV (d) of the Report of the Regional Director is concerned, the Learned Advocate for Petitioner Companies submits that the Petitioner Companies have already served notices to the concerned authorities and further the approval of the Scheme will not deter such authorities to deal with any of the issues arising after giving effect to the Scheme.
- (f) As far as the observation made in paragraph IV (e) in the Report of the Regional Director is concerned, the Learned Advocate for Petitioner Companies submits that the Transferee Company shall be eligible to set-off the fees on the authorized share capital paid by the Transferor Company in accordance with the provisions of Section 232(3)(i) of the Companies Act, 2013.
- (g) As far as the observation made in paragraph IV (f) of the Report of the Regional Director is concerned, the Learned Advocate for Petitioner Companies submits that the Transferor Company was incorporated to be engaged in the business of Reinsurance. However, the Transferor Company did not commence the business of Reinsurance within the stipulated time and upon an application of the Transferor Company, the IRDAI has vide its letter dated 08th May 2019 approved to revoke its license to operate as a Reinsurance company and surrender its Certificate of Registration. Hence it is submitted that since the Transferor Company is no longer regulated by the IRDAI and also its name does not appear in the list of Reinsurance companies maintained by the IRDAI on its website, the said observation of obtaining NOC from IRDAI is not applicable.



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- (h) Learned counsel for the Petitioner Companies submits that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary Affidavits of compliance before this Tribunal. Moreover, the Petitioner Companies undertake to comply with all the statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made thereunder, as may be applicable. The undertaking is accepted.
14. The Official Liquidator has filed his report dated May 06, 2020 before the NCLT, *inter alia* stating therein that, the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved without winding up by this Tribunal.
15. From the material on record, the Scheme of Amalgamation and Arrangement appears to be fair and reasonable and does not violate any provisions of law and is not contrary to public policy.
16. Since all the requisite statutory compliances have been fulfilled, CP (CAA) No. 4417/MB/2019 has been made absolute in terms of prayers mentioned therein.
17. The Scheme is sanctioned with the Appointed Date fixed as April 1, 2018. The Transferor Company shall stand dissolved without the process of winding up.
18. The Petitioner Companies are directed to lodge a copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, electronically in E-Form INC-28, within



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30 days from the date of issue of certified order by the Registry, duly certified by the Deputy/ Assistant Registrar of this Tribunal.

19. The Petitioner Companies are directed to lodge a copy of this Order and the Scheme duly authenticated by the Deputy / Assistant Registrar of this Tribunal, 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 receipt of the certified Order by the Registry, duly certified by the Deputy/ Assistant Registrar of this Tribunal.
20. All concerned regulatory authorities to act on a copy of this Order duly certified by the Registrar/ Assistant Registrar of this Tribunal/Bench, along with a copy of the Scheme.
21. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

Sd/-

V. Nallasenapathy
Member (Technical)

Sd/-

Rajasekhar VK
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 22/06/2020

Assistant Registrar
National Company Law Tribunal Mumbai Bench