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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA (CAA) No.105/NCLT/AHM/2017

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 21.02.2018**

Name of the Company: Indian Commodity Exchange Ltd.

Section of the Companies Act: Section 230-232 of the Companies Act, 2013


<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.	Ms. Dharmishta Raval	Advocate	Applicant	<u>Dhaval</u>
2.	Ms. Yuvraj Thakore	Advocate	Applicant.	<u>Y. Thakore.</u>

ORDER

Learned Advocate Ms. Dharmishta Raval with Learned Advocate Mr. Yuvraj Thakore present for Applicant.

Order pronounced in open court. Vide separate sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 21st day of February, 2018.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CA (CAA) No.105/NCLT/AHM/2017

In the matter Amalgamation of :-

Indian Commodity Exchange Limited,
Having its registered office at :
1st Floor, Office 109,
Nodh No.1158 to 63/65/9,
Hat Faliyu, Mahidharpura,
Surat - 395003.

... Applicant
(Amalgamated Company)

Order delivered on 21st February, 2018

Coram: Hon'ble Mr. Bikki Raveendra Babu, Member (J)

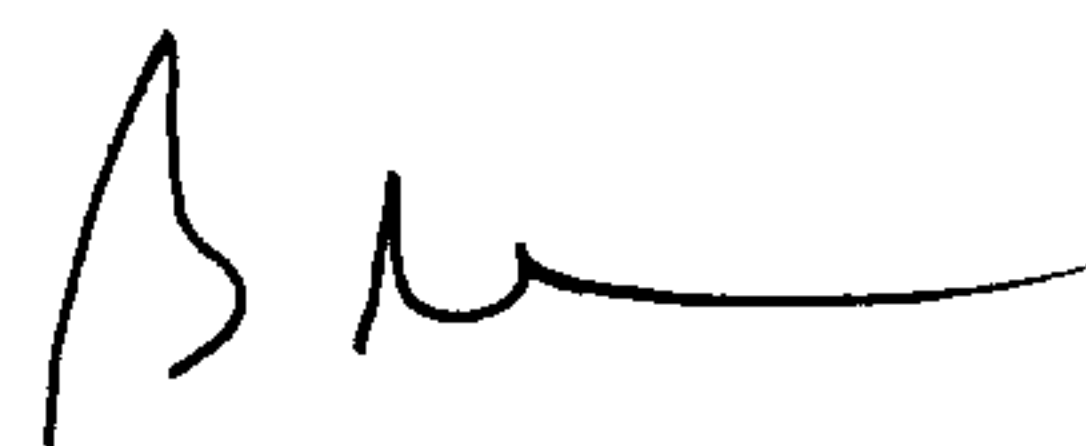
Appearance:

Mr. Saurabh Soparkar, Senior Advocate with Ms. Dharmista Raval, Advocate and Mr. Yuvraj Thakore for M/s Raval & Raval Advocates for the Applicant Company.

ORDER

1. Heard learned Counsel Shri Saurabh Soparkar and Learned Advocates Ms. Dharmishta Raval of M/s Raval & Raval Advocates and Mr. Yuvraj Thakore for the Applicant Amalgamated Company. Perused the application and the supporting affidavit of Mr. Sanjit Prasad, the authorized signatory of the Applicant Amalgamated Company, dated 19th September, 2017 and the documents annexed thereto.

2. This is an application filed by Indian Commodity Exchange Limited (hereinafter known as the Applicant Amalgamated Company) under Sections 230-232 of the Companies Act, 2013 ('the Act'). Indian Commodity Exchange Limited is incorporated under Companies Act, 1956 with its registered office in Ahmedabad.



3. Indian Commodity Exchange Limited has filed this application seeking dispensation of the meeting of the Secured Creditors and Unsecured Creditors and seeking direction for convening the meeting of the Equity Shareholders in respect of the Scheme of Amalgamation of National Multi-Commodity Exchange of India Limited ('NMCE' or 'the Amalgamating Company') with Indian Commodity Exchange Limited ('ICEX' or 'the Applicant Amalgamated Company') and their respective shareholders ('Scheme') with effect from the Appointed Date with the Amalgamating Company on the agreed terms and conditions as set out in the scheme annexed at Annexure – E in accordance with Sections 230 to 232 of the Act and other applicable provisions of the Act.
4. The Board of Directors of Indian Commodity Exchange Limited in the meeting held on 30th June, 2017, passed a resolution approving the proposed Scheme placed before the Board. It is stated in the Application that no investigation has been instituted or are pending in relation to the Applicant Amalgamated Company. It is further stated that the Provisions of Competition Act, 2002 and the provisions of FEMA/RBI will not be attracted under the present Scheme of Amalgamation. The Applicant Amalgamated Company has filed Annual Report dated 31st March, 2017. The Applicant Amalgamated Company has also filed a Certificate dated 9th August, 2017 issued by Chartered Accountant under Section 133 of the Act.
5. In this Company Application the Applicant Amalgamated Company has prayed for convening the meeting of the Equity Shareholders for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s), the Scheme and for issuing appropriate directions incidental for holding of such meeting.
6. It is stated that there are no Secured Creditors in the Applicant Amalgamated Company. Therefore, this Tribunal is of

the view that the meeting of Secured Creditors of the Applicant Amalgamated Company, for the purpose of considering and, if thought fit, approving with or without modification(s), is not required to be called for.

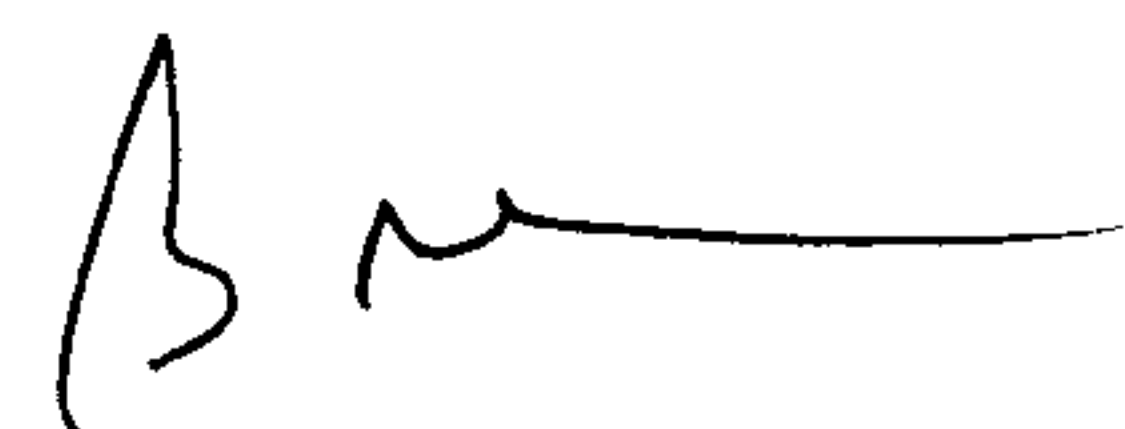
7. The Applicant Amalgamated Company, has stated that there are 10 Unsecured Creditors of the Applicant Amalgamated Company. The list of Unsecured Creditors is produced at **Annexure "H"**. The Applicant Amalgamated Company has, vide **Annexure "I"**, filed original consent affidavits of the 4 Unsecured Creditors representing 94% in value of the total Unsecured Creditors. In view of the affidavits of more than 90% of the value of the Unsecured Creditors, the meeting of Unsecured Creditors of the Applicant Amalgamated Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s), deserves to be dispensed with and is hereby dispensed with.

8. Having Considered the material on record, this Tribunal passes the following order:-

- a) A meeting of the Equity Shareholders of the Applicant Amalgamated Company shall be held on Friday, 6th April 2018 at 11:30 a.m. at 1st Floor, Office - 109, Nodh No.-1158 to 63/65/9, Hat Faliyu, Mahidharpura, Surat 395003, Gujarat, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
- b) At least one month before April 6th 2018, i.e. the date of the aforesaid meeting, an advertisement about convening of the said meeting, indicating the day, date, place and time, as aforesaid, shall be published in English daily, Financial Express, Ahmedabad Edition and Gujarati Daily thereof in Gujarat Samachar, Ahmedabad Edition. The publication

shall indicate the time within which copies of scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant 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 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Amalgamated Company or at the office of its Advocates, i.e. Ms. Dharmishta N. Raval 21-23 Laxmi Chambers, Near Old High Court, Off Income Tax Road, Ahmedabad – 380009 in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

- c) At least one month before the date of the meeting of the Equity Shareholders to be held as aforesaid, a notice in Form No. CAA 2 convening the said meeting, indicating the day, date, place and time aforesaid, together with a copy of the scheme, a copy of statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed form of proxy shall be sent to each of the Equity Shareholder of the Applicant Amalgamated Company at their respective registered or last known addresses either by Registered post or Speed Post/Airmail or by Courier or E-Mail or hand delivery. The Notice shall be sent to the Equity Shareholders of the Applicant Amalgamated Company with reference to the list of the persons appearing on the record of the Applicant Amalgamated Company as on 31st January, 2018, being the cut-off date. The aforesaid date would be the date determining the eligibility to vote by the Equity Shareholders.



- d) Mr. Manish Jain, Advocate, Address 6-586 LGF Defence Colony, New Delhi-110024, M- 9891422415 shall be the Chairman/Chairperson of the aforesaid meeting to be held on Thursday, April 6th, 2018 and in respect of any adjournment thereof.
- e) Mr. Ganesha S. Shetty, Practicing Company Secretary is appointed as the Scrutinizer for the meeting of the Equity Shareholders of the Applicant Amalgamated Company.
- f) The Chairman or Chairperson appointed for the aforesaid meeting of the Equity Shareholders shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman/Chairperson is free to avail the services of the Applicant Amalgamated Company or any agency for carrying out the aforesaid directions. The Chairman or Chairperson shall have all powers under the Articles of Association of the Applicant Amalgamated Company and also under the Rules in relation to the conduct of meeting, including for deciding any procedural questions that may arise at the meeting or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of the sense of the meeting of the Equity Shareholders by ballot/polling paper at the venue of the meeting of the Equity Shareholders.
- g) The quorum for the meeting of the Equity Shareholders shall be 5 (Five) persons present in person.
- h) Voting by proxy/authorized representatives is permitted, provided that the proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the aforesaid meeting is filed with the Applicant Amalgamated Company at its Registered Office at 1st Floor, Office - 109, Nodh No.-1158 to 63/65/9, Hat

Faliyu, Mahidharpura, Surat 395003, Gujarat, not later than 48 hours before the meeting vide Rule 10 of Companies (CAA) Rules, 2016 read with Section 105 of the Act.

- i) The number and value of the Equity Shareholders, shall be in accordance with the records or registers of the Applicant 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.
- j) The Chairman/Chairperson to file an affidavit not less than 7(seven) days before the date fixed for the holding of the meeting and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meeting have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
- k) It is further ordered that the Chairman or the Chairperson shall report to this Tribunal on the result of the meeting in Form No.CAA.4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in Form No. CAA.4 within seven working days.

9. In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (CAA) Rules 2016, the Applicant Amalgamated Company shall send a notice in Form No. CAA.3 along with a copy of the Scheme of Amalgamation, the explanatory statement and the disclosures mentioned under Rule 6, to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat, (iii) the Income Tax authorities and (iv) Securities and Exchange Board of India [SEBI] 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 subsection (5) of Section 230, 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 amalgamation.

10. This Company Application is disposed of accordingly.

Signature  21.2.18
Bikki Raveendra Babu, Member (J)

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