

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

**CA/159/CAA/2018
CA/160/CAA/2018
CA/161/CAA/2018**

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation

Between

M/s. IFMR Holdings Private Limited

(Demerged Company)

And

M/s. Dvara Investments Private Limited

(Resulting Company/Transferor Company)

And

M/s. Northern Arc Capital Limited

(Transferee Company)

Order delivered on 27th August, 2018

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CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Applicant(s): Mr. Pawan Jhabakh, *Advocate*
Mr. Abhishek Raman, *Advocate*

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration are Application Nos. CA/159/CAA/2018, CA/160/CAA/2018 & CA/161/CAA/2018 filed under Sections 230 to 232 of the Companies Act,

2013. The prayer made is to dispense with convening, holding and conducting of the meeting of equity shareholders, Cumulative Compulsorily Convertible Preference Shareholders and secured/unsecured creditors in relation to the Demerged Company and Resulting Company/Transferor Company. It is also prayed to dispense with convening, holding and conducting of the meeting of equity Shareholders and Preference Shareholders of the Transferee Company and direct the issue and publication of notices, Convening and Holding the meeting of the secured and unsecured creditors of the Transferee Company. All three Applications are pertaining to the same Scheme, therefore, are taken together to pass a common order.

2. M/s. IFMR Holdings Private Limited:-

- i. The Demerged Company viz., M/s. IFMR Holdings Private Limited has 4 (Four) equity shareholders. The list of equity shareholders is placed at page 263 of the typed set filed with the Application. The consent affidavits given

by the equity shareholders are placed at pages 264 to 274 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, the meeting of the equity shareholders of the Transferor Company is allowed to be dispensed with.

- ii. There are two Redeemable Cumulative preference Shareholders in Demerged Company. The list of Redeemable Cumulative preference Shareholders is placed at page 277 of the typed set filed with the Application. The consent affidavits given by the shareholders are placed at pages 270 to 274 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of Redeemable Cumulative preference shareholders.

Therefore, the meeting of the Redeemable Cumulative preference Shareholders of the Demerged Company is allowed to be dispensed with.

- iii. There is one secured creditor in relation to the Demerged Company. The Certificate issued by the Chartered Accountant to this effect is placed at pages 278 to 279 of the typed set filed with the Application. The consent affidavit given by the secured creditor is placed at pages 280 to 281 of the typed set filed with the Application, wherein it has been deposed that he does support the Scheme and consent to dispense with convening, holding and conducting the meeting of secured creditors. Therefore, the meeting of the secured creditor of the Transferor Company is allowed to be dispensed with.
- iv. There is one unsecured creditor in relation to the Demerged Company. The Certificate issued by the Chartered Accountant to this effect is

placed at pages 282 to 283 of the typed set filed with the Application. The consent affidavit given by the unsecured creditor is placed at pages 284 to 285 of the typed set filed with the Application, wherein it has been deposed that he does support the Scheme and consent to dispense with convening, holding and conducting the meeting of unsecured creditors. Therefore, the meeting of the unsecured creditor of the Transferor Company is allowed to be dispensed with.


3. M/s. Dvara Investment Private Limited:-

- i. The Resulting Company/Transferor Company viz., M/s. Dvara Investment Private Limited has 2 equity shareholders. The lists of equity shareholders are placed at page 116 of the typed set filed with the Application. The consent affidavits given by the equity shareholders are placed at pages 117 to 121 of the typed set filed with the Application, wherein

it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, the meeting of the equity shareholders of the Resulting Company/Transferor Company is allowed to be dispensed with.

- ii. There is no secured and unsecured creditor in relation to the Resulting Company/Transferor Company. The Certificate issued by the Chartered Accountant to this effect is placed at pages 122 to 125 of the typed set filed with the Application.

4. M/s. Northern Arc Capital Limited:-

- i. The Transferee Company viz., M/s. Northern Arc Capital Limited has 7 equity shareholders. The lists of equity shareholders are placed at page 428 of the typed set filed with the Application. The consent affidavits given by the equity shareholders are placed at pages 429 to 

509 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, the meeting of the equity shareholders of the Transferee Company is allowed to be dispensed with.

- ii. There are two Preference Shareholders in relation to the Transferee Company. The list of the Preference Shareholders is placed at page 510 of the typed set filed with the Application. The consent affidavits given by the Preference shareholders are placed at pages 433 to 503 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of preference shareholders. Therefore, the meeting of the Preference shareholders of the

Transferee Company is allowed to be dispensed with.

- iii. There are 28 secured creditors in the Transferee Company. The Certificate issued by the Chartered Accountant to this effect is placed at pages 511 to 513 of the typed set filed with this application.

The Applicants prayed to fix a date for convening and conducting the meeting of the Secured Creditors of the Transferee Company and to appoint a Chairman for the said meeting. Therefore, the meeting of the secured Creditors is directed to be conducted on 30th October, 2018 at 11:30 A.M., at IIT M Research Park, Phase I, 10th Floor, 1 Kanagam Village (Behind Tidel Park), Taramani, Chennai-600113.

Mr. Bama Balakrishnan (Chief Financial Officer) failing which, Mr. Saurabh Jaywant (Chief Legal Counsel), has been appointed as the Chairman of the Meeting of the secured

Creditors. The quorum for meeting is fixed at 10. In case the quorum is not there at the designated time when the meeting is called, then, the meeting shall be adjourned by half an hour, and thereafter, the person present for voting shall be deemed to constitute the quorum. The notice of the meeting of secured Creditors shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the secured Creditors is available with the Transferee Company.

The Transferee Company is also directed to make available the facility for voting by making appropriate arrangements. The information about such arrangements shall be given to the Secured Creditors well before the date fixed for the meeting. Those who received the notices may vote in the meeting either in person or through proxy for the adoption of the Scheme.

The Chairman shall ensure that the proceedings of the meeting may take place in a just, free and fair manner, and within one week of the meeting, the Chairman shall file the report of the meeting of Secured Creditors before this Bench. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him.


- iv. There are 37 unsecured creditors in the Transferee Company. The Certificate issued by the Chartered Accountant to this effect is placed at pages 514 to 517 of the typed set filed with this application.

The Applicants prayed to fix a date for convening and conducting the meeting of the Unsecured Creditors of the Transferee Company and to appoint a Chairman for the said meeting. Therefore, the meeting of the Unsecured Creditors is directed to be conducted on 30th October, 2018 at 1:00 P.M.,

at IIT M Research Park, Phase I, 10th Floor, 1 Kanagam Village(Behind Tidel Park), Taramani, Chennai-600113.

Mr. Bama Balakrishnan (Chief Financial Officer) failing which, Mr. Saurabh Jaywant (Chief Legal Counsel), has been appointed as the Chairman of the Meeting of the Unsecured Creditors. The quorum for meeting is fixed at 10. In case the quorum is not there at the designated time when the meeting is called, then, the meeting shall be adjourned by half an hour, and thereafter, the person present for voting shall be deemed to constitute the quorum. The notice of the meeting of Unsecured Creditors shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the secured Creditors is available with the Transferee Company.

The Transferee Company is also directed to make available the facility for voting by making appropriate arrangements. The information about such arrangements shall be given to the Unsecured Creditors well before the date fixed for the meeting. Those who received the notices may vote in the meeting either in person or through proxy for the adoption of the Scheme. The Chairman shall ensure that the proceedings of the meeting may take place in a just, free and fair manner, and within one week of the meeting, the Chairman shall file the report of the meeting of Unsecured Creditors before this Bench. The Chairman of the meeting is at liberty to fix his remuneration as per the practice in vogue and the company shall pay the same to him.

4. The Registry is directed to issue notice to the Reserve Bank of India (RBI), SEBI, concerned Regional Director, Ministry of Corporate Affairs, RoC concerned and Income Tax Authorities including the Assessing 

Officer of the I.T. Circle, Pension fund Regulatory and Development Authority in relation to the Applicant Companies separately and also notice to the Official Liquidator in relation to the Transferor Company with the direction to appoint Chartered Accountant on his own for filing report. In case, the statutory authorities to whom the notice is issued are desirous of making any objection/representation, they may do so within 30 days from the date of receipt of the notice. In case no objection/representation is made, it shall be presumed that they/any of them have/has no objection/representation to make.

5. The Applicant Companies are directed to issue private notice to the said authorities/regulators by way of speed post/hand delivery separately. The proof of sending and effecting the service of notice upon them along with the newspaper publication shall be submitted with the supporting affidavit to this Bench along with Company Petition(s).

6. The Applicant Companies are directed to effect publication separately in the newspapers one in English "Business Standard" (All India Edition) and another in vernacular "Dina Mani" (Tamilnadu Edition) provided the said newspapers have wide circulation in the State of Tamilnadu, having not less than 30+2 days before the date fixed for meeting. The Applicant Companies are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of their respective companies. The Registry is also directed to display the notice on the notice board of this Bench.

7. After one week from the date of submission of the reports by the Chairman, the Applicant Companies may present the Company Petition(s). Accordingly the Applications stand **disposed of**.

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[CH. MOHD. SHARIEF TARIQ]
MEMBER (JUDICIAL)