

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-III

C. P. (CAA) No. 4143 of 2019
Connected with
C. A. (CAA) No. 2464 of 2019

In the matter of the Companies Act, 2013 And In the matter of Sections 230 read with Section 232 and other applicable provisions of the Companies Act, 2013 And In the matter of Scheme of Arrangement by and between United Petro Finance Limited ("Demerged Company"), Fortune Credit Capital Limited ("Resulting Company") and The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited) ("Holding Company of the Resulting Company") and their respective Shareholders.

United Petro Finance Limited *

(CIN: U65923MH1996PLC310611)

registered office at 21st Floor, Unit No. 2103,

"A" Wing Naman Midtown, Senapati Bapat

Marg, Elphinstone Road, Mumbai-400013 ... Petitioner Company 1/
Applicant Demerged Company

Fortune Credit Capital Limited

(CIN: U67190MH2007PLC175180)

registered office at 21st Floor, Unit No. 2104,

"A" Wing Naman Midtown, Senapati Bapat

Marg, Elphinstone Road, Mumbai - 400 013 ... Petitioner Company 2/
Applicant Resulting Company

The Investment Trust of India Limited

(CIN: L65910MH1991PLC062067)

registered office at Naman Midtown,

A Wing Unit No. 2103, 21st Floor, Senapati

Bapat Marg, Elphinstone Road,

Mumbai - 400 013

.... Petitioner Company 3/
Holding Company of the
Resulting Company



Order delivered on 03.12.2020

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Darshan Ashar Advocate i/b. Sanjay Udeshi & Co.,
Advocate

For the Regional Director: Ms. Rupa Sutar, Deputy Director

Per Shri H. V. Subba Rao, Member (Judicial)

ORDER

1. Heard learned counsel for the Petitioner Companies. No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments made in this Petition.
2. The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to a Scheme of Arrangement by and between United Petro Finance Limited ("Demerged Company") and Fortune Credit Capital Limited ("Resulting Company") and The Investment Trust of India Limited ("Holding Company of the Resulting Company") and their respective shareholders ("Scheme of Arrangement"/ "Scheme").
3. The Petitioner Companies had approved the said Scheme of Amalgamation and Arrangement by passing the respective Board Resolutions each dated 19th February 2019 which are annexed to the Company Scheme Petition.
4. The Hon'ble Tribunal had vide its order dated 25th July 2019 in CA (CAA) No. 2464/MB/2019 ordered meetings of Equity shareholders of all the Petitioner Companies and Preference shareholders of the Resulting Company and the Holding Company of the Resulting Company to be conducted. Pursuant thereto, the respective meetings of Equity shareholders of all the Petitioner Companies and the meeting of Preference shareholders of Resulting Company and the Holding Company of the Resulting



Company was held on Tuesday, 24th September, 2019 for the purpose of considering and if thought fit, approving with or without modifications(s) the proposed Scheme of Arrangement by and between United Petro Finance Limited ("Demerged Company") and Fortune Credit Capital Limited ("Resulting Company") and The Investment Trust of India Limited ("Holding Company of the Resulting Company") and their respective Shareholders ("Scheme of Amalgamation and Arrangement"/"Scheme"). 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 Resulting Company and the Holding Company of the Resulting Company respectively without any modifications. The report of the Chairpersons of the meetings stating the outcome of the meetings are annexed to the Company Petition as "Exhibits "F-1 to F-3" and "G-1 to G-2" respectively".

5. There are no secured creditors in the Resulting Company and the Holding Company of the Resulting Company.
6. Notices to all the secured creditors of the Demerged Company, as directed by the Hon'ble Tribunal, were ordered, sent and delivered. Notices to all the unsecured creditors of the Petitioner Companies, as directed by the Hon'ble Tribunal, were ordered, sent and delivered.
7. The Demerged Company is engaged in two key business verticals – Lending Business and Technology Business.
8. The Resulting Company is primarily engaged in the business of corporate financing and lending against security of shares, stocks, bonds, debentures or other similar instruments on short, medium and long term basis.
9. The Holding Company of the Resulting 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 in order to achieve better management and to have clear focus on business and operations, the management of the Demerged Company has decided to demerge the Lending Business thereby transferring the Lending Business of the Demerged Company into the Resulting Company, with a focus on extending and consolidating short term, unsecured business loans to MSMEs (medium, small and micro enterprises) such as Retail Businesses, Distributors, Traders and Services Businesses and which is in the interests of maximizing overall stakeholders value.
11. The authorised share capital of the Demerged Company is Rs. 55,00,00,000/- comprising of 5,50,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the Transferor Company is Rs. 54,60,00,000/- comprising of 5,46,00,000 equity shares of Rs. 10/- each.
12. The authorised share capital of the Resulting Company is Rs. 120,00,00,000/- comprising of 7,80,00,000 equity shares of Rs. 10/- each and 3500 0.01% Unsecured Non-cumulative fully convertible Non-redeemable Preference Shares of Series 1 (CCPS) of Rs. 1,00,000/-each and 7,00,00,000 0.01% Non-convertible Non-cumulative Redeemable Preference Shares of Series II (CCPS) of Rs. 1/- each. The issued, subscribed and paid-up share capital of the Resulting Company is Rs. 90,00,30,100/- comprising of 5,00,00,000 equity shares of Rs. 10/- each and 3400 0.01% Unsecured Non-cumulative fully convertible Non-redeemable Preference Shares of Series 1 (CCPS) of Rs. 1,00,000/-each and 6,00,30,000 0.01% Non-convertible Non-cumulative Redeemable Preference Shares of Series II (CCPS) of Rs. 1/- each.
13. The authorised share capital of the Holding Company of the Resulting Company is Rs. 105,25,00,000/- comprising of 10,30,00,000 equity shares of Rs. 10/- each and 2,25,000 1% Redeemable Cumulative Preference shares of Rs. 100/- each. The issued, subscribed and paid-up share capital of the Transferee Company is Rs. 53,27,37,670/- comprising of 5,10,23,767 equity



shares of Rs. 10/- each and 2,25,000 1% Redeemable Cumulative Preference Shares of Rs. 100/- each.

14. Upon this Scheme coming into effect, the Holding Company of the Resulting Company (which is covered under the definition of Resulting Company u/s 2(41A) of the Income Tax Act, 1961), shall, without any further application or deed, issue and allot to the shareholders of the Demerged Company whose names appear in the Register of Members of the Demerged Company on the Record Date (except for the shareholding by the Holding Company of the Resulting Company itself and/or its wholly owned subsidiaries), the following shares in proportion of their holding in the Demerged Company :
- 496,500 (Four Lakhs Ninety-six Thousand Five Hundred) fully paid-up equity shares of face value INR 10/-; and
 - 732,000 (Seven Lakhs Thirty-two Thousand) Optionally Convertible Preference Shares ('OCPS') of face value INR 325/- each, convertible into equal number of equity shares of face value INR 10/- each. Further, the OCPS will carry a right for applying for additional 1.5 equity shares of face value INR 10/- each at a price of Rs. 325 per share including premium of INR 315/-.
15. The Regional Director, Western Region has filed his Report dated 14th February 2020. In Paragraph IV (a) to (c) of the said Report, the Regional Director has stated that:
- 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.*
 - As per Definition of the Scheme,*
"Appointed Date" means March 31, 2017 (close of business hours) or such other date as may be approved by the National Company Law Tribunal at Mumbai;
"Effective Date" means the date on which the certified copy of the Order of the National Company Law Tribunal is filed with the Registrar of Companies;



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

(c) *ROC Mumbai Report dated 05.02.2020 has mentioned following observations:-*

1. *Holding Company of the Resulting Company is Investment Company hence NOC from RBI is required*
2. *Holding Company of the Resulting Company is listed company hence notice to SEBI & Stock Exchange is required to be issued.*

16. In response to the above observations made by the Regional Director 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, it is hereby submitted that, in addition to compliance with AS-14 or IND AS-103, as may be applicable, the Petitioner Companies will pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 or IND AS-8 etc., as may be applicable.

b) As far as the observations made in paragraph IV (b) of the Report of the Regional Director is concerned, it is hereby submitted that, the Appointed date under the said Scheme is 31st March 2017. Further, I hereby submit that the arrangement as embodied in the Scheme shall take effect from the Appointed Date and shall be operative from the Effective Date as mentioned in Clause 6.1.7 of the Scheme.

Additionally, in respect of the requirements of the circular no. F. No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs ("MCA Circular"), it is hereby submitted that the following sequence of activities needs to be appreciated:

a. The arrangement as embodied in the Scheme ("Original Scheme") was initially approved by the Board of Directors of the Holding Company of the Resulting Company, which



is a listed company, in their meeting held on April 25, 2017. Therefore, at that point in time the Appointed Date of April 1, 2017 was a current date viz. it was not ante dated beyond a year.

- b. Thereafter, as the Holding Company of the Resulting Company is a listed company, it was required to file an application with the Stock Exchanges (viz. BSE Limited and National Stock Exchange of India Limited) for seeking their no-objection to the Scheme of Arrangement, in terms of SEBI Circular no. CFD/DIL3/CIR/2017/21 dated 10th March 2017, as amended from time to time ("SEBI Circular"), prior to filing an application with Hon'ble NCLT. Therefore, the Holding Company of the Resulting Company submitted such an online application on July 18, 2017.
- c. Thereafter, in terms of SEBI Circular, Stock Exchanges sought certain clarifications from the Holding Company of the Resulting Company from time to time and finally, through their respective letters each dated August 13, 2018 returned the Scheme of Arrangement highlighting the observations of SEBI that the Scheme was not in compliance with clause (1) (A) (3) (b) of SEBI Circular, as amended at that point in time ("Stock Exchanges Initial Letter").
- d. Therefore, in order to address the observations of Stock Exchanges / SEBI as highlighted in the Stock Exchanges Initial Letter, the management of the Petitioner Companies carried out certain required changes in the Scheme of Arrangement to effectively address the aforesaid observations and thereafter, the board of directors of the Holding Company of the Resulting Company again approved the said Scheme of Arrangement, as modified, ("Revised Scheme of Arrangement") in their meeting held on February 19, 2019.
- e. Thereafter, as required under the said SEBI Circular, the Holding Company of the Resulting Company again submitted an online application with the Stock Exchanges on February 28, 2019 for seeking their no-objection to the Revised Scheme of Arrangement.



- f. Thereafter, in terms of SEBI Circular, Stock Exchanges again sought certain clarifications from the Holding Company of the Resulting Company from time to time and finally, through their respective letters each dated June 10, 2019 issued a "No adverse observation" letter for the said Revised Scheme of Arrangement ("Stock Exchanges No-objection Letter").
- g. Only on receipt of the Stock Exchanges No-objection Letter, the Petitioner Companies could initiate the process of filing application with Hon'ble NCLT, and which was filed on June 27, 2019.

In light of the aforesaid background, it is submitted that since significant amount of time was lapsed in seeking approval/ no objection of the Stock Exchanges/ SEBI and thus, the Appointed Date in the Revised Scheme of Arrangement falls beyond or is ante dated beyond a year from the date of filing the Application with the Hon'ble NCLT. However, it is hereby submitted that the Appointed Date is a specific calendar date which is in accordance with the clarifications as stated in the MCA Circular.

- c) As far as the observation made in Point 1 of paragraph IV (c) is concerned, it is hereby submitted that the Holding Company of the Resulting Company is not registered with the RBI as a Non-Banking Financial Company. It is further submitted that as per clause xvi. of Annexure A to the Independent Auditors' Report on the standalone financial statements of the Holding Company of the Resulting Company for the financial year ended 31st March 2020, the company is not required to be registered under section 45-1A of the Reserve Bank of India Act, 1934 and hence, NOC from the Reserve Bank of India shall not be required.

Further in response to Point 2 of paragraph IV (c), it is submitted that, in response to the Revised Scheme of Arrangement submitted by the Holding Company of the Resulting Company on February 28, 2019 as stated above, the Stock Exchanges, namely BSE Limited and National Stock



Exchange of India Limited vide their respective letters each dated June 10, 2019 issued a "No adverse observation" letter for the said Revised Scheme of Arrangement which inter alia includes in it the comments / observations of the SEBI. Also, in the letters issued by the Stock Exchanges, it is specifically mentioned as follows:-

"It is to be noted that the petitions are filed by the company before NCLT after processing and communication of comments/observations on draft scheme by SEBI/ stock exchange. Hence, the company is not required to send notice for representation as mandated under section 230(5) of Companies Act, 2013 to SEBI again for its comments/observations/representations."

Therefore, there are no further actions required on these points.

17. 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.
18. From the material on record, the Scheme of Amalgamation and Arrangement appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. Since all the requisite statutory compliance have been fulfilled, Company Scheme Petition No. 4143 of 2019 is made absolute in terms of prayers mentioned therein.

ORDER

- a. That the said Scheme of Arrangement is hereby sanctioned and declared the same to be binding on the Petitioner Company No.1, Petitioner Company No. 2 and Petitioner No. 3 and their respective Shareholders.



- b. The Scheme is sanctioned with the Appointed Date fixed as 31st March 2017.
- c. 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 30 days from the date of issue of certified order by the Registry, duly certified by the Deputy/ Assistant/ Joint Registrar of this Tribunal.
- d. The Petitioner Companies are directed to lodge a copy of this Order and the Scheme duly authenticated by the Deputy/ Assistant/ Joint 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/ Joint Registrar of this Tribunal.
- e. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director/ Assistant Registrar/ Joint Registrar, National Company Law Tribunal, Mumbai.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)

Certified True Copy
Date of Application 16.12.2020
Number of Pages 10
Fee Paid Rs 50
Applicant called for collection copy on 21.12.2020
Copy prepared on 21.12.2020
Copy issued on 21.12.2020


Joint Registrar
National Company Law Tribunal Mumbai Bench



SCHEME OF ARRANGEMENT
BETWEEN
UNITED PETRO FINANCE LIMITED
AND
FORTUNE CREDIT CAPITAL LIMITED
AND
THE INVESTMENT TRUST OF INDIA LIMITED
AND
THEIR RESPECTIVE SHAREHOLDERS

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

1. The Scheme is divided into following parts:
- 1.1 Part 1 deals with the introductions and definitions and share capital of the Demerged Company, the Holding Company of the Resulting Company and the Resulting Company;
- 1.2 Part 2 deals with the mechanics of the transfer of the demerger of the Lending Business by way of a demerger of business on a going concern basis for consideration being discharged by way of issue of shares of the Holding Company of the Resulting Company to the shareholders of the Demerged Company; and
- 1.3 Part 3 deals with the general terms and conditions that will be applicable to Part 2 of the Scheme.

PART I
INTRODUCTION AND DEFINITIONS

- 1.1 United Petro Finance Limited ("UPFL" or "Demerged Company") was incorporated on 31st May, 1996 under the provisions of the Companies Act, 1956. The registered office of the Demerged Company is situated at 21st Floor, Unit No. 2103, "A" Wing Naman Midtown, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400 013, Maharashtra, India. The Corporate Identity Number is U65923MH1996PLC310611. As on the Appointed Date of 31st March, 2017, The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited) holds 40.60% of the equity share capital of UPFL. The head office is situated at Mumbai. UPFL currently has two



key business verticals –Lending Business and Technology Business. The Lending Business (as defined hereinafter) to be demerged into Fortune Credit Capital Limited (FCCL) with a focus on extending and consolidating short term, unsecured business loans to MSMEs (medium, small and micro enterprises) such as Retail Businesses, Distributors, Traders and Services Businesses.

- 1.2 Fortune Credit Capital Limited ("FCCL" or the "Resulting Company") is a 100% subsidiary of The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited). The Resulting Company was incorporated on 19th October 2007 as a Public Limited Company. As on 24th June 2008 it is registered under Section 45-IA of the Reserve Bank of India Act, 1934 as a Non-Banking Financial Company (non-deposit accepting) classified as a loan company. The Corporate Identity Number is U67190MH2007PLC175180. The registered office of FCCL is situated at Naman Midtown, "A" Wing, 21st Floor, Unit No 2104, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400013. The Resulting Company is primarily engaged in the business of corporate financing and lending against security of shares, stocks, bonds, debentures or other similar instruments on short, medium and long term basis.
- 1.3 The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited) ("TITIL" or the "Holding Company of the Resulting Company") was incorporated on June 14, 1991 as a Limited Company in the State of Maharashtra under the provisions of the Companies Act, 1956 under the name and style of "Fortune Financial Services (India) Private Limited". The name was then changed to "Fortune Financial Services (India) Limited" on October 20, 1991. The name was then changed to its present name of "The Investment Trust of India Limited" on June 9, 2018. The Corporate Identity Number is L65910MH1991PLC062067. The Registered Office of TITIL is situated at Naman Midtown, "A" Wing Unit No. 2103, 21st Floor, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400 013. The equity shares of TITIL are listed on the BSE Limited and National Stock Exchange of India Limited. TITIL is presently engaged in the business of stock broking, underwriting, portfolio management, corporate advisory services, financial advisory, asset management, fund mobilization, lease financing and other financial services.
- 1.4 This Scheme of Arrangement ("Scheme") provides for Demerger of the Lending Business (as defined hereunder) of United Petro Finance Limited into Fortune Credit Capital Limited and consequent issue of shares of The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited) to the shareholders of United Petro Finance Limited;



2. **Rationale of the Scheme:**
- 2.1 In order to achieve better management and to have clear focus on business operations, the management of the Demerged Company has decided to demerge the Lending Business thereby transferring the Lending Business (as defined hereinafter) of the Demerged Company to the Resulting Company, in the interests of maximizing overall shareholder value.
- 2.2 Therefore, with a view to effect such plan, the Board of Directors of the Demerged Company and the Resulting Company propose that the Lending Business of the Demerged Company be transferred to and vested in the Resulting Company on a going concern basis to be undertaken through this Scheme (as defined hereinafter) under the provisions of sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the relevant Companies Act for such consideration and in such manner as provided for in this Scheme (as defined hereinafter).
- 2.3 Accordingly, this Scheme under sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the relevant Companies Act has been proposed to provide for transfer of Lending Business of the Demerged Company by way of demerger to the Resulting Company.
- 2.4 Upon the sanction of the Scheme by the National Company Law Tribunal (as defined hereinafter) and the Scheme becoming effective on the Effective Date (as defined hereinafter), the Lending Business of the Demerged Company shall stand transferred to, and be vested in, the Resulting Company on and from the Appointed Date for all intent and purposes.
3. This Scheme also provides for various other matters consequential or otherwise integrally connected herewith.
4. The Demerger of the Lending Business (also referred to as "the Demerged Business") from the Demerged Company to the Resulting Company shall comply with the provisions of Section 2(19AA) of the Income Tax Act, 1961, such that:
- 4.1 all the properties of the Demerged Business, being transferred by the Demerged Company, immediately before the Demerger shall become the properties of the Resulting Company by virtue of such Demerger;
- 4.2 all the liabilities relating to the Demerged Business being transferred by the Demerged Company, immediately before the Demerger shall become the liabilities of the Resulting Company by virtue of such Demerger;
- 4.3 the properties and the liabilities relating to the Demerged Business being transferred by the Demerged Company shall be transferred to the Resulting Company at the



values appearing in the books of account of the Demerged Company immediately before the Demerger. For this purpose, any change in the value of assets consequent to their revaluation, if any, shall be ignored;

- 4.4 the Holding Company of the Resulting Company (which is covered under the definition of Resulting Company u/s 2(41A) of the Income Tax Act, 1961) shall issue, in consideration of the Demerger, shares to the shareholders of the Demerged Company on a proportionate basis;
- 4.5 Shareholders holding at least 75% value of shares of the Demerged Company shall become the shareholders of the Holding Company of the Resulting Company by virtue of the Demerger, otherwise than as a result of the acquisition of the property or assets of the Demerged Company or any business thereof by the Demerged Company; and
- 4.6 The transfer of the Demerged Business shall be on a going concern basis.
5. This Scheme has been drawn up to comply with the conditions relating to "Demerger" as specified under Section 2(19AA) of the Income Tax Act, 1961. If any term or provision of the Scheme is found or interpreted to be inconsistent with the said provisions at a later date, including resulting from an amendment of law or for any other reason whatsoever and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(19AA) of the Income Tax Act, 1961. Such modification will however not affect other parts of the Scheme.
6. **DEFINITIONS**
- 6.1 In this Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meanings:
- 6.1.1 "Act" or "Companies Act" means the Companies Act, 2013 (to the extent of sections thereof that have been brought into force) and the provisions of the Companies Act, 1956 for the time being in force along with rules and regulations issued thereunder, including, any statutory modifications, re-enactments or amendments made thereto from time to time.
- 6.1.2 "Appointed Date" means March 31, 2017 (close of business hours) or such other date as may be approved by the National Company Law Tribunal at Mumbai;



- 6.1.3 "Board" in relation to each of the Resulting Company, the Demerged Company and the Holding Company of the Resulting Company, as the case may be, shall, unless it be repugnant to the context or otherwise, include a committee of directors or any person duly constituted and authorized by the respective Boards of Directors
- 6.1.4 "UPFL" or "Demerged Company", means United Petro Finance Limited, a company incorporated under the Companies Act, 1956 and having its registered office at 21st Floor, Unit No. 2103, "A" Wing Naman Midtown, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400 013, Maharashtra, India.
- 6.1.5 "FCCL" or "Resulting Company", means Fortune Credit Capital Limited, a company incorporated on 19th October 2007 and having its registered office at Naman Midtown, "A" Wing, 21st Floor, Unit No 2104, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400013.
- 6.1.6 "Holding Company of the Resulting Company" or "TITIL", means The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited), a company incorporated on June 14, 1991 and having its registered office at Naman Midtown, "A" Wing, 21st Floor, Unit No 2103, Senapati Bapat Marg, Elphinstone Road, Mumbai - 400013.
- 6.1.7 "Effective Date" means the date on which the certified copy of the Order of the National Company Law Tribunal is filed with the Registrar of Companies;
- 6.1.8 "NCLT" or "National Company Law Tribunal" or "Tribunal" means National Company Law Tribunal at Mumbai Bench having jurisdiction in relation to the Demerged Company and the Resulting Company, as applicable or such other competent authority to whom this Scheme in its present form is submitted for sanctioning under sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the relevant Companies Act.
- 6.1.9 "Optionally Convertible Preference Shares" or "OCPS" means Optionally Convertible Preference Shares of The Investment Trust of India Limited (erstwhile Fortune Financial Services (India) Limited) of the face value of Rs. 325 each as referred to in Clause 10 and Annexure 1 of the Scheme hereof;
- 6.1.10 "Scheme" or "the Scheme" or "this Scheme" means this Scheme of Arrangement in its present form submitted to the National Company Law Tribunal at Mumbai Bench for sanction with any modification(s) approved or imposed or directed by the said National Company Law Tribunal;



6.1.11 "Record Date" means the date to be fixed by the Board of Directors of the Resulting Company and the Holding Company of the Resulting Company for the purpose of issue of shares of the Holding Company of the Resulting Company to the shareholders of the Demerged Company on demerger of the Lending Business and transfer and vesting thereof into the Resulting Company;

6.1.12 "Remaining Business" means all the business of the Demerged Company remaining with the Demerged Company after transfer of the Lending Business pursuant to the Scheme.

6.1.13 "Lending Business" or "Demerged Business" means all activities and business of the Demerged Company relating to Lending Business activities related thereto, however, it shall not include any new business segment(s) commenced after the Appointed Date including the lending against gold business, which was commenced after the Appointed Date.

"Lending Business" shall mean and include:

- a. All assets of Lending Business of the Demerged Company as on the Appointed Date;
- b. All debts, liabilities, duties and obligations of Lending Business of the Demerged Company as on the Appointed Date (hereinafter referred to "the said Liabilities");
- c. Without prejudice to the generality of sub-clause (a) above, the Demerged Business of the Demerged Company (Lending Business) shall include all their reserves, provisions, funds, moveable and immovable properties (including the lease hold land, if any), assets including investments, claims, powers, authorities, allotments, approvals, consents, registrations, contracts, enactments, arrangements, rights, titles, interest, benefits, advantages, lease-hold rights and other intangible rights, industrial and other licenses, permits, authorisations, quota, rights, trade marks, patents, brands, secret formulae, drawings, research rights and other industrial intellectual properties, imports, telephone/facsimile/ telex and other communication facilities and equipments including computers, hardware, software, and other electronic equipments and instruments, system of any kind whatsoever, rights and benefits of all agreements and other interests including rights and benefits under various schemes of different taxation laws as may belong to or be available to the Lending Business of the Demerged Company, rights and powers of every kind, nature and description, liberties,



easements, advantages, and approval of whatsoever nature and wheresoever situated, belonging to or in ownership, power or possession or control or entitlement of the Lending Business of the Demerged Company;



7. SHARE CAPITAL

7.1 The share capital of UPFL as on March 31, 2016 is as under:

	Amount in INR
Authorised:	
2,00,00,000 Equity Shares of INR 10/- each	20,00,00,000
	<u>20,00,00,000</u>
Issued, Subscribed and Paid-up:	
20,00,000 Equity Shares of INR 10/- each, fully paid-up	2,00,00,000
	<u>2,00,00,000</u>

Subsequent to the above balance sheet date, Issued & Paid-up share capital of UPFL has undergone a change and position as on March 31, 2017 is as stated below

	Amount in INR
Authorised:	
2,00,00,000 Equity Shares of INR 10/- each	20,00,00,000
	<u>20,00,00,000</u>
Issued, Subscribed and Paid-up:	
2,00,00,000 Equity Shares of INR 10/- each, fully paid-up	20,00,00,000
	<u>20,00,00,000</u>

As at 31st March, 2017 TITIL held 81,20,000 equity shares of UPFL.

7.2 The share capital of FCCL as on March 31, 2016 is as under:

	Amount in INR
Authorised:	
4,00,00,000 Equity Shares of INR 10/- each	40,00,00,000
	<u>40,00,00,000</u>
Issued, Subscribed and Paid-up:	
4,00,00,000 Equity Shares of INR 10/- each, fully paid-up	40,00,00,000
	<u>40,00,00,000</u>

Subsequent to the above balance sheet date, the Authorised Capital as well as Issued & Paid-up share capital of FCCL has undergone a change and position as on December 31, 2016 is as stated below



	Amount in INR
Authorised:	
5,00,00,000 Equity Shares of INR 10/- each	50,00,00,000
	<u>50,00,00,000</u>
Issued, Subscribed and Paid-up:	
5,00,00,000 Equity Shares of INR 10/- each, fully paid-up	50,00,00,000
	<u>50,00,00,000</u>

7.3 The share capital of TITILas on March 31, 2016 is as under:

	Amount in INR
Authorised:	
6,00,00,000 Equity Shares of INR 10/- each	60,00,00,000
	<u>60,00,00,000</u>
Issued, Subscribed and Paid-up:	
2,83,45,990 Equity Shares of INR 10/- each, fully paid-up	28,34,59,900
	<u>28,34,59,900</u>

Subsequent to the above balance sheet date, the Issued & Paid-up share capital of TITIL has undergone a change and position as on December 31, 2016 is as stated below

	Amount in INR
Authorised:	
6,00,00,000 Equity Shares of INR 10/- each	60,00,00,000
	<u>60,00,00,000</u>
Issued, Subscribed and Paid-up:	
5,10,23,767 Equity Shares of INR 10/- each, fully paid-up	51,02,37,670
	<u>51,02,37,670</u>

8. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out therein in its present form or with any modification (s) approved or imposed or directed by the National Company Law Tribunal, shall be effective from the Appointed Date but shall be operative from the Effective Date.



PART II

DEMERGER OF LENDING BUSINESS OF UPFL

9. VESTING OF LENDING BUSINESS

- 9.1 Upon this Scheme coming into effect and with effect from the Appointed Date and subject to the provisions of this Scheme, the entire Lending Business of UPFL shall, pursuant to the provisions of Sections 230 to 232 and other relevant provisions of the Act, without any further act, instrument or deed, be transferred to and vested in or be deemed to have been transferred to and vested in FCCL, as a going concern in accordance with 2(19AA) of the Income Tax Act, 1961, so as to vest in FCCL all the rights, title and interest of the Demerged Company in the Lending Business, subject to subsisting charges and pledges, if any, in the following manner:
- 9.2 With effect from the Appointed Date the whole of the Lending Business shall, under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act or deed, be transferred to and vested in and/or deemed to be transferred to and vested in FCCL, at their book values, as at the Appointed Date so as to vest in FCCL all the rights, title and interest of the Demerged Company therein;
- 9.3 With effect from the Appointed Date, all debts, liabilities, duties and obligations of every kind, nature and description of the Demerged Company relating to the Lending Business shall also, under the provisions of Sections 230 to 232 of the Act, without any further act or deed, be transferred to or deemed to be transferred to FCCL so as to become as from the Appointed Date, the debts, liabilities, duties and obligations of FCCL and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this sub-clause.
- 9.4 It is hereby provided that the amendment under this Clause shall become operative on the Scheme being effective by virtue of the fact that the shareholders of the Resulting Company, while approving the Scheme as a whole, have approved and accorded the relevant consents as required under the Act and shall not be required to pass separate resolutions as required under the Act. The approval of this Scheme by the shareholders of the Resulting Company and the Demerged Company under Sections 230-232 of the Act shall be deemed to be the approvals under Section 13 and 61 of the Companies Act 2013 and other applicable provisions of the Act



10. ISSUE OF SHARES BY TITIL TO SHAREHOLDERS OF THE DEMERGED COMPANY

- 10.1 Upon this Scheme coming into effect, TITIL, the Holding Company of the Resulting Company (which is covered under the definition of Resulting Company u/s 2(41A) of the Income Tax Act, 1961), shall, without any further application or deed, issue and allot to the shareholders of UPFL whose names appear in the Register of Members of UPFL on the Record Date (except for the shareholding by TITIL itself and/or its wholly owned subsidiaries), the following shares in proportion of their holding in UPFL:
- a. 496,500 (Four Lakhs Ninety-six Thousand Five Hundred) fully paid-up equity shares of face value INR 10/-; and
 - b. 732,000 (Seven Lakhs Thirty-two Thousand) Optionally Convertible Preference Shares ('OCPS') of face value INR 325/- each, convertible into equal number of equity shares of face value INR 10/- each. Further, the OCPS will carry a right for applying for additional 1.5 equity shares of face value INR 10/- each at a price of Rs. 325 per share including premium of INR 315/-"
- 10.2 The TITIL Equity Shares and OCPS to be issued and allotted in terms hereof will be subject to the Memorandum and Articles of Association of TITIL;
- 10.3 TITIL shall, if and to the extent required, apply for and obtain any approvals from concerned regulatory authorities for the issue and allotment of the TITIL Equity shares and OCPS to the members of the Demerged Company under the Scheme;
- 10.4 The issue and allotment of new equity shares and OCPS by the Holding Company of the Resulting Company to the shareholders of the Demerged Company is an integral part of this Scheme and shall be deemed to have been carried out without any further act or deed and the approval of shareholders of the Resulting Company to the Scheme shall be deemed to be due compliance of the provisions of section 42 and 62 and other relevant or applicable provisions of the Companies Act, 2013.
- 10.5 The Board of Directors of TITIL shall consolidate all fractional entitlements, if any, arising due to the demerger of the Lending Business of the Demerged Company and allot equity shares after rounding them off to nearest decimal to the respective shareholders;

11. ACCOUNTING TREATMENT IN BOOKS OF FCCL, TITIL AND UPFL

Notwithstanding anything to the contrary herein, upon this Scheme becoming effective, FCCL, TITIL and UPFL shall give effect to the accounting treatment in its books of account in accordance with the accounting standards specified under section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015 or any other relevant or related requirement under the Act, as applicable on the Effective Date



12. BUSINESS AND PROPERTY IN TRUST FOR FCCL

12.1 During the period between the Appointed Date and the Effective Date:

12.1.1 Demerged Company shall be deemed to have held and stood possessed of and shall hold and stand possessed of the assets of the Lending Business for and on account of and in trust for FCCL;

12.1.2 All the profits or income accruing or arising to the Demerged Company, including dividends, or expenditure or losses arising or incurred by the Demerged Company on account of the Lending Business, shall for all purposes be treated and deemed to accrue as the profits or income or expenditure or losses (as the case may be) of FCCL; and

12.1.3 Demerged Company shall not utilize the profits or income, if any, relating to the Lending Business for the purpose of declaring or paying any dividend or for any other purpose in respect of the period falling on and after the Appointed Date, without the prior written consent of the Board of Directors of FCCL.

12.2 As and from the date of acceptance of this Scheme by the Board of Directors of the Demerged Company and the Board of Directors of FCCL and till the Effective Date, the Demerged Company shall not alienate, charge, mortgage, encumber or otherwise deal with the assets of Lending Business or any part thereof without the prior written concurrence of the Board of Directors of FCCL.

13. LEGAL PROCEEDINGS

13.1 All legal proceedings of whatsoever nature by or against the Demerged Company pending and/or arising at the Appointed Date and relating to the Lending Business of the Demerged Company, as and from the Effective Date, shall be continued and enforced by or against in the manner and to the same extent as would or might have been continued and enforced by or against the Demerged Company.

13.2 After the Appointed Date, if any proceedings are taken against the Demerged Company in respect of the matters referred to in the sub-clause 13.1 above, they shall defend the same at the cost of FCCL and FCCL shall reimburse and indemnify the Demerged Company against all liabilities and obligations incurred by the Demerged Company in respect thereof.

13.3 FCCL undertakes to expeditiously have all legal or other proceedings initiated by or against the Demerged Company referred to in sub-clause 13.1 above transferred into its name and to have the same continued, prosecuted and enforced by or against FCCL to the exclusion of the Demerged Company.



14. CONTRACTS, DEEDS, ETC.

14.1 Subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature relating to the Lending Business and to which the Demerged Company is a party and subsisting or having effect on the Effective Date, shall be in full force and effect against or in favour of, as the case may be, and may be enforced by or against the FCCL as fully and effectually as if, instead of the Demerged Company, FCCL had been a party thereto. FCCL shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any arrangements, confirmations or novations, in order to give formal effect to the provisions of this Scheme. FCCL shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of the Demerged Company and to implement or carry out all formalities required on the part of the Demerged Company to give effect to the provisions of this Scheme.

15. SAVING OF CONCLUDED TRANSACTIONS

15.1 The transfer of assets under Clause 9 above and the continuance of proceedings by or against FCCL under Clause 13 above shall not affect any transaction or proceedings already concluded by the Demerged Company in respect of the Lending Business on or after the Appointed Date till the Effective Date, to the end and intent that FCCL accepts and adopts all acts, deeds and things done and executed by the Demerged Company in respect thereto as done and executed on behalf of itself.

16. STAFF, WORKMEN & EMPLOYEES

16.1 On the Scheme becoming operative, all staff, workmen and employees of the Lending Business of the Demerged Company in service on the Effective Date shall be deemed to have become staff, workmen and employees of FCCL without any break in their service and on the basis of continuity of service, and the terms and conditions of their employment with FCCL shall not be less favourable than those applicable to them with reference to the Lending Business on the Effective Date.

16.2 It is expressly provided that on this Scheme coming into effect, the Provident Fund, Gratuity Fund, Superannuation Fund or any other Special Fund or Trusts created or existing for the benefit of the staff, workmen and employees of the Lending Undertaking shall become the trusts/funds of FCCL for all purposes whatsoever in relation to the administration or operation of such Fund or Funds or in relation to the obligation to make contributions to the said Fund or Funds in accordance with the provisions thereof as per the terms provided in the respective Trust Deeds, if any, to the end and intent that all rights, duties, powers and obligations of the



Lending Business in relation to such Fund or Funds shall become those of FCCL. It is clarified that the services of the staff, workmen and employees of the Lending Business will be treated as having been continuous for the purpose of the said Fund or Funds.



PART III
GENERAL TERMS AND CONDITIONS

17. APPLICATION TO NATIONAL COMPANY LAW TRIBUNAL

- 17.1 The Demerged Company, Holding Company of the Resulting Company and Resulting Company shall with all reasonable dispatch make applications under sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the relevant Companies Act to the National Company Law Tribunal for seeking approval of the Scheme.

18. MODIFICATION OR AMENDMENTS TO THE SCHEME

- 18.1 Subject to approval of the National Company Law Tribunal, the Demerged Company, Holding Company of the Resulting Company and Resulting Company by their respective Board of Directors or such other person or persons, as the respective Board of Directors may authorize including any committee or sub-committee thereof, may make and/or consent to any modifications/amendments to the Scheme or to any conditions or limitations that the Tribunal or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them. The Demerged Company, Holding Company of the Resulting Company and Resulting Company by their respective Board of Directors or such other person or persons, as the respective Board of Directors may authorize including any committee or sub-committee thereof, shall be authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whether by reason of any directive or orders of any other authorities or otherwise howsoever arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith.
- 18.2 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the delegate of the Resulting Company may give and are hereby authorised to determine and give all such directions as are necessary including directions for settling or removing any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme



19. CONDITIONALITY OF THE SCHEME

19.1 This Scheme is and shall be conditional upon and subject to:

19.1.1 The requisite consent, approval or permission of the Central Government or any other statutory or regulatory authority, which by law may be necessary for the implementation of this Scheme.

19.1.2 The approval by the requisite majorities of the classes of persons of the Demerged Company, Holding Company of the Resulting Company and Resulting Company as directed by the National Company Law Tribunal under Sections 230 to 232 of the Act.

19.1.3 All other sanctions and orders as are legally necessary or required in respect of the Scheme being obtained.

19.1.4 The provisions contained in this Scheme are inextricably inter-linked with the other provisions and the Scheme constitutes an integral whole. The Scheme would be given effect to only if is approved in its entirety unless specifically agreed otherwise by the Demerged Company, Holding Company of the Resulting Company and Resulting Company and by their respective Board of Directors or any Committee constituted by them.

20. EFFECT OF NON-RECEIPT OF APPROVALS

20.1 In case the Scheme is not sanctioned by the National Company Law Tribunal at Mumbai Bench, or in the event any of consents, approvals, permissions, resolutions, agreements, sanctions or conditions enumerated in the Scheme not being obtained or complied or for any other reason, the Scheme cannot be implemented, the Scheme shall become null and void, and the Demerged Company, Holding Company of the Resulting Company and Resulting Company shall bear the entire cost, charges and expenses in connection with the Scheme equally unless otherwise mutually agreed.

21. COSTS, CHARGES & EXPENSES

21.1 All costs, charges, taxes including duties, levies and all other expenses, if any arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto shall be borne by TITIL.



ANNEXURE 1- TERMS OF PREFERENCE SHARES

TERMS AND CONDITIONS FOR ISSUE OF OPTIONALLY CONVERTIBLE PREFERENCE SHARES ('OCPS')

Dividend Rate on OCPS	0% p.a.
Listed	OCPS will not be listed on any Stock Exchange
Tenure of OCPS	5 (Five) Years
Conversion Option of OCPS	At the option of the preference shareholder, 1 (One) OCPS shall be convertible into 1 (One) equity share of Rs. 10 fully paid up
Redemption Option of OCPS	TITIL shall also have an option to redeem the OCPS any time after 3 Years from the date of allotment of OCPS in such amount as may be determined by Board of TITIL.

TERMS AND CONDITIONS OF OCPS

(to be printed on the reverse of the share certificate)

The following rights shall be attached to the preference shares of Rs.325/- each:

- I) The Preference Share shall be convertible into equal number of equity share of Rs.10/- fully paid-up, at the option of the preference shareholder;
- II) The Preference Shares shall be non-cumulative;
- III) The Preference Shares shall be non-participating;
- IV) In the event of winding up of TITIL (including capital uncalled for at the commencement of winding up) remaining after paying and discharging the debts and liabilities of TITIL and the cost of winding up shall be applied in the following order of priority:
 - (a) in repayment of capital paid up or credited as paid up on the OCPS;
 - (b) the surplus, if any, shall be divided amongst the holders of the equity shares according to the amounts paid up thereon.
- V) The OCPS shall be deemed to be allotted on the Effective Date.



- VI) The OCPS shall be taken as redeemed and fully discharged on payment of the redemption amount by TITIL to the holder thereof as per the Register of Preference Shareholder. Such payment will be a legal discharge of the liability of TITIL towards the Preference Shareholders.
- VII) The record date for payment of the redemption amount will be 30 days prior to each redemption date.
- VIII) The Preference Shareholders will not be entitled to any rights and privileges of equity shareholders, other than those available to them under statutory requirements.

