

द्वारा स्टॉक एक्सचेंज को शेयर
क शेयर सचीबद्ध ह और ऐसी अधिसूच

MINISTRY OF FINANCE
(Department of Financial Services)
NOTIFICATION

New Delhi, the 2nd January, 2019

G.S.R. 2(E).—In exercise of the powers conferred by section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) and section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), the Central Government after consultation with the Reserve Bank of India hereby makes the following Scheme, namely: -

1. Short title and commencement.—
 - (1) This Scheme may be called the Amalgamation of Vijaya Bank and Dena Bank with Bank of Baroda Scheme, 2019.
 - (2) It shall come into force on the 1st day of April, 2019.
2. Definitions.—
 - (1) In this Scheme, unless the context otherwise requires,—
 - (a) “Act” means the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) in respect of Bank of Baroda and Dena Bank and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), in respect of Vijaya Bank;
 - (b) “Annexure” means Annexure attached to this Scheme;

- (c) “bank” means the Transferee Bank, Transferor Bank 1 or Transfer Bank 2;
- (d) “Board” means the board of directors of Transferor Bank 1, Transferor Bank 2 or Transferee Bank;
- (e) “Transferee Bank” means Bank of Baroda;
- (f) “Transferor Bank 1” means Vijaya Bank;
- (g) “Transferor Bank 2” means Dena Bank;
- (h) “Transferor Banks” means the Transferor Bank 1 and Transferor Bank 2;
- (i) “Share Exchange Ratio” means the ratio at which the Transferee Bank shares shall be allotted to the Transferor Banks’ shareholders as set out in the Schedule; and
- (j) “Schedule” means the Schedule to this Scheme.
- (2) Words and expressions used herein and not defined in this Scheme, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Undertaking of Transferor Banks to vest in the Transferee Bank.—

On the commencement of this Scheme, the undertakings of the Transferor Banks shall be transferred to and shall vest in the Transferee Bank.

4. General effect of vesting.—

- (1) The undertakings of the Transferor Banks shall be deemed to include all business, assets (including tangible and intangible), estates, rights, titles, interest, powers, claims, licenses, authorities, permits, approvals, permissions, incentives, loans, subsidies, concessions, grants, liberties, special status’ and other privileges and all property, movable and immovable, real and personal, tangible and intangible, goodwill, copyright, cash balances, capital, reserve funds, investments, transactions in derivatives, and all other rights and interests in, or arising out of, such property and all rights under the intellectual property, etc., in possession or reservation, present or contingent of whatever nature and whosoever situated (whether within or outside India), including lands, commercial or residential premises, fixtures, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, dividends, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees to any industrial concern, other tenancies, leases and book- debts and all other rights and interests arising out of such property of the Transferor Banks in relation to the undertakings as were immediately before the commencement of the Scheme, in the ownership, possession, power or control of the Transferor Banks within or outside India, and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or outside India then subsisting of the Transferor Banks whether secured or unsecured, along with any charge, encumbrance, lien or security thereon in relation to the undertakings.
- (2) Upon the commencement of this Scheme, the undertakings of the Transferor Banks shall vest or be deemed to vest or be taken over by the Transferee Bank without requiring any act, deed, consent or instrument for transfer of the same.
- (3) On the commencement of this Scheme, in respect of such of the assets of the Transferor Banks as are movable in nature or otherwise capable of transfer by manual or constructive delivery or by endorsement and delivery, the same shall stand transferred by Transferor Banks to the Transferee Bank without requiring any deed or instrument of conveyance for transfer of the same and shall become the property of the Transferee Bank.
- (4) Without prejudice to the generality of sub-paragraph (1) and in respect of movable assets other than those dealt with in sub-paragraph (3) above, including but not limited to debts, actionable claims, earnest monies, receivables, bills, credits, loans, advances and deposits, if any, forming part of the undertaking, whether recoverable in cash or in kind or for value to be received, bank balances, etc., the same shall stand transferred to and vested in the Transferee

Bank without any notice or other intimation to any person to the end and intent that the rights of the Transferor Banks to recover or realize the same stands transferred to the Transferee Bank, and to the extent such assets is a debt, loan, receivable, advance or deposit, appropriate entries should be passed in their respective books to record the aforesaid change, without any notice or other intimation to such debtors, depositors or persons as the case may be.

- (5) The assets of the Transferor Banks that are immovable in nature shall, be vested in or be deemed to have been vested in the Transferee Bank, without any further act or deed done or being required to be done by the Transferor Banks or by the Transferee Bank and the Transferee Bank shall be entitled to exercise all rights and privileges attached to such immovable properties and shall be liable to pay the ground rent and taxes and fulfil all obligations in relation to or applicable to such immovable properties.
- (6) The mutation or substitution of the title to the immovable properties shall, upon the commencement of this Scheme, be made and duly recorded in the name of the Transferee Bank.
- (7) Where any property is held by the Transferor Banks under any lease, the Transferee Bank shall be deemed to have become the lessee in respect of such property as if the lease in relation to such property had been granted to the Transferee Bank and thereupon all the rights under such lease shall be deemed to have been transferred to, and vested in, the Transferee Bank:

Provided that on the expiry of the term of any lease referred to in this sub-paragraph shall, if so desired by the Transferee Bank, be renewed on the same terms and conditions on which the lease was held by the Transferor Banks immediately before the commencement of this Scheme.

- (8) Unless otherwise expressly provided in this Scheme, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect, immediately before the commencement of this Scheme and to which Transferor Bank 1 or Transferor Bank 2 is a party or which are in favour of the Transferor Bank 1 or the Transferor Bank 2, shall be of full force and effect against or in favour of the Transferee Bank, and may be enforced or acted upon as fully and effectively as if in the place of the Transferor Bank 1 or the Transferor Bank 2, the Transferee Bank had been a party thereto or as if they had been issued in favour of the Transferee Bank thereto and it shall not be necessary to obtain the consent of any third party or other person who is a party to any of the aforesaid instruments or arrangements to give effect to the provisions of this sub-paragraph.
- (9) If, immediately before the commencement of this Scheme, any cause of actions, suit, decrees, recovery certificates, appeals or other proceedings of whatever nature in relation to any business of the undertakings which have been transferred under paragraph 3, is pending by or against the Transferor Banks before any court or tribunal or any other authority (including for the avoidance of doubt, an arbitral tribunal), the same shall not abate, be discontinued or be, in any way prejudicially affected by reason of the transfer of the undertakings of the Transferor Banks or of anything contained in this Scheme but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Transferee Bank.
- (10) Without prejudice to the generality of sub-paragraph (1), it is clarified that on and from the commencement of this Scheme, all permits, licenses, permissions, approvals, clearances, consents, benefits, tax incentives or concessions, registrations, entitlements, credits, certificates, awards, sanctions, allotments, quotas, no objection certificates, exemptions, concessions, issued to or granted to or executed in favour of the Transferor Bank 1 and the Transferor Bank 2, and the rights and benefits under the same, in so far as they relate to the Transferor Bank 1 and the Transferor Bank 2, all intellectual property and rights thereto of the Transferor Bank 1 and the Transferor Bank 2, whether registered or unregistered, along with all rights of commercial nature including attached goodwill, title, interest, quality certifications and approvals, and all other interests relating to the goods or services forming part of the undertaking and the benefit of all statutory and regulatory permissions, approvals

and consents, registration or other licenses, and consents acquired by the Transferor Bank 1 or the Transferor Bank 2 forming part of the undertaking, shall be transferred to and vested in or deemed to have transferred to or vested in the Transferee Bank and the concerned licensors and grantors of such approvals, clearances, permissions, etc., shall endorse, where necessary, and record, in accordance with law, the Transferee Bank on such approvals, clearances, permissions so as to empower and facilitate the approval and vesting of the undertaking of the Transferor Bank 1 and Transferor Bank 2 in the Transferee Bank and continuation of operations in the Transferee Bank without hindrance and that such approvals, clearances and permissions shall remain in full force and effect in favour of or against the Transferee Bank, as the case may be, and may be enforced as fully and effectually as if, instead of the Transferor Bank 1 and the Transferor Bank 2, the Transferee Bank had been a party or beneficiary or obligee thereto.

- (11) In so far as various incentives, subsidies, exemptions, all indirect tax related benefits, including good and services tax benefits, income tax holiday or benefit or losses and other benefits or exemptions or privileges enjoyed, or availed of by the Transferor Banks shall without any further act or deed, in so far as they relate to the Transferor Banks vest with and be available to the Transferee Bank on the same terms and conditions as if the same had been allotted or granted or sanctioned or allowed to the Transferee Bank.
- (12) Any security interest created in favour of or for the benefit of the Transferor Bank 1 and Transferor Bank 2, whether such security interest be over immovable, movable, tangible or intangible property, and whether by way of mortgage, hypothecation, pledge, lien or any other form or mode of creation of security interest, and all guarantees, letters of comfort, letters of credit or similar instruments in favour of or for the benefit of the Transferor Bank 1 and Transferor Bank 2, shall without any further act, deed, instrument or thing, be transferred to and vested in the Transferee Bank or be deemed to have been transferred to and vested in the Transferee Bank, and shall continue to be in full force and effect and may be enforced as fully and effectually as if instead of the Transferor Bank 1 and Transferor Bank 2, the Transferee Bank had been the beneficiary or a party thereto, and the benefit shall be available to the Transferee Bank as if such same were *ab initio* created in favour of the Transferee Bank and it shall not be necessary to obtain the consent of any person concerned therewith in any capacity whatsoever or of the person who created such security in order to give effect to the provisions of this sub-paragraph.
- (13) Every permanent and regular officer or other permanent and regular employee of the Transferor Banks (except the Board) and officers or employees on probation, serving in the employment of the Transferor Banks immediately before the commencement of this Scheme, shall become an officer or, as the case may be, employee of the Transferee Bank and shall hold his office or service therein in the Transferee Bank on such terms and conditions as may be approved by the Board of the Transferee Bank and shall continue to work in accordance therewith:
- Provided that the pay and allowance offered to the employees or officers of the Transferor Banks shall not be less favourable, overall, as compared to what they would have drawn in the respective Transferor Banks immediately before the commencement of this Scheme and without any break or interruption in service and the Board of Transferee Bank shall ensure that the interests of all transferring employees and officers of the Transferor Bank are protected.
- (14) Any officer or other employee of the Transferor Bank 1 or Transferor Bank 2 who does not want to hold his office or service in the Transferee Bank under sub-paragraph 13, shall be deemed to have been superannuated on the date immediately preceding the date of commencement of this Scheme and shall be entitled to all superannuation benefits from the Transferor Banks as would have been admissible to him if the undertaking of the Transferor Bank 1 and Transferor Bank 2 had not been transferred to and vested in the Transferee Bank and such officer or employee shall not be entitled to notice or compensation, whether for retrenchment or otherwise (including for loss of office or employment or premature termination of his contract of employment with the Transferor Banks).

- (15) Any officer or other employee of the Transferor Bank 1 or Transferor Bank 2 who has retired before the date of commencement of this Scheme from the service of the Transferor Bank 1 or Transferor Bank 2, and entitled to any benefits, rights or privileges from the Transferor Banks shall be entitled to receive same benefits, rights or privileges from the Transferee Bank as would have been admissible to him if the undertaking of the Transferor Bank 1 and Transferor Bank 2 had not been transferred to and vested in the Transferee Bank.
- (16) The Board of the Transferee Bank may, as soon as may be after the commencement of this Scheme, in consultation with Reserve Bank of India, determine the placement of the employees of the Transferor Banks including the determination of their *inter-se* seniority vis-à-vis the employees of the Transferee Bank.
- (17) The trustees or administrators of any provident fund, gratuity, pension fund and such other funds constituted for the employees of the Transferor Banks, shall on, or as soon as possible after, the commencement of this Scheme, transfer to the trustees of the employees provident fund, gratuity, pension fund and any other fund, constituted for the Transferee Bank or otherwise as the Transferee Bank may direct, all monies and investments held in trust for the benefit of the employees of the Transferor Banks and any income tax or other tax exemption granted to the provident fund or the gratuity fund or the pension fund or any other funds of Transferor Banks, if any, shall continue to be applied to the Transferee Bank:
Provided that such latter trustees shall not be liable for deficiency in the value of investments or in respect of any act, neglect or default done before the commencement of this Scheme.
- (18) If according to the laws of any country outside India, the provisions of this Scheme by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of the Transferor Bank 1 and Transferor Bank 2 to, or in, the Transferee Bank, the affairs of the Transferor Bank 1 and Transferor Bank 2 in relation to such asset or liability shall, stand entrusted to the chief executive officer for the time being of the Transferee Bank, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the Transferor Bank 1 and Transferor Bank 2 for the purpose of effectively transferring such assets and discharging such liabilities and shall take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset and discharge any liability of the Transferor Bank 1 and the Transferor Bank 2.

5. Dissolution of the Boards of the Transferor Banks.—

On and from the date of commencement of this Scheme,—

- (1) the Board of the Transferor Bank 1 and the Board of the Transferor Bank 2 shall stand dissolved;
- (2) any whole-time director, including the managing director, of the Transferor Bank 1 and Transferor Bank 2 shall cease to hold office and shall be entitled to receive salary and allowances in lieu of the notice in accordance with the applicable law;
- (3) the entire share capital of Transferor Banks shall, without any further act, deed or instrument, stand cancelled;
- (4) the shares of the Transferor Banks shall stand delisted from stock exchange in India where they are listed; and the share certificates representing such shares shall, without any further act, deed or instrument, be deemed to be automatically cancelled, extinguished and be of no effect.

6. Protection of the interest of the minority shareholders and considerations.—

- (1) On the commencement of this Scheme, in consideration for the transfer and vesting of the undertakings of Transferor Bank 1 and Transferor Bank 2 in the Transferee Bank and without any further application, act, instrument or deed, the Transferee Bank shall, subject to the provisions of this Scheme, issue shares to the shareholders of Transferor Bank 1 and Transferor Bank 2 as per the Share Exchange Ratio determined in accordance with the procedure as set out in the Annexure.

- (2) While issuing the shares of the Transferee Bank to the shareholders of the Transferor Banks,—
 - (i) no fractional shares shall be issued by the Transferee Bank in respect of fractional entitlements, if any, to any shareholder of the Transferor Banks and the Board of the Transferee Bank shall, instead pay the Transferor Banks' shareholders, cash equal to the value of such fractional share determined in accordance with the valuation of the shares of the Transferee Bank;
 - (ii) the equity shares issued and allotted by the Transferee Bank in terms of sub-paragraph (1) above rank *pari passu* in all respects and shall have the same rights attached to them as the then existing equity shares of the Transferee Bank, including, in respect of dividends, if any, that may be declared by the Transferee Bank, on or after the commencement of this Scheme;
 - (iii) if there are any pending share transfers, whether lodged or outstanding, of any shareholder of any of the Transferor Bank on the record date, as set out in the Schedule, the Board of the Transferee Bank shall be empowered in appropriate cases, even subsequent to the record date, to effectuate such a transfer of shares in the Transferee Bank as if such changes in registered holder were operative as on the record date in order to remove any difficulties arising to the transferor or transferee of the share in the Transferee Bank;
 - (iv) the equity shares of the Transferee Bank issued in terms of sub-paragraph (1) above shall be listed and admitted to trading on the relevant stock exchanges, where the equity shares of the Transferee Bank are presently listed or admitted to trading, in accordance with applicable law; and
 - (v) the equity shares to be issued by the Transferee Bank pursuant to sub-paragraph (1) above in respect of such equity shares of the Transferor Banks, the allotment or transfer of which is held in abeyance under applicable law shall, pending allotment or settlement of dispute by order of the appropriate court or otherwise, also be kept in abeyance in like manner by the Transferee Bank.
- (3) The shareholders of the Transferee Bank and Transferor Banks shall be entitled to raise their grievances, if any, in relation to the Share Exchange Ratio.
- (4) Only shareholders who either (a) individually or collectively hold at least one per cent of the total paid up equity capital of any of the Transferee Bank, Transferor Bank 1 or Transferor Bank 2; or (b) are one hundred shareholders acting collectively, of any of the Transferee Bank, Transferor Bank 1 or Transferor Bank 2, shall be entitled to raise objections to the Share Exchange Ratio.
- (5) The manner in which the objections can be raised by the shareholders who meet the threshold limits prescribed under sub-paragraph (4) shall be as specified by the Transferee Bank in its website or through publication in two widely circulated newspapers of which at least one shall be in English.
- (6) Not later than twenty one calendar days after the Swap Ratio Announcement Date, as set out in the Annexure, shareholders that satisfy the threshold limits prescribed under sub-paragraph (4) may submit reasoned objections in writing to a committee constituted by the Transferee Bank and Transferor Banks, to be known as the expert committee, comprising of qualified and experienced persons and headed by an independent person of repute:
 Provided that, the expert committee may disregard any objections or comments received later than twenty one calendar days after the Swap Ratio Announcement Date.
- (7) Within seven calendar days from the expiry of the period specified in sub-paragraph (6) above, the expert committee shall provide its recommendations to address the objections in the form of a report to the Boards of the Transferee Bank, Transferor Bank 1 and Transferor Bank 2 and the Boards of the Transferee Bank, Transferor Bank 1 and Transferor Bank 2 shall separately consider the report of the expert committee and take suitable actions as they deem fit for redressal of any grievances or objections.

7. Name of the corresponding new bank on amalgamation.–

Upon amalgamation of the Transferor Bank 1 and the Transferor Bank 2 with the Transferee Bank, the surviving entity being the Transferee Bank shall be known by the name “Bank of Baroda”.

[F. No. 1/1/2017-BOA]

AMIT AGRAWAL, Jt. Secy.

SCHEDULE

[see paragraph 2(1)(i)]

Share Exchange Ratio

The Share Exchange Ratio shall be as follows:

- (a) [●] equity shares of rupees two only each, credited as fully paid up in the Transferee Bank for every [●] equity shares of the face value of rupees ten only each held in the Transferor Bank 1 issued and allotted to the equity shareholders of the Transferor Bank 1 whose names are recorded in the register of members of the Transferor Bank 1 as on the date determined by the Transferee Bank for this purpose to be known as the record date.
- (b) [●] equity shares of rupees two only each, credited as fully paid up in the Transferee Bank for every [●] equity shares of the face value of rupees ten only each held in the Transferor Bank 2 to be issued and allotted to the equity shareholders of the Transferor Bank 2 whose names are recorded in the register of members of the Transferor Bank 2 as on the date determined by the Transferee Bank.

ANNEXURE

[see paragraph 6(1)]

Procedure for determining the Share Exchange Ratio

- (i) The Transferee Bank, Transferor Bank 1 and Transferor Bank 2 shall each separately and independently appoint one accounting firm (Independent Valuer) to undertake an independent valuation of the shares of the relevant banks to determine Share Exchange Ratio.
- (ii) The Independent Valuers shall issue joint valuation report proposing the share exchange ratio (Joint Valuation Report) for each of the Transferor Banks.
- (iii) The Transferee Bank, Transferor Bank 1 and Transferor Bank 2 shall each separately and independently appoint one category I Merchant Banker registered with the Securities and Exchange Board of India to give separate fairness opinions on valuation done by the independent valuers to the respective bank (Fairness Opinion).
- (iv) The audit committees of each of the Transferee Bank, Transferor Bank 1 and Transferor Bank 2 shall consider the Share Exchange Ratio and provide its recommendations to the Boards of the Transferee Bank, Transferor Bank 1 and Transferor Bank 2, after taking into consideration the joint valuation report and the fairness opinion issued to the respective banks.
- (v) After taking into consideration the recommendations of the respective audit committee, the joint valuation report and the fairness opinion issued to the respective banks, the Boards of the respective banks shall approve the Share Exchange Ratio suggested by the independent valuers which in the opinion of the Boards of the respective banks is fair and reasonable.
- (vi) The Share Exchange Ratio shall be notified by each of the respective banks to the stock exchanges on which shares of such bank are listed and the date of such notification to be known as the Swap Ratio Announcement Date.