

Draft Amalgamation Scheme

Chapter -1

Preliminary

1. **Short title and commencement:** (1) The Scheme may be called The United Western Bank Limited (Amalgamation with Industrial Development Bank of India Limited) Scheme, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, specify.

2. **Definitions:** In the Scheme, unless the context otherwise requires --

(1) "Act" means the Banking Regulation Act, 1949 (10 of 1949);

(2) "Asset Account" means a notional account opened pursuant to sub-paragraph (2) of paragraph 5 of the Scheme for the purpose of ascertaining the surplus or shortfall after adjustment from time to time of liabilities of the transferor bank as provided in the Scheme;

(3) "Collection Account" means a notional account opened in accordance with paragraph 7 of the Scheme, for the purpose of ascertaining the amount, if any, available for distribution to the members of the transferor bank after adjustment of assets and liabilities;

(4) "prescribed date" means the date which the Central Government may specify under sub-paragraph (2) of paragraph 1;

(5) "Scheme" means The United Western Bank Limited (Amalgamation with Industrial Development Bank of India Limited) Scheme, 2006;

(6) "transferor bank" means The United Western Bank Limited, a banking company having its Registered Office at Satara, Maharashtra – 415 001;

(7) "transferee bank" means the Industrial Development Bank of India Limited, a banking company having its Registered Office at IDBI Towers, WTC Complex, Cuffe Parade, Mumbai – 400 005.

- (8) Words and expressions used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

Chapter - II

Transfer of business, properties, assets and liabilities

3. Transfer of assets and liabilities and general effect thereof: (1) On and from the prescribed date, all rights, powers, claims, demands, interests, authorities, privileges, benefits, assets and properties of the transferor bank, movable and immovable, including premises subject to all incidents of tenure and to the rents and other sums of money and covenants reserved or contained in the leases or agreements under which they are held, all office furniture, loose equipments, plant apparatus and appliances, books, papers, stocks of stationery, other stocks and stores, all investments in stocks, shares and securities, all bills receivable in hand and in transit, all cash in hand and on current or deposit accounts (including money at call or short notice) with banks, bullion, all book debts, mortgage debts and other debts with the benefits of securities, or any guarantee therefor, all other, if any, property rights and assets, benefit of all guarantees in connection with the business of the transferor bank shall, subject to the other provisions of the Scheme, stand transferred to, and become the properties and assets of the transferee bank; and on and from the prescribed date, all the liabilities, duties and obligations of the transferor bank shall be and shall become the liabilities, duties and obligations of the transferee bank to the extent and in the manner provided hereinafter.

(2) Without prejudice to the generality of the foregoing provisions, 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 prescribed date shall be effective to the extent and in the manner hereinafter provided against or in favour of the transferee bank and may be acted upon as if instead of the transferor bank, the transferee bank had been a party thereto or as if they had been issued in favour of the transferee bank.

(3) If on the prescribed date any suit, appeal or other legal proceedings of whatever nature by or against the transferor bank is pending, the same shall not abate, be discontinued or be in any way prejudicially affected, but shall, subject to the other provisions of the Scheme, be prosecuted and enforced by or against the transferee bank.

Provided that where a contravention of any of the provisions of any Act or of any rule, regulation, direction or order made thereunder has been committed by, or any proceeding for a criminal offence has been instituted against, a director or secretary, manager, officer or other employee of the transferor bank before the prescribed date, such director, secretary, manager, officer or other employee shall, without prejudice to the application of section 6 of the General Clauses Act, 1897, be liable to be proceeded against under such law and punished accordingly as if the transferor bank, being a banking company had not been dissolved.

(4) If according to the laws of any country outside India, the provisions of the 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 to or in the transferee bank, the affairs of the transferor bank in relation to such asset or liability shall, on the prescribed date, 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 would have been exercised or done by the transferor bank for the purpose of effectively transferring such assets and discharging such liabilities. The Chief Executive Officer 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 in connection therewith, the Chief Executive Officer may, either himself or through any person authorized by him in this behalf, realise any assets or discharge any liability of the transferor bank and transfer the net proceeds thereof to the transferee bank.

4. Closure of books of the transferor bank and preparation of balance sheet:

(1) The books of the transferor bank shall be closed and balanced and balance sheet prepared in the first instance as at the close of business

on September 2, 2006 and thereafter as at the close of business on the date immediately preceding the prescribed date and the balance sheet shall be got audited and certified by a chartered accountant or a firm of chartered accountants approved or nominated by the Reserve Bank of India for the purpose.

- (2) A copy of the balance sheet of the transferor bank prepared in accordance with the provisions of the foregoing paragraph, shall be filed by the transferor bank with the Registrar of Companies as soon as possible after it has been received and thereafter the transferor bank shall not be required to prepare balance sheet or profit and loss accounts, or to lay the same before its members or file copies thereof with the Registrar of Companies or to hold any board meeting or annual general meeting for the purpose of considering the balance sheet and accounts or for any other purpose or to comply with the provisions of section 159 of the Companies Act, 1956 (1 of 1956) and it shall not thereafter be necessary for the Board of Directors of the transferor bank to meet as required by Section 285 of that Act.

5. Valuation of assets and determination of liabilities: The transferee bank shall, in consultation with the transferor bank, value the assets and reckon the liabilities of the transferor bank in accordance with the following provisions; namely:

- (1)(a) Investments other than Government Securities shall be valued at the market rates prevailing on the day immediately preceding the prescribed date;

(b) (i) The Government Securities shall be valued as on the day immediately preceding the prescribed date in accordance with the principles laid down in the notification issued by Reserve Bank of India for the purpose of Section 24 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) The Securities of the Central Government such as Post Office Certificates, Treasury Savings Deposit Certificates and any other securities or certificates issued under the small savings scheme of

the Central Government shall be valued at their face value or the encashable value as on the said date, whichever is higher;

(iii) Where the market value of any Government Security such as the Zamindari Abolition Bonds or other similar security if any held by the transferor bank in respect of which the principal is payable in installments is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such amount as is considered reasonable having regard to the installments of principal and interest remaining to be paid, the period during which such installments are payable, the yield of any security issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(c) Where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(d) Where the market value of any security, share, debenture, bond or other investments is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable, having regard to the financial position of the issuing concern, the dividends paid by it during the preceding five years and other relevant factors;

(e) Premises and all other immovable properties and any assets acquired in satisfaction of claims shall be valued at their market value;

(f) The furniture and fixtures, stationery in stock and other assets, if any, shall be valued at the written down value as per books or the realizable value as may be considered reasonable;

(g) Advances, including bills purchased and discounted, book debts and sundry assets, will be scrutinized by the transferee bank and the securities, including guarantees, held as cover therefor examined and verified by the transferee bank. Thereafter the advances, including portions thereof, will be

classified into two categories namely, "Advances considered good and readily realizable" and "Advances considered not readily realizable and/or bad or doubtful of recovery".

(2) The transferee bank shall open on the prescribed date an account styled as "Asset Account". The aggregate amount representing the value of the assets determined as readily realisable assets in accordance with this paragraph shall be credited to the "Asset Account".

(3) (i) Where the valuation of any asset cannot be determined on the prescribed date, it may, with the approval of the Reserve Bank of India, be treated partly or wholly as an asset realisable at a later date;

(ii) In the event of any disagreement between the transferee bank and the transferor bank as regards the valuation of any asset and/or the classification of any advance and/or the determination of any liability, the matter shall be referred to the Reserve Bank of India, for its opinion, provided that until such an opinion is received, the valuation of the item or portion thereof by the transferee bank shall provisionally be adopted for the purpose of the Scheme;

(iii) It shall be competent for the Reserve Bank of India, in the event of its becoming necessary to do so, to obtain such technical advice as it may consider to be appropriate in connection with the valuation of any such item of asset or determination of any such item of liability, and the cost of obtaining such advice shall be payable in full out of the assets of the transferor bank.

(4) Determination of liability: Liabilities for purposes of the Scheme shall include all contingent liabilities which the transferee bank may reasonably be expected or required to meet out of its own resources on or after the prescribed date.

(5) The valuation of the assets and the determination of the liabilities in accordance with the foregoing provisions shall be binding on both the banks and the members and creditors thereof.

Chapter III

Payment to creditors and depositors

6. Discharge of liability of the transferor bank: (1) In respect of: -

(a) any sums deposited by any employee of the transferor bank with that bank as staff security deposits, together with interest, if any, accrued thereon up to the prescribed date shall be paid or provided for in full;

(b) every savings bank account or current account or any other deposit account including a fixed deposit, cash certificate, monthly deposit, deposit payable at call or short notice or any other deposits by whatever name called with the transferor bank, the transferee bank shall open with itself on the prescribed date a corresponding and similar account in the name of the respective holder(s) thereof crediting thereto full amount including interest to the extent payable under the Scheme:

Provided that where the transferee bank entertains a reasonable doubt about the correctness of the entries made in any particular account, it may with the approval of the Reserve Bank of India withhold the credit to be made in that account for a period not exceeding three months from the prescribed date within which the transferee bank shall ascertain the correct balance in such account.

(2) In respect of every other liability of the transferor bank determined under sub-paragraph (4) of paragraph 5, the transferee bank shall pay to the creditors the amount of such liability as and when they fall due.

(3) In respect of any interest bearing deposit accounts, the transferee bank shall pay interest at the rate applicable in accordance with the directives of the Reserve Bank of India till the prescribed date. In respect of balances in any current account or any other non-interest bearing account, no interest shall be payable to the account holder. No account holder shall be entitled to claim any compensation for the non-payment of any deposit or other money from his account during the period from September 2, 2006 till the prescribed date.

(4) Notwithstanding anything to the contrary contained in any contract, express or implied, interest from the prescribed date shall be paid in respect of the new account opened with the transferee bank and credited in accordance with the provisions of the Scheme only at such rates as the transferee bank normally allows to its own depositors for such accounts.

(5) The transferee bank shall make an upfront payment in cash of Rs.28/- (Rupees twenty eight only) in respect of every fully paid-up share in the transferor bank, to the members of the transferor bank, who were, as on the prescribed date, registered as the holders of shares of the transferor bank, in partial satisfaction of their claim in respect of their interest in such shares.

(6) The transferee bank shall make the payment under sub-paragraph (5) by means of an account payee cheque drawn in the name of the registered shareholder and sent to his registered address. Payment in accordance with this sub-paragraph shall give a full discharge to the transferee bank with respect to the payment under sub-paragraph (5).

(7) The credit balance in the "Asset Account" shall be appropriated to the extent required to meet the liability under this paragraph. If the balance in the Asset Account is not sufficient, so much of the shortfall shall be treated as amount spent by the transferee bank and to the extent possible, be recovered by it as provided in sub-paragraph (7) of paragraph 7.

Chapter IV

7. Rights and liabilities of the members of the transferor bank: (1) On the commencement of the Scheme, the entire amount of the paid-up capital and reserves of the transferor bank, as reduced by the payment made under sub-paragraph (5) of paragraph 6, shall be treated as provision for bad and doubtful debts and depreciation in other assets of the transferor bank.

(2) In respect of every share in the transferor bank, the amount of which was treated as paid-up towards share capital by or on behalf of each shareholder immediately before the prescribed date, as reduced by the payment made under sub-paragraph (5) of paragraph 6, and / or the amount paid on account of the calls made by the transferee bank in

pursuance of sub-paragraph (4) below shall be treated as a "Collection Account" and shall be entered as such in the books of the transferee bank.

(3) The transferee bank shall call upon every person who was, as on the prescribed date, registered as the holder of an ordinary share of the transferor bank (or would have been entitled to be so registered) to pay within three months from such date or dates as may be specified, the uncalled amount remaining unpaid by him in respect of such share or shares and the calls in arrears, if any.

(4) The transferee bank shall take all available steps having regard to the circumstances of each case to demand and enforce the payment of the amounts due under sub-paragraph (3) above together with interest at six per cent per annum for the period of the default.

(5) The transferee bank shall in respect of the advances, bills purchased and discounted, book debts and sundry debts and other assets, which are classified as "Advances considered not readily realizable and / or bad or doubtful of recovery " or which are or may be realisable wholly or partly after the prescribed date, take all available steps having regard to the circumstances of each case to demand and enforce payment, and may -

(a) enter into a compromise or arrangement with the debtor or any other person or write off any such debt or asset;

(b) sell or otherwise dispose of any securities transferred to it or any asset taken over by it.

(6) The transferee bank shall, in addition, take all available steps having regard to the circumstances of each case to demand and enforce the payment of the amounts, if any, awarded as damages by the High Court against any promoter, director, manager or other officer of the transferor bank under section 45L of the Banking Regulation Act, 1949 (10 of 1949), read with section 45H thereof and also with section 543 of the Companies Act, 1956 (1 of 1956).

(7) The transferee bank may appropriate the realisations effected by it on account of the items mentioned in sub-paragraphs (4), (5) and (6) above, in

the first instance towards expenses incurred for the recovery of such amount and thereafter towards the shortfall referred to in sub-paragraph (7) of paragraph 6. If any surplus remains after such appropriation, the transferee bank shall make payment or provision in respect of any contingent liability as also with the prior approval of the Reserve Bank of India, in respect of any liability whether contingent or absolute which was not assessed in terms of sub-paragraph (4) of paragraph 5 above and has arisen or been discovered after the prescribed date.

(8) If any surplus remains after the appropriation in terms of sub-paragraph (7) above, the transferee bank shall, make payments pro rata from amount if any available towards the amounts, if any, due to the accounts of the former shareholders of the transferor bank in the manner and to the extent specified below-

- (a) in the first place, the amounts, if any, due to the accounts of the former preference shareholders of the transferor bank till payment in full against all the accounts has been made;
- (b) after all the amounts mentioned in sub-paragraph (a) above have been paid in full, the surplus, if any, remaining in the hands of the transferee bank shall be distributed pro rata among the former ordinary shareholders of the transferor bank:

Provided that if any question arises whether any amounts are due against an account mentioned in any of the above sub-paragraphs, it shall be referred to the Reserve Bank of India for its decision.

(9) The amounts due to the collection accounts referred to in this paragraph shall be deemed to be a liability of the transferee bank only to the extent provided for in the Scheme.

(10) On the expiry of twelve years from the prescribed date or such earlier period as the Central Government after consulting the Reserve Bank of India may specify for this purpose, any item referred to in sub-paragraph (5) of this paragraph which may not have been realized by that date shall be valued by the transferee bank in consultation with the Reserve Bank of India and the transferee bank shall distribute any amount or amounts

determined in the light of that valuation, after deducting therefrom first any such amount necessary for meeting the liabilities referred to in sub-paragraph (4) of paragraph 5 which may remain unsatisfied as on that date, in the order and the manner provided in sub-paragraph (8) above.

Chapter V

Rights and obligations of the Employees of Transferor Bank

8. **Continuation of services of the employees:** (1) All the employees of the transferor bank shall continue in service and be deemed to have been appointed in the transferee bank at the same remuneration and on the same terms and conditions of service, as were applicable to such employees immediately before the close of business on September 2, 2006.

Provided that the employees of the transferor bank, who have by notice in writing given to the transferor bank or the transferee bank at any time before the expiry of one month next following the prescribed date intimated their intention of not becoming employees of the transferee bank, shall be entitled to the payment of such compensation, if any, under the provisions of the Industrial Disputes Act, 1947 (14 of 1947) and such pension, gratuity, provident fund and other retirement benefits as may be ordinarily admissible under the rules or authorizations of the transferor bank as in force immediately before the close of business on September 2, 2006.

(2) The transferee bank shall, in respect of the employees of the transferor bank who are deemed to have been appointed as employees of the transferee bank, be deemed also to have taken over the liability for them of retrenchment compensation in the event of their being retrenched while in the service of the transferee bank on the basis that their service has been continuous and has not been interrupted by their transfer to the transferee bank.

(3) The transferee bank shall, not later than the expiry of the period of three years from the date on which the scheme is sanctioned, pay or grant to the employees of the transferor bank whose services are continued in the transferee bank under sub-paragraph (1), except such of the employees

who cease to be in service under the proviso to sub-paragraph (1), the same remuneration and the same terms and conditions of service as are applicable to the employees of corresponding rank or status of the transferee bank subject to the qualifications and experience of the said employees of the transferor bank being the same as or equivalent to those of such other employees of the transferee bank;

Provided that if any doubt or difference arises as to whether the qualifications or experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee bank or as to the procedure or principles to be adopted for the fixation of pay of the said employees in the scales of pay of the transferee bank, the doubt or difference shall be referred to the Reserve Bank of India whose decision thereon shall be final.

(4) The trustees or administrators of any provident fund and gratuity fund constituted for the employees of the transferor bank, or as the case may be, the transferee bank, shall on or as soon as possible after the prescribed date transfer to the trustees of the employees' provident fund and gratuity fund constituted for the transferee bank or otherwise as the transferee bank may direct, all the moneys and investments held in trust for the benefit of the employees of the transferor bank.

Provided that such latter trustees shall not be liable for any deficiency in the value of investments, or in respect of any act, neglect or default done before the date of commencement of the Scheme.

Chapter VI

Miscellaneous

9. **Demand by Depositors or Creditors:** No depositor or creditor of the transferor bank shall be entitled to make any demand against the transferor bank or the transferee bank in respect of any liability of the transferor bank to him except to the extent prescribed by the Scheme.
10. **Legal proceedings against Central Government, Reserve Bank of India, Transferee bank or Transferor bank:** No suit or other legal

proceedings shall lie against the Central Government, the Reserve Bank of India or the transferee bank or the transferor bank for anything which is in good faith done or intended to be done in pursuance of the Scheme.

- 11. Reorganisation of branches of the transferor bank:** The transferee bank shall have the option of integrating branches of the transferor bank according to its convenience and may close down or shift the existing loss making branches of the transferor bank. The aforesaid option will, however, be exercised by the transferee bank with the prior approval of Reserve Bank of India, within a period of one year.
- 12. Furnishing statement and information:** The transferee bank shall submit to the Reserve Bank of India such statements and information as may be required by the Reserve Bank of India from time to time regarding the implementation of the Scheme.
- 13. Manner of service of notice:** Any notice or other communication required to be given by the transferee bank shall be considered to be duly given if addressed and sent by speed post or by courier or by pre-paid ordinary post or otherwise to the addressee at the address registered in the books of the transferor bank, until a new address is registered in the books of the transferee bank, and such notice shall be deemed to be served on the expiry of four days after it has been posted. Any notice or communication, which is of general interest shall be advertised, in addition, in one or more daily newspapers, which may be in circulation at the places where the transferor bank was transacting its business.

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Joint Secretary to the Government of India

To,

The Manager
Government of India Press
Mayapuri Industrial Area
Ring Road
New Delhi