

EXPANDING THE SCOPE OF FAST TRACK MERGERS: PROPOSED AMENDMENTS TO SECTION 233 OF THE COMPANIES ACT, 2013

In a move aligned with the 2025–26 Union Budget's aim to ease the regulatory burden on businesses, the Ministry of Corporate Affairs (“MCA”) has released a draft notification¹ proposing significant amendments to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules, 2016”). These changes seek to widen the scope of the fast track merger mechanism under Section 233 of the Companies Act, 2013 (“Act”) by making it available to additional classes of companies.

The consultation document, published on the MCA’s e-Consultation Module, invites stakeholder feedback until May 5, 2025. The proposed amendments signal the government’s intent to simplify intra-group restructurings and enable more classes of companies to benefit from an expedited merger process.

Understanding Section 233: The Fast Track Route

Section 233 was introduced as a simplified route for mergers and amalgamations involving small companies and holding companies with wholly owned subsidiaries. Unlike the conventional route under Sections 230–232, the fast track mechanism allows for Regional Director’s approval, bypassing the National Company Law Tribunal (“NCLT”) and thus significantly cutting down timelines and procedural complexity.

A 2021 amendment had already extended this facility to certain start-ups, reflecting the government’s support for entrepreneurial ecosystems. Now, the MCA seeks to take a further step forward by making fast track mergers accessible to more corporate structures.

Key Proposals in the Draft Amendment

The proposed changes to Rule 25 of the CAA Rules, 2016, introduce three new categories of eligible companies, in addition to formalizing provisions on cross-border mergers:

1. Unlisted Companies with Reasonable Debt Exposure and No Defaults

The amendment proposes to include mergers between unlisted companies (excluding Section 8 companies) where:

- Each company’s borrowing from banks, financial institutions, or other corporate bodies is less than INR 50 crores; and
- There is no default in repayment of such borrowings.

A certificate from the company’s auditor confirming compliance with these financial conditions must accompany the merger application. This approach is a measured extension which enables more companies to benefit from the fast track route while maintaining safeguards to protect creditors and ensure financial prudence.

2. Holding Company with Unlisted Subsidiary

¹ File No.:2/31/CAA/2013CL-VPART dated April 4, 2025

<https://www.mca.gov.in/bin/dms/getdocument?mids=V17V8BHbA7gmKAjfxzhiTw%253D%253D&type=open>

Currently, only mergers involving a holding company and its wholly owned subsidiary qualify under Section 233. The amendment proposes to extend provisions to an unlisted subsidiary and not just a wholly owned subsidiary.

This is a significant shift, especially for business groups where full ownership is impractical or where minority interests are held by investors. Notably, listed subsidiaries remain excluded from this proposal, presumably to avoid conflict with securities regulations and shareholder protection norms.

3. Mergers Between Fellow Subsidiaries

The amendment also proposes to allow mergers between unlisted subsidiary companies of the same holding company. This inclusion reflects a practical business need: many conglomerates operate through multiple subsidiaries for strategic, operational, or regulatory reasons, and intra-group consolidation can become cumbersome under the standard route. By allowing such mergers under the fast track process, the MCA is acknowledging commercial realities and offering a tool to streamline group structures.

4. Cross-Border Mergers Incorporated into Rule 25

Currently, cross-border mergers involving a foreign holding company and an Indian wholly owned subsidiary are covered under a separate rule (Rule 25A). The MCA now proposes to bring these within the scope of Rule 25 itself to make the regulatory framework more coherent and self-contained.

Strategic Implications for Businesses

The proposed amendments reflect a progressive and facilitative regulatory approach. If finalized, they would make the fast track process accessible to a broader range of private and unlisted companies, particularly those engaged in internal reorganizations, succession planning, or investment restructuring.

The changes also support ease of doing business by:

- Reducing dependency on the NCLT, which continues to face case backlogs.
- Lowering the cost and time involved in mergers.
- Encouraging cleaner, more agile corporate structures.

However, companies seeking to benefit from these provisions must remain vigilant about compliance, particularly around borrowing thresholds, audit certifications, and shareholder/ creditor communications.

The Path Forward: Stakeholder Engagement

As part of the consultation process, the MCA is inviting comments on the draft rules until May 5, 2025. Businesses, legal professionals, industry bodies, and other stakeholders should use this opportunity to provide practical insights on implementation challenges, suggest clarifications, and recommend safeguards that ensure the fast-track process remains both efficient and reliable.

Conclusion

The MCA's proposal marks another step in India's ongoing efforts to create a more business-friendly legal environment. By broadening the scope of fast-track mergers under Section 233, the government is enabling more companies to undertake structural changes with reduced regulatory friction, without compromising on governance or transparency.

As we await the finalization of these amendments, companies planning internal reorganizations should evaluate whether these proposals could apply to them and consider submitting feedback through the MCA portal.

For businesses considering restructuring or mergers, now is a good time to review their plans in light of the evolving legal framework. Our firm remains available to assist with strategic advice, compliance support, and representation in all aspects of corporate restructuring.

DISCLAIMER

This alert has been written for general information of our clients and should not be treated as a substitute for legal advice. We recommend that you seek proper legal advice prior to taking any action pursuant to this alert. We disclaim all liability for any errors or omissions. For further clarifications, you may write to Mallika Noorani (mallika.noorani@parinamlaw.com), and Kewal R Shah (kewal.shah@parinamlaw.com)

MUMBAI

13th Floor, Express Towers, Ramnath Goenka Marg, Nariman Point, Mumbai – 400 021

Tel : +91 22 4241 0000

NEW DELHI

Flat No. 14(II), 2nd Floor, Front Block, Sagar Apartments, 6, Tilak Marg, New Delhi – 110 011.

Tel : +91 11 4610 2548

PUNE

2nd Floor, Kundan Chambers, Thube Park, Next to Sancheti Hospital, Pune – 411 005

Tel : +91 20 2553 0711

WWW.PARINAMLAW.COM