



Expanded the Horizon of Past Track Mergers

PROVIDES INNOVATIVE BUSINESS









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AGENDA



Company Law Advisory &

Management



Introduction



The September 2025 Amendment - What Changed?



Execution Roadmap & Critical Timeline



Why this is a Game-Changer?



Strategic Applications in Corporate Restructuring



Common Pitfalls & Key Practical Insights



M & A and Transactions Advisory



Capital Market Services



Company Law Advisory & Secretarial Services

INTRODUCTION



Valuation & Biz-Modeling



Securities Law Advisory



ESOP Advisory and Management



Investment Banking Services



Sustainability and ESG Reporting Services



nsolvency Resolution Services





Introduced in 2016, Fast Track Mergers were meant to ease the burden on NCLT and provide an alternative route for certain eligible companies.

Background



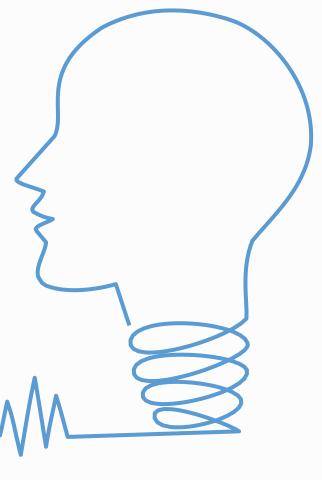
To enable quicker, cost-effective mergers with reduced NCLT involvement and streamlined procedures

Purpose



Originates from the Irani Committee Report (2005), which recommended a "short form of amalgamation" for intragroup and private company mergers.

Genesis





Companies Act, 1956

- All mergers required High Court approval.
- Process was lengthy, costly, and cumbersome.

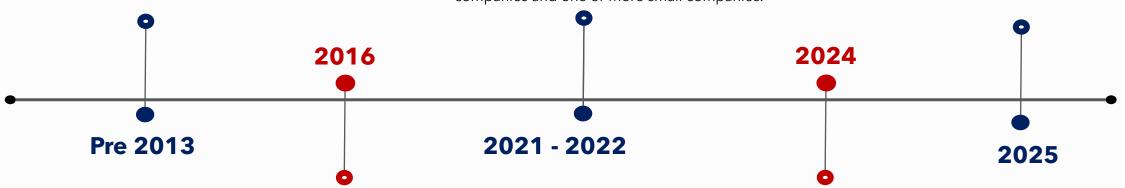
Inclusion of Start-ups &

Enhancement of Definition of Small Companies

Expanded Scope:

- Mergers between two or more start-up companies.
- Mergers between one or more start-up companies and one or more small companies.

"The Broadened
Eligibility"



Fast Track Mergers Notified

Notification of Section 233 - Fast Track Mergers for eligible companies under the Companies Act, 2013

Initially applicable to:

- Two or more small companies
- Holding company & wholly-owned subsidiary

Inclusion of Foreign Holding Companies

- <u>Expanded Scope:</u> Mergers between a foreign holding company and its wholly owned Indian subsidiary.
- <u>Objective:</u> To streamline the process for 'reverse mergers' and enhance ease of doing business.



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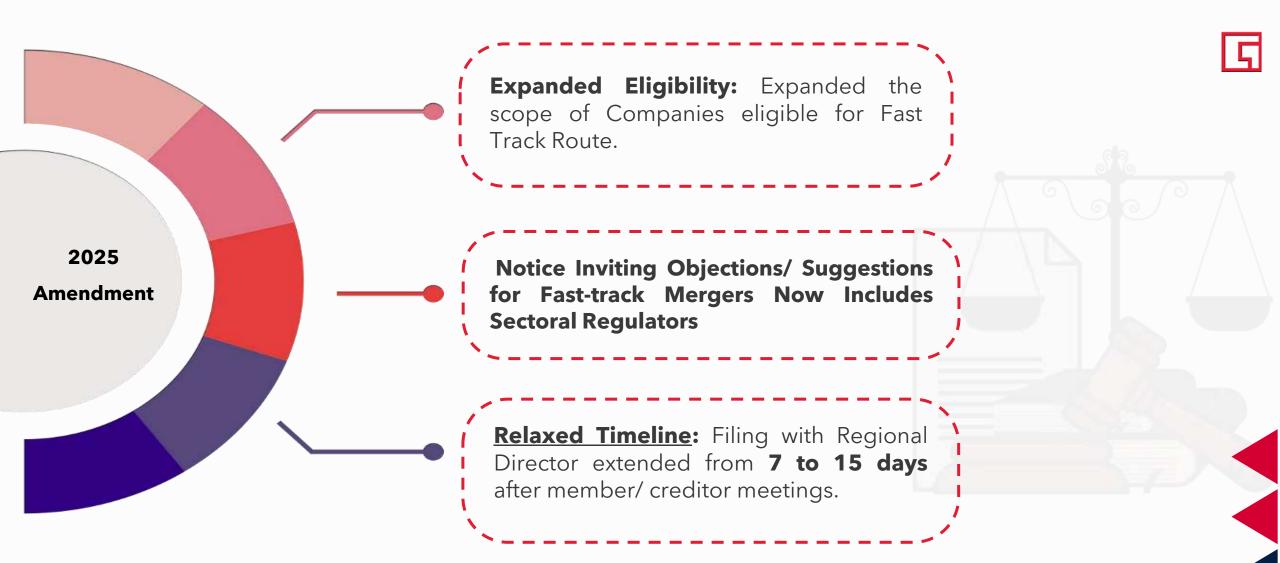
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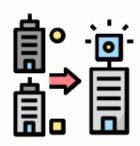


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Each new eligible entity is briefly identified in the upcoming slides:

EXPANDED ELIGIBILITY



Arrangement between two or more Unlisted Companies

- FTM route now available for two or more unlisted companies, subject to:
 - ✓ None is a Section 8 company.
 - Total loans, debentures, deposits < ₹200 crores per company.
 - ✓ No default in repayment of borrowings.
- <u>Timing</u>: Conditions to be satisfied:
 - √ 30 days before inviting objections (u/s 233(1)).
 - On filing Declaration of Solvency (Form CAA-10).
 - ✓ Auditor certification required in Form CAA-10A.

No common shareholding or control required; unrelated unlisted companies eligible.





EXPANDED ELIGIBILITY

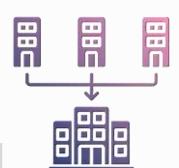






Reverse Cross-Border Mergers involving Indian WOS of foreign companies

- ☐ Cross-border mergers under Section 234 & Rule 25A are included in FTM route:
 - ✓ FTM route now explicitly covers foreign holding → Indian WOS mergers.
 - ✓ Prior approval from RBI if transferor shares a land border with India.
 - ✓ Submission of Form CAA-16 at application stage.



Arrangement between holding and a subsidiary company and amongst the Subsidiaries

- <u>Previous Rule:</u> FTM allowed only if subsidiary was wholly-owned by holding company.
- Amended Rule: Now allows FTM between holding company and any subsidiary and amongst the fellow subsidiaries.
- <u>Condition:</u> Transferor company must NOT be listed on any stock exchange.









CHANGES IN CAA FORMS

New Form CAA-10A

- Auditor certificate confirming:
 - ✓ Outstanding loans, debentures, deposits ≤ ₹200 Crores
 - ✓ No default in repayment
- Mandatory attachment with Declaration of Solvency for unlisted companies under FTM

Form CAA-9

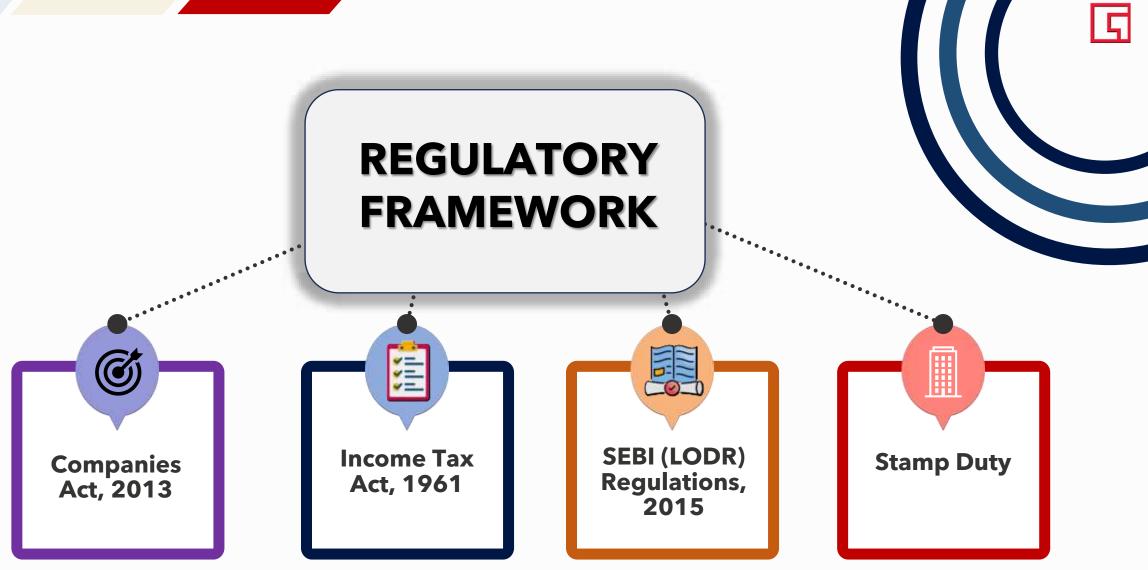
Notice of scheme updated for expanded eligibility, including unlisted and intra-group mergers.

Form CAA-11

The notice of approval of the scheme now includes a provision to explain how the objections or suggestions raised by various regulators and stock exchanges (for listed companies) have been dealt with.

Form CAA-12

The final order form has been updated to align with the new provisions.





Companies Act, 2013

Governed by Section 233, Companies Act, 2013 and Rule 25 of Companies (Compromises, Arrangements & Amalgamations) Rules, 2016.

- Filing Authority: Application to be filed with Regional Director (RD)
- Eligibility: Companies must meet criteria under Section 233
- Solvency: Companies must be solvent
- Requirement: Consent of <u>Approval</u> ≥90% shareholders and ≥90% creditors (by value)



SEBI (LODR) Regulations, 2015

REGULATION 37 OF SEBI (LODR) REGULATIONS, 2015 READ WITH SEBI MASTER CIRCULAR ON THE SCHEME OF ARRANGEMENTS

IN CASE OF MERGER OF WHOLLY-OWNED SUBSIDIARY WITH HOLDING COMPANY DRAFT SCHEME SHALL BE FILED WITH THE STOCK EXCHANGE(S) ONLY FOR THE PURPOSE OF DISCLOSURE.





Income Tax Act, 1961

AMALGAMATION (S. 2(1B))

- Merger of one or more companies into another, or formation of a new company
- All assets & liabilities transfer to amalgamated company
- ≥75% shareholders of amalgamating company become shareholders of amalgamated company

CAPITAL GAIN (S. 47)

Transfers of assets or shares under a scheme of amalgamation are not treated as "transfer" (Sec 47(vi) & (vii))

Carry Forward of Losses & Depreciation (S. 72A)

- Accumulated losses and unabsorbed depreciation of amalgamating company carry forward to amalgamated company (Sec 72A)
- Applicable if asset holding & business continuation conditions are met





Income Tax Act, 1961

DEMERGER (S. 2(19AA))

- Transfer of an undertaking to a resulting company on a going concern basis
- ≥75% shareholders of demerged company receive shares in resulting company
- Assets & liabilities recorded at book value

CAPITAL GAIN (S. 47)

Transfer of undertaking is not treated as "transfer" if conditions under Sec 2(19AA) are met

Carry Forward of Losses & Depreciation (S. 72A)

- Losses & unabsorbed depreciation directly related to the undertaking -> carry forward in resulting company
- Losses not directly related → apportioned between demerged and resulting company





Stamp Duty

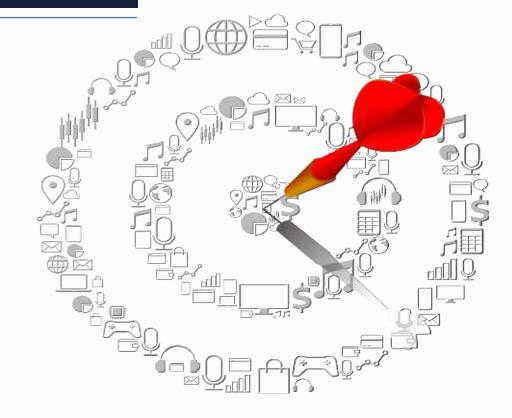
Judicial Position: Court-sanctioned Scheme of Arrangement is treated as an instrument \rightarrow stamp duty applies.

Framework

- **<u>Definition</u>**: Transfer of property under the scheme falls under "Conveyance" as per the Stamp Act.
- **State Variations:** Some states have specific provisions including mergers/amalgamations in the definition of conveyance. Others levy duty under general conveyance provisions.

Example - Delhi: Stamp duty = 3% of consideration mentioned in the Court Order.

Key Point: Rate and applicability depend on the state where the property/asset is located.





Execution Roadmap & Critical Timeline



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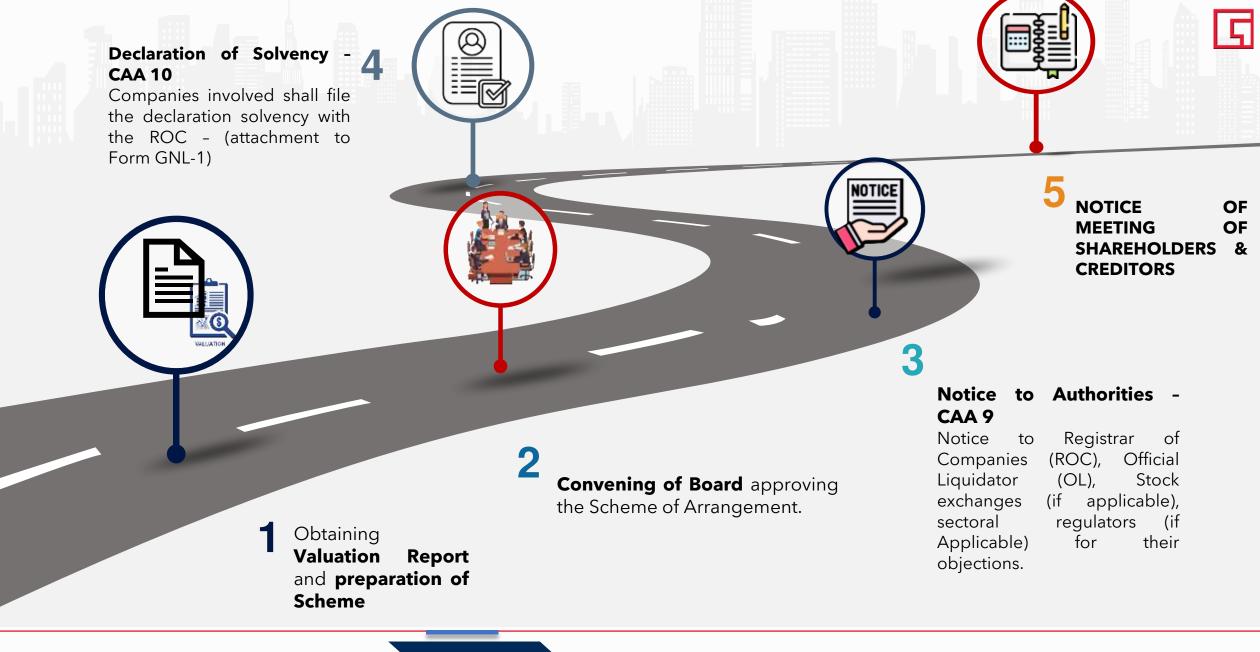




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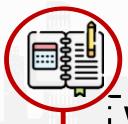
RD Order - CAA 12

upon reviewing objections and suggestions from relevant authorities, may pass an order confirming the scheme.



SUBMIT

Within 60 days of the CAA 11.



Within 30 days of the Order.



Within 15 days of I the meeting

> Submission of Scheme to RD -CAA 11 along with & CAA 10A (if applicable)

> > The Transferee Company must submit a copy of the Scheme along with the meeting outcomes in Form CAA 11 of the Rules to the Central Government.

INC-28

Filing of final order of RD with the RoC.

Convening of Meeting and obtaining approval from 90% or more of the value of shareholders and each class of the creditors

FORM GNL-1

The Transferee Company must submit a copy of the Form CAA 11 to RoC in Form GNL-1, as well as to the OL and IT department.

The Game-Changer



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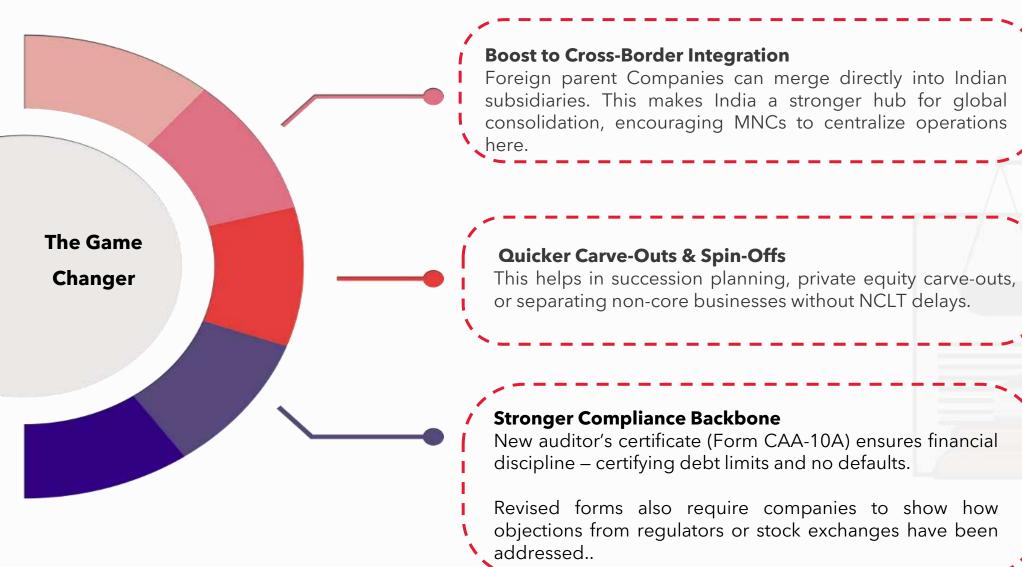
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Start-up Consolidation

enabling start-ups to merge quickly for scaling or pivoting business models.



Cross-Border Integrations

foreign holding companies merging into their Indian whollyowned subsidiaries.



Intra-Group Reorganization

mergers of sister subsidiaries under the same holding company.

05



Leaning Out

consolidating multilayered subsidiaries to create simpler group structures.





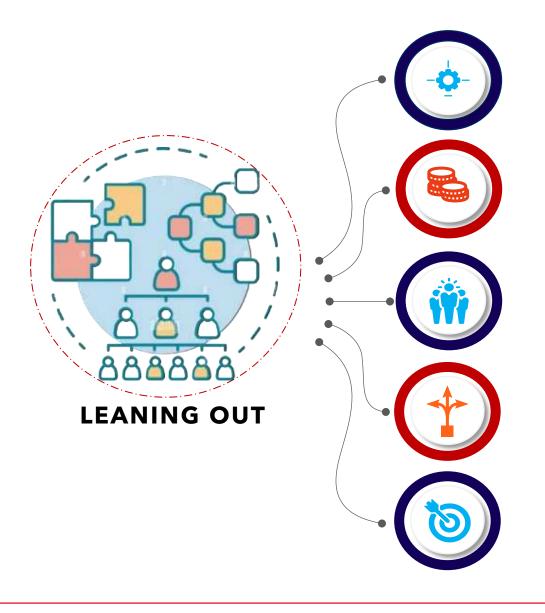
Business Carve-Outs & Divisions

applying the fast-track route to transfer of undertakings



04





Simplification of group Structure

Reduce costs & simplify oversight

Unlock trapped value

Tax and regulatory relief

Future-proofing



Common Pitfalls & Key Practical Insights



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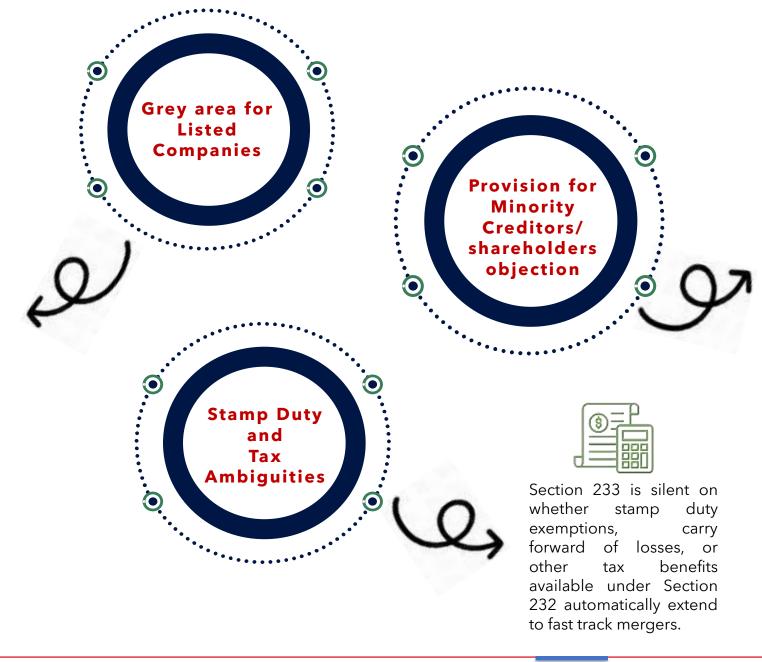
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Securing the consent 90% of of shareholders and often creditors challenging proves for listed companies. a result, even when eligible for the Fast Track Route, they generally end up pursuing the NCLT route.



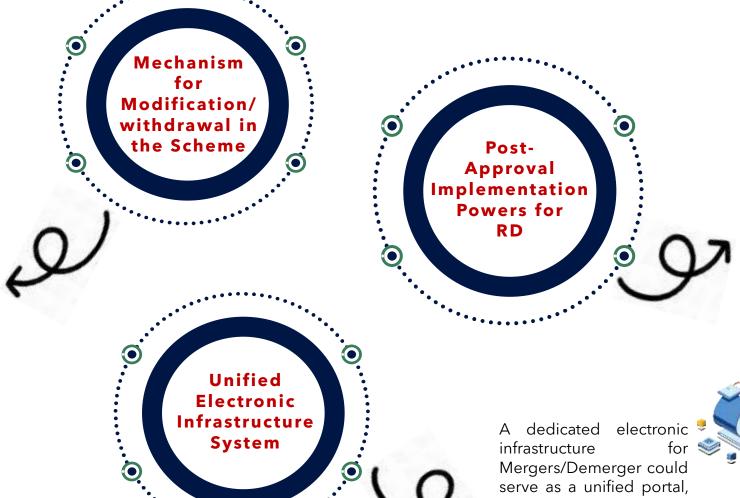


- Section 233 does not expressly address the rights of minority or dissenting creditors/shareholder s to raise objections.
- While 90% or more creditor's/ shareholder's consent is mandated. absence of a defined mechanism for minority protection may lead to potential litigation risks or unfair prejudice.





Once the scheme is filed with the Regional Director, there is no prescribed process for modifications Scheme withdrawal of the Scheme any case implementation difficulty.





Unlike NCLT under Sec. 230-232, the Regional Director has no explicit authority to supervise implementation, modify terms, or revoke approval in case of practical difficulties during execution.

Mergers/Demerger could serve as a unified portal, enabling seamless filings, real-time tracking, and faster processing of approvals





Draft Scheme with Precision

Use clear language for appointed date, share exchange ratio, accounting treatment, and treatment of employees.

Clean Up Pending Filings

Ensure all ROC filings (annual returns, financial statements, charge registrations) are up to date.

KEY INSIGHTS

Coordinate Appointed Date & Accounting Year

Fix appointed date carefully – it has implications for taxation, accounting, and compliance.

Keep Implementation Steps Ready

Draft post-merger documents (share allotment, filings, addendums to agreements, transfer applications, dissolution resolutions) in advance as the scheme must become effective within 30 days of the RD's order upon filing of Form INC-28.

Prepare Operational Integration Plan

Fast track approval is only the start – have IT, HR, finance, and statutory integration plans ready for execution immediately after scheme effectiveness.





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