

MCA Public Notice – Proposal for inclusion of more classes of companies for Fast Track Merger under Section 233 of Companies Act, 2013 - 4th April, 2025

MCA vide its notice dated 4th April, 2025 has proposed for inclusion of more classes of companies for Fast Track Merger under Section 233 of Companies Act, 2013.

Section 233 provides a **simplified, fast-track merger process** for certain types of companies. Unlike regular mergers under Sections 230–232 which require NCLT approval, **Section 233 allows for mergers with the approval of the Central Government (through Regional Directors)**.

Currently, the fast-track route is available for:

- Two or more **small companies**;
- A **holding company and its wholly-owned subsidiary**;
- **Start-up companies**.

1. Merger Between one or more Unlisted Companies (other than Section 8 company) where every company involved in the merger meets the following criteria not more than 30 days before the date of notice:

- All companies involved must be **unlisted**.
- Borrowings < ₹50 crore from banks /Financial Institutions/ others and
- No default in repayment of borrowings.
- Auditor’s certificate required to confirm the above.

➤ This category allows **financially stable unlisted companies** to use the fast-track route, as long as their debt levels are in limits provided and they haven’t defaulted.

2. Merger Between a Holding Company (Listed or Unlisted) and its Unlisted Subsidiary:

Current position: Only merger of a wholly-owned subsidiary (“WOS”) into its holding company is allowed under fast-track.

Proposed change: Subsidiaries other than WOS can now be merged into the holding company using Section 233.

- Enables group restructuring without NCLT even when the subsidiary isn't wholly owned, reducing compliance burden and time.

3. Merger Between Fellow Subsidiaries (Unlisted) Under the Same Holding Company

Current position: Not allowed under Section 233.

Proposed change: Allowing two or more **fellow unlisted subsidiaries** having the same holding company to merge using the fast-track route.

- Encourages internal group consolidations without having to go through the lengthy NCLT process.

4. Inclusion of Cross-Border Merger (Transferor: Foreign Holding Company) Already in Rule 25A(5)

- Currently allowed under **Rule 25A(5)**: Foreign holding company (outside India) merges into its Indian wholly-owned subsidiary.
 - Proposal: Also include this under **Rule 25**, to make Rule 25 **self-contained**.
- Brings clarity and completeness to Rule 25 by consolidating provisions for cross-border fast-track mergers.