

# TT Alert

June 2023

## **MCA amends Rule 25 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 vide Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.**

- The MCA wide Notification G.S.R. 376(E) dated 15th May 2023 has amended sub-rule (5) and (6) of Rule 25 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The amendment pertains to the merger and amalgamations involving small companies or between a holding company and its wholly owned subsidiary, as governed by S.233 of the Companies Act, 2013. The revised rules will come into effect from 15th June 2023.
- Prior to issuance of the notification no time limit was prescribed for providing objection or suggestion by the Registrar of Companies ('ROC') or the Official Liquidator ('OL') and for the Central Government ('CG') to issue an order confirming fast track merger.
- Rule 25 has undergone modification to streamline the merger approval process by implementing timelines and deemed approvals.

The reduced timelines proposed in the amended rules are summarized hereunder :

Particulars	Existing Rules	Amended Rules
<b>Sub-rule (5)</b>	<p>In case where the ROC and the OL do not raise any objections or suggestions on the scheme, or when any objections or suggestions raised are determined to be unsustainable then, the CG shall issue a confirmation order for the scheme.</p> <p>However, no time limit was specified for approval</p>	<ul style="list-style-type: none"> <li>• If no objection or suggestion is received by the CG from the ROC and the OL within 30 days of the receipt of the Scheme and the CG is of the opinion that the Scheme is in the interest of the public or creditors, the CG may issue its confirmation order within 15 days of the expiry of 30 days.</li> <li>• If the CG does not issue its order as aforesaid within 60 days of receipt of the scheme, it will be deemed that the CG has no objection, and then a confirmation order will be issued.</li> </ul>
<b>Sub-rule (6)</b>	<p>In case where objections or suggestions are received from the ROC or OL and the CG is of the opinion that basis such objection and suggestions or otherwise the scheme is not in the public interest or in the interest of creditors the CG may file an application to NCLT within 60 days of receipt of scheme stating its objection or opinion.</p>	<p>Where objections and suggestions are received by the CG from the ROC and OL within a period of 30days and</p> <ul style="list-style-type: none"> <li>• Such objection and suggestions are not sustainable, and the CG believes that the scheme is in public interest or interest of creditors it may issue an order confirming the scheme within a period of 30 days from the expiry of 30 days specified above</li> <li>• Upon receiving the Scheme, if the CG determines that it is not in the best interest of the public or creditors, either due to objections raised or otherwise, it may file an application with the NCLT within 60 days of receipt of the Scheme, requesting the NCLT to evaluate the scheme under S.232 of the Companies Act, 2013.</li> <li>• It is also provided that if the CG does not issue its order or file an application to NCLT within 60 days of receipt of the scheme it will be deemed that the CG has no objection and an order confirming the scheme will be issued.</li> </ul>

## RBSA Comments

The CG has streamlined the process for merger and amalgamation to ensure timely completion of the process by implementing timelines for receipt of objections and suggestion and for approval of the scheme and in case no action is taken within the timeline prescribed, the scheme will be deemed approved. This will enable fast closure of the schemes under the fast track route.

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