

Government of India
Ministry of Corporate Affairs
CL-1 Section

File No.:2/31/CAA/2013CL-VPART

New Delhi, 04th April, 2025

Public Notice

Section 233 of the Companies Act 2013 (CA-13) provides for merger or amalgamation of certain companies (Fast Track Merger) through approval of Central Government [Delegated to Regional Director (RDs)].

Budget announcement (2025-2026), Para 101, inter alia, states that the scope for fast-track mergers will also be widened and the process made simpler. Accordingly, a notification proposing amendments to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 proposing inclusion of more classes of companies under section 233 of Companies Act 2013 has been drafted and is available, along with an Explanatory note, on the online portal of the Ministry, www.mca.gov.in.

It has been decided to invite suggestions/comments on such draft amendment from stakeholders. Comments/suggestions on the draft rules along with justifications in brief may be sent latest by **05th May, 2025** through e-Consultation Module on the website of Ministry of Corporate Affairs. The Explanatory Note on the matter is enclosed.

Explanatory Note

Sub.: Amendment in Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 [CAA Rules]

1. Section 233(1) of Companies Act 2013 (CA-13) provides that notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, in accordance with the provisions of section 233 and rules made thereunder.

2. Pursuant to amendment made in February, 2021, scope of section 233 was widened through inclusion of new sub-rule (1A) in rule 25 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (CAA Rules) which reads as under:-

(1A) A scheme of merger or amalgamation under section 233 of the Act may be entered into between any of the following class of companies, namely:-

(i) two or more start-up companies; or

(ii) one or more start-up company with one or more small company.

3. Pursuant to the Budget Speech (2025-26) (para 101), it has been proposed to widen the scope of Section 233 by prescribing more classes of companies under rule 25 of CAA Rules, 2016. The suggestions received on this budget para during discussions held on 4th March, 2025 in the Post-Budget Seminar have also been taken into account while proposing widening of scope of rule 25 of CAA Rules 2016.

Proposed Rule Amendment:

4. Following additional classes of Companies are being proposed to be covered under section 233 of Companies Act 2013:-

(i) one or more unlisted company (other than section 8 company) with one or more unlisted company (other than section 8 company) where every company involved in the merger meets the following criteria as on a day, not more than 30 days before the date of notice referred to in clause (a) of sub-section (1) of section 233:-

(a) the borrowing of the company from banks or financial institutions or any other body corporate is less than fifty crore rupees and

(b) such a company has no default in repayment of such borrowings; or

Provided that a certificate from the auditor of the company that the company meets the conditions referred to in this clause shall be attached alongwith the application under sub-section (2) of section 233;

The above new class will be of those unlisted companies which have reasonable debt exposure and have no default in repayment thereto. It is proposed that section 8 companies would not be covered under this category.

(ii) a holding company (listed or unlisted) and its one or more unlisted subsidiary company or companies; or

Presently, merger of only wholly owned subsidiary with its holding company is covered under section 233. It is proposed that a subsidiary other than wholly owned subsidiary may also be allowed to be merged with its holding company under section 233 with the condition that such subsidiary should not be a listed company. The CLC in its 2022 report had made a recommendation in this regard.

(iii) one or more subsidiary company of a holding company with one or more other subsidiary company of the same holding company where the transferor company or companies are not listed;

Presently, merger between fellow subsidiary companies belonging to the same group (i.e. having same holding company) is not covered under section 233. It is proposed that such mergers may also be included in section 233 since these would be similar to mergers between holding company and unlisted subsidiary companies. It is proposed to cover only unlisted fellow subsidiaries under this category.

4.2 It is also proposed that merger provided in rule 25A (5) (i.e. merger of the transferor foreign company incorporated outside India being a holding company with the transferee Indian company being its wholly owned subsidiary company incorporated in India) may be included in rule 25 also to make rule 25 self-contained.

5. The draft notification proposing changes in rule 25 of CAA Rules has been placed on the website of the Ministry of Corporate Affairs under the heading e-Consultation Module.
