

PROCESS OF FAST TRACK MERGER

- **Eligibility:** Section-233 of the companies act, 2013 read with Rule-25(1)(1A) of the Companies (CAA) Rules, 2016
 - a) Between 2 or more small company
 - b) Between 2 or more start-ups
 - c) Between Holding company & it's WOS
 - d) Between 1 or more small company with 1 or more start-ups
- **Small company:- {SECTION-2 (85) OF THE COMPANIES ACT, 2013) (Notification no: CG-DL-E-15092022-238857}**
 - a) Not a Public company
 - b) Paid up not exceed 4 Crore. Rupee
 - c) Turnover not exceed 40 Crore. RupeeExcept,
 - Holding company & it's Subsidiary
 - Section-8 Company
 - Company or body corporate governed under special act
- **Start-up company:-**
 - a) Private company not been incorporated 10 years ago
 - b) Turnover not exceed 100 Crore. Rupee
 - c) It satisfies any of the following conditions:
 - It is working towards: Innovation of new products/processes/services or Development of new products/processes/services or Improvement of existing products/processes/services
 - It is a scalable business model with a high potential of: Employment generation or Wealth creation.

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- Pursuant to section 233 of the companies act,2013 read with Rule 25 of Companies(Compromise, Arrangements and Amalgamations) Rules,2016
 1. **Step 1:-** Check MOA of Both company whether it allows to merge or not and object of another company is allowed to the another company or not
 2. **Step 2:-** Hold Board meeting and pass BR to approve the merger & prepare proposed scheme of merger & approve it.
 3. **Step 3:-** Send proposed scheme of merger to ROC & Official liquidator in Form CAA-9 & they shall send objections if any within 30 days of receipt of scheme
 4. **Step 4:-** File declaration of solvency to ROC in CAA-10 by both companies.
 5. **Step 5:-** Consider objections received from ROC/OL if any, and send a notice to all the shareholders of the company at least 21

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days before the meeting and get approval of at least 90 % shareholders in value.

6. **Step 6:-** Send notice to all creditors of the company at least 21 days before the meeting and get approval of at least 90 %creditors in value.
7. **Step 7:-** Transferee Company shall within 7 days of conclusion of meeting of creditor or member file copy of scheme and result of meeting in Form CAA-11 to Central Government & Official Liquidator.
8. **Step 8:-** File form **CAA-11 & GNL-1** to ROC.
9. **Step 9:-** Central Government will ask to ROC that if there is any objection or not which ROC has to reply in 30 days.
- 10.**Step 10:-** If ROC gives any objections and Central Government is at the opinion that there is objection in the scheme then CG shall communicate to NCLT in **CAA-13** within 60 days of receipt of objection from ROC.

➤ If NCLT is at the opinion that scheme shall not go with section 233 and have to follow procedure given in section-230.

- If NCLT does not have any objection then it shall approve the scheme in Form CAA-12
- 11. **Step 11:-** Once the scheme has been approved by the Central Government then company shall file **Form INC 28** to ROC in 30 days of approval of scheme.

- **IMPORTANT FORMS:**

1. **CAA 9:-** Copy of proposed scheme
2. **CAA 10:-** Declaration of solvency
3. **CAA 11:-** Copy of approved scheme to CG & OL
4. **CAA 12:-** Approval of scheme by CG
5. **CAA 13:-** Objection by CG to NCLT
6. **GNL 1:-** Copy of approved scheme to ROC
7. **INC 28:-** Intimation to ROC about approval of scheme

Important timeliness

- 7 days: Board meeting
- 30 days: proposed scheme to ROC
- 21 days: Member's meeting
- 21 days : creditors meeting
- 7 days : Approved scheme to ROC,CG & OL
- 30 days: Objection by ROC
- 60 days : Objection by CG
- 30 days: INC-28 to ROC

Total: 206 days