

MCA raises merger filing thresholds under competition law to boost ease of doing business

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In an industry-friendly move, the Centre has revised upwards the merger filing thresholds under the competition law for 'combination' transactions.

The Corporate Affairs Ministry (MCA) has in two separate notifications revised the *de-minimis* or small target exemption threshold for exempting M&As from the purview of Competition Act. It has also simultaneously revised upwards the 'jurisdictional' thresholds that trigger notification to and approval of the Competition Commission of India (CCI) before the deals are consummated.

Currently, not every M&A activity requires notification (merger filing) to the Commission. M&As that meet the asset and turnover thresholds — prescribed under Section 5 of the Competition Act — would be termed as com-

The value of assets and turnover

		2016 (Existing threshold)		2024 (Revised threshold) ^a	
		Assets	Turnover	Assets	Turnover
Enterprise level	India	> ₹2,000 cr	> ₹6,000 cr	> ₹2,500 cr	> ₹7,500 cr
	In India or outside India	> \$1 billion with at least	> \$3 billion with at least	> \$1.25 billion with at least	> \$3.75 billion with at least
		> ₹1,000 cr in India	> ₹3,000 cr in India	> ₹1,250 cr in India	> ₹3,750 cr in India
OR					
Group Level	India	> ₹8,000 cr	> ₹24,000 cr	> ₹10,000 cr	> ₹30,000 cr
	In India or outside India	> \$4 billion with at least	> \$12 billion in India	> \$5 billion with at least	> \$15 billion with at least
		> ₹1,000 cr in India	> ₹3,000 cr with at least	> ₹1,250 cr in India	> ₹3,750 cr in India

Source: PIB ^aAs per the revised threshold, the increase in value is 150% over the original value under section 5 of the Competition Act, 2002

binations. Only those M&As that qualify as a combination require notification to and approval of the Commission prior to their consummation.

ABSOLUTE EXEMPTION

The Ministry has now revised upward the *de-minimis* threshold to ₹450 crore from ₹350 crore in case of assets or in case of turnover from ₹1,000 crore to ₹1,250 crore. Combinations below this threshold

will be exempted from merger filing.

Hitherto *de-minimis* or small target exemption is an absolute exemption available to transactions where the asset value in India does not exceed ₹350 crore or the revenue from India does not exceed ₹1,000 crore.

For the jurisdictional thresholds, the MCA has revised the thresholds — from the year 2016 specified levels — both at the

enterprise level as well as Group level (see table) in line with wholesale price index (WPI) changes.

'A POSITIVE STEP'

Samir Gandhi, Co-founder & Partner, Axiom5 Law Chambers, said the revision of the merger thresholds is a positive step by the government towards ensuring the ease of doing business since it eliminates the need for making combination filings for relat-

ively small transactions. "As India's economy grows in size and stature, it's appropriate to revise regulatory requirements in line with it," he said.

Vaibhav Choukse, Partner and Head of Competition Law, JSA Advocates and Solicitors, said: "This is a very important development concerning M&As in India. The Government has increased the existing financial thresholds as prescribed under Section 5 of the Competition Act by 150 percent. Further, the *de-minimis* or the Small Target Exemption thresholds have also been increased.

This is in line with the government motto of ease of doing business in India as less M&A deals would require CCI approval."

Amit Agarwal, Partner, Nangia & Co LLP, said this is a significant development with respect to ease of doing business as well as mergers and acquisitions in India towards ease of mergers and acquisitions in India.