Page 2786 - 2806 **DOI:** *https://doi.org/10.63108/IJLMH.13035*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 5

2026

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Fast-Track Mergers: Fast in Name, Slow in Practice? An Assessment of India's Merger Framework

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ABSTRACT

Fast-track mergers were introduced in India with the objective of making the merger process simpler, quicker, and less burdensome for eligible companies. The framework was intended to provide a practical alternative to the conventional merger route, which often involves lengthy proceedings before the National Company Law Tribunal (NCLT), along with multiple regulatory approvals and procedural requirements. However, despite being designed as an expedited mechanism, the actual implementation of fast-track mergers raises questions about whether the process is truly capable of delivering timely and efficient outcomes. This paper examines the effectiveness of India's fast-track merger framework and evaluates whether the procedure has achieved its intended objective of reducing the time and regulatory burden associated with corporate restructuring. The paper analyses the legal framework governing fast-track mergers under the Companies Act, 2013, and the relevant rules and regulatory developments. It further examines the procedural requirements involved, including approval by shareholders and creditors, declarations of solvency, scrutiny by the Regional Director and other authorities, and the circumstances in which a merger may be required to follow the conventional NCLT route. The paper argues that while the fast-track mechanism represents an important step towards simplifying corporate restructuring, procedural complexities, regulatory overlaps, and uncertainty in implementation can undermine its effectiveness. The study also considers recent reforms aimed at expanding and streamlining the fast-track merger mechanism and assesses whether these changes are sufficient to address the practical difficulties faced by companies. By examining the gap between the intended speed of the framework and its practical operation, the research seeks to determine whether fast-track mergers are genuinely "fast" or merely faster in theory. Finally, the paper proposes reforms aimed at reducing procedural delays, improving regulatory coordination, and creating a more predictable and efficient merger process in India.

Keywords: *Fast-Track Mergers, Section 233, Corporate Restructuring, Regulatory Bottlenecks, Merger Approval Thresholds*

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I. INTRODUCTION

Corporate restructuring plays an important role in the growth and reorganisation of companies. As businesses expand, change their ownership structures, enter new markets or seek to improve operational efficiency, they may need to reorganise their corporate structure through mergers, amalgamations, demergers or transfers of undertakings. Among these, mergers are one of the most common forms of corporate restructuring, as they allow two or more companies to combine their businesses, assets and liabilities into a single entity. In India, the traditional legal framework for mergers is primarily governed by Sections 230 to 232 of the Companies Act, 2013. This framework requires companies to approach the National Company Law Tribunal (NCLT) and comply with several procedural and regulatory requirements before a merger can be completed. The involvement of the NCLT provides an important layer of judicial supervision and ensures that the interests of shareholders, creditors and other stakeholders are adequately considered. However, the same process can also become lengthy and expensive because of multiple procedural requirements, hearings, regulatory scrutiny and delays in obtaining approvals. For companies seeking to undertake a relatively straightforward internal restructuring, having to undergo a lengthy tribunal-driven process can significantly increase both the time and cost of the transaction. The need for a simpler and more efficient mechanism for such mergers therefore became increasingly important in the context of India's objective of improving ease of doing business.

It was against this background that the Fast-Track Merger (FTM) mechanism was introduced under Section 233 of the Companies Act, 2013, read with Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.[1] Unlike the conventional merger process under Sections 230 to 232, the fast-track mechanism was designed to avoid the direct involvement of the NCLT for specified categories of companies. Instead, the Regional Director (RD) acts as the primary sanctioning authority, subject to the fulfilment of prescribed statutory requirements and scrutiny by other authorities. The objective was straightforward: where a merger did not require extensive judicial intervention, the process should be capable of being completed through a simpler administrative route. Initially, the framework was limited to certain categories, including small companies and holding companies and their wholly owned subsidiaries. Over time, however, the government expanded its scope to make the mechanism available to a wider range of corporate restructuring transactions. The framework was subsequently extended to cover start-ups and certain combinations involving start-ups and small

[1] The Companies Act, 2013, § 233, No. 18, Acts of Parliament, 2013 (India); The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, G.S.R. 1134(E), r. 25 (India).

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companies.[2] The 2025 amendments represented another significant expansion by bringing several qualifying unlisted companies, certain holding and subsidiary structures, and schemes involving demergers, divisions and transfers of undertakings within the fast-track framework, and by carrying into Rule 25 the route, opened in 2024, by which a foreign holding company may merge into its Indian wholly owned subsidiary.[3] These developments demonstrate a continuing attempt to make corporate restructuring quicker and reduce the dependence on lengthy NCLT proceedings.

Despite these developments, an important question remains: does the Fast-Track Merger framework actually operate as a fast-track mechanism in practice? The expansion of eligibility does not necessarily mean that the process itself has become sufficiently quick or simple. One of the major concerns is the requirement of approval from shareholders holding at least 90% of the total share capital and creditors representing 90% in value. This threshold can create considerable difficulties, particularly where a company has a large or dispersed shareholder base. Unlike the conventional NCLT route, where the relevant threshold is generally based on those present and voting, the FTM framework has traditionally required a much higher level of shareholder approval linked to the total shareholding. Consequently, shareholders who do not participate in the process may effectively make it difficult for a company to satisfy the statutory requirement, even when there is no active opposition to the proposed merger. The process may also involve scrutiny by the Registrar of Companies, Official Liquidator and, where applicable, sectoral regulators such as SEBI, RBI, IRDAI and PFRDA. While such regulatory oversight is necessary to protect stakeholders and ensure compliance, excessive or overlapping scrutiny can reduce the practical speed advantage of the fast-track route. The problem, therefore, is not simply whether India has created a mechanism called a "Fast-Track Merger", but whether the procedure attached to that mechanism is genuinely faster than the conventional route. This article examines the evolution of the FTM framework, the reforms introduced to expand its scope, and the procedural and regulatory difficulties that continue to affect its functioning. It argues that although recent reforms have moved the framework towards greater efficiency, high approval thresholds, cumbersome consent mechanisms and overlapping regulatory scrutiny

[2] The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021, G.S.R. 93(E) (Feb. 1, 2021) (India) (inserting r. 25(1A), which extends § 233 to mergers between two or more start-up companies and between one or more start-up companies and one or more small companies).

[3] The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024, G.S.R. 555(E) (Sept. 9, 2024) (India) (in force Sept. 17, 2024) (inserting r. 25A(5), under which a foreign holding company may merge into its Indian wholly owned subsidiary under § 233 with the prior approval of the Reserve Bank of India); The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025, G.S.R. 603(E) (Sept. 4, 2025) (India).

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continue to raise the possibility that Fast-Track Mergers may remain "fast in name, slow in practice."

II. The Evolution of Fast-Track Mergers in India

The evolution of the Fast-Track Merger (FTM) framework in India can be understood as a gradual shift from a lengthy, tribunal-driven merger process towards a simplified administrative mechanism for transactions that do not necessarily require extensive judicial supervision. The idea was rooted in the recognition that the conventional merger process, although important for protecting shareholders and creditors, could be time-consuming and expensive. The Expert Committee on Company Law chaired by Dr J.J. Irani (2005) had already identified the need for a more business-friendly restructuring mechanism and emphasised that "speed is of the essence" in corporate restructuring. The Committee therefore recommended a simplified form of amalgamation. This recommendation eventually contributed to the introduction of the Fast-Track Merger mechanism under the Companies Act, 2013. The Companies Act, 2013 introduced the Fast-Track Merger mechanism under Section 233, which was subsequently operationalised through Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The objective was to create an alternative to the conventional merger procedure under Sections 230–232.[4] Unlike the traditional route, which requires the involvement of the National Company Law Tribunal (NCLT), the fast-track mechanism primarily places the approval process before the Regional Director (RD). This was intended to reduce judicial intervention and consequently make eligible mergers quicker and less costly. Initially, the mechanism was restricted to specific categories of companies, particularly small companies and mergers between a holding company and its wholly owned subsidiary. The idea was that relatively straightforward transactions, particularly intra-group reorganisations, should not have to undergo the same level of procedural scrutiny as more complex mergers. However, the framework contained strict approval requirements. In particular, shareholders holding at least 90% of the total share capital and creditors representing 90% in value were required to approve the scheme.[5] Although these requirements were intended to protect stakeholders, they also became one of the major practical difficulties associated with the FTM route.

[4] Archit Bhatnagar & Priyam Mittal, *The Need for Speed – Fast Track Mergers*, India Corporate Law (Sept. 23, 2025), https://corporate.cyrilamarchandblogs.com/2025/09/the-need-for-speed-fast-track-mergers/ (quoting the Irani Committee's observation that, given increasing competitiveness in the market, "speed is of the essence").
[5] The Companies Act, 2013, § 233(1)(b), (d); *see also* Venkata Raghavan, *What Is a Fast Track Merger? How Does Fast-Track Mergers 2.0 Work?*, Escalade (Mar. 4, 2026), https://www.escaladelegal.com/what-is-a-fast-track-merger-how-does-fast-track-mergers-2-0-work/.

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The government subsequently began expanding the scope of the mechanism. In 2021 the framework was extended to cover start-ups, as well as combinations involving start-ups and small companies. This reflected the government's broader objective of making corporate restructuring more accessible to growing businesses. The expansion demonstrated that the FTM mechanism was no longer intended to be limited only to the smallest or simplest corporate structures. Instead, it was gradually developing into an important restructuring tool for companies that could satisfy the prescribed statutory conditions. At the same time, however, practical difficulties remained. The absence of sufficiently clear and predictable timelines for the approval process could result in delays even though the mechanism was formally described as "fast-track." Thus, an important contradiction began to emerge: the route was simpler than the NCLT process in design, but procedural requirements could still prevent it from being genuinely fast in practice.

Recognising the need to address procedural delays, further reforms were introduced to make the process more time-bound. The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023 introduced a time-bound approval mechanism and a deemed approval framework.[6] The objective of these changes was to prevent applications from remaining pending indefinitely and to provide greater certainty to companies undertaking restructuring. These reforms were important because the effectiveness of a fast-track mechanism depends not only on removing NCLT involvement but also on ensuring that the alternative approval process itself operates within predictable timelines. Therefore, the evolution of FTM during this period was characterised by two parallel developments: expansion of eligibility and attempts to reduce procedural delays. The scope of the framework was further developed through subsequent reforms dealing with cross-border restructuring. The reforms in 2024 facilitated certain reverse-flip transactions involving foreign holding companies and Indian wholly owned subsidiaries. This was significant because corporate restructuring was increasingly becoming cross-border in nature. Indian companies with foreign holding structures needed mechanisms through which their corporate structures could be reorganised without being subjected to unnecessarily lengthy domestic procedures. The inclusion of such transactions demonstrated that the FTM framework was gradually moving beyond simple

[6] The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023, G.S.R. 367(E) (May 15, 2023) (India) (in force June 15, 2023) (substituting r. 25(5)–(6): where the Registrar and the Official Liquidator raise no objection within thirty days, the Central Government may, if it considers the scheme to be in the public interest or in the interest of creditors, issue its confirmation order within fifteen days after that period, and if no confirmation order is issued within sixty days of receipt of the scheme, the Central Government is deemed to have no objection and a confirmation order is issued accordingly).

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domestic mergers and becoming relevant to more sophisticated corporate restructuring arrangements.

The most significant recent development came with the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025, notified by the Ministry of Corporate Affairs on 4 September 2025. The 2025 reforms substantially widened the categories of companies that could use the fast-track route. The framework was expanded to cover several qualifying unlisted companies, subject to conditions relating to their financial exposure and repayment record. The reforms also covered certain holding and subsidiary structures, including situations where the holding company may be listed but the transferor subsidiary is unlisted. The 2025 reforms also introduced procedural refinements. The period for submitting the approved scheme to the Regional Director was increased from seven days to fifteen days following the relevant meetings. The amendments also strengthened the regulatory interface by requiring notices to relevant sectoral regulators, including RBI, SEBI, IRDAI and PFRDA, where applicable. Thus, the 2025 reforms represented a major shift in the development of FTM. The focus was no longer simply on providing a faster route for small companies. Instead, the government attempted to make the mechanism relevant to a much broader range of corporate restructuring transactions.

Despite the expansion of the FTM framework, one major problem remained the 90% shareholder approval requirement. This became particularly significant because it could make the fast-track route more difficult to use than the conventional NCLT route in certain situations. The Corporate Laws (Amendment) Bill, 2026 therefore proposes further changes. Among the important proposals is a shift from the existing 90% shareholder approval requirement towards approval by at least 75% in value of the shares represented by members present and voting. A similar reduction has been proposed for creditor approval.[7] This proposal is particularly important for the evolution of FTM because it attempts to address one of the fundamental contradictions within the framework: a mechanism designed to make mergers easier could impose a higher practical approval barrier than the conventional route. The proposed reforms also contemplate other changes, including a single NCLT bench, the one with jurisdiction over the transferee company, for all the companies in a scheme, removal of certain Official

[7] Vansh Sharma, *Fast-Track Mergers under the Corporate Laws (Amendment) Bill, 2026: Can Speed Co-Exist with Corporate Accountability?*, IBC LAWS (Aug. 18, 2026), https://ibclaw.in/fast-track-mergers-under-the-corporate-laws-amendment-bill-2026-can-speed-co-exist-with-corporate-accountability-by-vansh-sharma/ (discussing the Corporate Laws (Amendment) Bill, 2026, Bill No. 85 of 2026, introduced in the Lok Sabha on Mar. 23, 2026).

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Liquidator filing requirements for fast-track demergers, and an increase in the thresholds applicable to small companies.[8]

III. The 2025 expansion: has fast-track become more accessible?

The 2025 amendment to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 was an important development in the evolution of Fast-Track Mergers in India. Before the amendment, the FTM mechanism under Section 233 was primarily available to small companies, holding companies and their wholly owned subsidiaries, and certain start-up combinations. This meant that many other companies, particularly larger unlisted companies, had to follow the conventional merger process under Sections 230–232 and approach the NCLT. The government had already recognised the need to simplify this process, and the Union Budget 2025–26 specifically announced that the requirements and procedures for speedy approval of company mergers would be rationalised, and that the scope for fast-track mergers would be widened and the process made simpler.[9] Following this announcement, the Ministry of Corporate Affairs invited comments on proposed amendments in April 2025 and subsequently notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025, on 4 September 2025. The amendment significantly widened the categories of companies that could use the fast-track route. Most notably, eligible unlisted companies, other than Section 8 companies, could now use the mechanism where their total outstanding loans, debentures and deposits did not exceed ₹200 crore and there was no default in repayment.[10] This was a major change because it moved the FTM framework beyond very small or straightforward corporate structures and made it available to a much broader group of unlisted companies.

The amendment also recognised that modern corporate restructuring can take several forms and is not limited to a simple merger between two companies. The 2025 framework therefore expanded the FTM route to certain holding and subsidiary company structures, including mergers where the holding company may be listed but the transferor subsidiary is unlisted. It also permitted mergers between subsidiaries under the same holding company, provided the relevant transferor companies were not listed. The amendment also carried into Rule 25 itself the cross-border reverse-flip route first opened by the 2024 amendment, under which a foreign holding company may merge into its Indian wholly owned subsidiary. This is particularly

[8] Sharma, *supra* note 7.

[9] Nirmala Sitharaman, Minister of Finance, *Budget 2025–2026: Speech* ¶ 101 (Feb. 1, 2025), https://www.indiabudget.gov.in/budget2025-26/doc/budget_speech.pdf.

[10] Rudra Kumar Pandey, Jyoti Gautam & Deepti Pandey, *The Evolving Landscape of Fast-Track Mergers: Analysing the Implications of 2025 Amendment Rules*, Shardul Amarchand Mangaldas & Co. (Sept. 15, 2025), https://www.amsshardul.com/insight/the-evolving-landscape-of-fast-track-mergers-analysing-the-implications-of-2025-amendment-rules/.

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relevant for businesses that have an overseas parent structure but want to reorganise their corporate structure around an Indian entity.[11] In addition, the amendment expressly brought demergers, divisions and transfers of undertakings within the scope of the fast-track framework. This is important because a company may want to restructure only a particular business division or undertaking rather than merge its entire business. By allowing these transactions to use the fast-track mechanism, the 2025 amendment attempted to make Section 233 a broader corporate restructuring tool rather than merely a simplified merger route. The amendment also introduced procedural refinements. The period for filing the scheme approved by members and creditors with the Regional Director was increased from seven days to fifteen days, giving companies more practical time to complete the filing process.[12] Further, the framework strengthened the regulatory interface by requiring relevant sectoral regulators, including RBI, SEBI, IRDAI and PFRDA, and stock exchanges where applicable, to be given notice so that their comments or objections could be considered.[13]

However, the wider scope of the 2025 amendment does not necessarily mean that the FTM process has become faster in practice. This is where the central argument of the article becomes important. The amendment has undoubtedly made the route more accessible in terms of eligibility, because companies that were previously required to approach the NCLT may now qualify for the Regional Director route. However, the fundamental procedural requirements have not disappeared. In particular, the requirement of approval by shareholders holding 90% of the total number of shares and creditors representing nine-tenths in value continues to create a significant barrier. A company may therefore qualify for the fast-track route but still struggle to actually use it because obtaining such a high level of shareholder consent can be difficult, especially where shareholding is dispersed or shareholders are passive or do not participate in the approval process. The involvement of the RoC and Official Liquidator, along with the possibility of scrutiny by sectoral regulators, can add further layers to the process. While such scrutiny is important for protecting creditors, investors and public interest, excessive regulatory overlap can reduce the time and cost advantage that the FTM mechanism was originally

[11] The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024, *supra* note 3; The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025, G.S.R. 603(E) (Sept. 4, 2025) (India) (inserting r. 25(1A)(vi)); *see generally* Ruchika Tandon & Mitul Gupta, *Fast-Track Mergers and Demergers: A Simplified Guide to Navigate the Legal Landscape in India*, LEXOLOGY, https://www.lexology.com/library/detail.aspx?g=32966ab9-0309-405f-8a4b-6716b3641b59.

[12] Pandey, Gautam & Pandey, *supra* note 10; Ranjini Rastogi, *Fast-Track Mergers Redefined: Has the Process Truly Become Faster?*, LEGAL SERVICE INDIA (May 24, 2026), https://www.legalserviceindia.com/Legal-Articles/fast-track-mergers-redefined-has-the-process-truly-become-faster/.

[13] Anand Jayachandran, Supriya Aakulu & Ayushi Mehta, *The Four Pillars of Change: Unpacking India's New Fast-Track Merger Regime*, INDIA CORPORATE LAW (Sept. 18, 2025), https://corporate.cyrilamarchandblogs.com/2025/09/the-four-pillars-of-change-unpacking-indias-new-fast-track-merger-regime/.

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designed to provide. Therefore, the 2025 amendment can be viewed as a significant expansion of the doorway to the fast-track mechanism, but not necessarily a complete solution to the problems encountered after entering that doorway.[14] It has made the framework broader, but questions remain about whether it has made the process genuinely faster. This distinction supports the central theme of this article: Fast-Track Mergers may have become more accessible on paper, while still remaining slow in practice because of the procedural and regulatory requirements attached to them.

IV. FAST IN NAME, SLOW IN PRACTICE: THE MAJOR BOTTLENECKS

The Fast-Track Merger mechanism was introduced with the objective of making corporate restructuring quicker and simpler. By allowing eligible companies to avoid the conventional NCLT process and obtain approval through the Regional Director, Section 233 was expected to reduce the time, cost and procedural burden involved in mergers. However, the existence of a separate fast-track route does not automatically make the process fast. In practice, several procedural requirements continue to make Fast-Track Mergers difficult to complete. The expansion of the framework in 2025 has made the route available to a wider range of companies, but some of the fundamental difficulties remain. High approval thresholds, difficulties in obtaining shareholder and creditor consent, involvement of several regulatory authorities, and the possibility of the transaction being referred to the NCLT can all reduce the practical advantage of the fast-track mechanism.[15] These difficulties raise an important concern: if a company has access to a simplified route but still has to overcome several significant procedural barriers, can that route genuinely be described as "fast-track"?

One of the biggest difficulties under the existing framework is the 90% shareholder approval requirement. Section 233 requires the scheme to be approved by members or a class of members holding at least 90% of the total number of shares. This requirement is considerably more demanding than the approval requirement generally applicable under the conventional NCLT route. Under Section 230, the scheme is ordinarily approved by a majority of persons representing three-fourths in value of the members voting.[16] In contrast, the Section 233 requirement is linked to 90% of the total number of shares. This difference creates a practical problem for companies with a large or dispersed shareholder base. Shareholders may fail to attend the meeting, may not respond to notices, or may simply choose not to participate in the

[14] Arjun Chaudhary, *Fast-Track Mergers Reimagined: The 2025 MCA Amendment*, INDIACORPLAW (Nov. 11, 2025), https://indiacorplaw.in/2025/11/11/fast-track-mergers-reimagined-the-2025-mca-amendment/.
[15] Rastogi, *supra* note 12; *see generally Fast Track Merger India: Simplified Merger Process Under Section 233*, LAL GHAI & ASSOCIATES (Jan. 3, 2026), https://lgassociates.org/fast-track-mergers-in-india/.
[16] The Companies Act, 2013, §§ 230(6), 233(1)(b).

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approval process.[17] Such shareholders may not actually oppose the merger, but their non-participation can still make it difficult for the company to reach the required 90% threshold.[18] As a result, a merger that may have overwhelming support among the shareholders who actively participate can still fail to qualify for the fast-track route. This creates an unusual situation where the supposedly simpler FTM route can, in some circumstances, become more difficult to access than the conventional NCLT route.

The problem becomes clearer when the distinction between active opposition and non-participation is considered. A shareholder who votes against a merger is actively expressing disagreement with the proposed transaction. However, a shareholder who does not participate may simply be unaware of the transaction, may not respond to the notice, or may have no interest in voting. Under a high threshold based on the total shareholding, however, both situations can have a similar practical effect on the company's ability to satisfy the statutory requirement. This is particularly problematic for companies with numerous retail shareholders or other dispersed shareholders whose participation cannot always be guaranteed. Therefore, the requirement may create a form of "hold-out" problem, where the inability to obtain the required level of participation prevents an otherwise viable restructuring from proceeding through the fast-track route. The Company Law Committee's proposed "twin-test" provides one possible solution to this difficulty. Under this approach, approval would require a majority of members present and voting holding 75% in value of the shares of those present and voting, who also represent more than 50% in value of the total number of shares.[19] Such a system would continue to protect shareholders while avoiding a situation where passive shareholders alone can make the fast-track route practically unavailable.

A related difficulty is the consent mechanism itself. Under the present framework, shareholders are required to approve the scheme through a general meeting, whereas creditors can also provide their approval in writing. This creates an inconsistency in the process. If a fast-track mechanism is intended to reduce procedural burdens, requiring shareholders to participate through a meeting while allowing creditors to provide written consent can make the process unnecessarily rigid. The difficulty is further increased where a company has a large number of creditors. Although written consent can theoretically make the process easier, obtaining

[17] Jayachandran, Aakulu & Mehta, *supra* note 13 (describing the requirement of the consent of 90 per cent of all members, rather than of those present and voting, as a "majority trap" for listed companies).

[18] Yatin Narang & Amandeep Singh Oberoi, *Restructuring Through Fast Track Mergers – Practical Considerations*, 2 INDIAN BUSINESS LAW REVIEW 1, 4 (2024), https://www.vaishlaw.com/restructuring-through-fast-track-mergers-practical-considerations/.

[19] Narang & Oberoi, *supra* note 18, at 4 (summarising the recommendation in MINISTRY OF CORPORATE AFFAIRS, *Report of the Company Law Committee* (Mar. 2022)).

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individual consent and sending the required notices to numerous creditors can itself become an administrative exercise. Companies may have to spend considerable time coordinating with creditors, collecting approvals and maintaining records of the consent received. Thus, even where the law provides an alternative to a meeting, the practical process of obtaining the required level of consent may still consume significant time and resources.

The 90% creditor approval requirement creates another important bottleneck. Section 233 requires approval by a majority representing nine-tenths in value of the creditors or the relevant class of creditors. The purpose of this high threshold is understandable because a merger can affect the rights and interests of creditors. However, from the perspective of transactional efficiency, the requirement can become difficult where a company has a large or diverse creditor base. A small group of creditors holding a significant portion of the outstanding debt may have considerable influence over whether the statutory threshold can be achieved. The high threshold may therefore make it difficult for a company to complete a restructuring even where the merger is commercially sound and the majority of creditors are not opposed to it. The possibility of introducing greater flexibility based on the class or nature of creditors could therefore be considered. This would allow the framework to protect creditors while avoiding a rigid requirement that may unnecessarily prevent legitimate restructuring.

Another important bottleneck is the involvement of multiple regulatory authorities. The fast-track mechanism was designed to reduce the need for NCLT intervention, but this does not mean that the merger is free from regulatory scrutiny. Depending on the nature of the companies involved, notices may have to be given to authorities such as the Registrar of Companies, Official Liquidator, SEBI, RBI, IRDAI and PFRDA, as well as stock exchanges where applicable. The involvement of these authorities is important because different mergers may have implications for securities regulation, banking and foreign exchange requirements, insurance regulation, pension regulation and other sector-specific matters. However, when several authorities are required to examine the same transaction, the process can become more complicated. Each regulator may have its own concerns, documentation requirements or observations. The company may consequently have to respond to several regulatory queries before the merger can receive final approval. This can reduce the time advantage that the fast-track route was originally intended to provide.

The role of the Registrar of Companies and Official Liquidator also adds another layer of scrutiny. Under Section 233, the proposed scheme is circulated to the relevant authorities and affected persons for objections and suggestions. The Registrar or Official Liquidator can communicate objections or suggestions to the Central Government. Although Section 233

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provides a 30-day period for such communication and treats the absence of a communication as an indication of no objection, any substantive objection can complicate the process.[20] If the Central Government believes that the scheme is not in the public interest or is not in the interest of creditors, it can approach the Tribunal and request that the scheme be considered under the procedure provided in Section 232. This creates an important limitation on the fast-track mechanism.[21] A company may begin the transaction expecting a simplified administrative approval but may ultimately find itself before the NCLT if concerns arise regarding the scheme. Therefore, the fast-track mechanism does not completely eliminate the possibility of judicial intervention; it simply makes such intervention conditional on objections or concerns arising during the process.

The possibility of regulatory overlap further affects the effectiveness of the framework. The 2025 reforms expanded the role of sectoral regulators by requiring relevant authorities to receive notice and provide comments or recommendations. This is necessary in regulated sectors because a merger may have consequences beyond the Companies Act. However, the challenge lies in ensuring that regulatory scrutiny does not become repetitive. Where a company has to satisfy the requirements of the Companies Act, SEBI or stock exchanges, RBI and other sectoral regulators separately, the overall transaction can begin to resemble the conventional merger process that the FTM mechanism was intended to simplify. This is particularly relevant for transactions involving listed entities or regulated businesses. The objective should therefore not be to remove regulatory oversight altogether, but to ensure that different regulators coordinate with one another and that the same issues are not examined repeatedly by multiple authorities.

Another concern is that expanding the eligibility of FTM without sufficiently addressing administrative capacity may create new delays. The 2025 amendment significantly increased the number and types of companies that may seek to use the fast-track route. This is positive from an accessibility perspective, but a larger number of applications may also increase the workload of Regional Director offices. If the administrative machinery is not adequately equipped to handle the increased volume, the benefit of expanding eligibility may be reduced.

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[20] The Companies Act, 2013, § 233(1)(a), (4); *see also* Helen Stanis Lepcha, *Fast-Track Mergers in India – Wider Scope Under the 2025 MCA Amendments and Practical Implications*, MONDAQ (Oct. 9, 2025), https://www.mondaq.com/india/corporate-and-company-law/1688984/fast-track-mergers-in-india-wider-scope-under-the-2025-mca-amendments-and-practical-implications.

[21] The Companies Act, 2013, § 233(5)–(6); Jyotsna Chaturvedi, *Fast Track Merger Under Section 233: 2025 Rules*, MAHESHWARI & CO. (Aug. 24, 2026), https://www.maheshwariandco.com/blog/fast-track-merger-under-section-233/; *see also* Asish Philip Abraham, Bhusan Porwal & Aastha Sahay, *Fast Track Merger: Regional Director Does Not Have Power to Reject the Scheme*, LAKSHMIKUMARAN & SRIDHARAN ATTORNEYS (Oct. 4, 2024), https://www.lkslaw.com/insights/articles/fast-track-merger-regional-director-does-not-have-power-to-reject-the-scheme (discussing *Asset Auto v. Union of India*, 2024 SCC OnLine Bom 2494, in which the Bombay High Court held that the Regional Director cannot reject a scheme outright and must instead apply to the Tribunal).

A mechanism designed to avoid NCLT delays could therefore face delays at the Regional Director level instead.[22] This makes adequate staffing, digital case management, transparent timelines and effective monitoring important for the long-term success of the framework.

The consent and communication process also remains an area where greater use of technology could improve efficiency. The existing framework requires companies to issue notices, conduct meetings and obtain approvals in accordance with prescribed procedures. While these requirements are necessary to ensure that stakeholders are informed, they can become cumbersome when a company has a large number of shareholders or creditors. Allowing shareholders to provide written or secure digital consent, together with stronger digital mechanisms for creditor approval, could reduce unnecessary administrative steps. Similarly, a carefully designed deemed-approval mechanism could ensure that a transaction does not remain pending indefinitely merely because an authority has not responded within the prescribed period. Such reforms would have to be accompanied by appropriate safeguards, but they could make the fast-track route more consistent with its underlying objective.

Therefore, the major problem with the FTM framework is not that it lacks a simplified legal route. Section 233 clearly provides a mechanism that can avoid the ordinary NCLT process in appropriate cases. The larger problem is that the simplified route still contains several requirements capable of slowing the transaction down. High shareholder and creditor thresholds can make obtaining consent difficult; meetings and individual notices can increase administrative work; multiple regulators can add layers of scrutiny; and objections can ultimately result in the transaction being referred to the NCLT. The 2025 reforms have addressed the problem of limited eligibility to a considerable extent, but they have not completely resolved these underlying procedural difficulties.

The challenge, therefore, is to find the right balance between speed and stakeholder protection. Removing safeguards simply to make mergers faster would not be desirable because mergers can have significant consequences for shareholders, creditors, employees and other stakeholders. At the same time, excessive procedural requirements can defeat the very purpose of creating a fast-track mechanism. Reform of Section 233 should therefore focus on making regulatory involvement more coordinated, approval requirements more practical and consent mechanisms more efficient, while retaining adequate protection for minority shareholders and creditors. Unless these issues are addressed, the expansion of the FTM framework may continue

[22] Chaudhary, *supra* note 14 (noting concern over the capacity of the seven Regional Directorates to handle a higher volume of schemes); *see also* Rastogi, *supra* note 12.

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to make the route broader without necessarily making it faster.[23] In that sense, the central criticism of the present framework remains valid: Fast-Track Mergers may be fast in name, but several procedural and regulatory bottlenecks can make them slow in practice.

V. THE *MALLCOM* CASE: WHEN NON-VOTING SHAREHOLDERS BECOME A BARRIER

The decision of the Kolkata Bench of the NCLT in *Regional Director, Eastern Region, Ministry of Corporate Affairs v. Mallcom (India) Ltd.* is an important example of the practical difficulties associated with the fast-track merger mechanism under Section 233 of the Companies Act, 2013. The case arose from a proposed amalgamation between Mallcom VSFT Gloves Private Limited, the transferor company, and Mallcom (India) Limited, its listed holding company and the transferee company. Since the transaction involved a holding company and its wholly owned subsidiary, it fell within the category of transactions eligible for the fast-track merger procedure. The purpose of choosing this route was to avoid the more extensive and time-consuming procedure applicable to conventional mergers under Sections 230–232 of the Companies Act. The scheme was therefore a typical example of the kind of internal corporate restructuring for which Section 233 was intended to provide a simpler and quicker mechanism. However, the case ultimately demonstrated that eligibility for the fast-track route does not necessarily mean that the merger will actually proceed quickly.

The difficulty in the *Mallcom* case arose from the manner in which shareholder approval is calculated under Section 233(1)(b). The provision requires the scheme to be approved by members holding at least 90% of the total number of shares. When the scheme was placed before the shareholders of Mallcom (India) Limited, the voting result appeared to provide almost unanimous support for the proposed merger. Approximately 99.98% of the votes actually cast were in favour of the scheme. At first glance, such a result would ordinarily suggest that there was overwhelming shareholder approval. However, the crucial point was that the shareholders who participated in the voting did not represent 90% of the company's entire share capital. The shares supporting the merger represented only 82.19% of the company's total issued and paid-up share capital. Consequently, despite the extremely high percentage of votes cast in favour, the statutory threshold under Section 233(1)(b) was not satisfied. The Regional Director, Eastern Region, therefore raised the issue and approached the NCLT under Section 233(5).[24]

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[23] *India Proposes Changes to Make Fast-Track Mergers Faster and More Practical*, TRANSATLANTIC LAW INTERNATIONAL (Sept. 30, 2026), https://www.transatlanticlaw.com/content/india-proposes-changes-to-make-fast-track-mergers-faster-and-more-practical/.

[24] *Regional Director, Eastern Region, Ministry of Corporate Affairs v. Mallcom (India) Ltd.*, C.P. No. 172/KB/2025 (NCLT Kolkata) (India); Akil Hirani & Jones Vaidya, *Fast-Track Mergers in India: Will the Proposed Company*

Importantly, the Registrar of Companies and the Official Liquidator had not raised objections to the scheme. The obstacle was therefore not an objection to the substance of the merger, but the failure to satisfy the statutory shareholder-approval threshold.

The case presented an important question of statutory interpretation: what does "90% of the total number of shares" mean under Section 233(1)(b)? Mallcom argued that the requirement should be understood in the context of the shareholders who actually participated in the meeting and voted on the scheme. If the calculation were based on the shares represented by participating shareholders, the company would have easily crossed the required threshold because 99.98% of the votes cast supported the merger. The company also emphasised the nature of the transaction. It was an internal restructuring involving a holding company and its wholly owned subsidiary, and Mallcom argued that there was no prejudice to stakeholders.[25] From a commercial perspective, therefore, treating the scheme as unsuccessful merely because some shareholders did not participate in the voting appeared disproportionate. However, the NCLT did not accept this interpretation. The Tribunal adopted a strict reading of the statutory language and held that "total number of shares" refers to the entire issued and paid-up share capital of the company. The calculation could not be restricted to the shares represented by shareholders who were present and voting at the meeting.

The consequence of this interpretation is particularly significant for the functioning of the fast-track merger regime. Under the approach adopted by the NCLT, abstention effectively works against the scheme. A shareholder does not have to actively vote against the merger in order to prevent the company from reaching the 90% threshold. If the shareholder simply does not participate in the voting, those shares continue to remain part of the total share capital against which the 90% requirement is calculated. In *Mallcom*, this distinction created a substantial gap between the apparent level of shareholder support and the legally required level of approval. There was almost complete support among the shareholders who actually voted, but the company still failed to meet the statutory requirement because the participating shareholders did not represent enough of the total share capital. This demonstrates an important practical weakness in the existing framework: shareholder participation becomes just as important as shareholder preference. Even where there is little or no substantive opposition to the merger, insufficient participation can prevent the company from using the fast-track route.

Law Amendments Help Speed the Process?, MAJMUDAR & PARTNERS (Sept. 25, 2026), https://www.majmudarindia.com/fast-track-mergers-in-india/.

[25] Mariya Paliwala, *NCLT Rejects Fast-Track Merger, Rules 90% Approval Must Be of Total Shareholding, Not Just Votes Cast*, JURIS HOUR (Aug. 3, 2026), https://www.jurishour.in/company-pmla/fast-track-merger-90-approval-shareholding/; *see also India Proposes Changes*, *supra* note 23.

This problem becomes even more significant in the case of listed companies, where shareholding may be dispersed among a large number of public shareholders. A company may have substantial institutional and promoter support for a restructuring, while a significant portion of its remaining shareholders may not participate in the voting process. The requirement that affirmative votes must represent 90% of the total share capital therefore creates a considerably higher practical hurdle. The *Mallcom* decision itself acknowledged the difficulty associated with this requirement and noted that the Company Law Committee had recognised the 90%-of-total-capital requirement as onerous, particularly in the context of listed companies. This is important from the perspective of this research paper because it shows that the problem is not simply a matter of one company's failure to obtain sufficient votes. It is connected to the structure of the fast-track merger regime itself. A mechanism intended to facilitate quicker corporate restructuring can become inaccessible because of a threshold that may be difficult to achieve even where the overwhelming majority of participating shareholders support the transaction.

Another important aspect of the *Mallcom* decision is that the NCLT did not allow the company to overcome the failed Section 233 approval by simply moving to the conventional merger procedure under Section 232. The Regional Director had approached the Tribunal under Section 233(5), which allows the Central Government to refer a scheme to the Tribunal where it considers that the scheme is not in the public interest or the interests of creditors. Mallcom's inability to satisfy the 90% requirement meant that the scheme had not been duly approved under Section 233(1). The NCLT held that the mechanism under Sections 233(5) and 233(6) presupposes a scheme that has first satisfied the requirements of Section 233(1). Since the basic shareholder-approval requirement had not been fulfilled, the Tribunal declined to treat the proceedings as an opportunity to move the merger into the ordinary Section 232 route.[26] The proceedings relating to the scheme pending before the Regional Director were consequently quashed. This part of the judgment is particularly significant because it demonstrates that failure to satisfy the fast-track requirements does not necessarily result in an automatic transition to the conventional merger route. Instead, the company may have to reconsider the transaction and comply with the requirements of the appropriate procedure separately.

The problem identified in *Mallcom* was also recognised at the legislative level. The Corporate Laws (Amendment) Bill, 2026 proposes to change the existing shareholder approval requirement. Instead of requiring members holding at least 90% of the total number of shares, the proposed framework would require approval by shareholders present and voting who hold

[26] Paliwala, *supra* note 25; Hirani & Vaidya, *supra* note 24.

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at least 75% in value of the shares represented at the meeting. This represents two important changes. First, the threshold would be reduced from 90% to 75%.[27] Second, and more importantly, the basis of calculation would move away from the company's entire share capital and focus on the shares represented by shareholders who actually participate in the meeting. This directly addresses the problem highlighted in *Mallcom* because shareholders who choose not to participate would no longer have the same ability to prevent the scheme from crossing the statutory threshold. The Joint Committee considering the Bill supported this proposal in its report presented to the Lok Sabha on 3 August 2026 and also recommended a statutory exit right for dissenting shareholders in specified circumstances.[28]

The proposed reform, however, also raises a separate question about the balance between speed and shareholder protection. The 90% requirement undoubtedly creates practical difficulties, as demonstrated by *Mallcom*, but lowering the threshold also means that a smaller proportion of shareholders could approve a merger through the fast-track route. This makes appropriate safeguards particularly important. The proposed change therefore reflects a broader policy challenge within India's merger framework: how can the law make mergers genuinely faster without weakening the protection available to shareholders and creditors? *Mallcom* demonstrates the problem at one end of this spectrum, where an excessively strict threshold can prevent a strongly supported merger from using the fast-track route. The proposed 2026 amendment attempts to move the framework towards greater practicality, but its success will depend on whether adequate safeguards are maintained for dissenting and minority shareholders.

Ultimately, the *Mallcom* case demonstrates that a fast-track merger is not necessarily fast merely because it avoids the ordinary NCLT process. The transaction may be commercially straightforward, overwhelmingly supported by participating shareholders and free from objections by other authorities, yet still become stalled because of a statutory threshold that is difficult to satisfy. The case therefore provides strong support for the central argument of this research paper: the effectiveness of the fast-track merger framework depends not only on who is eligible to use it, but also on whether the procedural requirements allow eligible companies to actually complete the process within a reasonable period. Until the proposed legislative changes are implemented, companies considering Section 233 must treat the 90% total-shareholding requirement as a serious feasibility issue and assess shareholder participation

[27] Sharma, *supra* note 7.

[28] FOX MANDAL & ASSOCIATES, *Joint Committee Recommends Changes to Corporate Laws (Amendment) Bill, 2026* (Aug. 5, 2026), https://foxmandal.in/News/joint-committee-recommends-changes-to-corporate-laws-amendment-bill-2026/; Hirani & Vaidya, *supra* note 24.

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before selecting the fast-track route. *Mallcom* thus illustrates how, in its present form, India's fast-track merger regime can sometimes be "fast in name, slow in practice."

VI. RECOMMENDATIONS: MOVING TOWARDS A TRULY FAST-TRACK REGIME

The first and most important reform should be to make the shareholder and creditor approval requirements more practical. The *Mallcom* case shows that the existing requirement of approval from shareholders holding 90% of the total share capital can create serious difficulties. In that case, almost all shareholders who actually voted supported the merger, but the scheme still failed because the votes in favour represented only 82.19% of the total share capital. The proposal under the Corporate Laws (Amendment) Bill, 2026, to require approval from shareholders present and voting who hold at least 75% in value of the shares represented at the meeting is therefore a welcome change. A similar approach can be considered for creditor approval.[29] However, reducing these thresholds should not mean that minority shareholders and creditors lose protection. They should still have a clear opportunity to raise genuine objections where a merger adversely affects their interests. The aim should be to remove unnecessary barriers without compromising basic stakeholder protection.

The second reform should be to reduce the number of separate regulatory steps involved in a fast-track merger. At present, depending on the nature of the company and the transaction, several authorities may become involved, including the Regional Director, Registrar of Companies, Official Liquidator, SEBI, stock exchanges and sectoral regulators such as RBI, IRDAI and PFRDA. While the involvement of these authorities is important, requiring companies to deal with different authorities separately can make the process lengthy. A better approach would be to create a single-window system in which the Regional Director acts as the main coordinating authority. The company could submit the scheme through one common digital platform, and the relevant regulators could provide their comments through the same system within a fixed period.[30] This would reduce duplication and make it easier for companies to understand what stage their application has reached. Regulatory scrutiny would still remain, but it would become more coordinated and predictable.

The third reform should focus on making the procedure more uniform and improving the functioning of the Regional Director's offices. Companies should not face different procedural

[29] Hirani & Vaidya, *supra* note 24.

[30] *See generally* Priyanshi Garg, *Fast Track Merger 2.0: How the September 2025 Amendment Opens a Faster Restructuring Route for Startups*, CACLUBINDIA (last updated July 4, 2026), https://www.caclubindia.com/articles/fast-track-merger-20-how-the-september-2025-amendment-opens-a-faster-restructuring-route-for-startups-55848.asp (describing the notices to the Registrar, the Official Liquidator and sectoral regulators, and the prior stock-exchange approval required of listed transferees).

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expectations depending on the Regional Director's office dealing with their application. The Ministry of Corporate Affairs could introduce standard checklists, model forms and clear guidelines explaining the documents and information required at each stage. A central online system could also allow companies to submit documents, respond to objections and track their applications. Clear timelines should be prescribed for each authority, with appropriate consequences where responses are not provided within the prescribed period. This is particularly important if the scope of fast-track mergers continues to expand. Simply allowing more companies to use Section 233 will not make the system faster if the authorities responsible for processing these applications do not have sufficient staff, resources and expertise. Administrative capacity must therefore grow along with the scope of the fast-track regime.

Finally, the fast-track system should follow the principle of faster scrutiny, rather than no scrutiny. Not every merger requires the same level of examination. A straightforward merger between a holding company and its wholly owned subsidiary, for example, may require less extensive scrutiny than a transaction involving significant public shareholders, creditors or complex regulatory issues. The law should therefore clearly identify which types of transactions can receive a simplified review and when a matter should be referred to the NCLT because of genuine public-interest, shareholder or creditor concerns. This would prevent unnecessary referrals while ensuring that complex or contentious transactions continue to receive proper judicial scrutiny.[31] The ultimate objective should be to create a system where speed and accountability work together. The experience of *Mallcom* shows that widening the eligibility of companies alone is not enough. For India to have a truly fast-track merger regime, the approval requirements, regulatory process and administrative procedure must all be made simpler and clearer.

VII. Conclusion

The Fast-Track Merger mechanism was introduced with a clear objective: to provide eligible companies with a simpler and quicker alternative to the conventional merger process under Sections 230–232 of the Companies Act, 2013. The idea behind Section 233 was that mergers which are relatively straightforward and do not require extensive judicial supervision should not be subjected to the same level of procedural burden as complex corporate restructuring. Over the years, the framework has gradually evolved from being limited mainly to small companies and holding company–wholly owned subsidiary mergers to covering a much wider range of transactions. The 2024 and 2025 reforms further expanded its scope to reverse-flip

[31] The Companies Act, 2013, § 233(5)–(6); *see* Antim Amlan, *Know the Procedure of Fast Track Merger in India*, MyAdvo (Oct. 10, 2018), https://www.myadvo.in/blog/know-the-procedure-of-fast-track-merger-in-india/.

transactions, qualifying unlisted companies, certain holding and subsidiary structures, and specific demergers and transfers of undertakings. These developments show that the government has consistently attempted to make corporate restructuring more efficient and reduce unnecessary dependence on the NCLT.

However, the analysis in this paper shows that expanding the scope of the fast-track mechanism is not the same as making the process genuinely fast. Several procedural requirements continue to create difficulties for companies using Section 233. The 90% shareholder and creditor approval requirements can make it difficult to obtain the necessary consent, particularly where shareholding or creditor structures are widely dispersed. The involvement of the Registrar of Companies, Official Liquidator and, where applicable, SEBI, RBI, IRDAI, PFRDA and stock exchanges can also add multiple layers of scrutiny. While these safeguards are necessary to protect stakeholders and ensure that mergers comply with applicable laws, the absence of sufficient coordination between authorities can reduce the practical time advantage of the fast-track route. There is also the possibility that objections may result in the matter being referred to the NCLT, meaning that a company which initially selected the fast-track route may ultimately face the conventional judicial process.

The *Mallcom* case particularly demonstrates the gap between the intended purpose of Section 233 and its practical operation. Despite 99.98% of the votes cast being in favour of the proposed merger, the supporting shareholders represented only 82.19% of the company's total share capital. Since the NCLT interpreted the 90% requirement as referring to the entire issued and paid-up share capital, the scheme failed to satisfy the statutory requirement. The case shows that even the absence of active opposition does not necessarily make a merger capable of proceeding through the fast-track route. Non-participation by shareholders can itself become a barrier. This is especially relevant for listed companies, where dispersed shareholding can make it difficult to obtain affirmative votes representing 90% of the total share capital. *Mallcom* therefore provides a strong illustration of why a mechanism designed to accelerate mergers can, in certain circumstances, become an additional procedural hurdle rather than a genuine shortcut.

The proposed reforms under the Corporate Laws (Amendment) Bill, 2026 indicate that the legislature has recognised some of these difficulties. The proposal to replace the existing 90% total-shareholding test with approval by shareholders present and voting holding at least 75% in value of the shares represented at the meeting could make the fast-track route considerably more practical. However, faster approvals should not come at the cost of shareholder and creditor protection. The future of the framework should therefore be based on a balance between speed and accountability. Approval thresholds should be practical, regulatory authorities should

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coordinate through a single-window mechanism, Regional Director offices should have adequate administrative capacity, and clear and uniform timelines should be established. At the same time, genuine objections by minority shareholders, creditors and other stakeholders should continue to receive appropriate consideration.

Ultimately, the question is not whether India has created a fast-track merger mechanism, but whether the mechanism can consistently deliver the speed, certainty and simplicity that its name promises. The reforms introduced so far, particularly the 2025 expansion, represent significant progress and have made Section 233 available to a much wider range of corporate restructuring transactions. Yet eligibility alone cannot determine the success of the framework. Unless the approval requirements, regulatory coordination and administrative procedures are also simplified, companies may continue to face delays even after qualifying for the fast-track route. India therefore needs a system that is not merely fast on paper, but genuinely efficient in practice. The ultimate objective should be to create a merger framework in which straightforward transactions can be completed quickly, while complex or contentious transactions continue to receive appropriate scrutiny. Only by achieving this balance can India move from having Fast-Track Mergers that are "fast in name" to a regime that is genuinely fast in practice.

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