

Centre eases pre-merger filing norms

Time factor: Move could help deals that need to ensure compliance across multiple jurisdictions.
Getty Images/istock

In a move that is likely to boost mergers and acquisitions (M&A) in the country, the Centre has done away with the thirty-day time period to submit before the Competition Commission of India (CCI) an application for pre-merger clearance.

According to a notification on June 29 by the Ministry of Corporate Affairs (MCA), "the Central government, in public interest, hereby exempts every person or enterprise who is a party to a combination.... from giving notice within thirty days..." This new provision (exemption from the 30-day time period) will be valid for five years starting June 29, 2017.

The earlier norms had specified that an application to obtain the CCI's prior approval for an acquisition, merger or amalgamation had to be filed within thirty days of: board approval of the proposed merger or amalgamation by each of the respective parties; execution of any agreement or other document of a binding nature conveying a decision to acquire shares, control, voting rights or assets; execution of any document by the acquiring enterprise conveying a decision to acquire shares, control, voting rights or assets, in case the acquisition is without the consent of the enterprise being acquired; or date of the public announcement under India's takeover regulations applicable to acquisitions of listed entities.

The notification means that parties can make a CCI application at any time in course of an acquisition but cannot effect or close an acquisition before obtaining the CCI's approval, according to the law firm Majmudar & Partners.

Flexibility option

It will give parties the liberty and flexibility to decide at what stage they want to make the CCI filing, depending on the deal parameters and commercial terms, Majmudar & Partners said in a statement.

Besides, this will specifically benefit large, multi-jurisdiction transactions where parties may be burdened with regulatory requirements in several jurisdictions and, therefore, need more time to assess the Indian law implications and prepare a comprehensive CCI application, the statement said.

The law firm added that the notification will also give time to the parties to prepare a comprehensive application and ensure that the application is not rejected on technical grounds, which, in turn, will reduce the time taken by the CCI to clear the application.

Such expenditure needs expeditious resolution of stressed loan problem: Crisil

END