M&A is not only just a process or synergies for companies including banks, rather it affects all overall economy of the country and that is the reason every country's government try to conduct M&A procedure in the proper manner so that it attracts more investments and there can be improvement in the economic standard and FDI too, and that in turn also leads to improvement of technology. It also decreases competition in the domestic market due to the combination of two companies but if a cross-border merger is there than it leads to giving stand to compete worldwide.

To start with none of the countries all over the world have proper rules and regulations or say law in regards to Merger and Acquisitions not even the USA, where M&A majorly takes place and ranks first in the world and next is the UK, from where we have adopted our most policies and laws that includes the laws relating to Merger and acquisition. Every country updates time to time many laws for Merger and acquisitions so as our country India has done.

The Government of India felt the need to review the laws on M&As and therefore reviewed its whole policy relating to rules and regulations for the same and also waved the restrictions altering by amending few legislative laws i.e. sections and provisions. Specifically, after this globalization trend and the new Industrial Policy of 1991, there was continuous improvement and growth in order to achieve the objects of the industrialization, the main object was on having relaxations in the industrial licensing system, in regards to foreign investments and also in transfer of foreign technology. The new government has done a lot of changes in our policies to attract FDI previously there was a restriction for the same but now they have allowed almost 100% FDI in many sectors. With the help of starting up of the economies, the corporate sector was rebuild so as to meet the difficulties.
in the competitive market by overcoming and accepting and facing the Indian competitive market.

The multilateral trade agenda as well as the World Trade Organization (WTO) commitments commencing from 2009 permits that, inter alia, foreign banks may be acceptable to enter into merger and acquisition transactions with any private sector bank in India subject to the overall investment limit of 74% (RBI, 2005). This may lead to further amalgamation in the banking sector. Expertise across the world will be used for adopting new technology along with capital and expertise across the world. A M&As wave is now widespread globally. The company over the world merging, joining within the framework of large and small entities, which shall be inclusive of old economy businesses, new economy companies and also with the help of infrastructure and the service sector.

Companies relating to banking industry, oil exploration, telecommunication, power generation, petrochemicals, aviation, have joined hands and came together as never before. As there is an increase in competition and also in the economy, moving towards globalization, there is a possibility of restructuring the corporate. Due to activities are deemed to take place at a much higher scale than as previously it was. Corporate Restructuring will play an important and crucial step in sanction the enterprise so as an economies of scale, universal challenges, right size, and a various other advantages including diminishing of cost of operation and administration, Compromise and arrangements could be achieved. Many of the legal systems have been under the review and are being reframed under the emerging corporate scenario in India.

Following are some of the legislation enacted in India dealing with the Merger and Amalgamation of companies.
INDIAN REGULATORY FRAMEWORK FOR MERGER & AMALGAMATION

- All companies which are incorporated as per the rules and regulations and within the framework of the Companies Act 2013 which is inclusive of few of the section of Co. 1956. Thereby a complete distinct authority is formed which is known as National Company Law Tribunal. All the matters which are consisting pertaining to the Co.Act’2013 shall be exclusively dealt with and comes within the exclusive jurisdiction of NCLT and as far as M&A is concern the direction and orders of the said tribunal shall be binding and final in the case of Compromise, Arrangements, and Amalgamations of various co.

- The Securities and Exchange Board of India (SEBI) through The Securities and Exchange Board of India Act, 1992; SEBI (Prohibition of Insider Trading) Regulations 2015 and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (Takeover Regulations) regulates public M&A activities in India.

- Cross-border M&A is regulated by the Reserve Bank of India (RBI) through Foreign Exchange Management (Cross-Border Merger) Regulations, 2017 under FEMA Act 1999, associated rules and regulations and the FDI Policy promulgated by Department of Industrial Policy and Promotion (DIPP), GOI. The RBI also radically liberalized the FDI regime by easing norms for defense, civil aviation, and pharmaceuticals and opened them for greater foreign ownership.

- The General Anti-Avoidance Rules (GAAR) will be effective from April 1, 2017, and which permits the authorities to declare any transaction as "impermissible avoidance arrangement", on the off chance that it has been entered with the goal of getting the undue tax break. Assessment bargain advantages could likewise be denied if speculators neglect to demonstrate business substance advantage through the country they contribute.
The anti-trust regulator, Competition Commission of India (CCI) regulates M&A transactions based on the nature, size, and effect of such transaction in India.

The newly promulgated Insolvency and Bankruptcy Code 2016 (IBC) has created a framework for the acquisition of stressed assets.

The Industrial (Development and Regulation) Act, 1951.

For banking merger, The Banking Companies Act, 1949 and RBI Act and the guidelines should be referred.

**Recent changes to regulations for M&As**
India has now informed and modified the provisions regarding M&A under CA 2013 because of this change there will be now allowed fast-track mergers taking place (between small companies and between holding and its wholly-owned subsidiary) and this paves a way for deals with lesser compliances.

The legislative regulations and provision under CA 2013 enables a merger of a companies, corporation outside India with an Indian company which will be notified shortly. Further, FPIs have now been permitted to put resources in to unlisted non-convertible debentures and other obligatory debt securities issued by private and public companies and organisation further end-use limitation on interest in land, capital market, buy a land and investment in real estate. Likewise, the principle rules for overseas investment in rupee denominated bonds have been eased for FPIs.

The CCI, in early 2016, has made the rules and procedures easy for M&A pre-clearance by increasing the thresholds for respect of applicable asset and revenue values for the reportable transactions are thereby paving way for the completion of an increased numeral M&A transactions without any pre-approval.
of the CCI. The GOI has now declared the abolition of the FIPB, which comes under the power and authority in order to grant approval for foreign investments in certain sectors. This is expected to further help for the smooth flowing of foreign capital into India.

4.1 The Companies Act, 2013
Almost after 55 years the real modifications in the companies act are taking place. The Indian companies were regulated by Co. Act’ 1956 after amendment Indian Companies are now regulated by Co.Act’2013. The act was a provisional Act till 2016, after which it was applied and it came into force. There was a need to revitalize the act and finally it was done for the better governance and it was extremely necessary especially to govern the merger and acquisition. Under the previous act i.e. Co. Act, 1956, M& A was covered by the provisions of section 390 to 396, and the new act i.e. Companies act, 2013 it is under section 230 to 240.

Amendments to the act reduced the burden of the courts and also reduced the time taken for the purpose of sanctioning M&A schemes should be approved is in conformity with the accounting standards prescribed under sec.133 of the Act and the time limit to allow the authorities (Central Government, Income Tax Authorities, Reserve Bank, Securities Exchange Board of India, Registrar of Companies, respective Stock Exchange, Official Liquidator, Competition Commission of India) to raise any concerns or objections was only to be within 30 days otherwise it is presumed that there are no objections which also lead to earlier acceptance of the M& A schemes and the time was saved to a greater extent. The consent of 75% of secured creditors is also necessary and made mandatory to serve notice to all the shareholders.

Further, the amended act also gives the facilities along with the approval of RBI for both options i.e. inbound merger as well as the outbound merger of the Indian company under Exchange Control Regulation that in return widens the market as
well as attracts more FDI and cross-border merger. Although the above-stated provision is beneficial it has one negative effect as well that is foreign company existence will be increased and the Indian company existence will be removed after specific consideration paid to the Indian company and its shareholders, which was not allowed in the previous Co-Act i.e. 1956.

1) The application should be made NCLT with the application of all the stakeholder regarding a scheme of Compromise or Arrangement is proposed between Co. & members. NCLT may provide direction as it deems fit, then management of member and creditor must have to conduct in such manner as specified stated by the NCLT.

2) The applicant company should disclose:
- All material fact in relation to Co., the current auditor’s report and latest financial statement (both, audited & unaudited)
- If there are any then details about the pendency of the investigation.
- If there are any other legal proceedings against the co-pendency that details of the same.
- Reduction of share capital if it is stated under the scheme of Compromise or Arrangements.
- If the scheme is regarded under Corporate Debt Restructuring (CDR) then has to submit the following
  a. If the scheme is to be consented by the minimum 75% of the secured creditor in value than following is to be included.
    i) Creditors Responsibility statement.
    ii) Safeguard measures in order to protect the interest of secured as well as an unsecured creditor.
    iii) Auditors certificate that is confirming the fund requirement of the co. after the CDR will comply with the liquidity test based on the estimate on projection or as per information provided to the auditor by the board.
iv) If the co. has proposed to adopt the CDR (scheme) guidelines given by RBI, than
discloser of the same by a statement under the scheme has to done
v) The report of the person doing the valuation of shares & undertaking is to be
prepared.

3) If direction that is given by NCLT u/s 230(1) for holding the mergers of Members
/Creditors / OR any of the class thereof than notice is to be given to all the
Members, Creditors, Debenture Holder, individually at their address registered
with the co. along with the below-stated documents:
i) An explanatory statement which would contain the details of Compromise or
Arrangements.
ii) Valuation Report,
iii) Effect of Compromise or Arrangements upon the Creditors, KMPs, promoters,
Public & Debenture Holder
iv) Effect of Compromise or Arrangement on any material interest of the director /
debenture trustees.
v) Such a notice with documents has to be uploaded on the website of the co. and
also on the website of the SEBI & SE where securities of the co. are listed and is
also to be published in the newspaper. If the notice is to be given in newspaper
for advertisement, it shall provide the time within which copy regarding the
scheme of Compromise or Arrangements will be provided without charges to the
concerned person who has made the application for the same along with all the
other documents from the registered office of the Co.

4) Notice is to be provided that the person to whom notice is being sent can vote
either by himself personally or through the proxy or by postal ballot within 1
month from receipt of the notice. Further, if there is any Objection can be raised
by any member even who is not holding more than 1% share under old act but
now only shareholders having not less than 10% holdings or whose creditors
debt is not less than 5% of total outstanding debt as per the last audited financial
statement can raise objection. This provides protection of scheme from unnecessary litigation and objection.

5) On application to the NCLT order will be provided for the following:

i. If the scheme provides for the conversion of pref. shares into equity shares than the option must be given to pref. shareholder to either take cash against accumulated dividend or else take equity shares which will be equal to the value of dividend payable.

ii. The manner of protecting the interest of the creditors.

iii. If the Compromise OR Arrangement results in variation of shareholders rights then sect. 48 must be complied with.

iv. If the C or A are agreed by the creditor than any of proceeding pending be bare BIFR shall be removed.

v. Such other matters including making exist offer to the dissenting shareholders, which is required for implementing C or A. The COA shall not be approved by NCLT unless and until the auditor provides the certificate that confirms the proposed scheme which is as per the accounting standard specified U/S. 133 Further, this order should be filed within 30 days from the date on which the order is received to ROC.

> **Alstom Power Boilers Ltd v. SBI and IDBI**

Sanction of the scheme of compromise or arrangement and mergers or amalgamation cannot be treated as an appeal. This scheme is to be examined by the company court (tribunal) within the limited scope of supervisory jurisdiction.

6) The scheme of C or A is regarding buyback of shares then it must comply with the requirement mentioned under Section 68, otherwise it shall not be confirmed by the NCLT.
7) the scheme of C or A is including takeover offer then it has to comply with in listed co. as per SEBI (SAST) Reg. 2011 and Unlisted Co. as given in Sec. 235 & 236 of CA, 2013.

8) As per Sec. 231(1) NCLT makes an order U/S 230 granting the approval to C or A of co. then:
   a) NCLT shall also have the power in regards to supervising the implementation of the scheme.
   b) For ensuring that the proper implementation is done or not if the scheme is not effective NCLT has the right to modify the scheme.

9) As per Sec. 231(2) if the NCLT is of the opinion that scheme has become impossible to implement effectively unless and until changes are made and the co. cannot pay its debt as per the current scheme, then NCLT may order for winding up of a co. and this kind of winding up orders shall have the same effect as that of the compulsory winding up orders U/s. 273.

10) As per Sec. 232 (4) Transfer of any property that includes income arising from the assets or liabilities that are payments that are arising from the liabilities then by the order such property will be transferred to the transferee company.

11) As per Sec. 232(7), every company on which order is made shall be completing the scheme, file a statement in the form and within such time limit as may be prescribed by the registrar every year duly certified by a CA/CS/ CWA. Further, The wrongdoer shall be punishable with fine which is to be not less than Rs. 1 lakh but which may also extend to rupees 25 lakhs and every such officer of the company, who is in default will be punishable with imprisonment for a term that may extend to 1 year or with fine that will not be less than 1 lakh but that can extend up to rupees 3 lakh.
• Previously there was no option for the Fast Track Merger. The company had to follow all the lengthy and time-consuming procedure for all the Merger and Acquisition. The new act gives the benefit of Fast Track Merger to the small companies and says holding or subsidiary companies, which is a quick procedure. But for this 90% of the total shareholders’ approval is the necessary and 9/10\textsuperscript{th} value of creditor class also. After this, notice should be submitted to ROC and Central Government but may not require NCLT’s confirmation. In the normal M&A, notice should be served to RBI and Income tax department for receiving the certificate of compliance in regards to the accounting standard which is not necessary for the speedy process under the new Act.

• Scheme approval has same as earlier i.e. if 3/4\textsuperscript{th} of agreed creditors or members to the scheme, then it will be binding. Previously E-Voting was not allowed; new act provides this facility to protect the Interest of shareholders and participation under section 108, which increased voting and participation of shareholders in voting process.

• Shareholders of listed Company can either exit by taking payment of the value of their shares or continue as a shareholder of the unlisted company. Payment to shareholders willing to exit shall be made on pre-determined price formula or after valuation, this was not there previously. The unlisted company will remain the same it will be not become listed in reverse merger.

• In the Act, 1956 the scheme was to be approved by the respective high courts but in the new act there is one specified body i.e. NCLT will be responsible for dealing with the matters related Merger and Acquisition.

• The amended act gives a proper and transparent valuation of the report which should be compulsorily prepared by the expert; the previous act was silent about it.

Basically, from the above state points, we can say that the provisions of Companies Act, 2013 relating to M&A scheme are good and advantageous with all benefits but still, there is a need for modification in order to make the process much simplified and faster. The best part of this act is it gave the Companies
better opportunity towards globalization by the opening option of an outbound merger. Further Act notified under the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016, all the proceedings will be transferred to NCLT with effect from December 15, 2016, so this was a boost for quick process of scheme but except winding up.

Merger procedure not only includes legal bindings but also has to consider the different situations like:

- Which sector is getting merged?
- What is the location of the company and factories?
- What will be the competitive advantage to the merged companies and its impact on other market players?
- What is the dominant position of the merged companies?
- What will be the impact of the merger in an economy of the country?
- What are current government policies and future for the same?

**The Procedure For The Scheme Is As Follows:**

- Companies important documents like MOA contains the clause of the Merger or not? If it doesn’t include then have to take necessary approvals from the member of the company like shareholders, Management member along with the creditors.

- Next step will be to inform the stock exchange if companies are listed and should follow all the procedure related to SEBI and should issue the necessary notice to concern authority and individuals.

- After all the necessary approval from the concerned stakeholders of the companies and stock exchange, the application should be filed with the NCLT

- The NCLT will give direction for holding a meeting of the members and creditors. The copy of notice along with draft scheme is to be sent to members as well as
creditors and also to be published in 2 newspapers and uploaded on the websites of the respective company. At the meeting, the draft scheme should be approved and voted by a majority of the members and creditors’ present holding 75% value of all class of the members of the co.

- Approval from the members and the NCLT order should be filed with the registrar of the company and after that, all the liabilities and assets will be transferred to the merged company. Along with that Transferor Company should also pay purchase consideration to the members of the transferee company in the form of issue share or debentures or cash payment.

**Procedure for Merger of Companies**
Figure 4.1: Procedure of Companies Merger

1. Check Memorandum whether it authorizes Merger.
2. If not there then Amend the Object Clause.
4. Preparation of scheme of Amalgamation.
5. Convene Board meeting to approve the scheme, valuation report, swap ratio.
6. Inform Stock Exchanges before meeting and outcome of the meeting.
7. Application to the Tribunal seeking direction to call general meeting/creditors meeting.
8. Convene general meeting inform the stock exchange.
9. Reporting results of the meeting to the concerned Tribunal.
10. Obtaining Tribunal order sanctioning scheme.
11. Filing copy of Tribunal order with ROC.
12. Transfer of assets and liabilities.
13. Allotment of shares to shareholders of Transferor Company.
15. Post-merger integration.
4.1.1 The Approvals for M&As.

The companies have to get following permissions with regards to the scheme of M&A:

i) Sanction of Board of Directors

The initial progress in moment of M&A is to get sanctioned by the Board of both the companies. Thereafter Board has to pass the resolution, besides getting approval for the scheme, authorize a Director/C S/other representative of the organisation who has to make an application to the Tribunal. And also permit the same along with the help of other respective documents and all the necessary requirements with regards to modification of the scheme if any.

- General Radio and Appliances Co. Ltd v. M.A.,

  there is transfer of assets and liabilities upon amalgamation and further gave clarification on the status of amalgamated of the company, there will be new company so can’t treat as two companies as partner means one company ceased to have any identity . This happens in both mergers by absorption and merger forming a new company, the transferor- company or companies ceased to be in existence in the eye of law and it effaced itself for all practical purposes.

ii) Sanction by Shareholders /Creditors

An essential condition for the scheme of amalgamation, the permission of shareholders and creditors is pre requisite for Tribunals sanction. Without which the Tribunal cannot proceed further. This permission is to be required at special meetings which are held as per directions from the tribunals. However, it is discretionary power of the tribunals that it may if wishes so dispense with meetings of members/creditors.
In short the scheme has to be approved as per the directions given by the Tribunal along with the approval of the following Stakeholder of the Company are:

**Figure 4.2: Approval of Stakeholder of the Company for M&As**

The above stated approvals are to be obtained at meetings which are required within the four corner of direction by the Hon’ble Tribunal. Provided an application is made so as to seek orders to conducting, holding, and calling the meetings by the Tribunal, which shall be made as per the jurisdiction of the tribunal and also as per the registered office of the company at MCA.

**The below given are few of the precedents under the Companies Act, 1956:**

- Since the Company Act 1956 has been replaced by the amended Act of 2013, therefore section providing for such approval is different.

- The majority means is dual, in number and also in value. In such an event the minimum voting is sufficient, wherein otherwise the 3/4\(^{th}\) voting shall be mandatory with respect to the value.

- The 3/4\(^{th}\) value is to be calculate by taking into consideration the capital bought by the co. by issuing the share in the market which shall be accordingly
In the Judgment of the Hind Lever Chemicals Limited and Another

This case pertains to the language of Sec.391 (2) of the Act is not ambiguous. The clear reading of it provides that the requirement for C or A should be 3/4th of the creditors / Sh. Holders who should casted votes in favor of scheme and not against the scheme. It is neither an ordinary or special resolution however it is deemed to be an extra ordinary resolution, the copy where of needs to be filed with the registrar of the co.

SM Holdings Finance Pvt Ltd. v. Mysore Machinery Manufactures Ltd.

In the present case, the synergy was not as per the mandate requirement of the majority however, the said was approved by individual affidavits, in such an event the court is empowered to grant sanctioned to the scheme which shall may not be, as per sec. 391(2) but it merely optional and substantial compliance thereof will do away with the said requirements.

In Kaveri Entertainment Ltd., in re.

In the present case Sec. 391(2) of the Act deals with the resolution passed by the majority in the number who are consenting to the scheme. There must be at least 3/4th members or in a value of the creditors or class of creditors and/or members or the class of members as the case may be. However, the scheme of M&A is consented by more than 3/4th majority of the creditors but are not inclined towards accepting in majority in the case of creditors, the scheme would be out rightly rejected by the court in decide event.

The majority number of the creditors is provided in the section in order to safeguard the interests of the great number of small creditors whose voice is often lost amongst big creditors as they are less and small in number. The
conditions of approval by a majority in number are 3/4th in the value of credit are cumulative.

In finding whether a resolution is been passed by the essential majority or not, the members remain neutral or do not participate in voting are to be ignored. This is so as the section states that the votes of only the members present and voting either in person or, by proxy, only those are to be taken into consideration.

➢ **Hindustan G E Corporation Ltd., in re.**

Where in a meeting for the approval of a scheme, shareholders of the value of Rs. 6, 42,700 were present but out of that only the value of Rs. `4, 42,700 voted in favor of the resolution and the others remained neutral, voted neither in favor of, nor against the resolution, it was held in this case that, there was a unanimous passing of the resolution and the required majority contemplated by Sec. 391(2) agreed to the scheme.

iii) **Approval of the Stock Exchanges:**

Regulation 37 of the SEBI (LODR) Regulation, 2015

The company that is listed entity and such is of willing to undertake or has been involved in a scheme of M&As, shall have to file the draft of scheme along with that is to be proposed as well as filed before NCLT under Sec. 230-234, Section 66 of Co. Act, 2013, with the stock exchange(s) in order to obtain Observation Letter or No-objection letter.

(2) The listed company is required to place either observation letter or No-objection letter of the stock exchange(s) before the Tribunal at the time of seeking the approval of the scheme of arrangement:
Provided that the validity of the Observation Letter or No-objection letter of stock exchanges will be only for six months from the date of issuance, within which the draft scheme of arrangement is to be submitted to the Tribunal.

iv) Approval of Financial Institutions
The consent is mandate of any financial Institutions, the debenture holders, trustees and bank, company who have borrowed funds with respect to working capital or in terms of loan or by issuing debentures in the market and have directed any of the trustees to the debenture holders.

v) Consent of the Land Holders
If factory of transferor co. is situated on a leasehold land and the tenure of the lease also covenant as content in agreement that, if any changes made in possession that should be prior approval is necessary then approval from the lessor is also required to be taken.

vi) Approval of the Tribunal
1) Both the companies involved in a synergy of M&As have to seek an approval or take permission from their respective Tribunal in order to have the scheme sanctioned. Every Merger, except those, which are included under sick industrial companies, are obligatory to take sanctioned from the Tribunal within whose jurisdiction the territorial place of the said co. is located as an by way of registered office with MCA.

2) In the event of two distinct co. i.e. transferor and transferee are lying in separate jurisdiction of two separate High Courts then, separate sanctioned is mandate which is prerequisite.

3) A joint application can be made, if both the companies are under jurisdiction of the one and same High Court. In such an event if both the co. are within same
state or also within same jurisdiction who have applied under Sec. 391, by the one party, the second co. can be joined as a party in the same petition.

4) A copy of all the notice and applications filed with the NCLT is to be submitted to the C. G.

5) Thereafter on the completion of the hearing, the Tribunal will have to pass an order assenting the Scheme, with such directions concerning any matter and with such modifications if any in the Scheme as the Judge may think fit so that there is proper working of the Scheme.

vii) **Sanctioned of Reserve Bank of India**

   In the scheme of M&A, where in issue of shares / cash option to NRI the newly formed co. due to amalgamation is also and mandatory to obtained, sanctioned from RBI which shall be as per conditions which is mentioned under the Foreign Exchange Management & Regulations, 2000.

viii) **Sanctioned from Competition Commission of India (CCI)**

   The Competition Commission is also unlike a sector regulator. For the Commission, the market is the best regulator, rewarding the efficient and punishing the inefficient enterprise.

   Sec. relating to the regulation which is enshrined under Sec 5 and 6 of the Competition Act, 2002 which are mandatory to be followed by the co. in the event or in case they are applicable. Further, the said provisions shall be impose with effect from June 01, 2011.

   ![Model Financial Corporation Ltd. v. A.P. Mahesh Co-operative Urban Bank Ltd.

   In this case, the tribunal has denied for approval of scheme by mentioning that there is no necessity and neither it shall be beneficial by consenting the said
scheme. However in the present scenario the petitioner is willingly hiding the faults which are occurred by him. Co. earlier direction which was that it needs to be wound up its business because it was shown there was hefty monetary losses. The petitioner, had filed a petition for approval of a scheme to restoration and reimbursement of a part of its dues of creditors in an installments. But it was objected by major creditors also.

Apart from the CCI, there are sectoral regulators like:

- **Reserve Bank Of India** - For The Banking Sector
- **Department Of Telecommunications** - For The Telecommunications Sector
- **State Electricity Regulatory Commissions** - For The Electricity Sector
- **Securities And Exchange Board Of India** - For Publicly Listed Companies
- **Insurance Regulatory And Development Authority** - For The Insurance Sector

*Figure 4.3: Sectoral Regulator Approval Authority*

4.2 The Competition Act, 2002

The legitimate means by which a company can grow is by amalgamation or merging with other companies. This process is generally a part of the natural process of industrial evolution and restructuring as new entity and growth. If a merger of a company has the potential for reducing competition it is the matter of Public Concern.
The former, over time, emerged as an arm of the ‘command and control regime’, while the Competition Act is the essential ingredient of a market-based economy, seeking proactively to promote and its benefits in markets and preserve competition.

“The regulation for a merger is part of the competition in all important jurisdictions in the world. The rationale for merger review is that some mergers could have anticompetitive fallout. This is mainly confined to horizontal merger i.e. merger in the same product line, as against vertical or conglomerate mergers”

i. A combination that will cause appreciable adverse effects on competition within the Indian market shall be declared as void.

ii. Person or Enterprise Company has to intimate proposed combination to CCI within the period of 30 days from the approval by the board/execution of the agreement for a combination.

iii. If CCI does not pass order or issue direction within 210 days of furnishing notice, combination shall be deemed to have been approved.

iv. Combination that is not applicable to share subscription financing facility or any acquisition by PFI / FII/ VCF and Bank. But this institute have to intimate CCI within 7 days from acquisition.

v. The penalty for non-furnishing of information on combination 1% of total turnover or the Assets whichever is higher of such combination.

**Inquiry & Order by CCI combination:**

1) CCI may inquire into combination on its own or information referred to in section 5.

2) CCI cannot initiate inquiry after 1 Yr. of completion of a combination.

3) CCI or receipt of notice regarding combination inquires whether a combination is likely or cause on Appreciable Adverse Effect (AAE) in India.
a) If the combination has no AAE - combination shall take effect
b) If the combination has AAE – no combination to take effect
c) If the combination has AAE but AAE can be eliminated – modify such combination.

4) Penalty for failure to comply with order of CCI
- Rs. 1 Lack per day subject to maximum Rs. 10 Crore.
- Imprisonment up to 3 yrs. or Rs 25 Crore or both.

**Extra Territorial Jurisdiction (Sec.32)**
If any of the transactions taking place outside India but having appreciable adverse effect on competition in India then the same shall also be within the Jurisdiction of CCI.

**4.3 Foreign Exchange Management Act, 1999**
The foreign exchange laws identifying with issuance and assignment of offers to outside elements are contained in The Foreign Exchange Management (Transfer or Issue of Security by a man living out of India) Regulation, 2000 which is issued by RBI. These directions give general rules on issuance of offers or securities by an Indian substance to a man dwelling outside India or recording in its books any exchange of security from or to such individual. RBI has issued point by point rules on remote interest in India vide "Foreign Direct Investment Scheme" contained in Schedule 1 of said control.

**4.4 SEBI (Substantial Acquisitions of Shares and Takeover) Regulation’ 2011**
- The act sets out the methodology to be trailed by an acquirer for securing greater part shares or controlling enthusiasm for another organization.

- Sec. 186 of Co. act deals with the criteria in case of acquisition of offers via a Company. Segment 235 and 236 of the Co. Act sets down lawful necessities for a reason for assuming the control of an unlisted organization through an exchange of undertaking to another organization.
• As per Regulation 31A (8) of SEBI (LODR) Regulations, 2015 If any open investor tries to rename itself as a promoter, such an open investor should follow the mandatory directions with regard to initiating an open offer as per requirement of SEBI (SAST) Regulations, 2011.

• Exception from the appropriateness the directions might not make a difference to an immediate and aberrant acquisition of offers or voting rights in, or control over an organization recorded without making an open issue, on the institutional exchanging stage of a perceived stock trade.

• Declared by the GOI, who have recorded that the organizations with a demonstrated track would be allowed to initiate acquisitions abroad in non-related regions and also their significant fields. Moreover, the government expelled the $100 million top on outside speculation by Indian organizations and raised it to the total assets of the organizations. The RBI, additionally stipulated that the neighborhood organizations could rise outside business borrowings for FDI in their joint endeavors and entirely claimed backups, including M&As abroad.

• Inter-country Takeover is a much sort after a term as of late. Aggressiveness among the household firms powers numerous organizations to go worldwide. There are different components which inspire firms to go for worldwide takeovers. Aside from individual grandness, worldwide takeovers are regularly determined by advertise union, development or corporate broadening intentions.

• International law recommends that in a cross-outskirt merger, the objective firm turns into a national of the country of the acquirer. Among different impacts, the adjustment in nationality suggests an adjustment in financial specialist insurance, on the grounds that the law that is appropriate to the recently combined firm changes too. All the more, by and large, the recently made firm offers highlights
of the corporate administration frameworks of the two combining firms. In this manner, Cross-fringe mergers give a characteristic examination to investigations the impacts of changes-the two enhancements and disintegrations, in corporate administration on firm esteem.

- SEBI Takeover Regulations allow acquisition of voting rights that are past 25%, given the acquirer does not obtain over 5% of offers or voting privileges of the objective organization in one financial year. Notwithstanding, if the acquisition of voting rights is past 5% than the acquirer need to make an open declaration for assist acquisition. Though, acquirer gains the control of the objective organization to make open declaration is mandatory independent in the case of voting rights being procured or not. Likewise, the acquirer, who has officially gained control of an organization, in the wake of clinging to all prerequisites of SEBI Takeover Regulations and furthermore the Act, is to be exempted from the Act for facilitating acquisition of offers or voting rights in a similar organization.

4.5 The Indian Income Tax Act (ITA), 1961

The merger has not been characterized under the ITA but rather has been secured under the term 'amalgamation' as characterized in area 2 (1B) of the Act. To support rebuilding, merger and demerger have been given a unique treatment in the Income-impose Act since the start.

According to Sec. 72A of Income Tax Act, 1961, an extraordinary arrangement is made for carting forward and set a way of collected business misfortune and unabsorbed devaluation recompense now and again of the amalgamation.

A special provision is made for in the cases of amalgamation where unabsorbed depreciation an accumulated business losses which will be carrying forward and set off against the same class of heads of income and loss.
In case of amalgamation of co. where in one co. is relating to in the industrial undertaking or ship or a hotel with another co. or of a banking co., or more public sector co. or companies are coming together with one or more public sector companies, then in such an event notwithstanding anything contained in any other law for time being in force, and other provisions of this Act relating to set-off and to carry forward of loss and allowance for depreciation shall be applicable accordingly up to 8 yrs.

**Accounting Aspects of Consolidations**

Consolidation is classified into two types:

a) Consolidation in the nature of Merger  
b) Consolidation in the nature of Purchase  

If all the respective requirements complied with.

i. In the process of M&A the Assets & Liabilities are to be exclusively proprietary of the transferee co.

ii. 90% or more than 90% of face value of the shares owned by the Shareholders shall accordingly be deemed to be equity sh. holders of Transferee Company.

iii. The consideration to be discharged by the issue of equity shares only.

iv. The business of Transferor Company is to be carried on by Transferee Company after synergy taken place.

v. No modification, alteration to be reflected and made in the book of transformer co. with respect to A & L.
An amalgamation is to be regarded as joining of two co. if the above stated requirements are fulfilled by both the co. which shall be either one or more than one conditions as mentioned above.

4.6 Stamp Duty Aspects of Merger & Amalgamations:
Stamp duty play crucial role in management of any merger. Stamp duty is paid when ownership/rights / interest being created or transferred. Stamp law is a state law and therefore a value of stamp duty is different in all the states. However, if any state is not having its own stamp law then provision of Indian Stamp Act’1899 shall prevail.

There is an exemption of stamp duty for the amalgamation as to between Holding & Subsidiary co. And also for the benefit of co. limited by shares, the C.G. has exempted stamp duty on an instrument which is evidencing transferring of the property between the said co.

Stamp Duty is also required if there is direction to that effect if an order is passed by the tribunal by allowing the amalgamation as per sec 232 of the Co. Act, 2013.

- In Hindustan Lever Ltd. v. the State of Maharashtra
  In the present case, there was merger of two companies where in state has ordered that if sanctioning the scheme of merger is required to allow in the stamp duty will have to be paid. However, the company has challenged the said stand of the state of the said grounds:
  - In the case of M&A, state legislature is ultravire beyond its authority by imposing S.D. and further, such order if at all passed by the tribunal shall neither be document or instrument.
  
  *Hon’ble Supreme Court dismissed the appeal on the below given reason:* it cannot be stated that the state legislature has no jurisdiction to levy such duty.
Li taka Pharmaceuticals Ltd. v. State of Maharashtra

In the present case U/s. 394 is the compromise between the two companies where in both the co. will be dealing with by transferring assets and liabilities and also said order will be deemed to be an instrument as Sec. 2(1) of the Bombay Stamp Act which includes each and every document reflecting liabilities, right if any is transferred or created.

4.7 Intellectual Property

In M & A the expanded profile, recurrence, and estimation of intellectual property related transactions have lifted the requirement for all lawful and budgetary experts and Intellectual Property (IP) owner to have an intensive comprehension of the appraisal and the valuation of these assets, and their part in commercial transaction.

A detailed appraisal of protected innovation resource is turning into an undeniably incorporated piece of business exchange. Due industriousness is the way toward researching a gathering's possession, ideal to utilize, and appropriate to prevent others from utilizing the IP rights engaged with deal or merger. The idea of exchange and the rights being gained will decide the degree and center of the due ingenuity survey.

Due Diligence in IP for valuation would help in building methodology, where in:-

a) The gets ready for augmentation would be examined if Intellectual Property resource is underplayed.

b) If the Trademark has been boosted to the point that it has lost its cachet in the commercial center, recovering might be considered.

c) If stamp is experiencing speculation and is getting to be plainly nonspecific, recovering the check from slipping to bland status should be considered.
d) Certain occasions can debase an Intellectual Property Asset, similarly a fire can all of a sudden annihilate a bit of genuine property. These sudden occasions in regard of IP could be unfriendly attention or individual damage emerging from an item. A fundamental piece of the due perseverance and valuation process represents the effect of item and friends related occasions on resources – administration can utilize chance data uncovered in the due persistence.

e) Due perseverance could feature unforeseen hazard which doesn't generally emerge from Intellectual Property law itself yet might be altogether influenced side-effect risk and contract law and other non-Intellectual Property domains.

Hence Intellectual Property due persistence and valuation can be related with the general legitimate due constancy to give an exact conclusion in regards to the advantage present and future esteem.

4.8 The Sick Industrial Companies (Special Provisions) Act, 1985

The BIFR was shaped under the SICA to decide the ailment of such mechanical organizations and to recommend measures either for the recovery of conceivably reasonable units or the conclusion of unviable organizations.

With impact from 1st Dec, 2016, the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 ("Repeal Act") was introduced. This has brought about the disintegration of the BIFR and different bodies framed under the SICA.

The Bankruptcy Code endorses point by point ventures on the way in which the corporate indebtedness process is to be completed, that incorporates the arrangement of a determination intend to endeavor to resuscitate and restore the matter of the organization. In the occasion the determination design is affirmed, the same is executed as needs be. Be that as it may, if no determination design is settled upon or allowed by the NCLT inside 180 days of the confirmation of the
application, the organization will be ended up according to the arrangements of the Bankruptcy Code.

INTERNATIONAL FRAMEWORK FOR THE MERGER AND ACQUISITION

4.9.1 Canada

In this country, M&A transaction is undertaken by way of below given manner:

- “take-over bid” or a “plan of arrangement”
- Very rarely, as a private share purchase or statutory amalgamation.

M & A is regulated through the operation of the provincial and territorial securities acts as it is relating to matters such as the issuance and acquisition of securities and communications with shareholders.

Merger and Acquisition regulate as give below:

✓ The corporate law
✓ federal legislation

◊ Certain industries, which include banking, telecommunications, broadcasting and air transportation, among others, are subject to specific regulations which restrict the ability of a foreign acquirer to acquire entities operating in these industries.

◊ Canada has adopted a bifurcated merger regime with two separate statutory bodies for enforcement and adjudication.

✓ The Competition Bureau (the “Bureau”) – It is headed by the Commissioner of Competition (the “Commissioner”),
✓ The Competition Tribunal (the “Tribunal”) - It is a quasi-judicial body that performs the adjudicative function for cases that involve enforcement of the civil provisions of the Competition Act,
✓ The Tribunal has the power to dissolve mergers or order divestitures, and breach of a Tribunal order may be punished by contempt proceedings before a judicial member or by the prosecution, either by summary conviction or by indictment.
✓ Appeals from the Tribunal can directly go to the Federal Court of Appeal and from there the second appeal to the Supreme Court of Canada.
4.9.2 China

The People's Republic of China is nowadays open for foreign Investment. As per Chinese existing laws, the foundation of the company with foreign investment is subject to project-by-project examination, approval, and registration by the government.

Government agencies play a vital role in Chinese Company's M &A transactions. Despite the recent relaxation of foreign investment restrictions, prior approval requirements remain a distinctive future of M&A transactions in China.

As per the first Antitrust Law which was passed in 2007 states that under the guidelines for the Anti-Monopoly law there is condition imposed that all combination must apply to authorities who are in charge of anti-monopoly if the joint global revenue of the companies involved exceeds 10 billion Yuan or if revenue in China exceeds 2 billion Yuan. In addition to this, the authorities also need to review the deal if two or more of the firms each reported more than 400 million Yuan of revenue in China during the previous accounting year. These regulations will help ensure that foreign M&A deals and also promote China’s economic growth without threatening its economic security.

Three government bodies are as follows:

- The Commerce ministry, the central planning agency NDRC
- SAIC will enforce the law.
- FI have to apply for approval from MOC in case their purchases of domestic companies affect national economic security, take place in key sectors or lead a transfer of the operating rights of well-known domestic brands.

4.9.3 Japan

The JFTC is the sole agency who is in charge for not only enforcement of the law of Antimonopoly but also for regulation on Merger, it consists of a chairman and 4 Commissioners. Their role is more important than the judicial court in case of a Merger related scheme.
The division of M & A is regarded as one of the parts of Economic Affairs Bureau, and its General Secretariat is responsible for the examination of Merger cases.

Following Laws Regulates M&A:

- Companies Act
- Financial Instruments and Exchange Law - regulates tender offers and certain disclosure requirements.
- Anti-Monopoly Law - Stockholdings, mergers, company splits and assignments of businesses that will substantially restrain competition.
- Securities Listing Regulations

Main restrictions regarding capital injections are in regards to given below sectors:

a) Nippon Telegraph and Telephone Corporation.
b) Radio station license cannot
c) Banking company, an insurance company or a company operating a stock exchange, in such cases it has to obtain approval from the Prime Minister.

The Antimonopoly Law governs merger cases as the antitrust/competition law.
The major JFTC guidelines for the specific concentration (i.e., business combination) of economic power (such as mergers and acquisitions of business), as opposed to the regulations on the general concentration such as those as per Art. 9 (prohibition of incorporation of a co. which may cause excessive concentration of economic power) and Art. 11 (restriction on the stockholding by a bank or insurance company), are the “Guidelines Concerning Review of Business Combination” (the “Merger Guidelines”), propelled on May, 2004 and amended from time to time to reflect the then most recent developments in this area.

Certain acquisitions of shares/equity in a Japanese company by a foreign entity are needed to the filing requirements with the Bank of Japan and relevant ministers under the Foreign Exchange and Foreign Trade Law.

In certain sensitive business areas that include mining, petroleum, leather goods, fishing, forestry, agriculture, aircraft, weaponry, atomic energy, and space development, a prior notice is required to be filed and a certain waiting period
(usually 30 days) is to be observed (a post facto report must also be filed within 30 days of the given acquisition as per the Forex Law). Filing under the Securities Law will also be required to be done. Mergers between the financial institutions (e.g., the banks and the insurance companies) are subject to the provisions as per stated under the applicable business affairs laws (e.g., the Banking Law and the Insurance Business Affairs Law) it is in addition to the Antimonopoly Law.

### 4.9.4 Switzerland

In Switzerland, there is no common set of rules and directions managing with foreign investments. Rather, we can say that the regulatory framework depends on the kind of business the concerned company is active in their respective sector. The Swiss Federal Constitution has guaranteed freedom of trade and industry throughout Switzerland.

Sectors for which registration or the sanction from a government authority is compulsory required are, to name a few includes, banking, insurance, investment funds, gambling houses, as well as the manufacturing and trading of certain arms and further broadcasting companies, schools, hotels and restaurants (only in certain cantons), physicians, dentists, pharmacists and attorneys. Furthermore, some restrictions may also apply to the direct or indirect acquisition of real estate in Switzerland by foreigners.

Banking and Insurance: In Switzerland, banks and insurance companies are required to get a license and the same is issued by the Swiss Financial Market Supervisory Authority (FINMA) as per the Banking Act and the Insurance Supervisory Act. Once licensed, they are later on subject to continuous supervision by FINMA.

The following are required by each individual or entity to obtain and maintain the license:

i. Directly or indirectly holds at least 10% of the capital or the votes in a bank or insurance company, or
ii. Otherwise has significant influence on the management (collectively: “Qualified Participations”), must ensure that its influence does not adversely affect the prudent and solid management of the bank or insurance company in question. Changes with respect to Qualified Participations are to be reported to FINMA by not only selling but also the acquiring party prior to the transaction.

4.9.5. European Union

In the European Union as well as slightly broader European Economic Area (which comprises the 28 Member States of the EU plus Norway, Iceland, and Liechtenstein), a one-stop-shop principle applies for concentrations that meet certain jurisdictional thresholds subject to certain exceptions. The 2016 “BREXIT” referendum, the one-stop-shop principle continues to apply in relation to the United Kingdom until the time as the UK ceases to be an EU Member State, that is not expected to occur for at least another two years.

The European Commission in Brussels is the “one-stop-shop who is one of the responsible authority to decide as a body to clear or prohibit notified concentrations based on the outcome of DG COMP’s review under the “significant impediment to effective competition”

Five sets of EC guidelines address substantive assessment issues on:
- The Relevant Market (1997);
- Horizontal Mergers (2004);
- Acceptable Remedies (2004);
- Restrictions Directly Related and Necessary to Concentrations (2005); and
- Non-Horizontal Mergers (2008)

The EC has also issued by procedural guidelines, including the important Consolidated Jurisdictional Notice (2008) addressing issues relating to the concept of concentration and the jurisdictional thresholds.

Other EC procedural notices cover Case Referral between the EC and NCAs (2005); File Access (2005); the Hearing Officer (2011); and a Simplified Procedure for concentrations not raising competition concerns (2013).
To go with the foregoing, the EC has likewise distributed "best practice" rules on:
The EC has issued a White Paper in July 2014 on proposed updates to the MR so as to bring acquisitions of certain non-controlling minority shareholdings inside its degree, improve the framework for case referrals between the EC and NCAs, and reinforce joining among national merger administrations and streamline MR systems. The EC has not yet formally proposed any updates to the MR in such matters.

4.9.6 United Kingdom

According to provisions made under the Financial Services and Markets Act (FSMA) 2000, financial activities have to be regulated by the Financial Conduct Authority (FCA). Banks, credit unions, and insurance companies are regulated by us and the Bank of England’s Prudential Regulation Authority (PRA).

- The Companies Act 2006 states that the fundamental statutory framework along with, the law of contract, forms the legal basis for the purchase and sale of corporate entities in the UK.

- The City Code on Takeovers and Mergers regulates takeovers and mergers of some companies in the United Kingdom, the Isle of Man and the Channel Islands.

- The Takeover Code has statutory force, and the Takeover Panel has statutory powers in respect of the transactions in relation to which the Takeover Code applies. Breach of any of the Takeover Code rules that relates to the consideration offered for a target company could lead to the offending party being ordered to compensate any investors who have endured misfortune as an outcome of the break. What's more, rupture of the substance necessities of offer archives and reaction records may constitute a criminal offense.
• These rulings are enforceable by the court under Section 955(1) of the 2006 Act.

• The Financial Services and Markets Act 2000 is to regulate the financial services industry and makes provision for the official listing of securities, public offers of securities, and the communication of invitations or inducements to engage in securities transactions.

• The substantial amendments to the FSMA, came into force on 1 April 2013 when the Financial Services Act 2012 commenced, financial regulation is by the Financial Conduct Authority ('FCA') and Prudential Regulatory Authority ('PRA')

• The UK Listing Authority Sourcebook of Rules and Guidance (that includes the Listing Rules, the Prospectus Rules, and the promulgated by the FCA in its capacity as the UK Listing Authority (the competent authority for the purposes of Part VI of the FSMA), also includes various obligations applicable to business combinations involving listed companies, and contains rules governing prospectuses needed for public offers by both listed as well as unlisted companies. The Criminal Justice Act 1993, in combination with the DTRs, the Listing Rules, and the Takeover Code, regulate insider dealing.

• The merger control rules of the UK are included in the Enterprise Act 2002, although the rules do not apply to mergers in relation to which the European Commission has exclusive jurisdiction under the EU Merger Regulation.

• In addition, specific statutory regimes also apply to some areas, including water supply, newspapers, broadcasting, financial stability, telecommunications and utilities, and these separate regimes may have practical implications in merger situations. However, the deal faces significant regulatory hurdles despite having been given the go-ahead from the UK and German regulators. The French regulator is
particularly concerned that the newly merged company will pose a competition problem due to its dominant position in the derivatives clearing market.

An area that could prove a hotspot for deal-making in 2016 is that of the challenger banks looking to shake up the established big four or five UK banks. These banks are expected to see growth amid government and regulatory intervention in the sector to encourage competition.

**Financial services**

Mergers in the financial services sector are subject, along with the general merger control provisions of the Enterprise Act, to the requirements of the Financial Services and Markets Act 2000 as regards notification to, and approval has to be taken by, the Financial Conduct Authority and/or Prudential Regulation Authority. Failure to follow these requirements may be a criminal offense. The public interest provisions of the Enterprise Act have been extended to also apply in the financial services sector where there is a need to maintain the stability of the UK financial system. Moreover, and also in response to the global financial crisis of 2008, the Banking (Special Provisions) Act 2008 and the Banking Act 2009 both the provision for legislation is not be applied or modified by the UK government where necessary to ensure financial stability.

**4.9.7 France**

In France, the French Competition Authority is one of the independent administrative authorities that are in-charge of merger control. It does the work of receiving and reviewing merger filing applications and delivers the decision authorizing (with or without conditions) or prohibiting the merger. The French Minister of Economy has ancillary powers allowing it to intervene at two stages of the merger control process. First, it may request the Competition Authority to open a Phase II and review within five working days after a decision of the Competition Authority following a Phase I review. Second, within 25 working days after a decision of the Competition Authority following a Phase II review, there is the possibility that the Minister of Economy may sanction the
decision and either authorize or prohibit the merger for reasons of public interest other than the protection of competition.

4.9.8 United States of America

The U.S. is having a federal system of government. As per, regulation of M&A activity falls within the dual jurisdiction of the federal government and the individual state in which the target company is incorporated. The federal government regulates sales and transfers of securities through the Securities and Exchange Commission (SEC) and competition matters through Antitrust Division of the Department of Justice (DOJ) and Federal Commission (FTC). Other federal agencies impose additional requirements over the acquisition in certain regulated Industries. U.S. Regulatory does not give much emphasis on the general rules for the M&A. they have given emphasis on the company’s Shareholders approval for the scheme of the M&A and the antic competition act that’s why with merger regulation the antimonopoly laws sharing equal space in M&A regulatory framework.
Regulatory framework

The rules governing are not certain it varies depending on the state of incorporation of the target company. The laws of a company will regulate the shareholders and board approvals in connection with the merger transaction.

- **Securities Exchange Act of 1934, as amended (Exchange Act)** - The solicitation of votes to approve a merger by the target company shareholders must comply with federal rules and regulations on proxy statements of the act. Further, the exchange upon which the company’s securities are listed may impose additional rules with respect to corporate governance matter. Sec. 14(e) of this act prohibits material misstatement and omission and fraudulent, deceptive or manipulative act in connection with tender and merger transaction.

- **State Corporation Laws** (e.g., The Delaware General Corporation Law (DGCL)) - Includes anti-takeover statutes which control share acquisition as well as business combination statues.

- **Sarbanes – Oxley Act of 2002** (Sarbanes-Oxley Act) - this act States that all the rules should be followed and every detail should be transparent to the authority and shareholders if some mischief done by the directors, registrant, an officer in any way. To make the act more strong many amendments were done.

- **Consumer Protection Act (Dodd-Frank Act)** – contains a number of provisions intended to expand and clarify the SEC’s enforcement authority with respect to the violation of security laws.

- **The Federal Trade Commission Act** - Section 5 of this act prohibiting unfair methods of competition along with the Antitrust Division of the DOJ and observe a statutory waiting period prior to closing the transaction.

- **The Clayton Act [Hart-Scott-Rodino Act (HSR Act)]** –
o Sec.7 of this act is governing act which is responsible to avoid the transaction which can curb the competition and create the monopolistic situation.

o Section 7A - rule applies to clear premerger regimes and specifies the thresholds transaction and required rules for the same.

- **US anti-trust laws (the Sherman Act)** – This Act can apply to transactions, such as sections 1 which prohibits contracts, combinations, or conspiracies in restraint of trade and 2 which prohibits monopolization, attempt to monopolize, and conspiracy to monopolize of (prohibiting agreements in restraint of trade and monopolization respectively)

- **The Williams Act** – This act is to restrict and make sure to disclose to Securities Exchange Commission if the acquisition is more than 5% share of the co., which can restrict the concept like Saturday night special.

There are also additional industry-specific statutes that may require advance notification of an acquisition to a governmental authority. Examples of regulated industries include airlines, broadcasters, and electric and gas utilities.

In U.S. some industries specific laws apply such as public utilities, insurance, gaming, banking, media, transportation, and mining, are highly regulated, and therefore subject to industry-specific rules that regulate the ability of any acquirer, whether U.S. or foreign, to engage in business combinations.

The United States does not have competition laws specifically applicable to foreign mergers. Various sectoral laws and national security laws do address foreign mergers that are within the scope of their jurisdictional provisions. The Committee on Foreign Investment in the US (CFIUS) has the power to review, investigate, prohibit or unwind transactions involving investments by non-US entities that threaten to impair national security.
The state-level legislation often provides for merger reviews by a public utility commission, an insurance commission, or another regulator with authority over a specialized sector. Such reviews are often conducted under a standard that does not only focus on competitive effects and that takes into account “public interest” considerations or other factors. Every country follows their own rules and regulatory like almost all over the world there is different laws or permission have to take for the specific sectoral merger. National security and competition authority are the most important substance for the M&A.

India is really on better position we don’t have to face any separation like U.K. who is facing difficulty to adopt the new situation and nor we have issues like U.S where there is dissimilarity in federal law and state laws.