

Government Revises Merger Control Thresholds

In a significant move, the Ministry of Corporate Affairs, Government of India (“MCA”), by way of 2 (two) separate notifications both dated March 07, 2024, has enhanced the value of asset and turnover thresholds under (i) Section 5 of the Competition Act, 2002 (“**Competition Act**”) by 150%; and (ii) *De Minimis*/ Small Target Exemption.

The Competition Act requires mandatory notification to, and prior approval of, the Competition Commission of India (“CCI”) for transactions which exceed the ‘jurisdictional thresholds’ prescribed under Section 5 of the Competition Act (“**Section 5 Thresholds**”).

Further, the MCA, by way of notification dated March 16, 2022 read with the notification dated March 29, 2017, has exempted a combination from requiring notification to, and approval from, the CCI, if the target enterprise, on a consolidated basis, has either assets of the value not exceeding INR 350 crores (USD 42.09 million in India or turnover not exceeding INR 1,000 crores (USD 120.25 million in India (“*De Minimis Exemption Thresholds*”).

The revised Section 5 Thresholds and the *De Minimis* Exemption Thresholds are as under:

De Minimis Exemption

Entity	Assets in India		Turnover in India
Target Enterprise	INR 450 crores (USD 54.11 million)	Or	INR 1,250 crores (USD 150.31 million)

The notification reiterates that in case a portion of an enterprise or division or business is being acquired, taken control of, merged or amalgamated with another enterprise, then the asset value and turnover of the relevant asset (mentioned above), will be taken into consideration for applying the *De Minimis Exemption Thresholds*. These thresholds are valid for 2 (two) years.

Section 5 Thresholds

India Thresholds				
Alternative	Entity	Assets		Turnover
Test 1	Acquirer and target, together	INR 2,500 crores (USD 300.63 million)	Or	INR 7,500 crores (USD 901.88 million)
Test 2	Acquirer's group and target, together	INR 10,000 crores (USD 1.20 billion)	Or	INR 30,000 crores (USD 3.61 billion)
Worldwide Thresholds with India Nexus				
Alternative	Entity	Assets		Turnover
Test 3	Acquirer and target, together	USD 1.25 billion (INR 10,395 crores)	Or	USD 3.75 billion (INR 31,185 crores)
	Of which in India	INR 1,250 crores (USD 150.31 million)		INR 3,750 crores (USD 450.94 million)
Test 4	Acquirer's group and target, together	USD 5 billion (INR 41,580 crores)	Or	USD 15 billion (INR 1,24,740 crores)
	Of which in India	INR 1,250 crores (USD 150.31 million)		INR 3,750 crores (USD 450.94 million)

(Source: Notifications dated March 07, 2024)

Competition Practice

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Over the years, the team has developed a reputation of not only being well regarded by its peers but also for having developed a good working relationship with the regulatory authorities. As such our lawyers have been involved in drafting statutory regulations and have represented the Indian competition law fraternity at various competition law seminars, workshops, and advocacy & public awareness programs across the world. The team's expertise (including team members) has been widely recognised by various leading international rankings and publications including Chambers and Partners, Who's Who Legal, Global Competition Review, Benchmark Litigation, Asialaw, and the Legal 500.

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