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## REGULATORY FRAMEWORK FOR ACQUISITIONS

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### Abstract

*This document provides a comparative overview of the regulatory frameworks governing acquisitions in India, the United States, and the European Union. It examines the legal and institutional structures that regulate mergers and acquisitions, including the roles played by the Competition Commission of India (“CCI”), the Securities and Exchange Board of India (“SEBI”), the U.S. Federal Trade Commission (“FTC”), the Department of Justice (“DOJ”), and the European Commission. Key elements discussed include notification thresholds, review procedures, enforcement mechanisms, and the underlying legal principles that shape antitrust and securities regulation in each jurisdiction. Through a cross-jurisdictional analysis, the paper offers insights into the convergence and divergence of regulatory practices, equipping stakeholders with a broader understanding of global compliance requirements in cross-border transactions.*

### I. Introduction

M&A is considered a tool that serves essential purposes in helping companies expand their business operations, restructure, enhance market share, gain a competitive edge and achieve strategic business growth. The transactions enable organisations to increase their market presence and deliver scale benefits along with superior competitive performance. M&A transactions are subjected to extensive legal scrutiny as well as regulatory oversight because they lead to considerable economic effects and financial consequences, thus requiring adherence to corporate governance standards, antitrust laws and investor protection guidelines.<sup>550</sup> Acquisitions can occur in various forms, through mergers, demergers and takeovers, which require separate legal frameworks based on the nature of these combinations for managing stakeholder impacts.

### A. Mergers

A merger is the process of combining two or more companies into a single company, usually done in order to improve operational efficiency and increase financial growth and market expansion. Mergers can be categorised based on their strategic objectives:

- **Horizontal mergers** occur when companies combine with their competitors in the same industry which aims to minimise competition to enhance market control. The merger of **Vodafone-Idea** is an example of a horizontal merger that sought to generate a stronger telecommunications competitor in the market through the same.<sup>551</sup>
- **Vertical mergers** combine companies that are in the same supply chain to achieve streamlined operations and greater efficiency. **Amazon** established its position in the market when it bought

<sup>550</sup> Kayode Akinsola, “Corporate Governance Challenges in Tech M&A: Board Oversight and Shareholder Rights” 5 Indian J. Legal Rev. 106 (2025).

<sup>551</sup> Muskan Prakash Lalwani, “An Analytical Study on Merger of Vodafone & Idea” 33 MBA Project Report (G.S. College of Commerce & Economics, Nagpur, 2022).

**Whole Foods**, enabling its supply chain integration process.<sup>552</sup>

- **Conglomerate mergers** occur through the combination of companies with different business operations in unrelated industries. It is usually done for the pursuit of diversified business activities. An example of this is the acquisition of **Corus Steel by the Tata Group**, where the company expanded its presence worldwide in steel manufacturing.<sup>553</sup>

The Companies Act, 2013, governs mergers in India through various mandates such as shareholder approval, creditor approval and authorisation from regulatory bodies, including the National Company Law Tribunal (“NCLT”) and the Competition Commission of India (“CCI”). Under U.S. laws, mergers need to comply with the Hart-Scott-Rodino Antitrust Improvements Act (“HSR Act”)<sup>554</sup>, which mandates companies to submit pre-merger notifications to both the Federal Trade Commission (“FTC”) and the Department of Justice (“DOJ”).<sup>555</sup> The EU Merger Regulation oversees EU mergers to protect market competition levels.

### B. Demergers

A demerger occurs when companies separate various business divisions into new independent companies. Companies conduct demergers to split their business into separate entities for multiple reasons, such as shareholder value maximisation, operational efficiency enhancement, as well as legal compliance obligations. A notable example is the **demerger of Reliance Industries**, which led to the existence of **Jio Platforms**, which further enabled their digital business to receive foreign

investments independently.<sup>556</sup> Indian companies benefit from the legal structure of the Companies Act, 2013, which safeguards shareholder and creditor assets during demergers. A demerger falls under the jurisdiction of the Income Tax Act, 1961<sup>557</sup>, by which it receives tax-neutral status under particular conditions.

### C. Takeovers

A takeover refers to the acquisition of control over a target company by another entity. Takeovers can be classified as:

- **Friendly takeovers**, where the target firm voluntarily agrees to the acquisition, such as **Walmart’s acquisition of Flipkart** in India.<sup>558</sup>
- **Hostile takeovers**, when an acquirer side-steps the target company’s management and directly engages with the shareholders. **Larsen & Toubro’s hostile takeover of Mindtree** is an example of a target undertaking whose promoters were opposed to the takeover, but it was carried out.<sup>559</sup>

India’s takeovers are governed by the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (“**Takeover Code**”)<sup>560</sup>, which ensure transparency, protect investors and ensure shareholders are treated fairly.

## II. Importance of Legal and Regulatory Compliance in Acquisitions

M&A businesses have significant consequences for the companies, employees, shareholders, and consumers. Acquisitions carried out without regulatory oversight could result in monopoly prices, financial malpractices and suppression of shareholder rights. By coming up with

<sup>552</sup> Nitasha Tiku, “Ready for a Monopoly Fight? Amazon and Whole Foods Isn’t It” 25 *Wired* (June 20, 2017), available at: <https://www.wired.com/story/amazon-whole-foods-monopoly-antitrust/>

<sup>553</sup> Harvard Business Publishing, “Tata Steel: The Acquisition of Corus” W17293-PDF-ENG (Harvard Business Publishing, 2016).

<sup>554</sup> Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C.

<sup>555</sup> Federal Trade Commission, “Premerger Notification and the Merger Review Process,” available at: <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/mergers/premerger-notification-merger-review-process>

<sup>556</sup> Aniruddha Jain, “Demerger of Financial Services Arm of Reliance Industries ahead of Telecommunication & Retail Arm” 24 *M&A Critique* (Dec. 14, 2022), available at: <https://mncritique.mergersindia.com/reliance-industries-demerger-financial-services/>

<sup>557</sup> Income Tax Act, 1961 (No. 43 of 1961).

<sup>558</sup> Kashish Tandon, “Walmart-backed Flipkart to Shift Base Back to India from Singapore,” *Reuters*, Apr. 22, 2025.

<sup>559</sup> Vishal Vyas, “L&T Attempts Hostile Takeover of Mindtree” 24 *M&A Critique* 1 (Apr. 12, 2019), available at: <https://mncritique.mergersindia.com/l-and-t-hostile-takeover-mindtree/>

<sup>560</sup> SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

regulatory frameworks, fair and transparent transactions are ensured, as well as the legal compliance of transactions.

In India, regulatory compliance in M&A transactions is enforced through a single framework but through a plethora of legislations. Under Part III of the Companies Act, 2013, the foundations of the corporate restructuring legal framework have been established by defining the process of merger, demerger, and compromise with the creditors. The CCI enforces the Competition Act, 2002, to check anti-competitive practices through mergers. In 2018, the CCI blocked the merger of **Lafarge and Holcim** in India on the grounds that the move would have created a dominant market position in the cement industry.<sup>561</sup> Further, the SEBI Takeover Code requires disclosure and transparency in listing company acquisitions, protecting minority shareholders.

In the United States, for example, it is unlawful for mergers and takeovers to be anti-competitive as provided by the Clayton Act<sup>562</sup> or the Sherman Antitrust Act<sup>563</sup>. If there is a possible harm to competition, the Federal Trade Commission can block such transactions, as seen in several high-profile deals, such as the one between **AT&T and T-Mobile**.<sup>564</sup> Similarly, in the European Union, the EU Merger Regulation maintains that when acquiring companies, market competition should be in no way distorted. The European Commission famously blocked the **Siemens-Alstom merger**, claiming that it would have created a monopoly in the rail transportation sector.<sup>565</sup>

<sup>561</sup> John Handoll, Shweta Shroff Chopra & Aparna Mehra, “India: CCI Keeps its Focus Fixed on Remedies that are Acceptable at Home” 5 Global Competition Review – Merger Remedies Guide 1 (5th edn., 2023), available at: <https://globalcompetitionreview.com/guide/the-guide-merger-remedies/fifth-edition/article/india-cci-keeps-its-focus-fixed-remedies-are-acceptable-home>.

<sup>562</sup> Clayton Antitrust Act of 1914, 15 U.S.C.

<sup>563</sup> Sherman Antitrust Act of 1890, 15 U.S.C.

<sup>564</sup> Zeke Miller, “Justice Department Moves to Block AT&T, T-Mobile Merger,” *Wired*, Aug. 31, 2011, available at: <https://www.wired.com/2011/08/justice-department-moves-to-block-att-mobile-merger/>

<sup>565</sup> “Brussels Blocks Rail Merger Between France’s Alstom and Germany’s Siemens,” *Euronews*, Feb. 6, 2019, available at: <https://www.euronews.com/2019/02/06/brussels-blocks-rail-merger-between-france-s-alstom-and-germany-s-siemens>

The statutory disclosure requirements are a vital aspect of regulatory compliance in acquisitions. Strict disclosure norms are applied to public companies to reveal to investors the critical information in the transaction. Companies are required to make such disclosures on acquisition plans, source of funding and the impact on shareholders in India, under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**SEBI LODR Regulations**”)<sup>566</sup>. The U.S. Securities Exchange Act, 1934 also requires, for example, that acquirers file Schedule 13D with the SEC upon acquiring 5% or more of a company’s shares, disclosing their intentions, as well as the financial arrangements.

The regulatory structure overseeing acquisitions is crucial to maintain market integrity, safeguarding investors, and promoting fair competition. India, the United States, and the European Union have developed comprehensive legal mechanisms to regulate mergers, demergers, and takeovers, ensuring that transactions align with corporate governance principles and antitrust policies. As M&A activities continue to grow in complexity, regulatory frameworks must evolve to address emerging challenges such as digital economy mergers, ESG compliance, and cross-border regulatory coordination.

### III. Key Regulatory Bodies and Legislations

Stringent regulatory oversight is exercised on M&A transactions to protect transparency, fairness, and compliance with the principles of corporate governance. In all jurisdictions, regulatory bodies participate in examining M&A deals to prevent monopolistic practices and maintain investor rights and the financial stability of a country. M&A transactions are also regulated according to each country’s own regulatory authorities and legislation to ensure that every transaction is in accordance with national and international economic policies. There are various regulatory bodies and

<sup>566</sup> SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

relevant legislative rules in India, the United States, the European Union, as well as other major jurisdictions which can affect global M&A transactions.

## A. India

India has a well-established M&A regulatory framework enforced by a number of regulatory authorities and legislative enactments. Acquisitions are governed by various laws of the key regulatory bodies as follows:

### 1. Securities and Exchange Board of India

M&A transactions are governed by the Securities and Exchange Board of India amongst listed companies. Key regulations that exercise SEBI's regulatory oversight mainly are in the case of the public offer through SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("**SEBI ICDR Regulations**")<sup>567</sup>, SEBI (Listing Obligations & Disclosures Regulations) Regulations, and in the case of the private (offered) issue, SEBI's oversight is through Sections 30 & 31 of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**")<sup>568</sup>.

- **SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011:** These regulations promote transparency in acquiring shares and control of listed companies. It has disclosure requirements for acquirers at certain holding levels (5%, 25% and above). It also stipulates that the gain of significant control over a listed company must be accompanied by an open offer to the minority shareholders.
- **SEBI (Listing Obligations and Disclosure Requirements), 2015:** The regulations related to continuous disclosure requirements of listed entities provide for the timely dissemination of material information, including M&A-related matters, to investors and regulators.

The **Mindtree-L&T hostile takeover** case provides a good example of how SEBI has

ensured adherence to the provisions of the Takeover Code's open offer requirements and protected the interests of minority shareholders.

### 2. The Competition Commission of India

The Competition Act, 2002, is enforced by the Competition Commission of India, which directs and enforces the Competition Act, 2002, by preventing monopolistic mergers and acquisitions which are anti-competitive in nature. According to Sections 5 and 6 of the Competition Act, those companies engaged in M&A transactions that are above the mentioned financial thresholds are mandated to acquire prior clearance from CCI to avoid market dominance or restrict fair competition.

For example, the CCI blocked the **Sun Pharma-Ranbaxy merger** in 2014 due to concerns about the possibility of market concentration in the pharmaceutical sector. It mandated on divestment of various assets in order to facilitate the merger.<sup>569</sup>

### 3. Reserve Bank of India ("RBI") legislation and the Foreign Exchange Management Act ("FEMA")<sup>570</sup>

The Reserve Bank of India is responsible for governing cross-border M&A transactions for which foreign direct investment ("**FDI**") as well as external commercial borrowings ("**ECB**") are involved. Foreign investment in an Indian company is governed by the Foreign Exchange Management Act, 1999, which restricts foreign acquirers' sectoral caps, pricing guidelines, and foreign acquisition reporting requirements.

When the **Walmart-Flipkart deal** took place, the FEMA regulations formed the basis of how the deal was to be structured to ensure compliance with FDI in the e-commerce sector.<sup>571</sup>

<sup>569</sup> Aman Shah & Zeba Siddiqui, "CCI Clears Sun Pharma-Ranbaxy Deal," *Reuters*, Dec. 9, 2014, available at: <https://www.reuters.com/article/business/cci-clears-sun-pharma-ranbaxy-deal-idUSKBN0JM1AX/>

<sup>570</sup> Foreign Exchange Management Act, 1999 (No. 42 of 1999).

<sup>571</sup> Ansh Mishra, "Analysis of the Walmart-Flipkart Deal," A.K. Legal & Associates, June 20, 2023, available at: <https://aklegal.in/analysis-of-the-walmart-flipkart-deal/>

<sup>567</sup> SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009.  
<sup>568</sup> Securities and Exchange Board of India Act, 1992 (No. 15 of 1992).

#### 4. Companies Act, 2013

The procedures for mergers, demergers and acquisitions are mentioned under the Companies Act, 2013, the foundation corporate law statute in India. The corporate restructuring processes covered by Sections 230-232 include shareholder approvals, court sanctions and creditor protections. To the extent of regulatory compliance for M&A transactions, the Companies Act mandates fair valuation and due diligence to protect stakeholders' rights.

Under this Act, an example of compliance would be when **HDFC Ltd merged with HDFC Bank**, the NCLT and shareholders were both required to approve the transaction as per the Companies Act provisions.<sup>572</sup>

#### B. United States

There is a well-developed M&A regulatory framework in the United States, enforced by multiple agencies in order to maintain transparency, safeguard investors and establish fair competition. The primary regulatory bodies include:

##### 1. Securities and Exchange Commission

The Securities Exchange Act, 1934 places a mandate of rules over disclosure requirements in M&A transactions by way of the Securities and Exchange Commission. Under the 5% shareholding threshold, if a set acquirer crosses it in a company, the acquisition details have to be reported by the acquirer through the filing of Schedule 13D, disclosing the transaction details, fund sources, and the acquirer's intention around the target.

In 2022, the **acquisition of Twitter by Elon Musk** was closely scrutinised by the SEC with an eye to the financing arrangements and disclosures related to shareholder impact.<sup>573</sup>

<sup>572</sup> HDFC Bank Limited, "Disclosure under Regulations 30, 42 and 60 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015," June 30, 2023, available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis//384c800e-eb59-46d2-9d08-b336b53b66bc.pdf>.

<sup>573</sup> Cadwalader Wickersham & Taft LLP, "SEC Brings Suit Against Elon Musk for Failure to Report Twitter Ownership," *Lexology*, Jan. 30, 2025, available at: <https://www.lexology.com/library/detail.aspx?g=69b774de-f52e-4866-974b-4049925d00a0>

#### 2. Federal Trade Commission and Department of Justice

U.S. antitrust laws, primarily the Clayton Act, 1914, and the Sherman Act, 1890 are enforced by the FTC and DOJ in order to prevent anticompetitive mergers. Under the Hart-Scott-Rodino Antitrust Improvements Act, companies are mandated to report to the FTC by way of a notification before the merger is completed for transactions exceeding the specified monetary thresholds.

The FTC, for instance, stopped **NVIDIA's bid to buy ARM Holdings** because of anti-competitive concerns in the semiconductor market.<sup>574</sup>

#### C. European Union

The EU Merger Regulation ("EUMR") regulates M&A activities in the EU, and such activities are regulated by the European Commission in the European Union. Companies which bring together two turnovers exceeding specified thresholds must notify the Commission of such cross-border mergers. The aim of the EUMR is to stop mergers that curb fair competition from existing in the European market.

For example, the European Commission prevented the **merger of Siemens with Alstom**, which could have led to monopolistic conditions in the railway sector.<sup>575</sup>

Furthermore, each EU member state has its own national competition authority like the UK's Competition and Markets Authority ("CMA"), which intervened in deals such as the **Microsoft-Activision Blizzard merger**<sup>576</sup>, insisting on structural changes to prevent unfair competition.

<sup>574</sup> Joseph M. Rancour, Maria Raptis & Steven C. Sunshine, "FTC Sues To Block \$40 Billion Nvidia Acquisition of Arm," *Skadden, Arps, Slate, Meagher & Flom LLP*, Dec. 20, 2021, available at: <https://www.skadden.com/insights/publications/2021/12/ftc-sues-to-block-40-billion-nvidia-acquisition>

<sup>575</sup> Konstantinos Efstathiou, "The Alstom-Siemens Merger and the Need for European Champions," *Bruegel*, Mar. 11, 2019, available at: <https://www.bruegel.org/blog-post/alstom-siemens-merger-and-need-european-champions>

<sup>576</sup> Competition and Markets Authority, "Microsoft / Activision Deal Prevented to Protect Innovation and Choice in Cloud Gaming," GOV.UK, Apr. 26, 2023, available at: <https://www.gov.uk/government/news/microsoft-activision-deal-prevented-to-protect-innovation-and-choice-in-cloud-gaming>

#### D. Other Acts and Regulations Regulating M&A in Foreign Jurisdictions

Governments across different countries have created M&A frameworks to safeguard market fairness and protect investors. Some key regulations include:

- **China's Anti-Monopoly Law ("AML")** lets the State Administration for Market Regulation examine mergers to prevent market dominance. The Chinese government denied permission for the Qualcomm-NXP merger because it violated competition laws.
- **Japan's Fair Trade Commission ("JFTC")** oversees acquisitions through the Anti-Monopoly Act, which requires notification when companies over certain thresholds merge.
- Australia oversees M&A transactions through the Competition and Consumer Act 2010, which is regulated by the **Australian Competition and Consumer Commission ("ACCC")**, to preserve consumer interests.

#### IV. Disclosure Requirements in Acquisitions

Mergers and acquisitions have various disclosure requirements, which fundamentally enable the transparency, safeguarding of investor interests, and the stability of the market due to such transactions. Across all jurisdictions, regulatory frameworks require strict disclosures that are aimed at curbing fraudulent transactions, insider trading and information asymmetry. In India, disclosure obligations are mentioned in the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Listing Obligations of Disclosure Requirements) Regulations, 2015 for acquiring entities. In the United States, disclosure requirements pursuant to material corporate actions as per the Securities Exchange Act of 1934 stipulate that investors are provided with comprehensive and timely information. In the European Union, the Transparency Directive and Competition Regulations define the guidelines

for the disclosure of M&A deals to curb anti-competitive practices.

#### A. India

##### SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, there are comprehensive norms of disclosure for entities acquiring a significant stake in a listed company. This regulation also includes the key disclosure requirements such as:

- **Initial Disclosure:** When acquiring 5% or more of voting rights in a listed company, the acquirer must disclose their shareholding to the company and stock exchanges within two working days.
- **Continual Disclosure:** Acquirers who have over 25% of a company's voting rights and further purchase 2% or more shares, over and above the initial purchase, must report the same.
- **Open Offer Disclosures:** Following the 25% mark, an acquirer has to make an open offer to the public shareholders, revealing the agreement of financing, intention to acquire and the financial aspect of the entity.

A good example of disclosure compliance through the Takeover Code is **Adani Group's takeover of NDTV**, which required the investor making the takeover to disclose all its indirect acquisitions, including the convertible warrants acquired by them.<sup>577</sup>

##### SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

The SEBI (LODR) Regulations, 2015, impose ongoing disclosure obligations on listed companies undergoing acquisitions. The LODR ensures that investors are kept informed about

<sup>577</sup> Nishchal Joshipura, Khyati Dalal, Aishwarya Rao, Akash Kumar, Aarathi Das & Sach Chabria, Adani's Hostile Takeover of NDTV, M&A Lab, Nishith Desai Associates, May 2023, available at: [https://nishithdesai.com/fileadmin/user\\_upload/pdfs/Research\\_Papers/M%26A\\_Lab\\_Adanis-Hostile-Takeover-of-NDTV.pdf](https://nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/M%26A_Lab_Adanis-Hostile-Takeover-of-NDTV.pdf).

material events that may impact stock prices and investment decisions.

Key disclosure provisions under LODR include:

- **Material Event Disclosure:** Listed companies must disclose any material acquisition, demerger, sale, or restructuring event to stock exchanges within 24 hours.
- **Quarterly and Annual Reporting:** Companies must publish financial statements reflecting M&A transactions, providing details on asset transfers, valuation, and liabilities.
- **Shareholder Notification:** Shareholders must be informed of acquisition-related decisions through public announcements and regulatory filings.

An example of LODR compliance is the **HDFC-HDFC Bank merger**, where both entities made continuous disclosures through stock exchanges, detailing regulatory approvals, shareholding structure changes, and expected financial impact.<sup>578</sup>

## B. United States

### Securities Exchange Act of 1934

In the United States, the **Securities Exchange Act of 1934** imposes stringent disclosure requirements on public companies engaged in M&A deals. The **Securities and Exchange Commission** enforces these regulations, ensuring that material details are communicated to the investors timely.

Key disclosure obligations include:

- **Schedule 13D Filings:** Any entity acquiring more than 5% of a company's shares must file Schedule 13D with the SEC, disclosing the acquirer's identity, purpose of acquisition, funding details, and future plans.
- **Form 8-K Disclosure:** Companies must file Form 8-K with the SEC within four

business days of a significant acquisition, detailing financial statements, material agreements, and expected business impact.

- **Proxy Statements (Schedule 14A):** If an acquisition involves shareholder voting, companies must provide comprehensive proxy statements outlining merger terms, financial implications, and risks.

A high-profile example of SEC disclosure enforcement was seen in the **Elon Musk-Twitter acquisition**, where the SEC closely scrutinised Musk's delayed 13D filings and public statements regarding funding sources and takeover intentions.<sup>579</sup>

## C. European Union

### Transparency Directive and Competition Regulations

The European Union mandates extensive disclosure requirements through the **Transparency Directive** and the **EU Merger Regulation**, ensuring that M&A transactions do not distort market competition or mislead investors.

Key disclosure norms include:

- **Major Shareholding Disclosure:** Investors acquiring 5% or more voting rights in an EU-listed company must notify the company and the relevant financial regulatory authority.
- **Public Announcement Requirements:** Companies involved in M&A transactions must disclose transaction details through stock exchange filings, investor presentations, and public notices.
- **European Commission Merger Notification:** Companies exceeding prescribed turnover thresholds must notify the European Commission, which evaluates the deal's impact on market competition.

<sup>578</sup> Ibid.

<sup>579</sup> Ibid.

A landmark example of EU disclosure enforcement was the *Siemens-Alstom merger*, where the European Commission blocked the transaction after reviewing competitive impact disclosures and stakeholder objections.<sup>580</sup>

## V. Material Facts, Financial Statements, and Shareholder Notifications

Regulatory frameworks across jurisdictions have established the importance of material facts, financial statements, and shareholder notifications to safeguard investor interests and enhance transparency.

### 1. Material Facts Disclosure

Companies must reveal all material facts that affect the transaction to the public, such as:<sup>581</sup>

- Nature and structure of the deal (merger, acquisition, or demerger).
- Changes in shareholding and impact of voting rights.
- Regulatory approvals are required.
- Potential conflicts of interest or governance issues.

### 2. Financial Statements

An acquiring company needs to give financial reports that disclose:

- Pro-forma financial statements that show the financial impact post-acquisition.
- Valuation reports that detail the acquisition price and asset valuation.
- Audited financials of the target company are reviewed to ensure details about financial debts and performance.

### 3. Shareholder Notifications

M&A transactions require shareholders to approve the transaction through the following:

- General meeting notices with detailed summaries of the transaction.

- Voting rights disclosures showing the structural changes to the shareholding.
- Offer letters in case of any open offers or tender offers.

Companies must correctly share disclosures under M&A transactions to maintain market integrity, investor protection, and fulfil regulatory standards. Under the Takeover Code and LODR, SEBI makes listed Indian companies report all details about acquiring shares and corporate governance changes. Under US laws, the Securities Exchange Act requires the Securities and Exchange Commission to supervise detailed reports, including Schedule 13D and Form 8-K, and proxy statements to keep investors well-informed of corporate developments. In response to concerns, European Union laws protect investors by preventing companies from buying competitors, which reduces fair competition or misleads shareholders.

## VI. Comparative Overview

The regulatory landscape governing mergers and acquisitions transactions varies significantly across various jurisdictions, representing different legal systems and market configurations, and policy objectives. While India, the United States, and the European Union share a common goal of ensuring transparency, investor protection, and fair competition, the mechanisms they employ to achieve these objectives differ.

Disclosure requirements, in particular, show key similarities and distinctions across these jurisdictions, primarily in areas such as threshold limits for disclosures, reporting mechanisms, open offer obligations, and shareholder rights. This section provides a comparative analysis of the disclosure requirements in M&A transactions across India, the US, and the EU, highlighting regulatory frameworks, enforcement mechanisms, and procedural variations.

<sup>580</sup> Ibid.

<sup>581</sup> Ayush Verma, "What Are the Types of Disclosure Obligations under the Takeover Code," iPleaders, Oct. 21, 2020, available at: <https://blog.iplayers.in/types-disclosure-obligations-takeover-code/>

## A. Disclosure Thresholds and Reporting Obligations

Disclosure obligations in M&A transactions are primarily triggered when an acquirer crosses specific shareholding thresholds in a target company. Each jurisdiction mandates different reporting thresholds to ensure market participants are informed of significant changes in corporate control.

- **India:** Under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, acquirers must disclose their shareholding when they acquire 5% or more of a listed company's shares. Any subsequent acquisition of 2% or more must also be disclosed. When an acquirer crosses the 25% shareholding threshold, it must initiate a compulsory open offer to minority shareholders, ensuring fair exit opportunities. The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 also require immediate disclosures of material acquisitions to stock exchanges.<sup>582</sup>
- **United States:** The Securities Exchange Act of 1934, enforced by the Securities and Exchange Commission, mandates that any investor acquiring 5% or more of a company's voting shares file Schedule 13D within 10 days, detailing the purpose of the acquisition and future endeavours. If the acquirer intends to passively invest without taking control, they may file Schedule 13G, which has fewer disclosure obligations.<sup>583</sup>
- **European Union:** Under the EU Transparency Directive, investors

acquiring 5% or more of a listed company's shares must notify both the target company and the national financial regulatory authority. Additional disclosures are required at 10%, 15%, 20%, 25%, 30%, 50%, and 75% thresholds, ensuring increased transparency.<sup>584</sup>

A major similarity across these jurisdictions is the 5% initial disclosure requirement, which acts as an early detection system for market participants. However, the EU adopts a more stringent tiered disclosure system, requiring additional notifications at multiple thresholds. India's mandatory open offer at 25% is a significant protective mechanism not present in US regulations, which rely more on market-based disclosures through SEC filings.

## B. Open Offer and Minority Shareholder Protection

The role of open offer requirements is vital in protecting the minority shareholders from forced takeovers, and in allowing the minority shareholders an opportunity that is fair to them for exiting, when there occurs a substantial change in control.

- **India:** Pursuant to the Takeover Code, if an acquirer has a stake sufficient enough in a listed company i.e. more than 25%, the acquirer shall make an open offer to buy an additional 26% stake in a listed company from the public shareholders at a price not lower than the highest transaction price by the acquirer in the 52-week period preceding the offer by the acquirer. By doing so, minority shareholders will not be disadvantaged by privately negotiated control transfers.<sup>585</sup>
- **United States:** There are no mandatory open offer requirements. Instead, the SEC disclosure norms, proxy voting mechanisms, and securities fraud laws

<sup>582</sup> Nishith Desai Associates, *Public M&As in India: Takeover Code Dissected*, M&A Lab, Aug. 2013, available at: [https://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Ma%20Lab/Takeover%20Code%20Dissected.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Ma%20Lab/Takeover%20Code%20Dissected.pdf).

<sup>583</sup> U.S. Securities and Exchange Commission, "Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G Beneficial Ownership Reporting," Compliance and Disclosure Interpretations, Feb. 11, 2025, available at: <https://www.sec.gov/rules-regulations/staff-guidance/compliance-disclosure-interpretations/exchange-act-sections-13d-13g-regulation-13d-g-beneficial-ownership-reporting>

<sup>584</sup> European Commission, "Transparency Requirements for Listed Companies," available at: [https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/transparency-requirements-listed-companies\\_en](https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/transparency-requirements-listed-companies_en).

<sup>585</sup> Ibid.

provide means for safeguarding shareholder rights. Here, the emphasis of the SEC is on information symmetry rather than on stipulation of buyout offers.<sup>586</sup>

- **European Union:** Under European Union Directive 2004/25/EC on Takeover Bids, any investor that acquires 30% or more of a listed company shall initiate an open offer for the remainder of the shares at an equitable price that is that the national regulators fix.<sup>587</sup>

In this aspect, the US is very different from India or the EU, by not stipulating a compulsory open offer. According to the Indian model, the shareholders of the minority are protected and have an exit route available. While the EU has a hybrid approach, with open offers, it leaves pricing to national regulators.

### C. Material Disclosures and Financial Reporting

All three jurisdictions require material disclosures and financial reporting requirements and are aimed at promoting M&A transaction transparency. The scope and enforcement, however, vary.

- **India:** SEBI LODR Regulations state that listed companies shall disclose important M&A events within 24 hours to the stock exchanges. Each financial report has to include valuation, funding structure and what it means for the shareholders.<sup>588</sup>
- **United States:** There is a requirement that companies file Form 8-K for acquisitions within four business days, pursuant to the SEC. Further, in case of a transaction that involves voting of the shareholders, acquirers submit detailed proxy statements (Schedule 14A). The US also requires much more disclosure about the earnings impacts, forecasts, and management changes.<sup>589</sup>

- **European Union:** As per the Transparency Directive and Merger Regulation, M&A transactions have to be disclosed publicly, which includes business impact assessments, competition-related issues, and financial reports in which the deal is taking place. A transaction exceeding turnover thresholds must have received approval from the European Commission and, in essence, obtain their assent before being completed.<sup>590</sup>

The US has the most extensive financial disclosure system that involves abundant documentation in earnings, projections and board decisions. India has event-based disclosures, and it pays close attention to the timely dissemination of information. The EU's financial reporting is integrated with its antitrust oversight, the making of which is distinctly competition-focused.

### D. Regulatory Oversight and Enforcement Mechanisms

M&A is subject to a regulated framework that differs between jurisdictions, where the enforcement and oversight level varies:

- **India:** SEBI enforces disclosure compliance in India through periodic audits and penalties for non-compliance. The CCI reviews whether acquisitions result in a rise in market concentration, ensuring the fairness of competition.
- **United States:** SEC Enforcement in the U.S. involves civil penalties, lawsuits and criminal sanctions. For example, the Federal Trade Commission and the Department of Justice scrutinise M&A transactions for anticompetitive concerns and pull the deals that present a threat to market competition.
- **European Union:** The European Commission uses thorough inspections to decide if large mergers can proceed, conducting economic analysis before

<sup>586</sup> Ibid.

<sup>587</sup> Ibid.

<sup>588</sup> Ibid.

<sup>589</sup> Ibid.

<sup>590</sup> Ibid.

approving a transaction. The EU holds companies responsible by charging

heavy penalties for submitting misleading information.

**VII. Comparative Summary Table**

Aspect	India (SEBI)	US (SEC)	EU (European Commission)
Initial Disclosure Threshold	5%	5%	5%, 10%, 15%, etc.
Open Offer Requirement	Mandatory at 25%	Not required	Mandatory at 30%
Financial Disclosure Timeline	24 hours	4 business days	Before transaction approval
Regulatory Scrutiny	Post-transaction	Post-transaction	Pre-transaction
Antitrust Review	CCI review	FTC/DOJ review	European Commission
Shareholder Rights	Mandatory buyout	SEC proxy voting	Regulator-determined

**Table A: Comparative Table highlighting the different disclosure requirements across three jurisdictions.**

Despite having similar objectives, these three jurisdictions enforce their business disclosure rules differently because of unique local interests. India favours minority shareholders by requiring open offers to shareholders during events and fast disclosure regulations. US market transparency relies on private actors who monitor companies through SEC disclosures and lawsuits. Before deal completion, the EU mandates firms to obtain government approval and face economic scrutiny for transactions.

**VIII. Conclusion**

The regulatory frameworks for acquisitions across India, the United States, and the European Union reflect both shared objectives and jurisdiction-specific nuances. All three regions aim to maintain fair competition, protect consumer welfare, and uphold market integrity, but the mechanisms and thresholds they use differ substantially. India’s regulatory ecosystem, led by the CCI and SEBI, emphasizes procedural transparency and growing antitrust scrutiny as its markets mature. The United

States, with its dual-agency model involving the FTC and DOJ, adopts a more litigation-driven approach, placing significant emphasis on economic analysis and market structure. In contrast, the European Union follows a centralized and structured procedure through the European Commission, marked by extensive pre-notification consultations and a strong tradition of public interest considerations.

For businesses engaging in domestic or cross-border acquisitions, it is imperative to recognize these regulatory differences and prepare for varying compliance timelines, documentation standards, and investigative intensities. Effective legal and strategic planning, combined with jurisdiction-specific expertise, can significantly reduce the risk of delays or enforcement actions. As regulatory authorities continue to evolve their approaches in response to digital markets and global consolidation trends, staying updated on policy changes and enforcement precedents is no longer optional—it is a critical aspect of responsible and forward-thinking corporate governance. Ultimately, navigating these regulatory landscapes successfully requires not just legal

knowledge but also a holistic understanding of geopolitical, economic, and market dynamics.

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