Sector specific Regulations on Mergers and Acquisitions

Course Name: Mergers and Acquisitions (23BBE735)

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Agenda

Sector-Specific Insights

Industry-specific regulatory considerations

Sector-Specific Regulatory Considerations

Banking & Financial Services

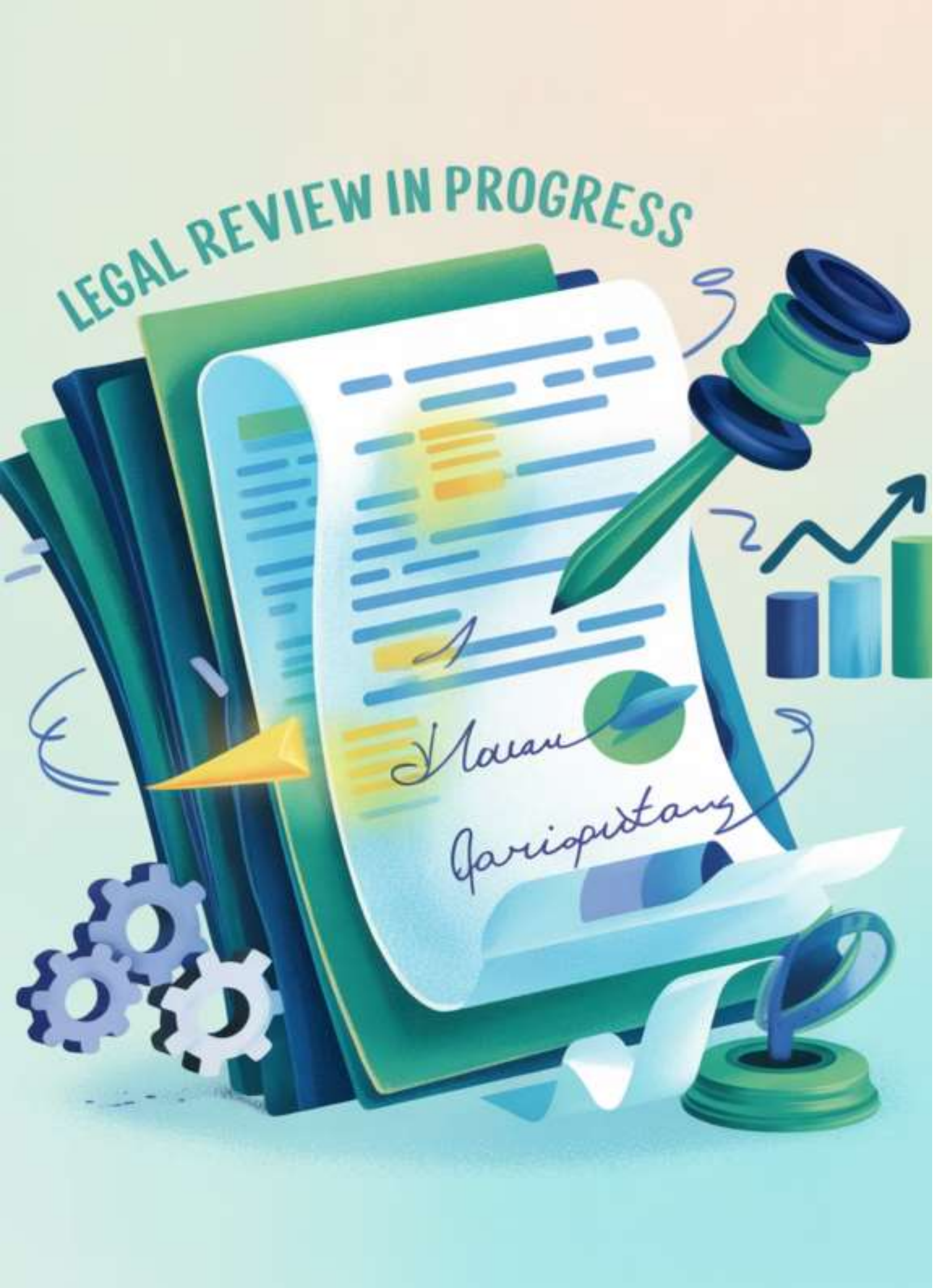
- Additional RBI approval required
- Fit and proper criteria for promoters
- Capital adequacy requirements

Pharmaceuticals

- Drug Controller General approval
- Patent considerations
- Essential medicines regulations

Telecom

- Department of Telecommunications approval
- Spectrum holding limits
- Foreign investment restrictions



Recent Regulatory Developments

2021-2022 Updates

- Streamlined disclosure requirements for scheme of arrangements
- Enhanced scrutiny of valuation reports
- Stricter norms for related party transactions

2022-2023 Updates

- New framework for processing scheme of arrangements
- Revised pricing guidelines for preferential issues
- Amendments to delisting regulations
- Enhanced corporate governance requirements

Cross-Border M&A Regulations

1

Foreign Exchange Management Act (FEMA) Compliance

Transactions involving non-resident entities require RBI approval under FEMA regulations

2

Foreign Direct Investment (FDI) Policy

Sector-specific caps and approval routes apply to foreign acquisitions of Indian companies

3

Competition Commission of India (CCI) Approval

Mandatory for transactions exceeding specified asset or turnover thresholds with India nexus

4

Tax Implications

Indirect transfer provisions and GAAR considerations for cross-border deals

Challenges in SEBI's M&A Regulation

Regulatory Overlaps

- Multiple regulators: SEBI, RBI, CCI, NCLT
- Potential for conflicting requirements
- Extended timelines for approvals

Enforcement Challenges

- Limited resources for monitoring
- Complex corporate structures
- Evolving market practices
- Cross-border jurisdiction issues

Minority Shareholder Protection

Voting Rights

Special resolution (75% majority) required for scheme of arrangement

Fair Valuation

Independent registered valuers must determine fair exchange ratio

Exit Opportunity

Mandatory open offer providing exit at fair price

Judicial Oversight

NCLT review of fairness and reasonableness of scheme

SEBI has consistently strengthened minority shareholder protection mechanisms in recent amendments

Valuation in M&A Transactions

SEBI Requirements

- Registered valuers under Companies Act
- Multiple valuation methodologies
- Detailed valuation report disclosure
- Independent fairness opinion

Common Valuation Methods

- Discounted Cash Flow (DCF)
- Comparable Companies Analysis
- Precedent Transactions
- Asset-based Valuation
- Market Price Method

Emerging Trends in M&A Regulation

Technology Integration

Digital filing systems and blockchain-based disclosure platforms to enhance transparency and efficiency

ESG Considerations

Growing emphasis on environmental, social, and governance factors in M&A approvals

Global Harmonization

Efforts to align Indian M&A regulations with international best practices

Key Takeaways

1

Comprehensive Framework

SEBI has established a robust regulatory system for M&A transactions

2

Investor Protection

Regulations prioritize minority shareholder interests and market integrity

3

Evolving Landscape

Continuous regulatory updates to address market developments and challenges

4

Multi-Regulator Approach

M&A transactions often require approvals from multiple regulatory bodies

References

Regulatory Sources

- SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011
- SEBI (LODR) Regulations, 2015
- Companies Act, 2013
- Competition Act, 2002

Business Journals & News

- Economic Times: HDFC-HDFC Bank Merger Analysis
- Business Standard: Air India Acquisition Coverage
- Financial Express: Future-Reliance Deal Reports
- Bloomberg Quint: Recent Regulatory Updates

For further information: www.sebi.gov.in | www.mca.gov.in | www.cci.gov.in