INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions ofthe authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsever for any consequences for any action taken by anyone on the basis of information in theJournal.

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur.Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India.India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time &Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020).Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi.Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.

Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANLAYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

A CRITICAL ANALYSIS OF THE LEGISLATIVE FRAMEWORK GOVERNING CROSS-BORDER MERGERS AND ACQUISITIONS IN INDIA.

AUTHORED BY - ANKITA ROY

ABSTRACT

Cross-border mergers and acquisitions (M&As) are powerful tools for driving globalization and economic growth, offering businesses opportunities to expand markets, share resources, and innovate. However, they come with challenges like layoffs, regulatory hurdles, tax complexities, and cultural clashes. In India, M&A activity has surged, especially in cross-border deals, fueled by the country's growing economy and its reputation as a global IT hub. The software sector, in particular, has been a key player in this growth, helping India regain its economic momentum.

For India to thrive as a global economic leader, cross-border M&As are essential. But their success depends on a strong legal framework that balances the needs of businesses, employees, and governments. Current laws, like the Companies Act, 2013[1], and the Foreign Exchange Management Act (FEMA)[2], 1999, provide a foundation, but gaps remain. Issues like double taxation, regulatory conflicts, and slow dispute resolution can create roadblocks.

This research explores India's legislative framework for cross-border M&As, highlighting its strengths and weaknesses. By studying real-world cases and global best practices, it aims to suggest reforms that can streamline processes, protect stakeholders, and foster growth. A clearer, more efficient legal system will not only boost India's economy but also strengthen its position in the global market.

Keywords: Cross-border mergers and acquisitions, legislative framework, globalization, economic growth, Indian software sector, regulatory challenges, taxation, Companies Act, FEMA, foreign investments.

---

[1] Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India).
[2] Foreign Exchange Management Act, 1999, No. 42, Acts of Parliament, 1999 (India).

INTRODUCTION

Cross-border mergers and acquisitions (M&As) have become a crucial strategy for corporate expansion, enabling businesses to access new markets, acquire advanced technologies, and strengthen global competitiveness. With India's increasing integration into the global economy, cross-border M&A transactions have surged, driven by economic liberalization, foreign direct investment (FDI) reforms, and the growing participation of multinational corporations. These transactions are particularly significant in sectors such as technology, pharmaceuticals, manufacturing, and financial services, contributing to economic growth through capital inflows, technology transfer, and employment generation. However, cross-border M&As also present complex legal, regulatory, and financial challenges that impact their success. India's regulatory framework for cross-border M&As is governed by various statutes, including the Companies Act, 2013, which provides structural guidelines; the Foreign Exchange Management Act (FEMA)[3], 1999, which regulates cross-border financial transactions; the Competition Act, 2002, which ensures fair market practices; and Securities and Exchange Board of India (SEBI)[4] Regulations, which oversee securities trading and investor protection. Despite regulatory progress, businesses still face hurdles such as procedural delays, jurisdictional conflicts, tax implications, and compliance burdens. Differences in legal frameworks and foreign investment policies between India and other countries further complicate these transactions. This research critically examines India's legal framework for cross-border M&As, identifying gaps, regulatory inefficiencies, and areas for improvement. By analyzing challenges and comparing India's legal structure with international best practices, the study aims to propose reforms that enhance regulatory clarity, streamline approval processes, and improve enforcement mechanisms. Strengthening India's M&A regime will foster investor confidence, attract foreign investments, and contribute to the country's long-term economic growth.

Conceptual Framework of Cross-Border Mergers and Acquisitions

Meaning of Cross-Border Mergers and Acquisitions

Cross-border mergers and acquisitions (M&As) refer to business transactions in which companies from different countries either merge to form a single entity or one company acquires another across national borders. These transactions are a key component of

[3] Supra2
[4] Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021, SEBI/LAD-NRO/GN/2021/22 (India).

globalization, allowing firms to expand their operations, access new markets, and gain competitive advantages. A cross-border merger involves the unification of two firms from different jurisdictions into one corporate entity, while a cross-border acquisition results in one company taking over another, leading to a transfer of ownership and control. Unlike domestic M&As, cross-border transactions require compliance with diverse legal, regulatory, and taxation frameworks. These transactions facilitate foreign direct investment (FDI), encourage knowledge transfer, and enhance operational efficiencies, making them essential for corporate growth and economic integration.

Types of Cross-Border Mergers and Acquisitions

Cross-border M&As can be broadly classified into inbound and outbound transactions. Inbound mergers and acquisitions occur when a foreign company acquires or merges with a domestic company, such as Walmart's acquisition of Flipkart in India. Outbound mergers and acquisitions, on the other hand, take place when a domestic company acquires or merges with a foreign entity, such as Tata Steel's acquisition of Corus. These transactions can also be categorized based on their structure. Horizontal mergers involve the combination of companies operating in the same industry to increase market share and reduce competition. Vertical mergers take place when a company merges with another in its supply chain to enhance efficiency and cost-effectiveness. Conglomerate mergers occur when firms from unrelated industries merge to diversify operations and minimize risks. Each type of cross-border M&A serves different strategic purposes, such as business expansion, technology acquisition, or financial stability.

Challenges in Cross-Border Mergers and Acquisitions

Despite their benefits, cross-border M&As present several challenges that can impact the success of a transaction. One of the most significant hurdles is regulatory complexity, as companies must navigate the diverse legal frameworks, corporate laws, foreign exchange regulations, and competition policies of different countries. Delays in regulatory approvals and compliance issues often slow down deal execution. Another major challenge is cultural and organizational integration, as differences in language, management styles, and corporate governance structures can lead to conflicts and inefficiencies. Foreign exchange risks also pose concerns, as currency fluctuations and exchange rate volatility can impact the financial viability of the transaction. Additionally, political and economic risks, including government policy

 ISSN: 2582-6433

changes, trade restrictions, and economic instability, can create uncertainties in cross-border deals. Conducting thorough due diligence and valuation is crucial to assess financial, operational, and legal risks before finalizing a transaction. Failure to address these challenges can lead to unsuccessful integrations, financial losses, or regulatory penalties.

In conclusion, while cross-border M&As offer significant growth opportunities, they also present legal, financial, and operational challenges that require careful consideration. Companies engaging in such transactions must develop strong risk mitigation strategies, conduct comprehensive due diligence, and ensure regulatory compliance to maximize the benefits of cross-border mergers and acquisitions.

Legal Framework Governing Cross-Border Mergers and Acquisitions in India

The legal framework governing cross-border mergers and acquisitions (M&As) in India is a complex interplay of multiple laws and regulations, each addressing different aspects of these transactions. The primary legislations include the Companies Act, 2013, the Foreign Exchange Management Act (FEMA), 1999, the Competition Act, 2002, and the Income Tax Act, 1961. Additionally, sector-specific regulations and the role of regulatory bodies such as the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI)[5], and the National Company Law Tribunal (NCLT) further shape the regulatory landscape. This section critically examines the key legal provisions and their implications for cross-border M&As in India.

1. **Companies Act, 2013**

   The Companies Act, 2013 is the cornerstone of corporate law in India and provides the legal framework for mergers, amalgamations, and acquisitions, including cross-border transactions. Section 234 of the Act specifically deals with cross-border mergers, allowing Indian companies to merge with foreign companies and vice versa. This provision was introduced to facilitate the ease of doing business and align Indian corporate laws with global standards.

   Under Section 234, cross-border mergers must be approved by the National Company Law Tribunal (NCLT)[6], which ensures that the merger scheme is fair and reasonable to all stakeholders, including shareholders, creditors, and employees. The process

[5] Reserve Bank of India, Master Direction on External Commercial Borrowings, Trade Credits, and Structured Obligations, RBI/2018-19/1 (India).

[6] National Company Law Tribunal Rules, 2016, Notification No. G.S.R. 534(E) (India)

involves filing a petition with the NCLT[7], obtaining approvals from the Reserve Bank of India (RBI) and other regulatory authorities, and complying with the disclosure requirements under the Act. The Companies Act also mandates that the merger scheme must be approved by a majority of shareholders and creditors, and the assets and liabilities of the merging entities must be transferred to the resulting company[8].

While Section 234 has facilitated cross-border mergers, the approval process can be time-consuming and cumbersome, often leading to delays. Additionally, the lack of clarity on certain procedural aspects, such as the treatment of foreign securities and the valuation of assets, creates challenges for companies engaging in cross-border M&As.

2. **Foreign Exchange Management Act (FEMA), 1999**

The Foreign Exchange Management Act (FEMA), 1999, regulates the inflow and outflow of foreign exchange in India and plays a crucial role in governing cross-border M&As. The RBI, as the regulatory authority under FEMA, has issued specific regulations for cross-border mergers, including the FEMA (Cross Border Merger) Regulations, 2018. These regulations provide the legal framework for inbound and outbound mergers. In an inbound merger, where a foreign company merges with an Indian company, the resulting company must comply with FEMA provisions, including the Liberalized Remittance Scheme (LRS) limits for the transfer of securities to non-residents. In an outbound merger, where an Indian company merges with a foreign company, the resulting company must adhere to the External Commercial Borrowings (ECB) guidelines and other FEMA regulations.

The FEMA regulations also address the transfer of assets and liabilities, the opening of foreign currency bank accounts, and the repatriation of funds. However, the compliance requirements under FEMA can be burdensome, particularly for small and medium-sized enterprises (SMEs) that may lack the resources to navigate the complex regulatory landscape.

3. **Competition Act, 2002**

The Competition Act, 2002, aims to promote fair competition and prevent anti-competitive practices in the market. It applies to all mergers and acquisitions, including cross-border transactions, that have or are likely to have an appreciable adverse effect on competition (AAEC) within India.

Under the Competition Act, companies engaging in cross-border M&As are required

[7] Id
[8] CS Jyoti Kholi, Company Law – Articles, Tax Guru (July 11, 2020), https://www.taxguru.in.

to notify the Competition Commission of India (CCI)[9] if the transaction exceeds certain thresholds in terms of assets or turnover. The CCI evaluates the potential impact of the merger on competition and may approve, modify, or reject the transaction based on its findings. The Act also provides for penalties in case of non-compliance with the notification requirements or for engaging in anti-competitive practices While the Competition Act provides a robust framework for merger control, the notification process can be time-consuming and costly, particularly for large transactions that require detailed economic analysis and documentation. Additionally, the lack of clarity on certain aspects, such as the treatment of joint ventures and minority acquisitions, creates challenges for companies.

4. **Securities and Exchange Board of India (SEBI) Regulations**

   The Securities and Exchange Board of India (SEBI) regulates the securities market in India and plays a crucial role in governing cross-border M&As involving listed companies. The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, govern the acquisition of shares and takeovers of listed companies, including cross-border transactions. These regulations require the acquirer to make an open offer to the shareholders of the target company if the acquisition exceeds certain thresholds. The SEBI (Delisting of Equity Shares) Regulations, 2021, govern the delisting of equity shares of listed companies, which may be required in certain cross-border M&A transactions. These regulations provide the framework for the delisting process, including the pricing of shares and the approval of shareholders[10]. While SEBI regulations provide a transparent and investor-friendly framework for cross-border M&As, the compliance requirements can be burdensome, particularly for foreign acquirers who may not be familiar with the Indian regulatory environment.

5. **Income Tax Act, 1961**

   The Income Tax Act, 1961, governs the tax implications of cross-border M&As, including the taxation of capital gains, transfer pricing, and the availability of tax benefits under the merger scheme. The Act provides for the taxation of capital gains arising from the transfer of shares or assets in cross-border M&As and requires companies to comply with transfer pricing regulations to ensure that transactions between related parties are conducted at arm's length[11]. The Income Tax Act also

---

[9] Competition Commission of India, Pre-Filing Consultation Guidance Note, https://www.cci.gov.in (last visited Oct. 10, 2023).
[10] Securities and Exchange Board of India, https://www.sebi.gov.in (last visited Oct. 10, 2023).
[11] Telecom Regulatory Authority of India, https://www.trai.gov.in (last visited Oct. 10, 2023).

 ISSN: 2582-6433

provides for certain tax benefits, such as tax-neutral mergers, where no capital gains tax is levied on the transfer of assets and liabilities in a merger. However, the tax implications of cross-border M&As can be complex, particularly in cases where the transaction involves multiple jurisdictions with different tax regimes.

6. **Other Regulatory Bodies and Industry-Specific Regulations**
   In addition to the Companies Act, FEMA, the Competition Act, and SEBI regulations, cross-border M&As in India are subject to various other regulations, including sector-specific regulations in industries such as banking, telecom, and insurance. For example, the Reserve Bank of India (RBI) regulates cross-border M&As in the banking sector, while the Telecom Regulatory Authority of India (TRAI) oversees transactions in the telecom sector. The National Company Law Tribunal (NCLT) plays a crucial role in approving cross-border mergers and ensuring compliance with the Companies Act, 2013. The NCLT also adjudicates disputes related to mergers and acquisitions, providing a legal forum for resolving conflicts between stakeholders.

Challenges and Gaps in the Indian Legal Framework

The legal framework governing cross-border mergers and acquisitions (M&As) in India, while comprehensive, is fraught with challenges and gaps that hinder the smooth execution of these transactions. These challenges stem from the complex and often overlapping regulatory landscape, inconsistencies in laws, and procedural inefficiencies. Below, we delve into the key challenges and gaps in the Indian legal framework, including regulatory hurdles and procedural delays, inconsistencies in FEMA, SEBI, and tax laws, ambiguity in enforcement mechanisms, jurisdictional conflicts and compliance burdens, and the impact on the ease of doing business in India.

Regulatory Hurdles and Procedural Delays

One of the most significant challenges in cross-border M&As in India is the regulatory hurdles and procedural delays that companies face. The approval process for cross-border mergers involves multiple regulatory authorities, including the National Company Law Tribunal (NCLT), the Reserve Bank of India (RBI), the Competition Commission of India (CCI), and the Securities and Exchange Board of India (SEBI). Each of these authorities has its own set of requirements and procedures, which can lead to delays in obtaining approvals. For instance, under the Companies Act, 2013, cross-border mergers require approval from the NCLT, which involves filing a petition, obtaining shareholder and creditor approvals, and complying with disclosure requirements. Similarly, under the Competition Act, 2002, companies must notify the CCI if the transaction exceeds certain thresholds, which can involve a lengthy review process. These regulatory hurdles not only increase the time and cost of completing a transaction but also create uncertainty for companies, particularly foreign investors who may be unfamiliar with the Indian regulatory environment[12].

Inconsistencies in FEMA, SEBI, and Tax Laws

Another major challenge in the Indian legal framework is the inconsistencies between FEMA, SEBI, and tax laws. The Foreign Exchange Management Act (FEMA), 1999, governs the inflow and outflow of foreign exchange, while the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, regulate the acquisition of shares in listed companies. The Income Tax Act, 1961, governs the tax implications of cross-border M&As, including the taxation of capital gains and transfer pricing. However, these laws often have conflicting provisions, which create compliance challenges for companies. For example, the FEMA regulations may require the transfer of securities to non-residents to comply with the Liberalized Remittance Scheme (LRS) limits, while the SEBI[13] regulations may impose additional requirements for the acquisition of shares in listed companies. Similarly, the tax implications of a cross-border merger under the Income Tax Act may not align with the provisions of the Companies Act or FEMA, leading to additional complexities.

These inconsistencies not only increase the compliance burden on companies but also create uncertainty, as companies may be unsure of how to comply with the conflicting provisions of different laws. This lack of harmonization between FEMA, SEBI, and tax laws is a significant gap in the Indian legal framework that needs to be addressed.

Ambiguity in Enforcement Mechanisms

The ambiguity in enforcement mechanisms is another challenge in the Indian legal framework. While the laws governing cross-border M&As provide for penalties in case of non-compliance, the enforcement of these penalties is often inconsistent and unclear. For instance, the penalties

[12] Lalit Mathur, Introduction to Cross-Border Mergers and Acquisitions, LinkedIn (Aug. 11, 2020), https://www.linkedin.com.
[13] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, SEBI/LAD-NRO/GN/2011-12/03/3730 (India).

for non-compliance with the Competition Act, 2002, or the FEMA regulations are not always clearly defined, and the enforcement of these penalties may vary depending on the regulatory authority. This ambiguity creates uncertainty for companies, as they may be unsure of the consequences of non-compliance. Moreover, the lack of clear enforcement mechanisms undermines the effectiveness of the regulatory framework, as companies may be less likely to comply with the laws if they believe that non-compliance penalties are not consistently enforced.

Jurisdictional Conflicts and Compliance Burdens

Cross-border M&As often involve multiple jurisdictions, which can lead to jurisdictional conflicts and compliance burdens. Companies must navigate the legal and regulatory requirements of both the home and host countries, which can be challenging, particularly in cases where the laws of the two countries conflict. For example, a cross-border merger involving an Indian company and a foreign company may be subject to the laws of both India and the foreign jurisdiction. This can create compliance challenges, as the company must ensure that the transaction complies with the laws of both jurisdictions. Additionally, the lack of harmonization between the laws of different jurisdictions can lead to conflicts, particularly in areas such as taxation, competition, and foreign exchange.

These jurisdictional conflicts and compliance burdens not only increase the complexity of cross-border M&As but also create additional costs for companies, as they may need to engage legal and financial advisors to navigate the regulatory requirements of multiple jurisdictions.

Impact on Ease of Doing Business in India

The challenges and gaps in the Indian legal framework have a significant impact on the ease of doing business in India. According to the World Bank's Ease of Doing Business Index, India ranks 63rd out of 190 countries, indicating that there is still room for improvement in the regulatory environment. The complex and often overlapping regulatory framework for cross-border M&As is a major factor contributing to India's relatively low ranking. The regulatory hurdles, inconsistencies in laws, ambiguity in enforcement mechanisms, and jurisdictional conflicts create a challenging environment for companies, particularly foreign investors who may be unfamiliar with the Indian regulatory landscape.

 ISSN: 2582-6433

These challenges not only deter foreign investment but also hinder the growth of domestic companies, as they may face difficulties expanding their global footprint through cross-border M&As. Addressing the challenges and gaps in the legal framework governing cross-border M&As is essential to improving the ease of doing business in India.

Recommendations for Legal Reforms

To address the challenges and gaps in the Indian legal framework governing cross-border mergers and acquisitions (M&As), a series of legal and regulatory reforms are essential, focusing on streamlining regulatory approvals, harmonizing corporate, tax, and competition laws, strengthening institutional capacity and enforcement mechanisms, and encouraging foreign investments through policy clarity. First, the government should establish a single-window clearance system to simplify the approval process, reducing the regulatory burden on companies and expediting decisions, while introducing clear timelines for approvals under the Companies Act, 2013, and the Competition Act, 2002, to avoid overlapping requirements and redundant documentation. Second, there is a need to harmonize the provisions of the Companies Act, 2013, the Income Tax Act, 1961, and the Competition Act, 2002, ensuring that tax implications, notification requirements, and compliance procedures align across these laws, thereby reducing ambiguities and creating a more cohesive regulatory framework. Third, the government should strengthen the capacity of regulatory authorities such as the National Company Law Tribunal (NCLT), the Reserve Bank of India (RBI), and the Competition Commission of India (CCI), by providing additional resources, training, and technological support, while introducing clear and consistent enforcement mechanisms to ensure penalties for non-compliance are consistently applied, enhancing the predictability of the regulatory environment. Fourth, to attract more foreign investments, the government should provide clear and consistent policies for cross-border M&As, issuing guidelines and FAQs on regulatory requirements under FEMA[14], SEBI, and the Income Tax Act, and introducing tax incentives such as exemptions from capital gains tax or reduced withholding tax rates to encourage foreign investors. By implementing these reforms streamlining approvals, harmonizing laws, strengthening institutions, and offering policy clarity in India can create a more investor-friendly environment, reduce compliance burdens, attract foreign investments, and facilitate smoother cross-border M&A transactions, ultimately driving economic growth and development.

[14] Foreign Exchange Management (Cross Border Merger) Regulations, 2018, Notification No. FEMA 389/2018-RB (India).

 ISSN: 2582-6433

CONCLUSION

In summary, the regulation of mergers and acquisitions (M&As) in India has evolved significantly over time, beginning with indirect references in the Companies Act and the MRTP Act, and advancing to a more robust framework post-globalization to address the complexities of cross-border transactions. The primary goal of merger regulation is to safeguard public interest by preventing the creation of dominant market positions that could harm consumers and competitors. The Competition Commission of India (CCI) plays a pivotal role in regulating mergers, ensuring compliance with the Competition Act, 2002, and addressing irregularities through mechanisms like pre-filing consultations and case team assistance. Despite these advancements, challenges remain, particularly in cross-border M&As, where regulatory complexities, jurisdictional conflicts, and inconsistencies in laws such as the Companies Act, 2013, FEMA, 1999, and the Income Tax Act, 1961, create hurdles for businesses[15]. Looking ahead, the future of cross-border M&As in India appears promising, driven by the country's growing economy, liberalized policies, and increasing integration into global markets. However, to fully realize this potential, India must address existing gaps by streamlining regulatory approvals, harmonizing laws, and strengthening enforcement mechanisms. By fostering a more investor-friendly environment and ensuring policy clarity, India can attract greater foreign investments, facilitate smoother cross-border transactions, and continue to safeguard public interest while promoting healthy competition in the market. As cross-border legislation is still in its nascent stages, practical challenges will inevitably arise, but with proactive reforms and adaptive regulatory frameworks, India can position itself as a preferred destination for global M&A activities, driving economic growth and innovation in the years to come.

[15] Jesal Shethna, Cross Border Mergers and Acquisitions, EduCBA, https://www.educba.com.