



Introduction to Mergers & Amalgamations

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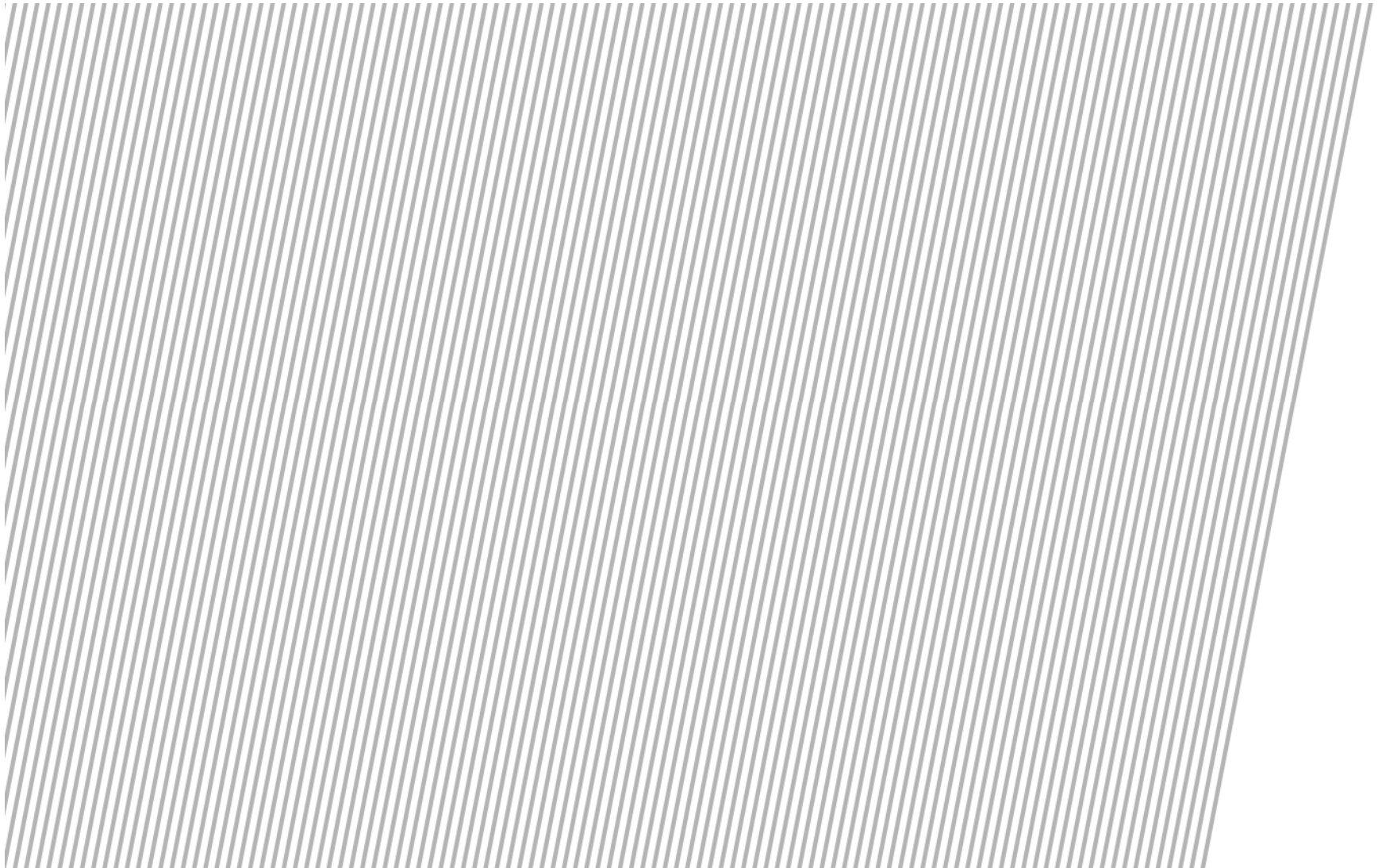
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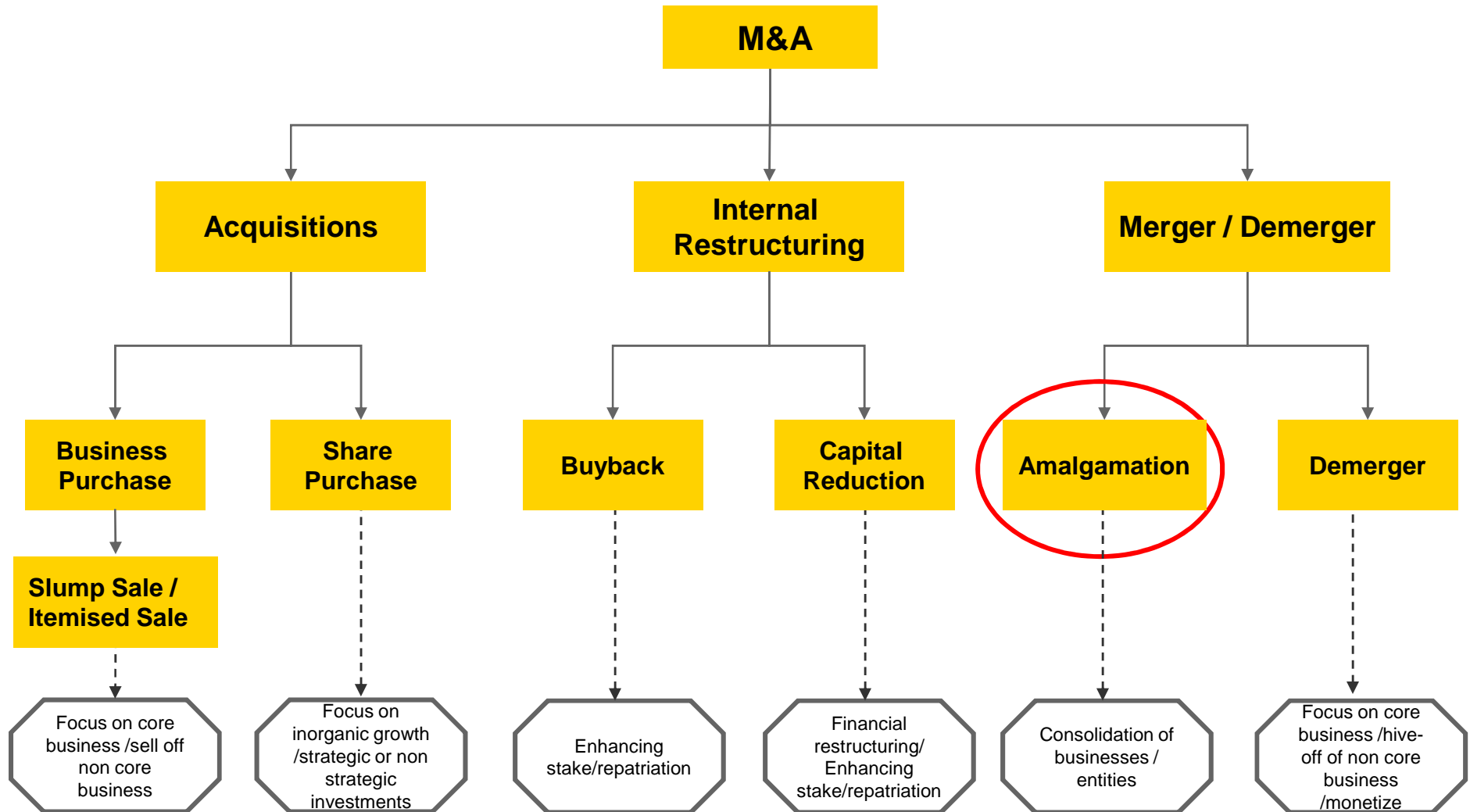
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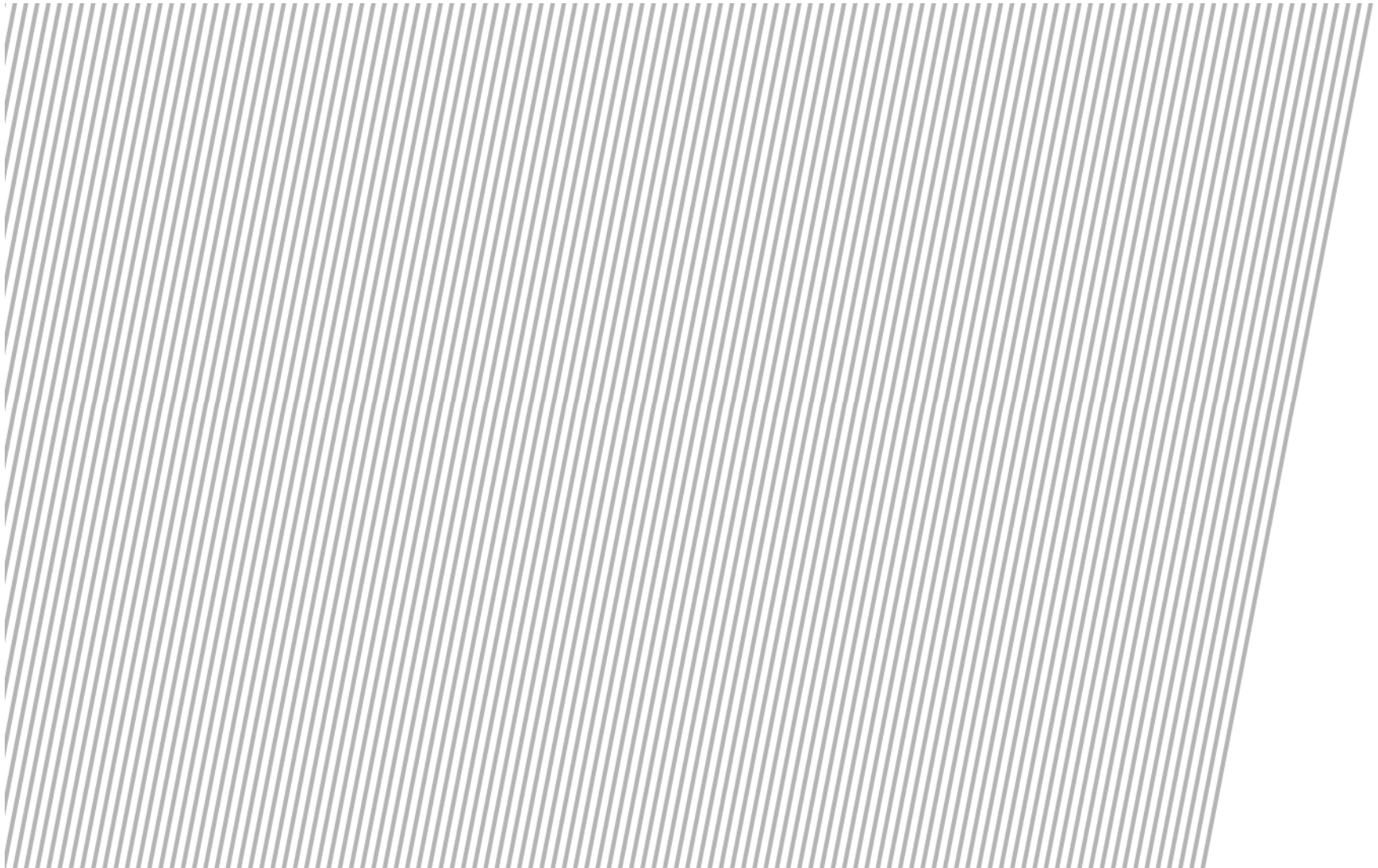
Modes of M&A in India



Overview - Modes of M&A in India



Merger / Amalgamation - Basic concept



What do you mean by merger / amalgamation?

- ▶ Merger refers to consolidation of two or more entities
- ▶ Involves transfer of assets and liabilities from one or more transferor companies to a transferee company
- ▶ In consideration, typically the transferee company issues shares to the shareholders of transferor company
 - ▶ Consideration could be in any “form” – However, considering tax neutrality conditions the same is discharged by way of issue of shares

Key difference between “Merger” and “Amalgamation” in India

Merger – “combination of two or more enterprises whereby the assets and liabilities of one are vested in the other, with the effect that the former enterprise loses its identity”

Amalgamation – “combination of two corporate entities where the assets and liabilities of both are vested in a third entity, with the effect that both former entities lose their identities to form a new entity”

Terms merger and amalgamation appear synonymous, there is a difference between two – All amalgamations are necessarily merger, but all mergers may not necessarily be amalgamation

Types of Merger / Amalgamation

- ▶ Cogeneric mergers
 - ▶ Mergers takes place between companies operating in same industry
 - ▶ Further classified into:
 - ▶ Horizontal merger – Merger take place between companies engaged in same business activities
 - ▶ Vertical merger – Merger take place between companies which are engaged in different functions within same business activities
- ▶ Conglomerate mergers
 - ▶ Merger takes place between companies operating in different industry
- ▶ Other type of mergers
 - ▶ Up-stream merger – Subsidiary company is merged with its Parent company
 - ▶ Down-stream merger – Parent company is merged with its Subsidiary company
 - ▶ Reverse merger – Sound financial company is merged with loss making company or unlisted company is merged with listed company to get automatic listing

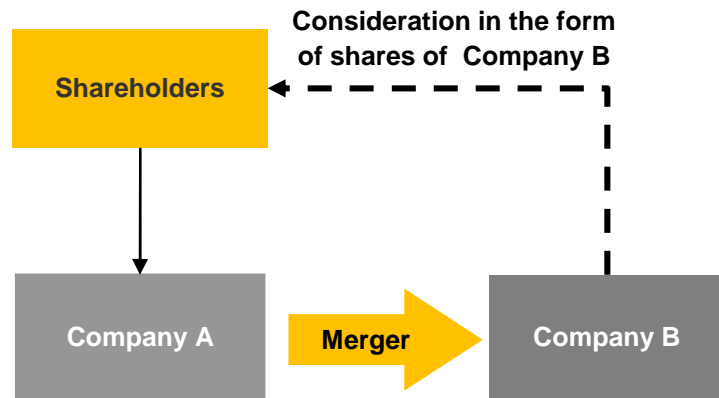
Merger / Amalgamation – Key drivers

- ▶ Acquisitions
- ▶ Consolidation of operations – to exploit synergy
- ▶ Develop focused brand image/ stronger market standing through single flagship entity
- ▶ Takeover of sick company
- ▶ Consolidation of Promoter holdings

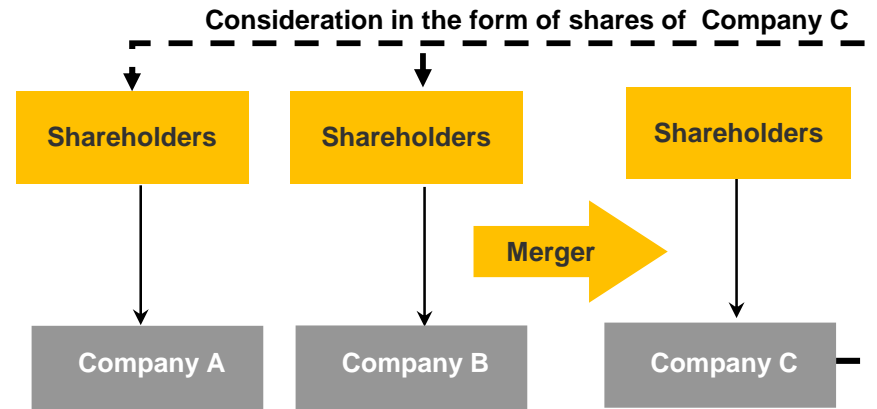


- ▶ Tax savings
- ▶ Fund constraint
- ▶ Eliminate multiple layers of holding
- ▶ Eliminate no. of companies in group
- ▶ Balance sheet right sizing
- ▶ Automatic listing of Co – Reverse Merger
- ▶ SEBI TOC compliance

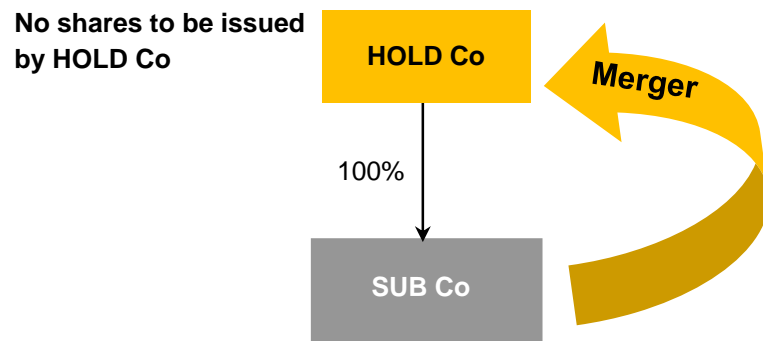
Domestic merger / amalgamation situations



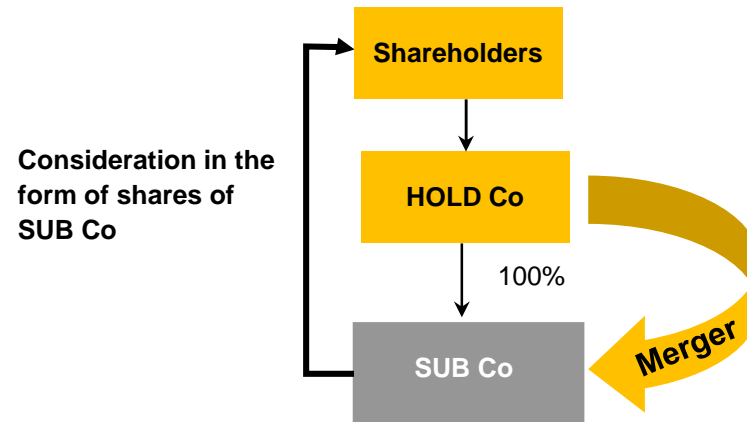
Merger of Company A with Company B



Merger of Companies A & B with Company C



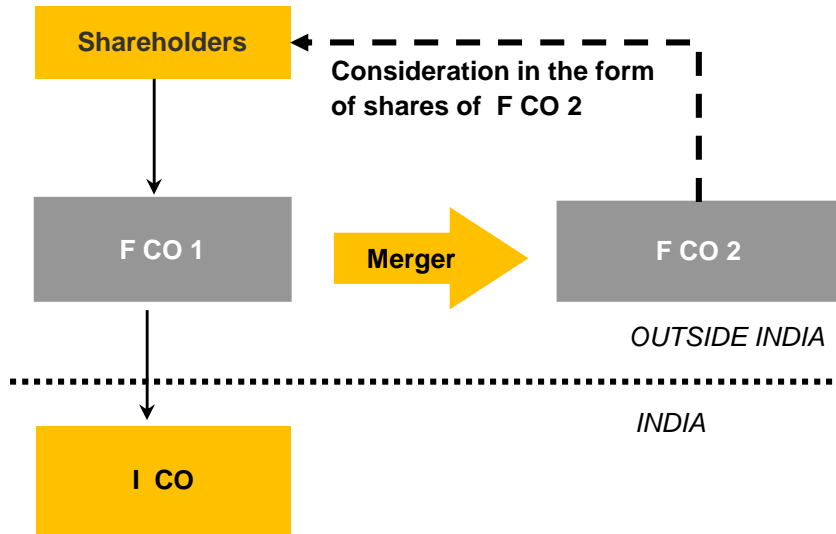
Merger of SUB Co with HOLD Co



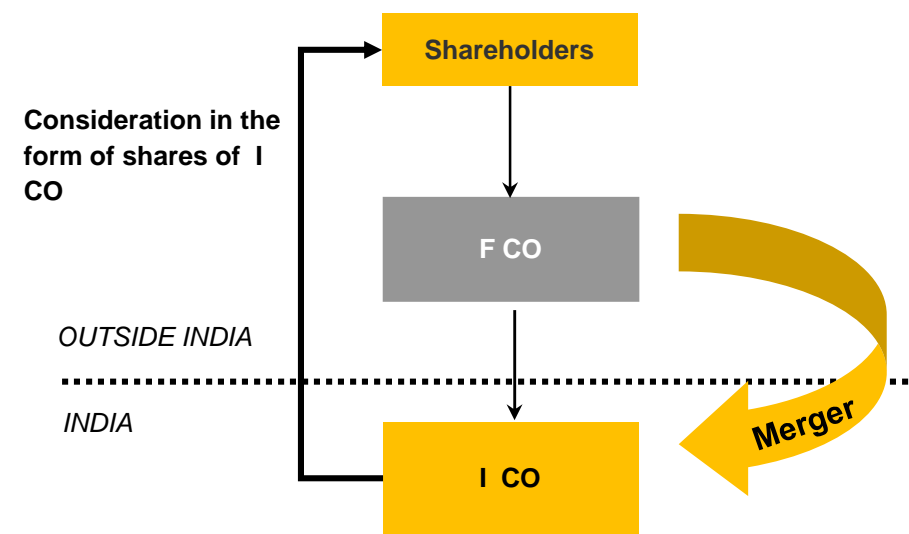
Merger of HOLD Co with SUB Co

Cross border merger situations

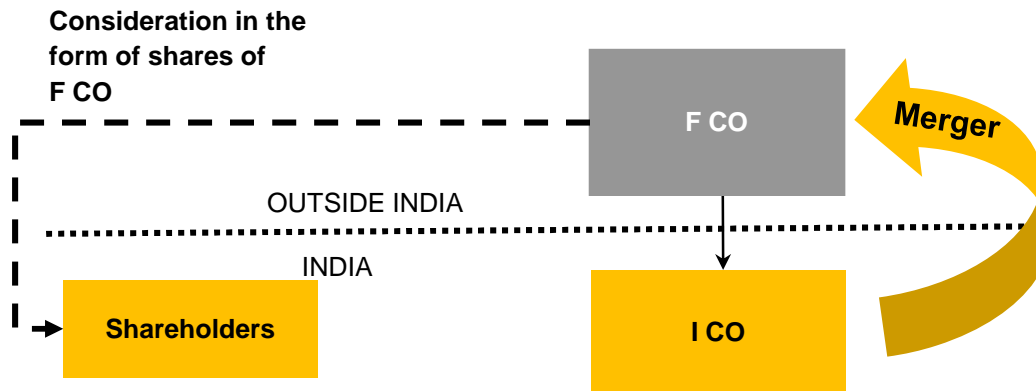
Merger of F CO 1 (holding I CO) with F CO 2



Merger of F CO with I CO



Merger of I CO with F CO



~~Extant company law provisions do not allow this form of merger *~~

**However Companies Bill 2012 proposes to allow such mergers subject to certain approvals*

Key regulatory reactions on mergers

Income tax

- ▶ Tax neutrality
- ▶ Availability of tax exemptions
- ▶ Transfer of tax credits
- ▶ Step up in tax basis

Companies Act

- ▶ High Court approval
- ▶ Approval of shareholders and creditors
- ▶ Post implementation procedures

Stamp duty

- ▶ Valuation of shares
- ▶ Indian Stamp Act vs. State Stamp Act
- ▶ Valuation of immovable property
- ▶ Set-off of stamp duty

SEBI & Stock exchange

- ▶ Listing of shares / New Co
- ▶ Stock exchange approvals
- ▶ Take over code implications
- ▶ Filing compliances

Key regulations

Exchange control

- ▶ Issue of shares to non resident on merger
- ▶ FDI / RBI – Approval / automatic route

Cross border

- ▶ Host jurisdiction compliances
- ▶ Tax implications in host jurisdiction

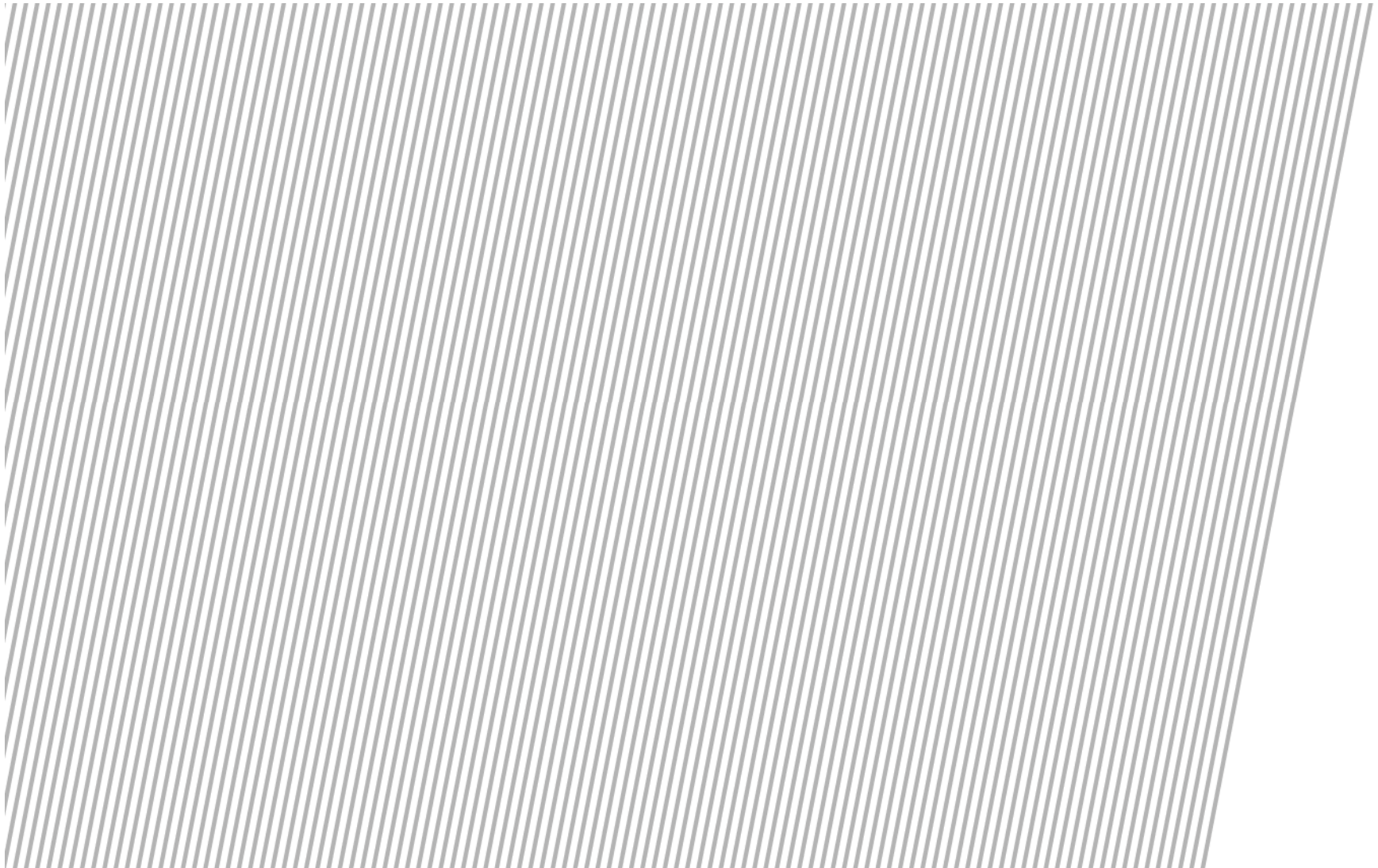
Accounting

- ▶ Method of accounting
 - ▶ Pooling of interest
 - ▶ Purchase method
- ▶ Expense accounting
- ▶ Cancellation of investment

Other regulations

- ▶ Competition Act
- ▶ Indirect tax
- ▶ Accounting
- ▶ Industry specific law

Glossary



Glossary

AIM	Alternative Investment Market
Co	Company
DDT	Dividend Distribution Tax
FDI	Foreign Direct Investment
LSE	London Stock Exchange
M&A	Merger & Amalgamation
NBFC	Non Banking Financial Company
PE	Private Equity
RBI	Reserve Bank of India
SEBI	Securities and Exchange Board of India
TOC	Takeover Code

Thank You

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