

Directive (EU) 2017/1132 of the European Parliament and  
of the Council of 14 June 2017 relating to certain aspects  
of company law (codification) (Text with EEA relevance)

TITLE II

[<sup>F1</sup>CONVERSIONS, MERGERS AND DIVISIONS  
OF LIMITED LIABILITY COMPANIES]

CHAPTER I

*Mergers of public limited liability companies*

Section 2

*Merger by acquisition*

Article 108

**Conditions for nullity of a merger**

- 1 The laws of the Member States may lay down nullity rules for mergers in accordance with the following conditions only:
- a nullity is to be ordered in a court judgment;
  - b mergers which have taken effect pursuant to Article 103 may be declared void only if there has been no judicial or administrative preventive supervision of their legality, or if they have not been drawn up and certified in due legal form, or if it is shown that the decision of the general meeting is void or voidable under national law;
  - c nullification proceedings may not be initiated more than six months after the date on which the merger becomes effective as against the person alleging nullity or where the situation has been rectified;
  - d where it is possible to remedy a defect liable to render a merger void, the competent court is to grant the companies involved a period of time within which to rectify the situation;
  - e a judgment declaring a merger void is to be published in the manner prescribed by the laws of each Member State in accordance with Article 16;
  - f where the laws of a Member State permit a third party to challenge such a judgment, that party may only do so within six months of publication of the judgment in the manner prescribed by Section 1 of Chapter III of Title I;
  - g a judgment declaring a merger void does not of itself affect the validity of obligations owed by or in relation to the acquiring company which arose before the judgment was published and after the date on which the merger takes effect; and
  - h companies which have been parties to a merger are jointly and severally liable in respect of the obligations of the acquiring company referred to in point (g).

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2 By way of derogation from point (a) of paragraph 1, the laws of a Member State may also provide for the nullity of a merger to be ordered by an administrative authority if an appeal against such a decision lies to a court. Point (b) and points (d) to (h) of paragraph 1 shall apply by analogy to the administrative authority. Such nullification proceedings may not be initiated more than six months after the date on which the merger takes effect.

3 The laws of the Member States on the nullity of a merger pronounced following any supervision other than judicial or administrative preventive supervision of legality shall not be affected.