

Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (Text with EEA relevance)

CHAPTER VI

MERGERS OF UCITS

SECTION 3

Costs and entry into effect

Article 46

Except in cases where UCITS have not designated a management company, Member States shall ensure that any legal, advisory or administrative costs associated with the preparation and the completion of the merger shall not be charged to the merging or the receiving UCITS, or to any of their unit-holders.

Article 47

1 For domestic mergers, the laws of the Member States shall determine the date on which a merger takes effect as well as the date for calculating the exchange ratio of units of the merging UCITS into units of the receiving UCITS and, where applicable, for determining the relevant net asset value for cash payments.

For cross-border mergers, the laws of the receiving UCITS home Member State shall determine those dates. Member States shall ensure that, where applicable, those dates are after the approval of the merger by unit-holders of the receiving UCITS or the merging UCITS.

2 The entry into effect of the merger shall be made public through all appropriate means in the manner prescribed by the laws of the receiving UCITS home Member State, and shall be notified to the competent authorities of the home Member States of the receiving and the merging UCITS.

3 A merger which has taken effect as provided for in paragraph 1 shall not be declared null and void.

Article 48

1 A merger effected in accordance with point (p)(i) of Article 2(1) shall have the following consequences:

- a all the assets and liabilities of the merging UCITS are transferred to the receiving UCITS or, where applicable, to the depositary of the receiving UCITS;
- b the unit-holders of the merging UCITS become unit-holders of the receiving UCITS and, where applicable, they are entitled to a cash payment not exceeding 10 % of the net asset value of their units in the merging UCITS; and
- c the merging UCITS cease to exist on the entry into effect of the merger.

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2 A merger effected in accordance with point (p)(ii) of Article 2(1) shall have the following consequences:

- a all the assets and liabilities of the merging UCITS are transferred to the newly constituted receiving UCITS or, where applicable, to the depositary of the receiving UCITS;
- b the unit-holders of the merging UCITS become unit-holders of the newly constituted receiving UCITS and, where applicable, they are entitled to a cash payment not exceeding 10 % of the net asset value of their units in the merging UCITS; and
- c the merging UCITS cease to exist on the entry into effect of the merger.

3 A merger effected in accordance with point (p)(iii) of Article 2(1) shall have the following consequences:

- a the net assets of the merging UCITS are transferred to the receiving UCITS or, where applicable, the depositary of the receiving UCITS;
- b the unit-holders of the merging UCITS become unit-holders of the receiving UCITS; and
- c the merging UCITS continues to exist until the liabilities have been discharged.

4 Member States shall provide for the establishment of a procedure whereby the management company of the receiving UCITS confirms to the depositary of the receiving UCITS that transfer of assets and, where applicable, liabilities is complete. Where the receiving UCITS has not designated a management company, it shall give that confirmation to the depositary of the receiving UCITS.