

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

[^{F1}CONVERSIONS, MERGERS AND DIVISIONS
OF LIMITED LIABILITY COMPANIES]

[^{F1}CHAPTER IV

Cross-border divisions of limited liability companies

[^{F1}Article 160i

Protection of members

1 Member States shall ensure that at least the members of a company being divided who voted against the approval of the draft terms of the cross-border division have the right to dispose of their shares for adequate cash compensation, under the conditions laid down in paragraphs 2 to 6, provided that, as a result of the cross-border division, they would acquire shares in the recipient companies which would be governed by the law of a Member State other than the Member State of the company being divided.

Member States may also provide for other members of the company being divided to have the right referred to in the first subparagraph.

Member States may require that express opposition to the draft terms of the cross-border division, the intention of members to exercise their right to dispose of their shares, or both, be appropriately documented at the latest at the general meeting referred to in Article 160h. Member States may allow the recording of opposition to the draft terms of the cross-border division to be considered proper documentation of a negative vote.

2 Member States shall establish the period within which the members referred to in paragraph 1 have to declare to the company being divided their decision to exercise the right to dispose of their shares. That period shall not exceed one month after the general meeting referred to in Article 160h. Member States shall ensure that the company being divided provides an electronic address for receiving that declaration electronically.

3 Member States shall further establish the period within which the cash compensation specified in the draft terms of the cross-border division is to be paid. That period shall not end later than two months after the cross-border division takes effect in accordance with Article 160q.

4 Member States shall ensure that any members who have declared their decision to exercise the right to dispose of their shares, but who consider that the cash compensation offered by the company being divided has not been adequately set, are entitled to claim additional cash compensation before the competent authority or body mandated under national law. Member States shall establish a time limit for the claim for additional cash compensation.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Member States may provide that the final decision to provide additional cash compensation is valid for all members of the company being divided who have declared their decision to exercise the right to dispose of their shares in accordance with paragraph 2.

5 Member States shall ensure that the law of the Member State of a company being divided governs the rights referred to in paragraphs 1 to 4 and that the exclusive competence to resolve any disputes relating to those rights lies within the jurisdiction of that Member State.

6 Member States shall ensure that members of the company being divided who did not have or did not exercise the right to dispose of their shares, but who consider that the share-exchange ratio set out in the draft terms of the cross-border division is inadequate, may dispute that ratio and claim a cash payment. Proceedings in that regard shall be initiated before the competent authority or body mandated under the law of the Member State to which the company being divided is subject, within the time limit laid down in that national law and such proceedings shall not prevent the registration of the cross-border division. The decision shall be binding on the recipient companies and, in the event of a partial division, also on the company being divided.

7 Member States may also provide that the recipient company concerned and, in the event of a partial division, also the company being divided, can provide shares or other compensation instead of a cash payment.]

Textual Amendments

- F1** Inserted by [Directive \(EU\) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive \(EU\) 2017/1132 as regards cross-border conversions, mergers and divisions \(Text with EEA relevance\)](#).