

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]

[<sup>F1</sup>CHAPTER IV

*Cross-border divisions of limited liability companies*

[<sup>F1</sup>Article 160j

**Protection of creditors**

1 Member States shall provide for an adequate system of protection of the interests of creditors whose claims antedate the disclosure of the draft terms of the cross-border division and have not fallen due at the time of such disclosure.

Member States shall ensure that creditors who are dissatisfied with the safeguards offered in the draft terms of the cross-border division, as provided for in point (q) of Article 160d, may apply, within three months of the disclosure of the draft terms of cross-border division referred to in Article 160g, to the appropriate administrative or judicial authority for adequate safeguards, provided that such creditors can credibly demonstrate that, due to the cross-border division, the satisfaction of their claims is at stake and that they have not obtained adequate safeguards from the company.

Member States shall ensure that the safeguards are conditional on the cross-border division taking effect in accordance with Article 160q.

2 Where a creditor of the company being divided does not obtain satisfaction from the company to which the liability is allocated, the other recipient companies, and in the case of a partial division or a division by separation, the company being divided, shall be jointly and severally liable with the company to which the liability is allocated for that obligation. However, the maximum amount of joint and several liability of any company involved in the division shall be limited to the value, at the date on which the division takes effect, of the net assets allocated to that company.

3 Member States may require that the administrative or management body of the company being divided provide a declaration that accurately reflects its current financial status at a date no earlier than one month before the disclosure of that declaration. The declaration shall state that, on the basis of the information available to the administrative or management body of the company being divided at the date of that declaration, and after having made reasonable enquiries, that administrative or management body is unaware of any reason why any recipient company and, in the case of a partial division, the company being divided, would, after the division takes effect, be unable to meet the liabilities allocated to them under the draft terms

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of the cross-border division when those liabilities fall due. The declaration shall be disclosed together with the draft terms of the cross-border division in accordance with Article 160g.

4 Paragraphs 1, 2 and 3 shall be without prejudice to the application of the law of the Member State of the company being divided concerning the satisfaction or securing of pecuniary or non-pecuniary obligations due to public bodies.]

#### **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 \(Text with EEA relevance\)](#).