

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 I

GENERAL PROVISIONS AND THE ESTABLISHMENT AND FUNCTIONING OF LIMITED LIABILITY COMPANIES

CHAPTER IV

Capital maintenance and alteration

Section 4

Rules on companies' acquisitions of their own shares

Article 61

Derogation from rules on acquisition of own shares

- 1 Member States may decide not to apply Article 60 to:
 - a shares acquired in carrying out a decision to reduce capital, or in the circumstances referred to in Article 82;
 - b shares acquired as a result of a universal transfer of assets;
 - c fully paid-up shares acquired free of charge or by banks and other financial institutions as purchasing commission;
 - d shares acquired by virtue of a legal obligation or resulting from a court ruling for the protection of minority shareholders in the event, particularly, of a merger, a change in the company's object or form, transfer abroad of the registered office, or the introduction of restrictions on the transfer of shares;
 - e shares acquired from a shareholder in the event of failure to pay them up;
 - f shares acquired in order to indemnify minority shareholders in associated companies;
 - g fully paid-up shares acquired under a sale enforced by a court order for the payment of a debt owed to the company by the owner of the shares; and
 - h fully paid-up shares issued by an investment company with fixed capital, as defined in the second subparagraph of Article 56(7), and acquired at the investor's request by that company or by an associate company. Point (a) of the third subparagraph of Article 56(7) shall apply. Such acquisitions may not have the effect of reducing the net assets below the amount of the subscribed capital plus any reserves the distribution of which is forbidden by law.
- 2 Shares acquired in the cases listed in points (b) to (g) of paragraph 1 shall, however, be disposed of within not more than three years of their acquisition unless the nominal value or, in the absence of a nominal value, the accountable par of the shares acquired, including shares

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which the company may have acquired through a person acting in his own name but on the company's behalf, does not exceed 10 % of the subscribed capital.

3 If the shares are not disposed of within the period laid down in paragraph 2, they shall be cancelled. The laws of a Member State may make this cancellation subject to a corresponding reduction in the subscribed capital. Such a reduction shall be prescribed where the acquisition of shares to be cancelled results in the net assets having fallen below the amount specified in Article 56(1) and (2).