

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 5

Rules for the increase and reduction of capital

Article 79

Reduction in the subscribed capital by compulsory withdrawal of shares

1 Where the laws of a Member State allow companies to reduce their subscribed capital by compulsory withdrawal of shares, they shall require that at least the following conditions are observed:

- a compulsory withdrawal must be prescribed or authorised by the statutes or instrument of incorporation before the shares which are to be withdrawn are subscribed for;
- b where the compulsory withdrawal is authorised merely by the statutes or instrument of incorporation, it shall be decided upon by the general meeting unless it has been unanimously approved by the shareholders concerned;
- c the company body deciding on the compulsory withdrawal shall fix the terms and manner thereof, where they have not already been fixed by the statutes or instrument of incorporation;
- d Article 75 shall apply except in the case of fully paid-up shares which are made available to the company free of charge or are withdrawn using sums available for distribution in accordance with Article 56(1) to (4); in these cases, an amount equal to the nominal value or, in the absence thereof, to the accountable par of all the withdrawn shares must be included in a reserve; except in the event of a reduction in the subscribed capital, this reserve may not be distributed to shareholders; it can be used only for offsetting losses incurred or for increasing the subscribed capital by the capitalisation of such reserve, in so far as Member States permit such an operation; and
- e the decision on compulsory withdrawal shall be published in the manner laid down by the laws of each Member State in accordance with Article 16.

2 The first paragraph of Article 73 and Articles 74, 76 and 83 shall not apply to the cases to which paragraph 1 of this Article refers.