

## Common draft terms of merger

1131. (1) Where a merger is proposed to be entered into, the directors of the merging companies shall draw up common draft terms of the merger in writing and approve those terms in writing.

(2) The common draft terms of merger shall state, at least—

(a) the name and registered office of each of the merging companies;

(b) as to each of the merging companies, whether it is a PLC, another type of company as defined in section 2 (1) or a body corporate to which section 1312 (1) relates;

(c) save in the case of a merger by absorption, the proposed share exchange ratio and the amount of any cash payment;

(d) save in the case of a merger by absorption, the proposed terms relating to allotment of shares in the successor company;

(e) save in the case of a merger by absorption, the date from which holders of such shares will become entitled to participate in the profits of the successor company;

(f) the date from which the transactions of the company or companies being acquired are to be treated for accounting purposes as being those of the successor company;

(g) any special conditions, including special rights or restrictions, whether in regard to voting, participation in profits, share capital or otherwise, which will apply to shares issued by the successor company in exchange for shares in the company or companies being acquired;

(h) any payment or benefit in cash or otherwise, paid or given or intended to be paid or given to any expert referred to in section 1133 and to any director of any of the merging companies in so far as it differs from the payment or benefit paid or given to other persons in respect of the merger and the consideration, if any, for any such payment or benefit.

(3) The common draft terms of merger shall not provide for any shares in the successor company to be exchanged for shares in a company being acquired that are held either—

(a) by the successor company itself or its nominee on its behalf; or

(b) by the company being acquired itself or its nominee on its behalf.

(4) Where the merger is a merger by formation of a new company the common draft terms of merger shall include or be accompanied by the constitution or draft constitution of the new company.

(5) The common draft terms of merger, as approved under subsection (1), shall be signed, on the same date, on behalf of each of the merging companies by 2 directors of each such company (or, in the case of each of one or more of them having a sole director, by the sole director); the common draft terms shall bear the date of such signing.

(6) That date shall, for the purposes of this Chapter, be the date of the common draft terms of merger.