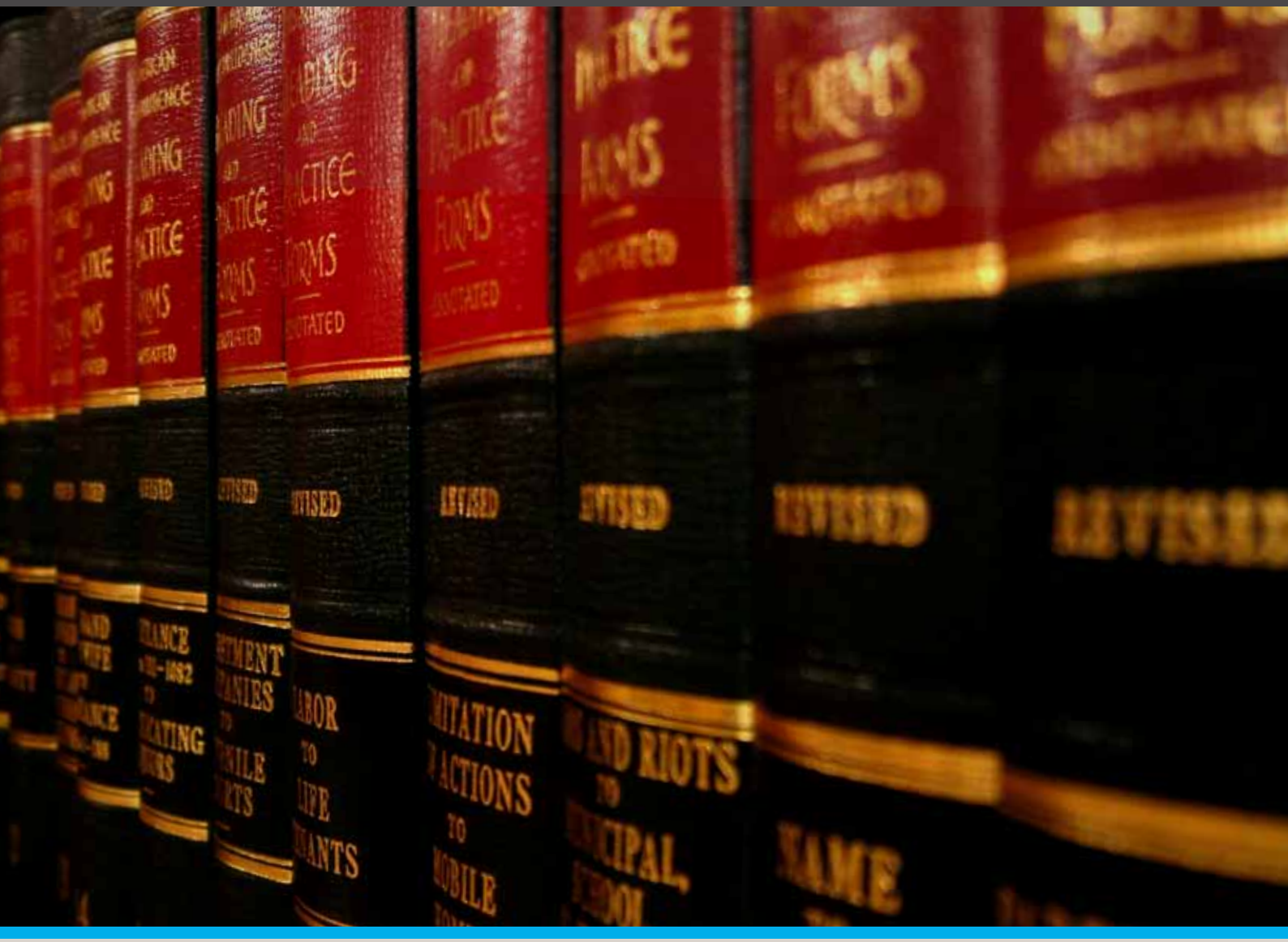
Comparison of minority shareholders' rights under Swedish and Swiss law



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CAVOTEC
Inspired Engineering

Cavotec SA ("**Cavotec**") is a limited liability company incorporated under the laws of Switzerland. According to Section 3.1.6 of the Nasdaq Stockholm Rule book for Issuers, a company with its shares listed on the main market of Nasdaq Stockholm, but domiciled outside the EEA, shall on its website publish a general description of the main differences in minority shareholders' rights between the company's place of domicile and Sweden. As regards Sweden, the below comparison is based, unless otherwise set forth below, on the minority shareholders' rights that follow from the Swedish Companies Act (Sw. *aktiebolagslag*) in respect of Swedish limited liability companies (Sw. *aktiebolag*) listed on the main market of Nasdaq Stockholm. Regarding Swiss law, this comparison is based, unless otherwise set forth below, on the minority shareholders' rights that follow from the Swiss Code of Obligations. The below summary shall, however, not be relied upon as an exhaustive list or a complete description of the relevant provisions and does not replace specific legal advice.

1. Minority shareholders' rights

1.1 Swedish law

Under Swedish law, the general meeting, the board of directors and the managing director of the company may not adopt any resolutions or undertake any other measures which would give an undue advantage to a shareholder or other person to the disadvantage of the company or another shareholder. In addition, under Swedish law, the general meeting, the board of directors and the managing director of the company may not undertake measures which contravene the company's object of business as stated in the articles of association or the obligation to pursue a profit.

At the shareholders' meeting, any shareholder has the right to request information from the board of directors and the managing director that may impact (i) the assessment of a matter that is on the agenda of the shareholders' meeting, or (ii) the assessment of the company's financial situation. In public limited liability companies, information in respect of ii) may only be requested at the shareholders' meeting where the annual report or, if applicable, group annual report is considered. Information requests may be refused if it could cause material damage to the company to give the information.

If payments have been made from the company without support in the Swedish Companies Act, the persons who have participated in the resolution will be liable for the shortage if all funds cannot be returned to the company.

1.2 Swiss law

Under Swiss law, as a matter of principle, the shareholders of a Company Limited by Shares such as Cavotec shall be treated equally according to the quota of share capital held by each shareholder. Accordingly, a shareholder may challenge any resolution of the general shareholders' meeting which gives rise to the unequal treatment or disadvantaging of the shareholders in a manner not justified by the company's objects. At the same time, members of the board of directors must, under equal circumstances, ensure equal treatment of all shareholders.

The decision to withdraw the pursuit of profit orientation of the company requires a unanimous resolution of the shareholders.

At the shareholders' meeting, any shareholder has the right to request information from the board of directors concerning the business of the company and from the auditors concerning the performance and the results of their audit. Where information is refused without just cause, the shareholder may apply for a court order.

Finally, each shareholder may claim that unduly payments which were made in bad faith to the benefit of other shareholders, board members or related persons be returned to the company (e.g. excessive interest payments for shareholders' loans or dividends). The same applies to other benefits received from the company to the extent these are manifestly disproportionate to the performance rendered in return and to the company's economic situation.

2. General meetings

2.1 Swedish law

Under Swedish law, an annual general meeting must be held within six months of the expiry of each financial year. At the annual general meeting, among other things, the annual accounts shall be adopted as well as guidelines for remuneration to management. Notice of an annual general meeting, and of an extraordinary general meeting convened for resolving on an amendment of the articles of association, is required to be given no earlier than six weeks and no later than four weeks before the general meeting. Notice of other extraordinary general meetings is required to be given no earlier than six weeks and no later than three weeks before the general meeting. Shareholders who want to participate in the general meeting shall be registered in the shareholders' register on the record date five week days before the general meeting and notify the company of their intention to attend the meeting no later than the day stated in the notification to the meeting. Notice of a general meeting must be given in accordance with the articles of association, which must include an advertisement in the Swedish Official Gazette (Sw. *Post- och Inrikes Tidningar*), and the notice must also be published on the company's website. That a notice to attend a general meeting has been given shall also be published in a daily newspaper with national coverage as specified in the articles of association. Upon the request of the company's auditor, or upon the written request of shareholders holding at least one tenth of the shares in the company, the board shall convene a general meeting. The board may also convene a general meeting at its own initiative.

At a general meeting, a shareholder may vote for the full number of shares held unless otherwise set forth in the articles of association. When, pursuant to the Swedish Companies Act or the articles of association, approval by the owners of a certain percentage of the shares is required for a particular resolution, own shares held by the company or by a subsidiary of the company (also known as treasury shares) are not to be included for the purpose of the calculation.

2.2 Swiss law

The ordinary general meeting takes place every year within six months of the end of the financial year. Extraordinary general meetings are convened as and when required.

The ordinary shareholders' meeting must, *inter alia*, approve the annual report and the annual accounts and set the annual dividend. It further may discharge the directors from liability for matters disclosed to the shareholders' meeting. Furthermore, according to the Ordinance against excessive compensation in listed stock corporations, which is applicable to public companies listed in Switzerland or abroad, the general shareholders' meeting must approve the compensation of the board of directors and of the top-management.

General shareholders' meetings may be convened by the board of directors or, if necessary, by the company's auditor. The board of directors is further required to convene an extraordinary general meeting upon request by shareholders holding in aggregate at least 10 percent of the share capital of the company.

Notice of any general shareholders' meeting must be given to the shareholders no later than 20 days before the date for which it is scheduled. The notice must be in the form prescribed by the articles of association.

The membership rights may be exercised by any person registered in the share register or authorized by a written power of attorney issued by the entitled shareholder. Alternatively, shareholders may grant vote instructions to the independent proxy elected by the general meeting. Unless otherwise provided by the articles of association, the shareholders exercise their voting rights at general meetings of shareholders in proportion to the total nominal value of the shares belonging to them.

Unless otherwise provided by law or the articles of association, the general shareholders' meeting passes resolutions and conducts elections by an absolute majority of the voting rights represented. Certain important resolutions however require to be approved with a qualified majority of at least two thirds of the votes represented and the absolute majority of the nominal share capital represented at the general shareholders' meeting. The following resolutions require the described qualified majority: (i) modifications of company's purpose; (ii) the creation of shares with increased (preferential) voting rights; (iii) restrictions on the transferability of registered shares; (iv) an authorized or conditional increase in company's share capital or the creation of reserve capital in accordance with art. 12 of the Swiss Banking Act; (v) an increase in company's share capital by way of capitalization of reserves, against contribution in kind, for the acquisition of assets or involving the grant of special privileges; (vi) the restriction or elimination of pre-emptive rights of shareholders; (vii) a change of the place of incorporation; or (viii) the dissolution of the company.

3. Appointment and removal of directors of the board

3.1 Swedish law

The company's board of directors is ultimately responsible for the organization and the management of the company's affairs. The members of the board of directors are elected by the general meeting, except any members appointed by the trade unions. Members of the board are typically appointed for a period up until the end of the next annual general meeting. In respect of elections, the person who receives the most votes shall be deemed to have been elected and, formally, a vote is made for each of the nominated directors.

3.2 Swiss law

The company's board of directors is ultimately responsible for the organization and the management of the company's affairs. Each member of the board of directors must be individually appointed by the general shareholders' meeting by absolute majority of the voting rights represented at the meeting. Members of the board are appointed for a period up until the end of the next ordinary general shareholders' meeting. Re-election is possible.

The (extraordinary) general shareholders' meeting has the power to remove any member of the board of directors at any time, i.e. also before expiration of the ordinary term of office.

4. Pre-emption rights in relation to share issues

4.1 Swedish law

Under Swedish law, shareholders must approve of each issue of shares, or, as the case may be, authorize the board of directors to resolve on such an issue. Generally, existing shareholders have pre-emptive rights to subscribe for new shares, convertibles and warrants to subscribe for new shares (Sw. *teckningsoptioner*), *pro rata* their current shareholdings. Resolutions concerning issues of new shares, warrants or convertibles, where the existing shareholders shall have pre-emption rights, are normally adopted by simple majority (unless the articles

of association need to be amended to allow for the issue). The same applies to resolutions concerning an issue in kind.

A resolution approving or authorizing an issue with a deviation from the pre-emptive rights for existing shareholders requires a majority of two thirds of the votes cast and of the shares represented at the general meeting and also that there are valid reasons for such a deviation. If the shareholders are not to be given pre-emption rights and the issue is directed to directors of the board, the managing director, employees of the company, or close relatives to the aforementioned categories, the resolution approving the issue is subject to additional restrictions, requiring a majority of at least nine tenths of the votes cast and of the shares represented at the general meeting and such resolutions may not be adopted by the board through the exercise of an authorization from the general meeting.

4.2 Swiss law
Under Swiss law, any share issue, whether for cash or by contribution in kind, is subject to the prior approval of the shareholders at a general shareholders' meeting.

As a special protection against dilution, shareholders are granted a preferential right of subscription that may be waived only under stringent conditions. Each shareholder has a pre-emptive right to subscribe for newly issued shares to the proportion that corresponds to his existing participation.

The same applies to stock options and conversion rights, which are issued in relation with bonds or similar debt instruments. Such debt instruments must be offered to existing shareholders first to give them the opportunity to avoid dilution of their existing capital quota in the company, once the stock options or conversion rights will be exercised.

A resolution adopted at a general shareholders' meeting by a qualified majority of at least two thirds of the shares and the absolute majority of the nominal share capital represented at such meeting may limit or suspend pre-emptive rights provided it is for a good cause. Therefore, such limitation of the preferential right of subscription of the shareholders must be grounded on compelling (valid) reasons, such as e.g. the acquisition of a company or a merger, and must safeguard the principle of equal treatment of the shareholders.

5. Mandatory redemption of shares

5.1 Swedish law
The Swedish Companies Act provides that if a shareholder owns more than 90 percent of the shares of a Swedish limited liability company, the majority shareholder is entitled to acquire the remaining outstanding shares through a compulsory acquisition procedure (so called squeeze-out) and the minority shareholders have a corresponding right to have their shares redeemed by the majority shareholder (this applies also to warrants and convertibles held by the minority). Unless the majority shareholder and the minority shareholders agree on the price to be paid for the minority shares, an arbitration tribunal will determine a fair price payable in cash.

5.2 Swiss law
Under the Swiss law, as a matter of principle, there is no general statutory provision providing for the right or the obligation of a majority shareholder to acquire the remaining outstanding shares.

Only in two specific circumstances, the Swiss law provides for an exceptional "squeeze-out" right of the majority shareholder, namely in connection with a merger or in connection with a tender offer:

- Where a Swiss company such as Cavotec is involved in a merger transaction, the provisions of the Swiss Merger Act might apply (see Section 8.2 below). Subject to the approval of at

least 90 percent of the voting rights representing at least 90 percent of the share capital of the transferring company, the merger contract may provide that, instead of granting shares of the surviving company, only a settlement of cash or in kind be paid to shareholders of the transferring company (so called "squeeze-out merger").

- According to the Swiss Stock Exchange Act, an offeror, who upon expiry of the tender offer period, holds more than 98 percent of the voting rights of the offeree (target) company, may petition the court to cancel the outstanding shares ("squeeze-out"). Such provision is however only applicable to companies domiciled in Switzerland whose equity securities are at least in part listed in Switzerland. As Cavotec is listed in Sweden but not in Switzerland, the "squeeze-out" right of the Swiss Stock Exchange Act does not apply.

6. Requirements for a special audit

6.1 Swedish law

The Swedish Companies Act provides minority shareholders, holding at least one tenth of all shares in the company or one third of the shares represented at the general meeting, with a right to resolve to request that the Swedish Companies Registration Office (Sw. *Bolagsverket*) appoints a minority auditor that shall participate in the audit together with the company's auditor (Sw. *minoritetsrevisor*). Such owners may also request the appointment of a special examiner (Sw. *särskild granskare*) for examination of certain past events or circumstances.

6.2 Swiss law

Under the Swiss law, any shareholder may propose at the general shareholders' meeting that certain facts be subject to a special audit (independent investigation) conducted by a special auditor to the extent that this is necessary for the exercising of shareholders' rights and provided further the shareholder's right to information has been previously exercised. Depending on the outcome of general meeting's resolution, the following procedures apply:

- Where the general shareholders' meeting adopts the motion, the company or any shareholder may apply to the court within 30 days for appointment of a special auditor.

- Where the general shareholders' meeting rejects the motion, one or several shareholders who together represent at least 10 percent of the nominal share capital of the company or who represent shares with a nominal value of at least CHF 2'000'000 may request the judge to appoint a special auditor. To that end, the applicants have to make the case that governing officers of the company have violated the law or the articles of incorporation and, thereby, have damaged the interests of the company or of the shareholders.

7. Public takeovers and other similar transactions

7.1 Swedish law

The Swedish Takeover Act (Sw. *lag om uppköpserbjudanden på aktiemarknaden*), the Swedish Financial Instruments Trading Act (Sw. *lag om handel med finansiella instrument*) and the Takeover Rules issued by Nasdaq Stockholm will as a general rule govern a public offer by an offeror for all shares in a company listed on the main market of Nasdaq Stockholm, including in relation to the shares of Cavotec. The Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) supervises compliance with the Takeover Act, and the Swedish Securities Council (Sw. *Aktiemarknadsnämnden*) may grant exemptions in respect of certain provisions of the Takeover Act. The Swedish Securities Council is also charged with the task of interpreting the Takeover Rules and may also grant exemptions. Further, an offeror must undertake towards Nasdaq Stockholm to comply with the Takeover Rules and the Swedish Securities Council's rulings concerning the interpretation and application of the Takeover Rules and to submit to any sanctions imposed by Nasdaq Stockholm upon breach thereof. Such undertaking must be

made before announcement of the offer. Cavotec also has a contractual obligation under the Nasdaq Stockholm listing rules to act in accordance with the Takeover Rules.

The Takeover Rules contain detailed provisions on the takeover process and the rules are based, *inter alia*, on certain principles derived from the Takeover Directive. These principles stipulate, among others, that all holders of the same class of securities in a target company must receive equal treatment; if a person has acquired control of a company, other holders of securities must be protected (see also the description of the mandatory bid rules below); that holders of securities in a target company must be given sufficient time and information to reach a soundly-based decision about the offer; and that the board of the target company must take into account the interests of the company as a whole and may not deprive holders of securities of an opportunity to make a decision on the offer.

Under the Swedish Takeover Act, if a person with less than 30 percent of the votes for all shares in a Swedish company acquires shares so that its shareholding reaches or exceeds 30 percent of the votes in the company, such shareholder must make a public offer for all outstanding shares of the company (a so-called mandatory bid). Pursuant to the Takeover Rules issued by Nasdaq Stockholm, a mandatory bid can be made conditional only on regulatory approvals, and the consideration in a mandatory bid must be cash or include an all-cash alternative. Furthermore, where, based on information originating from a party who intends to make a public offer in respect of the shares in a Swedish company, the board of directors or the managing director has reason to believe that such a bid is imminent or where such a bid has been made, the board of the company is prohibited from taking measures, without the approval of shareholders, which would impair the conditions for making or implementing the offer (so-called defense measures or frustrating action). The prohibition does not prevent the board from seeking alternative offers. The mandatory bid rule and the prohibition on defense measures under the Swedish Takeover Act are, however, only applicable to Swedish companies, i.e. not to Cavotec.

From a minority shareholder perspective, similar interests worthy of protection are relevant irrespective of whether the takeover of a target/transferor company is carried out in the form of a takeover procedure or e.g. through a statutory merger procedure. Therefore the Takeover Rules provide that, in most respects, the Rules apply *mutatis mutandis* to mergers and similar procedures and that certain provisions of the Swedish Companies Act regarding voting at general meetings apply *mutatis mutandis* notwithstanding that such provisions are not directly applicable, e.g. due to the fact that the merger provisions of the Swedish Companies Act are not applicable to Swiss companies such as Cavotec (see also the section about mergers below).

7.2 Swiss law

As mentioned above under Section 5.2, Swiss law provisions on tender offers do not apply to public offers for investments in target companies which are not, at least in part, listed in Switzerland.

As Cavotec is not listed in Switzerland, the Swiss law provisions on tender offers are not applicable to Cavotec.

8. Statutory mergers

8.1 Swedish law

The Swedish Companies Act requires the board of directors of the merging Swedish company to adopt a merger plan before a merger can be approved by shareholders. The Swedish Companies Act further provides that, as a general rule, the merger plan must be approved by a majority of two thirds of the votes cast and the shares represented at the general meeting of the transferor company. Owners of at least five percent of the shares of the transferee company are entitled to

demand that the plan shall also be submitted to the general meeting of the transferee company. If there are different classes of shares issued in the company, the above mentioned majority rules apply within each class of shares represented at the general meeting. In connection with a statutory merger, the merger consideration to the shareholders of the transferor company may be composed of shares in the transferee company or cash. However, more than half of the total value of the consideration must be composed of share consideration.

Where a public company is merged into a private company, the approval of the merger plan requires the vote of all the shareholders represented at the general meeting (in the transferor company) holding at least nine tenths of all the shares. The same applies if the transferor company is a public company with its shares listed on a regulated market or a corresponding market outside the EEA and the merger consideration consists of shares which will not be listed on a regulated market at the time of the transfer of the consideration. In connection with a resolution to approve the merger plan for a transferor company, shares held by the transferee company or by a company within the same group as the transferee company shall not be counted.

The Takeover Rules issued by Nasdaq Stockholm provide that, in most respects, the Takeover Rules apply *mutatis mutandis* to mergers and similar procedures (see also Section 7.1 above).

8.2 Swiss law

Where a Swiss company such as Cavotec is involved in a merger transaction with another company, the provisions of the Swiss Merger Act might apply. The Swiss Merger Act provides for certain protection rights of the shareholders and shall ensure a transparent and fair merger procedure.

The merger contract must be concluded by the boards of the merging companies and must list specific items deemed to inform the shareholders about the consequences of the planned merger. In particular, the contract must disclose the exchange ratio for shares and/or the amount of the compensation to the shareholders of the transferring company.

Shareholders of the transferring company are entitled to claim shares of the surviving company in proportion to the shares held in the transferring company, taking into account the assets of the merging companies as well as all other relevant circumstances. The merging companies may provide in the merger contract that the shareholders may choose between shares of the surviving company and a settlement. Under certain circumstances, the merging companies may even provide in the merger contract that only a settlement will be paid (so-called "squeeze out merger" see Section 5.2 above).

The boards of the merging companies must provide for a merger report addressed to the shareholders in which they shall explain and justify from a legal and economic viewpoint the purpose and the consequences of the merger.

The merger contract, as well as the merger report and the merger balance sheet must be audited by a particularly qualified auditor (Ge. *besonders befähigter Revisor*), and the merger must be approved by the general shareholders' meeting of all participating companies. The required majorities depend on the planned merger. In most cases, a qualified majority of at least two thirds of the votes of the shares represented at the general shareholders' meeting and the absolute majority of the nominal value of the shares represented is required.

In case of a "squeeze-out merger", i.e. where the merger contract provides only for a settlement (see Section 5.2 above), the merger resolution requires the consent of at least 90 percent of the voting rights representing at least 90 percent of the share capital of the transferring company.

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