

**490.1103 Share exchange.**

1. By complying with [this subchapter](#) all of the following apply:

a. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign corporation, or all of the eligible interests of one or more classes or series of interests of a domestic or foreign eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

b. All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

2. A foreign corporation or eligible entity may be the acquired entity in a share exchange only if the share exchange is permitted by the organic law of that corporation or other entity.

3. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the share exchange effected, in accordance with the procedures, if any, for a merger. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may nonetheless be adopted and approved by the unanimous consent of all of the interest holders of such eligible entity whose interests will be exchanged under the plan of share exchange, and the share exchange may thereafter be effected as provided in the other provisions of [this subchapter](#); and for purposes of applying [this subchapter](#) in such a case all of the following apply:

a. The eligible entity, its interest holders, interests, and articles of incorporation or other organic rules taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or those persons shall be deemed to be the board of directors.

4. The plan of share exchange must include all of the following:

a. The name of each domestic or foreign corporation or other eligible entity the shares or eligible interests of which will be acquired and the name of the domestic or foreign corporation or eligible entity that will acquire those shares or eligible interests.

b. The terms and conditions of the share exchange.

c. The manner and basis of exchanging shares of a domestic or foreign corporation or eligible interests in a domestic or foreign eligible entity the shares or eligible interests of which will be acquired under the share exchange for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing.

d. Any other provisions required by the organic law governing the acquired entity or its articles of incorporation or organic rules.

5. The terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with [section 490.120, subsection 11](#).

6. A plan of share exchange may be amended only with the consent of each party to the share exchange, except as provided in the plan. A domestic entity may approve an amendment to a plan in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights

to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of the acquired entity.

(2) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

89 Acts, ch 288, §123; 2002 Acts, ch 1154, §67, 125; 2007 Acts, ch 140, §10; 2021 Acts, ch 165, §150, 230

Referred to in §490.140, 490.1106