



## Module Nine (Mergers and Acquisitions)

of the Executive Bylaws of Law No. (7) of 2010 regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities and its Executive Bylaws and their amendments



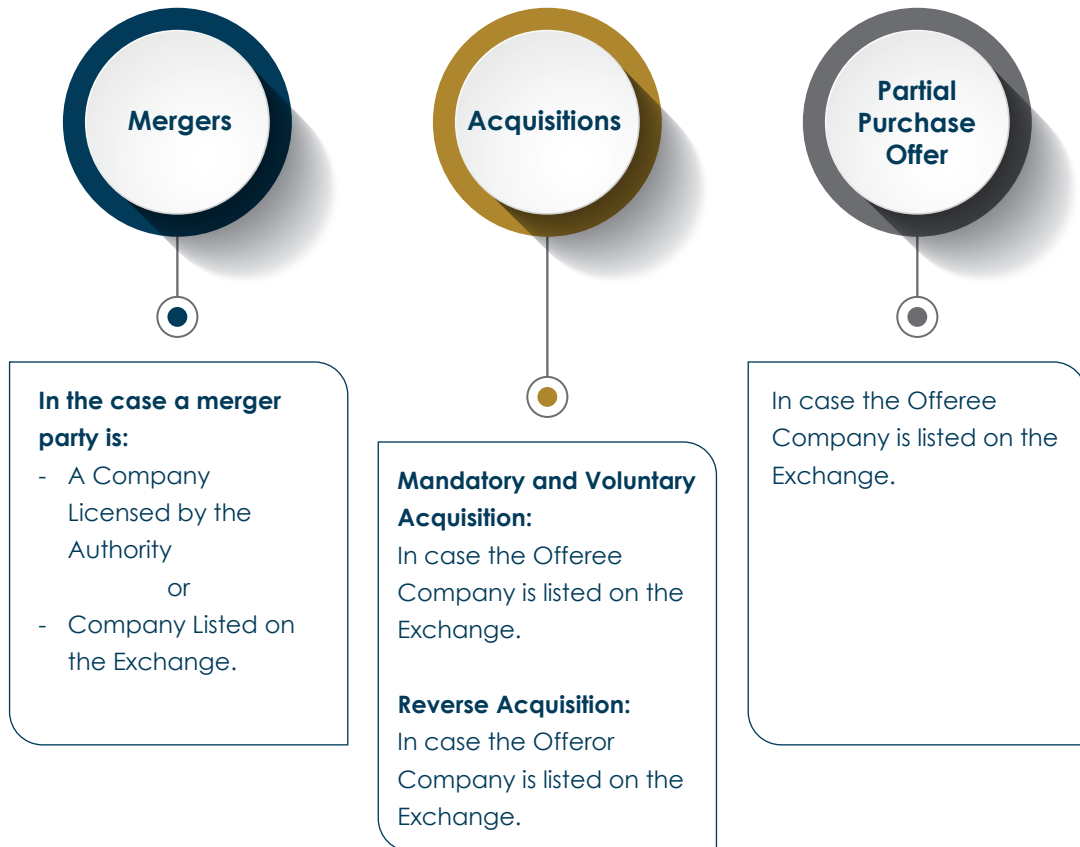




## Notice

While the Capital Markets Authority ("CMA") continuously seeks to provide accurate, complete, and up-to-date information, this booklet is to be considered merely as a guideline. It shall not replace under any circumstances the laws and regulations issued by the CMA to regulate the activities of capital markets. Moreover, it is not a reference to any procedures or legal responsibilities of related parties.

First: Module Nine (Mergers and Acquisitions) of the Executive Bylaws of Law No. (7) of 2010 regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities and its Executive Bylaws and their amendments:



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**The provisions of Module Nine (Mergers and Acquisitions) are not applicable to Non-Kuwaiti Companies that are jointly listed.**

## Second: Merger:

- What is the definition of a Merger?

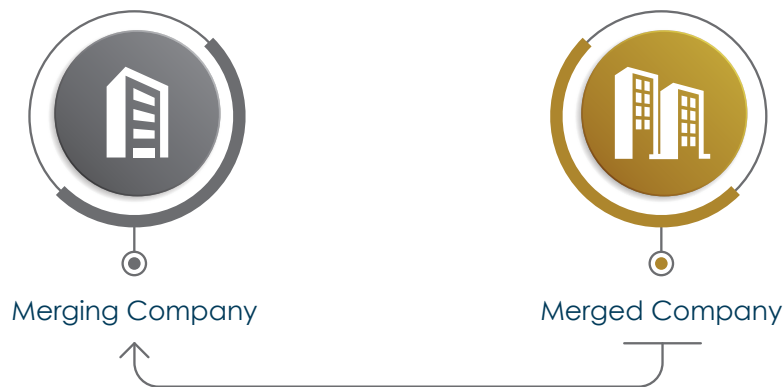
An agreement that leads to the merger of one company or more into another or into a different legal entity, whether through amalgamation, consolidation, or division and amalgamation.

- What are the types of Merger?

A company may merge with another company of the same legal nature or of another legal nature, and the Merger shall be in one of the following ways:

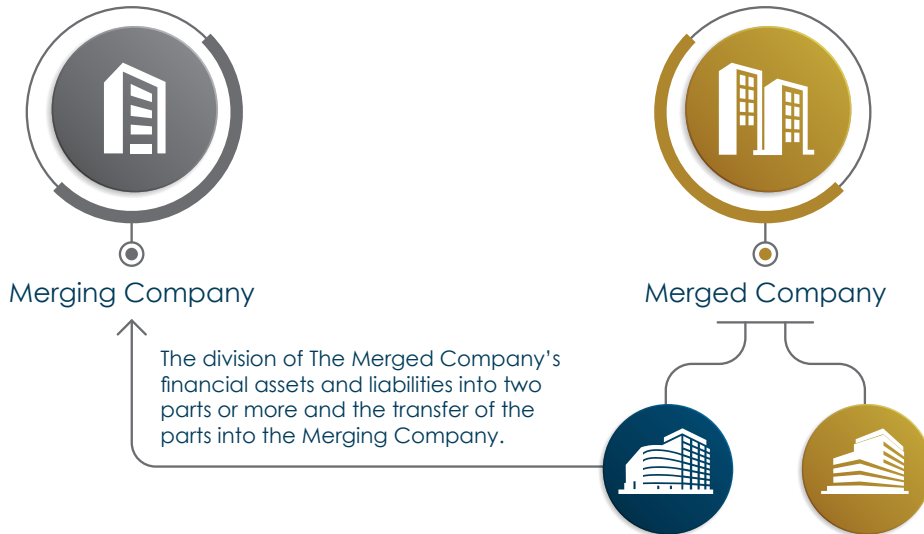


- Merger by Amalgamation

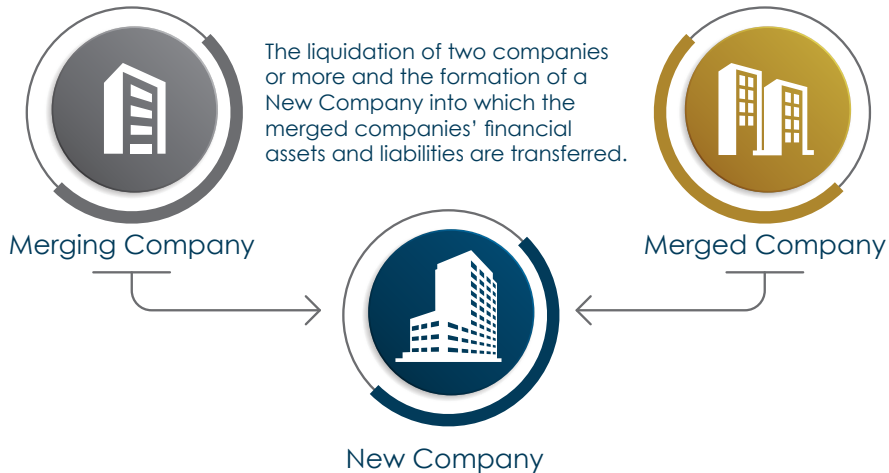


The liquidation of the Merged Company and the transfer of its financial assets and liabilities into the Merging Company.

- Merger by Division and Amalgamation



- Merger by Consolidation



- What are the Procedures of Executing Merger Processes?

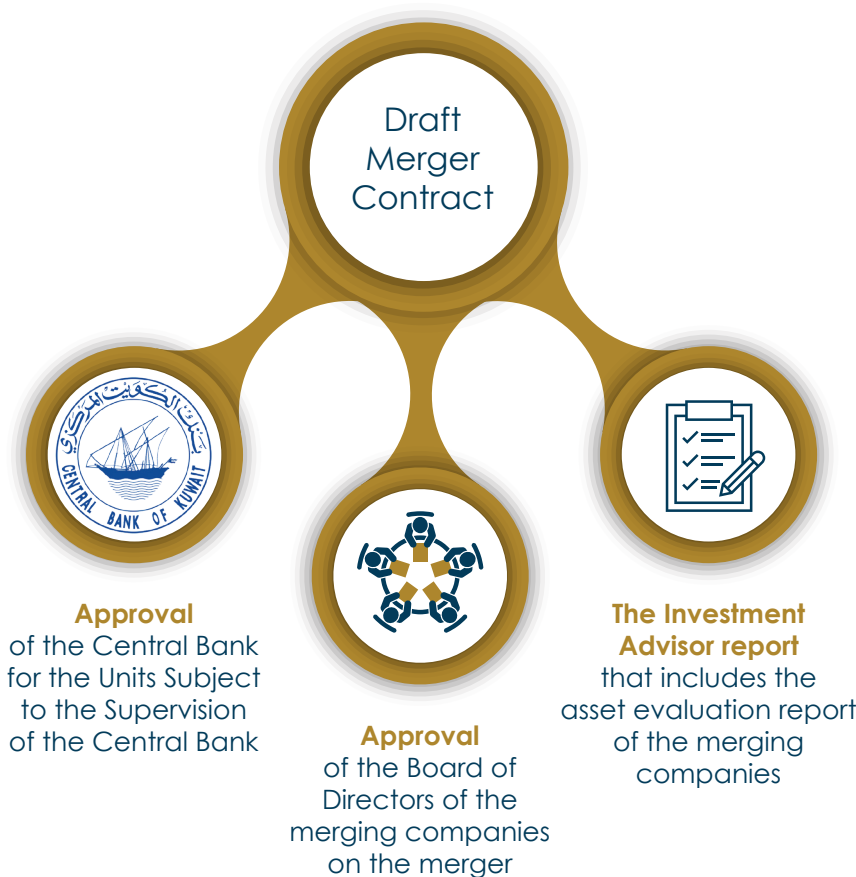
Companies involved in the merger must comply with the provisions of the Module Nine (Mergers and Acquisitions) of the Executive Bylaws of Law No. (7) of 2010 regarding the establishment of the Capital Markets Authority and regulating securities activities and their amendments and the procedures of Executing Merger Processes stipulated in Appendix (1) of the same Module, and comply with the provisions of Law No. (1) of 2016 regarding the issuance of the Companies Law and its Executive Bylaws.

Companies involved in the merger process can also be guided by the merger procedures of the Ministry of Commerce and Industry for companies that are subject to the Capital Markets Authority supervision outlined in the memorandum of understanding on coordinating the cooperation between the Ministry of Commerce and Industry and the Capital Markets Authority.



### Requirements of the Draft Merger Contract:

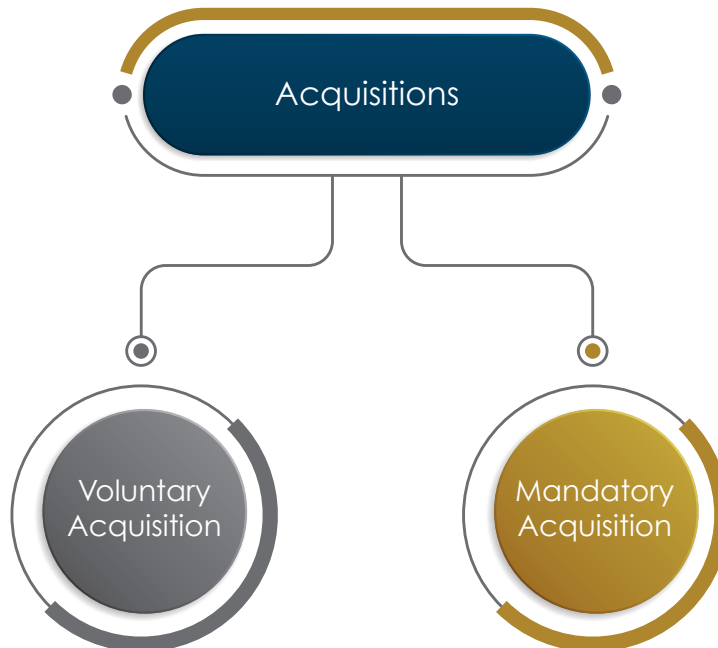
Companies involved in a Merger shall submit to the Authority the Draft Merger Contract for its approval.



Companies involved in the merger shall meet all the requirements of the Draft Merger Contract according to the provisions of chapter two (Mergers) of Module Nine (Mergers and Acquisitions) of the Executive Bylaws of Law No. 7 of 2010 and their amendments.

### Third: Acquisitions:

Acquisitions are divided into two kinds:

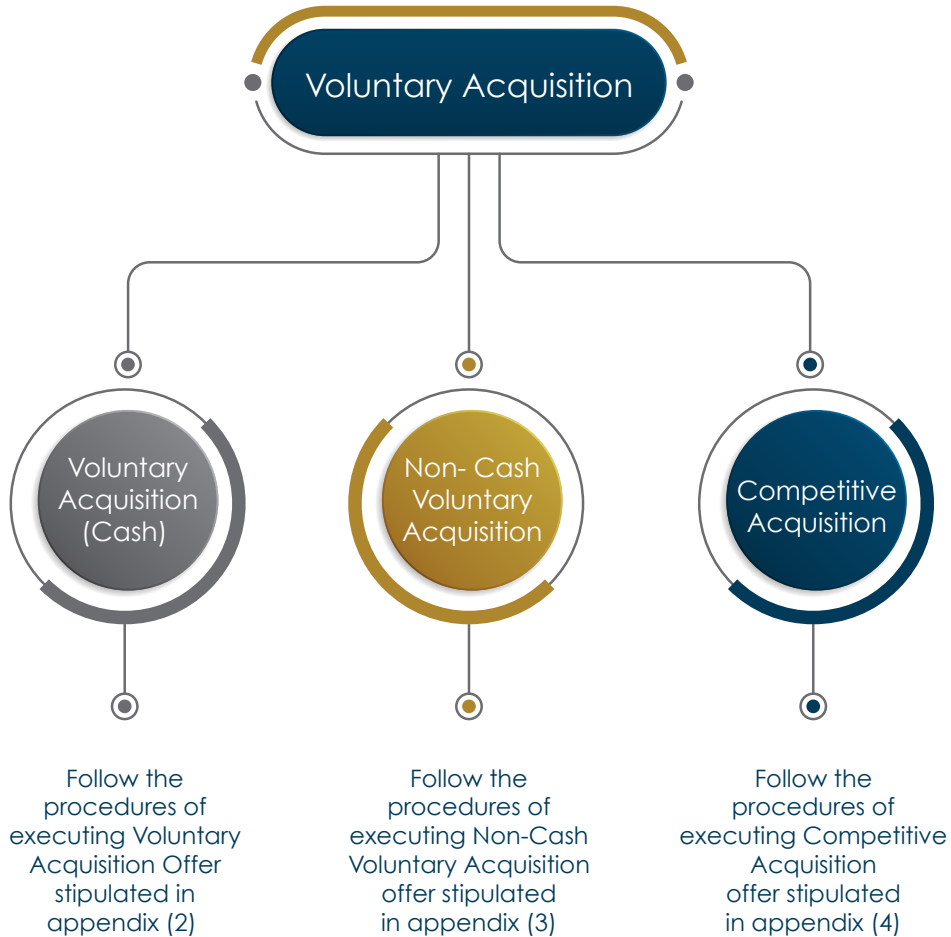


- Voluntary Acquisition

- What is the definition of a Voluntary Acquisition Offer?

An offer to acquire, or a solicitation to secure the acquisition of, Shares of one or more classes of Shares of a Listed Company other than those owned by the Offeror, its Subsidiaries or those Acting in Concert with it as of the date of submitting the offer.

- What are the types of a Voluntary Acquisition?



## Mandatory Acquisition

- What is the definition of a Mandatory Acquisition Offer?

An offer to acquire or a solicitation to procure the acquisition of the remaining Shares of the Offeree Company which the Offeror is obliged to make to all of that company's shareholders as a result of possessing together with its Subsidiaries and any party Acting in Concert 30% or more of the Securities of a Listed shareholding company.

- Steps that should be followed when the provisions of Article (74) of Law No. (7) of 2010 and its amendments apply:



• Exemption Cases from the provisions of Mandatory Acquisition:

1

Acquisition in consideration of the public interest and in the interest of the remaining shareholders.

2

Obtaining the stated percentage when a company increases its capital and some shareholders refrain from subscription.

3

Obtaining the stated percentage because of debt restructure.

4

Obtaining the stated percentage because of inheritance, will, or court judgment, and according to the rules that organizes such cases.

5

Obtaining the referred percentage during a privatization of a Listed Company and during the privatization period.

6

If the Listed Company returned and cancelled Treasury Shares that would lead to an increase in the percentage ownership of one of the shareholders to become more than 30 % of the Shares traded in the Listed Company.

7

Obtaining the percentage referred to as a result of transferring shares of a Listed Company between companies form a single investment Group.

8

If a Person obtains the stated percentage as a result of a Merger.

9

Obtaining the percentage referred to as a result of executing the Shares in fulfillment of a debt or obtaining them as a result of settling debts of financial institutions in kind.

10

Obtaining the percentage referred to without any Control, whether directly or indirectly, over the Board of Directors and without practicing the voting rights arising out of such percentage.

11

Obtaining the percentage referred to by one of the Financial Institutions which guarantee underwriting the shares of the Listed Company.

12

Obtaining the percentage stated as a result of the transfer of shares between Relatives.

13

In the event of objection by one of the Regulatory Bodies on which any of the parties of acquisition are subject to.

14

Obtaining the percentage referred to as a result of practicing the activity of Market Maker, according to the rules that organizes such cases.

15

Obtaining the percentage referred to by governmental bodies to secure the public interest and the interests of shareholder.

16

Obtaining the percentage referred to as a result of executing the Partial Purchase Offer.

17

Such other cases as provided for in rules and regulations issued by the Authority.

#### Four: Partial Purchase Offer

- **What is the definition of Partial Purchase offer?**

An offer to acquire or a solicitation to procure the acquisition of at least %30 and not more than %50 of the company's share capital of the partial purchase offer - after execution, provided that the percentage to be obtained is not less than %5 of the total capital of the Offeree of the Partial Purchase. The Offeror shall be obliged to submit his offer to all the shareholders of the company. The shares of the Offeree company shareholders that are participating in the Partial Purchase Offer process shall be distributed Pro Rata.

- **What are the Procedures of Executing a Partial Purchase offer?**

Companies involved in a partial purchase offer shall comply with the provisions of Module Nine (Mergers and Acquisitions) of the Executive Bylaws of Law No. (7) of 2010 regarding the Establishment of the Capital Markets Authority and Regulating of Securities Activities and its Executive Bylaws and their amendments and the procedures of executing a Partial Purchase Offer stipulated in Appendix No. (9) of the same Module.

- **What are the conditions of a Partial Purchase Offer?**





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