

CB01

Notice of a cross border merger involving a UK registered company



Companies House

☒ What this form is for
You may use this form
to give notice of a cross border
merger between two or more
limited companies (including a
UK registered company)

☐ What this form is NOT
You cannot use this form
to give notice of a cross border
merger between companies outside
the European Economic Area



A5GEM7SJ
A05 27/09/2016 #87
COMPANIES HOUSE
A5FZ933S
A05 21/09/2016 #24
COMPANIES HOUSE

Part 1 Company details

Company number of
UK merging company 0 3 1 3 0 4 9 3

Company name in
full of UK merging
company Formenta Limited

→ Filling in this form
Please complete in typescript, or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

Part 2 Merging companies

Please use Section A1 and Section B1 to fill in the details for each merging
company (including UK companies) Please use a CB01 continuation page to
enter the details of additional merging companies

A1 Merging company details

Full company name Formenta Limited

Registered number 0 3 1 3 0 4 9 3

Please enter the registered office address

Building name/number 11-12

Street St James's Square

Post town London

County/Region

Postcode S W 1 Y 4 L B

Country United Kingdom

Legal form and law Private limited Company

Law of England and Wales

Member state and
registry

- ➊ Merging Company details
Please use Section B1 to enter
the details of the second merging
company
- ➋ Registered number
Please give the registered number
as it appears in the member
state registry
- ➌ Legal entity and governing law
Please enter the legal form and law
which applies to the company
- ➍ Member state and registry
For non UK companies, please enter
the name of the member state and
the name and address of the registry
where documents are kept

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B1 Merging company details^①

Full company name	NEWCO Immobiliare S R L
Registered number ^②	M I - 1 6 5 6 9 6 9 Please enter the registered office address
Building name/number	20
Street	Via Andrea Palladio
Post town	Frazione Cascina Croce
County/Region	Cornaredo, Milan
Postcode	2 0 0 1 0
Country	Italy
Legal form and law ^③	Limited Liability Company Italian Law
Member state and registry ^④	Italy Register of Enterprises at the Chamber of Commerce of Milan Via Meravigli, 9/b - 20123 - Milan (Italy)

① Merging Company details
Please use a CB01 continuation page to enter the details of additional merging companies.

② Registered number
Please give the registered number as it appears in the member state registry

③ Legal entity and governing law
Please enter the legal form and law which applies to the company

④ Member state and registry
For non-UK companies, please enter the name of the member state and the name and address of the registry where documents are kept

Part 3 Details of meetings^⑤

If applicable, please enter the date, time and place of every meeting summoned under regulation 11 (power of court to summon meeting of members or creditors)

Details of meeting

Date	d d m m y y y y
Time	
Place	

Details of meeting

Date	d d m m y y y y
Time	
Place	

Details of meeting

Date	d d m m y y y y
Time	
Place	

Details of meeting

Date	d d m m y y y y
Time	
Place	

⑤ Details of meetings
For additional meetings held under regulation 11, please use a CB01 continuation page

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Part 4 Terms of merger and court orders

C1 Terms of merger

You must either

- enclose a copy of the draft terms of merger,
- or,
- give details (below) of a website on which the draft terms are available ¹

Website address

¹ Draft terms of merger on a website

In order to be able to give notice of draft terms of merger on a website, the following conditions must be met

- the website is maintained by or on behalf of the UK merging company,
- The website identifies the UK merging company,
- no fee is required to access the draft terms of merger, the draft terms of merger remain available on the website throughout the period beginning one month before and ending on the date of the first meeting of members

C2 Court orders

If applicable, you must enclose a copy of any court order made where the court has summoned a meeting of members or creditors

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Part 5 Signature

D1 Signature

I am signing this form on behalf of the UK merging company

Signature

Signature

X  X

This form may be signed by a director of the UK merging company on behalf of the Board

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Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Liza Zuconi**

Company name **Silverman Sherliker LLP**

Address **7 Bath Place**

Post town **London**

County/Region

Postcode **E C 2 A 3 D R**

Country **England**

DX **137779 FINSBURY 5**

Telephone **0207 749 2700**



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following

- ☐ The company name and number of the UK merging company match the information held on the public Register
- ☐ You have completed the details of each merging company in Part 2
- ☐ You have completed Part 3
- ☐ You have completed Part 4 (if applicable)
- ☐ You have enclosed the relevant documents
- ☐ You have signed the form in Part 5



Important information

Please note that all information on this form will appear on the public record



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

**COMMON TERMS OF REVERSE CROSS-
BORDER MERGER**

by absorption of the company

FORMENTA LIMITED

by the company

NEWCO IMMOBILIARE S.R.L.

**drafted pursuant to article 6 of Legislative Decree
no. 108 of 30.05.2008, article 2501-ter of the Italian
Civil Code and The Companies (Cross-Border
Mergers) Regulations 2007.**

The Sole Director of Newco Immobiliare S.r.l (the «Transferee Company») and the Board of Directors of Formenta Limited (the «Transferor Company» and, jointly with the Transferee Company, the «Companies») have prepared these common terms of merger in relation to a cross-border merger by absorption of the company Formenta Limited (a company incorporated under the laws of England and Wales, with registered office in England) into the company Newco Immobiliare S r l (a company incorporated under the laws of Italy, with registered office in Italy) (the «Cross Border Merger»)

Whereas

- (A) The Cross Border Merger is between companies belonging to two different Member States of the European Union. As such, a Cross Border Merger by absorption will be carried out pursuant to the Directive 2005/56/EC of 26 October 2005, as amended by the Directive 2009/109/EC of 16 September 2009.

- (B) The Directive 2005/56/EC was implemented in Italy by means of Legislative Decree no 108 of 30 May 2008 and was implemented in England and Wales by means of The Companies (Cross Border Mergers) Regulations 2007
- (C) The Transferor Company, Formenta Limited, holds the entire corporate capital of the Transferee Company, Newco Immobiliare S r l , and such holding will be held until the Cross Border Merger has been completed. This is therefore a reverse cross-border merger by absorption
- (D) This transaction, taking into account the fact that the Transferor Company holds the entire corporate capital of the Transferee Company, is part of a plan to simplify the group, with the aim of ensuring a greater efficiency in economic, managerial and financial terms to the same group. The Transferor is a pure holding company.
- (E) A merger of the type in this instance, where the holding company is the Transferor Company and the subsidiary is the Transferee Company, is subject to the application of the rules governing mergers by absorption of wholly owned subsidiaries under article 2505 of the Italian Civil Code, in line with the unanimous interpretation and practice of the Italian Notaries Public The provisions under section 2(3) of the Companies (Cross-Border Mergers) Regulations 2007 do not allow for a merger of the type in this instance to be defined as a merger by absorption of a wholly owned subsidiary However, in accordance with recital (K) below of these common terms of merger, this Cross Border Merger shall be regarded as a merger by absorption of a wholly owned subsidiary

- (F) Both merging Companies taking part in the Cross Border Merger will retain their current legal type, corporate name and registered office until the completion of the Cross Border Merger
- (G) The Companies do not have a supervisory body.
- (H) The Transferor Company is governed by the laws of England and Wales, whereas the Transferee Company is governed by the laws of Italy
- (I) This Cross Border Merger shall be carried out in accordance with the laws of Italy and the laws of England and Wales, as well as with the respective laws governing the Transferee Company and the Transferor Company This Cross Border Merger is pursuant to the provisions set forth in Legislative Decree 108/2008 and in The Companies (Cross Border Mergers) Regulations 2007, except for what is set forth under the provisions of the Directive 2005/56/EC, as subsequently amended.
- (J) In accordance with section 13(3) of the Companies (Cross-Border Mergers) Regulations 2007, the approval of the members of the Transferor Company at a meeting is not required, as the Cross Border Merger in this instance is subject to the provisions set forth in relation to the mergers by absorption of a wholly owned subsidiary
- (K) In the event of conflict between the laws of England and Wales applicable to the Transferor Company, and the laws of Italy applicable to the Transferee Company, the laws applicable to the Transferee Company will prevail and therefore the laws of Italy will prevail

Common Terms of Merger

1. Type, corporate name and registered office of the merging Companies

1.1. Transferee Company:

NEWCO IMMOBILIARE S.R.L., is a limited liability company incorporated under the laws of Italy, with a registered office in Cornaredo (MI), Via Andrea Palladio no 20, consisting of a Corporate Capital of € 50,000 00 (EUR) fully paid-up, and is registered with the Companies Register at the Chamber of Commerce of Milan with registration, tax code, VAT no 03193210964, REA no 1656969

1.2. Transferor Company:

FORMENTA LIMITED (Company no 3130493) is a limited liability company incorporated under the laws of England and Wales, with registered office at 18 South Street, London W1K 1DG, with a Share Capital of £1000 (GBP), fully paid-up and registered with the Registrar of Companies of England and Wales (Companies House)

2. Articles of association of the Transferee Company

- 2.1.** The quotaholders' meeting of the Transferee Company, called to resolve on the Cross Border Merger, will resolve upon the new articles of association to be adapted in order to repeal the quotaholders' ledger, as provided by Legislative Decree of 29 November 2008 no 185, converted into law by Law of 28 January 2009 no 2, and the amendments made by article 14, paragraph 13, of Law of 12 November 2011 no 183 and by article 35 of Legislative Decree of 09 February 2012 no 5 with regards to the supervisory body of limited liability companies

- 2.2. Please find attached hereto the current articles of association (*sub* A) and the new articles of association, to be adopted (*sub* B)

3. Quota/Share Exchange Ratio

- 3.1. As this is a transaction subject to the provisions set forth in relation to the mergers by absorption of a wholly owned subsidiary, there is no requirement to provide a quota/share exchange ratio under article 2501-ter, paragraph 1, no 3) of the Italian Civil Code and section 7(3) of the Companies (Cross Border Mergers) Regulations 2007.
- 3.2. The Transferee Company will implement the Cross Border Merger through the cancellation of the quotas received as a result of the Cross Border Merger and the simultaneous corporate capital increase without consideration (by capitalisation of reserves) in order to bring its value back to the value before the Cross Border Merger of € 50,000 00, allotting the quotas in exchange to the shareholders of the Transferor Company
- 3.3. The Cross Border Merger is «simplified» pursuant to article 2505 of the Italian Civil Code, article 18 of Italian Legislative Decree 108/2008.

4. Independent Expert Report

The Independent Experts' Report pursuant to article 2501-sexies of the Italian Civil Code and section 9(1)(a) of the Companies (Cross-Border Mergers) Regulations 2007, evaluating the quota/share exchange ratio, has not been prepared since this Cross Border Merger falls into the case provided by article 2505 of the Italian Civil Code

5. Terms relating to the allotment of the quotas of the Transferee Company

- 5.1. Pursuant to article 2505 of the Italian Civil Code and in accordance with article 18 of Legislative Decree no 108/2008, relating to the allotment of quotas of the Transferee Company, the provisions of article 2501-ter, paragraph 1, no 4) of the Italian Civil Code should not be applied, subject to point 3 above
- 5.2. As the transaction in this instance is a merger subject to the provisions set forth in relation to the mergers by absorption of a wholly owned subsidiary, pursuant to section 7(3) of the Companies (Cross Border Mergers) Regulations 2007, whereby «Particulars of the matters referred to in sub paragraphs (b), (c) and (e) of paragraph (2) may be omitted in the case of a merger by absorption of a wholly-owned subsidiary», the terms of the allotment of shares within this draft terms of merger under section 7(2)(c), which states «the terms relating to the allotment of shares or other securities in the transferee company» may be omitted
- 5.3. For the avoidance of doubt however, as this Cross Border Merger is a merger subject to the provisions set forth in relation to the mergers by absorption of a wholly owned subsidiary, the shares in the Transferor will be cancelled and the shareholders of the Transferor will be allotted the same holding in the Transferee as they held in the Transferor
- 5.4. For the avoidance of doubt, the new shareholders holding will be defined as a percentage of the quota holding of the Transferee Company and will be in the same percentage of which they held shares in the Transferor Company prior to the Cross Border Merger

5.5. Please note that the quotas in the Transferee Company will be allotted to the shareholders of the Transferor Company strictly *pro quota* and without adjustments

6. *Date from which the holding of quotas in the Transferee Company allotted to the shareholders of the Transferor Company will entitle the holders to participate in profits*

6.1. Article 2501-ter, paragraph 1, no. 5) of the Italian Civil Code and section 7(2)(e) of the Companies (Cross Border Mergers) Regulations 2007 will not be applied with respect to the date of entitlement to participate in profits

6.2. Please note that, in any event, the quotas allotted to the shareholders of the Transferor Company will entitle the holders thereof to participate in profits as of the Effective Date of the Cross Border Merger

6.3. The participation in profits will be carried out *pro quota* to the value of the quotaholdings.

7. *Information relating to the transferred assets*

The assets and liabilities will be transferred by the Transferor Company to the Transferee Company at their book values as of the Effective Date of the Cross Border Merger as set forth at point 9 below

8. *Date of financial statements/statement of assets and liabilities*

8.1. [The Cross Border Merger will be implemented on the basis of the financial statements of the Transferee Company as of December

31, 2015, and on the basis of the statements of assets and liabilities of the Transferor Company as of the same date]

8.2. Please note that the Transferor Company closes its fiscal year on September 30 of each year

9. Effective date of the Cross Border Merger for civil law, accounting and tax purposes

9.1. In light of the fact that the Transferee Company is governed by Italian Law, the Cross Border Merger will be effective pursuant to article 15, paragraph 1, of Legislative Decree no. 108/2008, starting from the registration of the Cross Border Merger Deed with the Companies Register of Milan. The Cross Border Merger is to take effect, for all intents and purposes of law and all other purposes, as of such date (the «Effective Date»)

9.2. As of such date, the activities of the Transferor Company will be recorded in the financial statements of the Transferee Company and the Cross Border Merger will be effective for tax purposes under articles 172 and 179 of Presidential Decree No. 917/86.

10. Rights for special categories of quotaholders or shareholders

With respect to both the Transferee Company and the Transferor Company, there are no special categories of shares, quotas, quotaholders or shareholders with special or privileged rights; and, as a consequence, there will be no categories of quotas, shares, quotaholders or shareholders with subject to any particular or preferential treatment, nor any special rights attaching to quotas or other securities in the transferee company.

11. Special advantages for the directors, experts and members of the supervisory bodies

There will not be any particular advantage for the directors, experts or members of the supervisory bodies of both the merging companies taking part to the Cross Border Merger and third parties relating to the Cross Border Merger

12. Cross Border Merger consequences on employment

The Cross Border Merger will not affect the employees of either of the Companies as neither the Transferor Company nor the Transferee Company have any employees

13. Other information

There is no intention to modify the managing board of the Transferee Company following the Cross Border Merger.

This Cross Border Merger plan will be filed with the Companies Register of Milan pursuant to article 15, paragraph 1, of Legislative Decree no 108/2008 of Milan where the Transferee Company is registered and pursuant to section 12(1) of the Companies (Cross-Border Mergers) Regulations 2007, it will also be filed with the Registrar of Companies of England and Wales (Companies House), where the Transferor Company is registered

Cornaredo, .

The Sole Director

London, .

Chief Executive Officer

Memorandum

To: [●]

By: [●]

Date: [●] May 2016

Scope: The requirements of cross-border mergers pursuant to the Italian and English law.

This brief memorandum provides an overview of the application of the Italian and English law on cross-border mergers under the Directive (as defined below) (the "**Memorandum**")

The envisaged transaction consists of a merger by absorption (*fusione per incorporazione*) between Formenta Limited and NewCo Immobiliare S r l (the "**Merger**"), with the result that the assets and liabilities of Formenta Limited (the "**Transferor**") are to be transferred to NewCo Immobiliare S r l (the "**Transferee**" and, jointly with the Transferor, the "**Merging Companies**")

As a result of the Merger, the Transferee will result in holding 100% legal and beneficial ownership of CIE S p A

The Directive 2005/56/EC dated 26 October 2005 (the "**Directive**") governs the cross-border merger of, *inter alia*, limited liability companies based in all EU and EEA countries

Pursuant to such Directive, the Merging Companies must follow the procedure below

- Preparation of the common draft terms of the merger (the "**Merger Plan**"), including, *inter alia*, the completion of a cross border merger form which will need to include the full company name, registered number, registered office address of the Merging Companies, legal form and law by which the Merging Companies are governed, the ratio applicable to the exchange of securities or shares representing the company capital and the amount of any cash payment, the terms for the allotment of securities or shares, where appropriate and the name and address of the register where company documents are filed and the new articles of association of the Transferee
 - Preparation of a report by the management body of each of the Merging Companies (the "**Directors' Report**"), explaining the economic and legal aspects and impact of the Merger
-

As far as this specific cross-border merger is concerned, the preparation of an independent expert report on the implications of the Merger will not be required, as the Transferee is a wholly owned subsidiary of the Transferor

Each of the Merging Companies must apply to the relevant authority to issue a pre-merger certificate confirming that the pre-merger formalities have been properly completed and to check the legality of the resulting merger. In Italy such competence lies with the Notary Public. Please note that the proceeding will be carried out in Italy pursuant to Italian law and therefore the UK competent authority is not relevant for the purposes of this Memorandum

Furthermore, Italian law will govern the Merger, its effect, as well as the date the merger takes effect

It should be noted that the Directive provides that *"each company taking part in a cross-border merger, and each third party concerned, remains subject to the provisions and formalities of the national law which would be applicable in the case of a national merger"*

In addition to the above, following are a list of steps to be taken by the Transferor and the Transferee respectively pursuant to, English and Italian law, whichever is applicable, in order to complete the transaction

STEPS TO BE TAKEN BY THE TRANSFEROR Pursuant to The Companies (Cross-Border Mergers) Regulation 2007, as subsequently amended	STEPS TO BE TAKEN BY THE TRANSFEE Pursuant to the Legislative Decree No. 108 of 30 May 2008 (the "Decree") and, where appropriate, the Italian Civil Code ("ICC")
<p>1 <i>Public notice of receipt of registered documents</i></p> <p>Transferor</p> <ul style="list-style-type: none"> • Prepares draft terms of merger (in accordance with Regulation 7) • Prepares directors report (in accordance with Regulation 8) <p>There need only be delivery of the following documents to the Companies' House Register as step 2</p>	<p>1 <i>Registration of the Merger Plan</i></p> <p>(i) The Merger Plan shall be filed with the Italian Companies' House Register, or alternatively,</p> <p>(ii) The Merger Plan shall be published on the Transferee's website</p> <p>At least 30 days after such filing (or the publication on the Transferee's website) process is implemented the quotaholders' meeting will resolve upon such cross-border merger</p>

<p>(i) Documents giving certain particulars in relation to each Merging Company (CCBMR (12)(1)(c))</p> <p>(ii) Copy of the Draft Terms of the Merger</p> <p>(iii) Form CB01 (<i>Notice of a cross border merger involving a UK registered company</i>), enclosing copy of Merger Plan or confirmation that they are available online, (in accordance with Regulation 12)</p> <p>Notice of receipt of documents will be published by the Companies' House Register in the London Gazette</p> <p>The Merger Plan and the Directors' Report must be made available for inspection by the members of the company at the registered office of Transferor, free of charge (in accordance with regulation 10)</p> <p>2 <i>The Court Application</i></p> <p>The Transferor shall apply to Court in order to obtain an order certifying the pre-merger requirements have been completed by the Transferor (in accordance with Regulation 6 The process for this application is defined the CPR, Practice Direction 49A, Section 23) The Court will then issue a pre-merger certificate</p> <p>3 <i>Entry into effect of the Merger</i></p> <p>Within 6 months of order certifying the pre-merger requirements, the merger will be approved by the competent authority of the EEA state where the merged company will be registered (Italy)</p> <p>Within 14 days of the order approving the completion of the merger, of the competent authority in Italy, the Transferor must deliver the order to the Companies</p>	<p><i>Term Waiver</i></p> <p>The quotaholders may waive unanimously the aforementioned term (this step is provided for by Section 2501-ter, paragraphs 3 and 4 of ICC, which is expressly referred to by the Decree)</p> <p>Publication on the Italian Official Gazette (Gazzetta Ufficiale della Repubblica Italiana) of certain particulars of the Transferee</p> <p><i>Steps to be taken before a Notary Public</i></p> <p>The transferee must designate a Notary Public who will be asked to</p> <ul style="list-style-type: none"> (i) draw up the minutes of the quotaholders' meeting resolving upon the Merger Plan (ii) issue the pre-merger certificate for the Transferee (iii) draw up the merger deed containing the terms and conditions of the Merger (iv) to perform the control over the legality of the Merger <u>within the 30 days</u> following receipt <ul style="list-style-type: none"> • of the meeting's resolution passing upon the Merger Plan by both the Transferor and the Transferee, and • of the pre-merger certificate by the Transferee only <p><i>Registration of the above documents and entry into effect of the Merger</i></p>
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House Registrar for Registration, accompanied by a certified English translation

Within 21 days after the court order approving the merger, the merger becomes effective and the Companies House Registrar strikes off the UK company from the UK register ,

The merger deed in conjunction with the pre-merger certificate, plus such legality certification, is ultimately registered with the relevant Italian companies' register within 30 days Henceforth, the Merger takes effect

We remain at your disposal for any further clarifications you may have

Kind regards,