

08/04/2011 16:23 FAX 954 523 1722

GUNSTER-YOAKLEY

Division of Corporations

001/013

Page 1 of 1

L11000087831

**Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet**

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H11000197001 3)))



H110001970013ABCU

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

Effective Date

8/28/11

To:

Division of Corporations
Fax Number : (850) 617-6380

From:

Account Name : GUNSTER, YOAKLEY & STEWART, P.A.
Account Number : I19990000012
Phone : (954) 468-1355
Fax Number : (954) 523-1722

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

11 AUG -4 AM 10:43

FILED

****Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.****

Email Address: _____

RECEIVED
11 AUG -4 AM 8:30
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

MERGER OR SHARE EXCHANGE**Auxis Acquisition, LLC**

Certificate of Status	0
Certified Copy	0
Page Count	12
Estimated Charge	\$60.00

Electronic Filing Menu

Corporate Filing Menu

Help

J. BRYAN

AUG - 5 2011

8/4/2011

EXAMINER

08/04/2011 16:23 FAX 9545231722

GUNSTER-YOAKLEY

FAX AUDIT NO. H11000197001 3

**ARTICLES OF MERGER
OF AUXIS, INC. WITH AND INTO
AUXIS ACQUISITION, LLC**

002/013
FILED
11 AUG -4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Sections 607.1108, 607.1109, 608.438, and 608.4382 of the Florida Statutes, the undersigned do hereby submit for filing the following Articles of Merger.

FIRST: The exact name, form/entity type, and jurisdiction for each merging party are as follows:

Auxis, Inc., a Florida corporation ("Auxis" or "Merging Corporation")

#P97000045173

Auxis Acquisition, LLC, a Florida limited liability company ("Auxis Acquisition" or "Surviving Entity")

#L11000087831

SECOND: The exact name, form/entity type, and jurisdiction of the surviving party are as follows:

Auxis Acquisition, LLC, a Florida limited liability company ("Auxis Acquisition" or "Surviving Entity")

THIRD: The Plan of Merger, attached hereto as Exhibit A, was approved by the Board of Directors and Shareholders of Auxis on August 4, 2011 in accordance with the applicable provisions of Chapter 607 of the Florida Statutes. The number of votes cast by the Shareholders of Auxis Inc. in favor of the merger was sufficient for approval of the merger.

FOURTH: The Plan of Merger, attached hereto as Exhibit A, was approved by the Managers and the sole Member of Auxis Acquisition on August 4, 2011 in accordance with the applicable provisions of Chapter 608 of the Florida Statutes.

FIFTH: The merger shall become effective on August 28, 2011 at 12:01 A.M.

SIXTH: As provided in Section 1.5 of the attached Plan of Merger, the Articles of Organization of the Surviving Entity shall be amended on the effective date of the merger to provide that the name of the Surviving Entity shall be changed to "Auxis, LLC" as of the effective date of the merger. Accordingly, Articles of Amendment to Articles of Organization of Auxis Acquisition to amend the name are attached hereto as Exhibit B.

[Signature page to follow]

08/04/2011 16:23 FAX 9545231722

GUNSTER-YOAKLEY

003/013

FAX AUDIT NO. H11000197001 3

IN WITNESS WHEREOF, each constituent entity has caused these Articles of Merger to be executed by each such entity's duly authorized officer, as of the 4th day of August, 2011.

AUXIS ACQUISITION, LLC, a Florida
limited liability company

AUXIS, INC., a Florida corporation

By: R. Vega
Raul Vega, Manager

By: R. Vega
Raul Vega, President

By: [Signature]
Alvaro Prieto, Manager

By: William D. Pruitt
William D. Pruitt, Manager

FILED
11 AUG -4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

08/05/2011 08:08 850-245-6897

FL DEPT OF STATE

PAGE 04/13

08/04/2011 16:23 FAX 8545231722

BUNSTER-YOAKLEY

004/013

FAX AUDIT NO. H11000197001 3

Exhibit A

Plan of Merger

FILED
11 AUG -4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

08/05/2011 08:08 850-245-6897

FL DEPT OF STATE

PAGE 05/13

08/04/2011 16:23 FAX 9545231722

GUNSTER-YOAKLEY

005/013

FAX AUDIT NO. H11000197001 3

AGREEMENT AND PLAN OF MERGER OF

AUXIS, INC.

with and into

AUXIS ACQUISITION, LLC

Dated August 4, 2011

FILED
11 AUG -4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FTL_ACTIVE 2847153

FAX AUDIT NO. H11000197001 3

08/04/2011 16:23 FAX 8545231722

BUNSTER-YOAKLEY

FAX AUDIT NO. H11000197001 3

FILED
11 AUG -4 AM 10:43
008/013
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "Agreement") dated as of August 4, 2011, by and among:

- (i) **Auxis Investments Holdings, LLC**, a Florida limited liability company ("AIH"),
- (ii) **Auxis Investments, LLC**, a Florida limited liability company ("AI"),
- (iii) **Auxis Acquisition, LLC**, a Florida limited liability company ("Auxis Acquisition"), and
- (iv) **Auxis, Inc.**, a Florida corporation ("Auxis").

AIH, AI, Auxis Acquisition, and Auxis are individually referred to as a "Party" and collectively as the "Parties".

PREAMBLE

The respective Boards of Directors and Boards of Managers of AIH, AI, Auxis Acquisition, and Auxis are of the opinion that the transactions described herein are in the best interests of the parties to this Agreement and their respective shareholders and members. This Agreement provides for the acquisition of Auxis by AIH pursuant to the merger of Auxis with and into Auxis Acquisition (the "Merger"). At the effective time of the Merger, the outstanding shares of the Common Stock of Auxis shall be converted into the right to receive membership units in AIH as described in this Agreement. As a result, Auxis Acquisition shall conduct the business and operations of Auxis and Auxis Acquisition shall change its name to "Auxis, LLC". The transactions described in this Agreement are subject to the approvals of the shareholders of Auxis and the member of Auxis Acquisition, and the satisfaction of certain other conditions described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound do hereby agree as follows:

1. The Merger

1.1 The Merger. Upon the terms and subject to the conditions set forth in this Agreement and in accordance with both the Florida Limited Liability Company Act (the "Act") and the Florida Business Corporation Act (the "FBCA"), at the Effective Time (as defined below), Auxis shall be merged with and into Auxis Acquisition and Auxis Acquisition shall be the surviving entity in the Merger (the "Surviving Entity") and, as such, Auxis Acquisition shall continue its limited liability company existence under the laws of the State of Florida, and the separate corporate existence of Auxis thereupon shall cease. The names and business addresses of the Managers of the Surviving Entity are as follows:

08/04/2011 16:23 FAX 9545231722

GUNSTER-YOAKLEY

007/013

FAX AUDIT NO. H11000197001 3

Alvaro Prieto
7901 SW 6th Court, Suite #130
Plantation, Florida 33324

Raul Vega
7901 SW 6th Court, Suite #130
Plantation, Florida 33324

William D. Pruitt
7901 SW 6th Court, Suite #130
Plantation, Florida 33324

FILED
11 AUG -4 AM 10:13
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1.2 Closing. Subject to the satisfaction or, to the extent permitted by applicable law, waiver of the conditions to consummation of the Merger contained herein, the closing of the Merger (the "Closing") shall take place on August 28, 2011 (the "Closing Date"), unless another time or date is agreed to by the parties hereto. The Closing will be held at the offices of AIH's counsel, or at such other location as is agreed to by the Parties.

1.3 Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, the parties shall cause the Merger to be consummated by filing with the Secretary of State of the State of Florida (the "Secretary") articles of merger in form and substance acceptable to the parties hereto (the "Articles of Merger") duly executed and so filed in accordance with the Act and the FBCA and shall make all other filings and recordings required under the Act and the FBCA to effectuate the Merger and the transactions contemplated by this Agreement. The Merger shall become effective at such time as the Articles of Merger are duly filed with the Secretary, or at such subsequent date or time as the Parties mutually shall agree and specify in the Articles of Merger (the time the Merger becomes so effective being hereinafter referred to as the "Effective Time"). This Agreement and Plan of Merger shall constitute a plan of merger to the extent required under provisions of the Act and the FBCA. The parties shall cooperate with each other and take all commercially reasonable actions to pre-position and/or pre-clear the Articles of Merger with the Secretary so that the Articles of Merger are accepted and becomes effective on the Closing Date.

1.4 Effects of the Merger. The Merger shall have the effects set forth in the Act and the FBCA.

1.5 Articles of Organization and Operating Agreement of the Surviving Entity. The articles of organization of Auxis Acquisition shall be the articles of organization of the Surviving Entity; provided, however, that the articles of organization shall be amended at the Effective Time to provide that the name of the Surviving Entity is "Auxis, LLC" as of the Effective Time. The Operating Agreement of Auxis Acquisition in effect immediately prior to the Effective Time shall be the Operating Agreement of the Surviving Entity until thereafter amended or restated as provided therein or by applicable law.

08/04/2011 16:23 FAX 9545231722

GUNSTER-YOAKLEY

FAX AUDIT NO. H11000197001 3

008/2011
AUG - 4 AM 10:43
FILED
SECRETARY OF STATE
TALLAHASSEE, FL

2. Merger Consideration

2.1 Merger Consideration. At the Effective Time, by virtue of the Merger and without any action on the part of Auxis, Auxis Acquisition, AI, or AIH, each share of Auxis Common Stock issued and outstanding immediately prior to the Effective Time shall be automatically converted into one Class I Voting Unit of AIH (the "Merger Consideration"), which Units shall be and remain issued and outstanding from and after the Effective Time and such Units shall be subject to the terms and conditions of AIH's Operating Agreement in effect immediately prior to the Effective Time; provided, however, that prior to the admission of an Auxis shareholder as a member of AIH, such shareholder shall be required to execute and deliver a Joinder Agreement to the AIH Operating Agreement. Any Auxis shareholder failing or refusing to execute the required Joinder Agreement shall nonetheless be issued Units, which shall be held as an assignee of the Units and entitled only to an economic interest in AIH but shall have no other voting or other rights of a Member. The existing outstanding Class I Voting Units of AIH immediately before the Merger shall remain issued and outstanding without change as a result of the Merger.

2.2 Cancellation of Membership Interests. At the Closing, each shareholder in Auxis shall surrender to Auxis Acquisition all certificates evidencing shares of Auxis Common Stock, if any, in proper form for cancellation, and upon such surrender shall be entitled to receive in exchange therefor the Merger Consideration. At the Closing, all outstanding shares of the Common Stock in Auxis shall forthwith be cancelled. Without limiting the generality of the foregoing (and notwithstanding any other provisions of this Agreement), no interest shall be paid or accrued in respect of any of the Merger Consideration. Until cancelled in accordance with this Section 2.2, shares of Common Stock in Auxis shall be deemed at all times from and after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration.

2.3 Assignment of Interests in Auxis Subsidiary LLCs. At or after the Closing, each shareholder in Auxis shall execute and deliver a general assignment in favor of Auxis Acquisition and/or AIH or AI (as AIH may direct) of all right, title or interest such shareholder has, had or may have in and to any membership or other interests in the following Auxis affiliated entities: Auxis Managed Solutions, LLC, Avalar, LLC, Auxis Holdings, Inc. and/or Auxis Costa Rica Limitada. Each shareholder hereby acknowledges that all such interests are or should be included as assets of Auxis as part of the Merger. The execution of such general assignment shall also be a condition to the admission of an Auxis Shareholder as a member of AIH (but shall not otherwise effect the status of such Auxis Shareholder as an assignee of a Unit entitled to the economic interest).

2.4 Dissenting Shareholders. Any holder of shares of Auxis Common Stock who perfects his or her appraisal rights in accordance with and as contemplated by Section 607.1323 of the FBCA shall be entitled to receive the value of such shares in cash as determined pursuant to such provision of the FBCA; provided that no such payment shall be made to any dissenting shareholder unless and until such dissenting shareholder has complied with the applicable provisions of the FBCA and surrendered to Auxis Acquisition the certificate or certificates representing the shares for which payment is being made. In the event that after the Effective Time a dissenting shareholder of Auxis fails to perfect, or effectively withdraws or

FTL_ACTIVE 11/17/13

FAX AUDIT NO. H11000197001 3

08/04/2011 16:24 FAX 9545231722

BUNSTER-YOAKLEY

FAX AUDIT NO. H11000197001 3

loses, his or her right to appraisal and of payment for his or her shares, subject to AIH's consent in its sole discretion, AIH shall issue and deliver the consideration to which such holder of shares of Auxis Common Stock is entitled under this Article 2 (without interest) upon surrender by such holder of the certificate or certificates representing shares of Auxis Common Stock held by him or her.

2.5 Intended Tax Consequences of Merger. For all purposes, the Parties intend that the Merger be treated as a merger of Auxis with and into Auxis Acquisition, with Auxis Acquisition owning all of the real and personal property of Auxis by operation of law and without need for further documents or instruments of conveyance. In accordance with Treasury Regulation §1.368-2(b) (and as illustrated by Treas. Reg. §1.368-2(b)(1)(iii) Example 2), for federal income tax purposes, the Parties understand and intend that the Merger is intended to be treated as a "Type-A" merger of Auxis with and into AIH. Each of Auxis and AIH have elected to be taxed as S corporations under the Code and each party represents and warrants to the other that each shall undertake all action necessary to maintain AIH's S corporation status.

3. Notices. All notices, consents, waivers or approvals which are required or permitted under this Agreement must be in writing to be effective and shall be deemed to have been given, delivered or made, as the case may be, (i) when delivered by personal delivery, (ii) one business day after having been deposited with an expedited, overnight courier service for next day delivery (such as by way of example but not limitation, U.S. Express Mail or Federal Express), or (iii) when transmitted by fax provided the sending machine prints a confirmation of transmission, and in any event, addressed to the Party to whom notice is intended to be given.

4. Termination. Notwithstanding any other provision of this Agreement, and notwithstanding the approval of this Agreement by the shareholders of Auxis and the Member of Auxis Acquisition, this Agreement may be terminated and the Merger abandoned at any time prior to the Effective Time:

4.1 By mutual consent of Auxis and AIH in a written statement, if determined by the Board of each; or

4.2 By Auxis or AIH (provided that the terminating Party is not then in material breach of any representation, warranty, covenant, or other agreement contained in this Agreement) in the event of a breach by the other Party of any representation or warranty contained in this Agreement which cannot be or has not been cured within 30 days after the giving of written notice to the breaching Party of such breach and which breach is reasonably likely, in the opinion of the non-breaching Party, to have, individually or in the aggregate, a material adverse effect on the breaching Party.

In the event of the termination and abandonment of this Agreement pursuant to this Section 4, this Agreement shall become void and have no effect.

5. Assignability. This Agreement may not be assigned by any Party, without the prior written consent of the other Parties which consent may be arbitrarily withheld in their sole and absolute discretion. This Agreement shall be binding upon and inure to the benefit of the respective heirs, representatives, successors and permitted assigns of the Parties. Upon any such

FTL_ACTIVE 884785.J

FAX AUDIT NO. H11000197001 3

008/013
FILED
11 AUG - 4 AM 10:43
SECRETARY
ALLAHSSAIB

08/04/2011 16:24 FAX 8545231722

BUNSTER-YOAKLEY

FAX AUDIT NO. H11000197001 3

assignment, such assignee shall succeed to all of the rights and assume all of the obligations of the assignor.

6. **Counterparts: Captions.** This Agreement may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not control or affect the construction to be given any of the provisions in this Agreement and in no way define, describe, extend or limit the scope, meaning or intent of this Agreement.

7. **Entire Agreement: Joint and Several.** This Agreement, the Operating Agreement of AIH and the Operating Agreement of Auxis Acquisition constitute the entire understanding between the Parties. This Agreement may not be modified, changed, discharged or waived orally, but only by an agreement in writing signed by the Party against whom enforcement of any waiver, change, modification or discharge is sought.

8. **Choice of Law: Attorneys' Fees.** This Agreement shall be interpreted in accordance with the laws of the State of Florida with exclusive venue being in Broward County, Florida. In the event of any dispute under or related to this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys' fees, consultants' fees, paralegals' fees, expert witness fees and costs at all tribunal levels. For purposes of this Section 8, the term "prevailing Party" shall be the party who is entitled to recover costs of suit, whether or not the proceeding is brought to final judgment or award. No sum of attorneys' fees shall be included in any computation of the amount of judgment or award for purposes of determining whether a party is entitled to recover costs or attorneys' fees.

9. **No Third Party Beneficiaries.** The provisions contained in this Agreement are for the sole benefit of the Parties to this Agreement and for the successors and assigns, if any, of Auxis Acquisition and shall not give rise to any rights by or on behalf of anyone other than such Parties.

10. **Interpretation.** Whenever the context shall so require, the singular shall include the plural, the male gender shall include the female gender and neuter and vice versa. Unless specifically otherwise indicated, whenever any action is to be performed by a Party it shall be performed at such Party's sole cost and expense.

11. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been included.

12. **Time of Essence.** Time is of the essence for each provision of this Agreement. The expiration of any period of time prescribed in this Agreement shall occur at 5:00 p.m. Eastern Standard Time on the first business day following the end of the applicable period. All time periods in this Agreement shall be deemed to be in calendar days unless otherwise so stated.

[Signature page to follow]

FILED
11 AUG -4 AM 10:48
SECRETARY OF FLORIDA
TALLAHASSEE, FLORIDA

FAX AUDIT NO. H11000197001 3

The Parties have duly executed this Agreement as of the date indicated above.

AUXIS ACQUISITION, LLC

By: Raul Vega
Raul Vega, Manager

By: William G. Pruitt
William G. Pruitt, Manager

By: Alvaro Prieto
Alvaro Prieto, Manager

AUXIS, INC.

By: Raul Vega
Raul Vega, President

AUXIS INVESTMENTS HOLDINGS, LLC

By: Raul Vega
Raul Vega, Manager

By: William G. Pruitt
William G. Pruitt, Manager

By: Alvaro Prieto
Alvaro Prieto, Manager

AUXIS INVESTMENTS, LLC

By: Raul Vega
Raul Vega, President

By: William G. Pruitt
William G. Pruitt, Manager

By: Alvaro Prieto
Alvaro Prieto, Manager

FILED
11 AUG - 4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

08/05/2011 08:08 850-245-6897

FL DEPT OF STATE

PAGE 12/13

08/04/2011 16:24 FAX 9545231722

GUNSTER-YOAKLEY

012/013

FAX AUDIT NO. H11000197001.3

Exhibit B

Articles of Amendment to Articles of Organization

FILED
11 AUG -4 AM 10:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

08/04/2011 18:24 FAX 9545231722

GUNSTER-YDAKLEY

013/013

FAX AUDIT NO. B11000197001 3

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
AUXIS ACQUISITION, LLC,
(a Florida limited liability company)**

FILED
11 AUG - 4 AM 10:48
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of section 608.411, Florida Statutes, AUXIS ACQUISITION, LLC, adopts the following amendment to its Articles of Organization:

FIRST: The name of this Florida limited liability company as currently filed with the Florida Department of State is AUXIS ACQUISITION, LLC (the "Company").

SECOND: The Articles of Organization of the Company were filed with the Florida Department of State on July 29, 2011 and assigned Document Number L11000087831.

THIRD: Article I of the Articles of Organization of the Company is amended in its entirety to read as follows:

**"ARTICLE I
Name**

The name of the Limited Liability Company is Auxis, LLC (the "Company")."

Dated: August 4, 2011.

AUXIS INVESTMENTS, LLC, a Florida limited liability company, its sole Member

By: Raul Vega
Raul Vega, President