

Report by the Executive Board on agenda item 9

Agenda item 9 contains the proposal to provide the Executive Board with the authorization to acquire own shares in the scope of up to 10% of the capital stock itself or through independent enterprises or enterprises in majority ownership of the company or through third parties acting on its or their own account. The authorization is intended to continue up to and including 6 April 2022 and thereby to utilize the statutory enabled framework of five years pursuant to Article 71 Section 1 No. 8 Stock Corporation Act (AktG). The authorization granted by the Annual General Meeting on 21 May 2010 expired on 20 May 2015. The Executive Board therefore provides the following report on the exclusion of subscription right pursuant to Article 71 Section 1 No. 8 in conjunction with Article 186 Section 4 p. 2 Stock Corporation Act (AktG):

a) Authorization to acquire own shares

Article 71 Section 1 No. 8 Stock Corporation Act also allows other forms of acquisition and sale to be used in addition to acquisition and sale on the stock exchange. The proposal for a resolution provides for the acquisition of shares also by means of a public offer tender made to all shareholders or a public invitation to submit offers for sale (jointly known as “public purchase offer”). Article 71 Section 1 No. 8 p. 4 Stock Corporation Act (AktG) states clearly that acquisition through the stock exchange satisfies the equal treatment principle pursuant to Article 53a Stock Corporation Act (AktG). Any disadvantage to shareholders is excluded by application of the equal treatment principle pursuant to Article 53a Stock Corporation Act (AktG).

A public purchase offer may involve the volume of shares in the company offered by shareholders exceeding the number of shares envisaged by the company for acquisition or the number of shares required by the company. In this case an allocation does not have to be given on the basis of participation rates but on the basis of the ratio of the tendered shares. This serves to simplify the allocation procedure. This is intended to facilitate a preferential acceptance of smaller offers or smaller parts of offers up to a maximum of 100 shares. This option helps to avoid fractional amounts in the determination of the ratios to be acquired and small residual amounts, and this facilitates the technical process of the repurchase. A de

facto discrimination against small shareholders can also be avoided in this way. Finally, provision is also to be made for a rounding based on commercial principles in order to avoid arithmetic fractions of shares. Insofar, the acquisition ratio and the number of individually shares being tendered to acquired shares can be rounded in the way necessary so as to ensure that the purchase of whole shares is technically possible. The Executive Board considers that the resultant exclusion of any more extensive preemptive tender right of the shareholders is objectively justified and reasonable with respect to the shareholders.

b) Authorization for the utilization of own shares acquired by the company

The acquired own shares may be used for all legally permissible purposes, in particular also as follows:

Article 71 Section 1 No. 8 p. 4 Stock Corporation Act (AktG) permits the own shares acquired on the basis of this authorization or an earlier authorization to be sold on the stock exchange. If the Executive Board sells its own shares on the stock exchange, it is necessary in formal terms to exclude any indirect subscription right of the shareholders with respect to the company. However, the shareholders are not unreasonably disadvantaged as a result of this action. According to the statutory regulations, the sale of own shares on the stock exchange –in the same way as their acquisition on the stock exchange – must comply with the equal treatment principal as set out in Article 53a Stock Corporation Act (AktG).

Furthermore, it is proposed that the Annual General Meeting should authorize the Executive Board to sell own share acquired on the basis of this authorization or earlier authorizations on the basis of an offer to all shareholders or in some other way. According to the statutory regulations, this approach also satisfies the equal treatment principle pursuant to Article 53a Stock Corporation Act (AktG).

The company shall also be permitted to sell the own shares acquired on the basis of this authorization or an earlier authorization subject to the prerequisites of Article 186 Section 3 p. 4 Stock Corporation Act (AktG) excluding the subscription right other than on the stock exchange or by an offer to the shareholders against a cash contribution. This is intended to enable the company in particular to issue shares in the company at short notice. The proposed authorization serves to secure a permanent and appropriate capital base for the company. For example, it permits own shares to be sold to institutional shareholders or new groups of investors to be accessed. A prerequisite is that the shares are sold against a cash contribution at a

price which is not significantly less than the stock exchange price of shares in the company on the date of the sale. The final definition of the sale price for the own shares is only determined for the own shares on a date shortly before the sale. The Executive Board will keep any discount on the stock market price as low as possible. Under no circumstances may the discount be more than 5% of the stock market price on the date of exercise of the authorization. The proportionate amount of the capital stock attributable to the shares being sold must not exceed 10% of the capital stock, neither on the date that this authorization becomes effective nor on the date of exercise of this authorization. This limit shall include shares which are issued during the term of this authorization from authorized capital subject to exclusion of the subscription right in accordance with Article 186 Section 3 p. 4 Stock Corporation Act (AktG). Furthermore, this limit shall include shares which are issued to service bonds (including participation rights) with conversion or option rights or a conversion obligation, insofar as the bonds or participation rights are issued during the course of this authorization with exclusion of the subscription right in corresponding application of Article 186 Section 3 p. 4 Stock Corporation Act (AktG). The limit on the number of shares to be sold and the obligation to define the sale price of the shares being sold close to the stock exchange price provides the shareholders with reasonable protection against a dilution in the value of their shares. At the same time, it is ensured that the consideration to be received by the company is reasonable.

At the same time, it should be possible to offer own shares to third parties against non-cash contributions, in particular in the context of company mergers, or for the purpose of (also indirect) acquisition of companies, parts of companies, shareholders in other companies or any other assets or claims on the acquisition of assets. This will enable the company to strengthen its competitiveness, and enhance its profitability and increase the value of the company. It emerges that in the case of such projects, that large units are regularly involved. Very high contributions have to be paid many times in such situations. They should or can – also from the perspective of an optimum financial structure – often be provided entirely or partly as a non-cash contribution. Moreover, sellers frequently insist on acquiring shares as a consideration because this can be more cost-effective for them and sellers can in this way also indirectly have a share in the opportunities and risks of the units sold. The possibility of using own shares as an acquisition currency thereby gives the company the option of exploiting such acquisition opportunities quickly, flexibly and with the preservation of liquidity. It places the company in a position to acquire even large units in exchange for shares. Even in

the case of individual economic assets, it should be possible under certain circumstances to make acquisitions either entirely or partly in exchange for shares. The possibility of being able to offer own shares as a consideration creates an advantage in the competition to acquire interesting acquisition objects. The Executive Board will ensure when establishing the valuation relations that the interests of the shareholders are appropriately safeguarded. This review by the Executive Board will take account of the price of the company's share on the stock exchange.

The company should also have the possibility of serving share options rights with own shares of the company which have been issued by the company to its Executive Board and its managers, and to the Executive Management and the managers of its Group companies on the basis of the resolution on the Share Option Program under agenda item 8 proposed to the Annual General Meeting being held on 7 April 2017. The authorization for the utilization of own shares alongside the proposed conditional capital 2017 to serve the share option rights extends the flexibility of the company. In relation to the structure and conditions of the Share Option Program 2017, reference is made to agenda item 8 in the Invitation to the Annual General meeting to be held on 7 April 2017.

The company should also have the opportunity to utilize own shares for the fulfilment of conversion or option rights which are granted by the company or a Group company for the issue of bonds (including participation rights) in future, or for the fulfilment of conversion obligations arising from bonds (or participation rights issued by the company or a Group company. Insofar as such instruments are issued on the basis of a separate authorization in future, it may be effective to serve the rights to subscribe to shares resulting from such instruments not by a capital increase but entirely or partly through own shares. The rights of shareholders are adequately safeguarded in this context because the shareholders have a subscription right to such instruments and its exclusion is only permissible by observing special requirements.

Finally, the authorization provides for the possibility of acquired own shares also being redeemed. The redemption should be possible in such a way that leads to the reduction of the capital stock when shares are redeemed, or also without carrying out such a reduction of the capital stock by simply redeeming the shares while at the same time increasing the proportionate amount of the capital stock (amortization) attributable to the remaining shares in accordance with Article 237 Section 3 No. 3 Stock Corporation Act (AktG). The rights of shareholders are not impaired in either of these aforementioned cases.

In all the designated cases (apart from in the case of redemption and in the case of public offer to all shareholders (with the exception of fractional amounts)), the subscription right of the shareholders to these shares must be excluded so that they can be utilized as described. After carefully considering all the circumstances, the Executive Board has come to the conclusion that exclusion of the subscription right is objectively justified and reasonable in the designated cases and for the reasons presented.

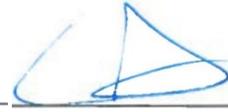
The opportunities for utilization referred to above can also be exploited in relation to such shares which were acquired on the basis of authorization resolutions adopted at former Annual General Meetings pursuant to Article 71 Section 1 No. 8 Stock Corporation Act (AktG). This affects the 133,368 own shares currently held by the company.

The Executive Board will review each individual case in order to establish whether own shares of the company should be used for the designated measures. When reaching its decision, the Executive Board will be guided by the interests of the shareholders and the company and will further carefully consider whether it should make use of the authorization. The measure will be only adopted in this case and the subscription right excluded.

The Executive Board will report on the decision about utilization of the repurchase authorization and the more detailed circumstances of the acquisition at the next relevant Annual General Meeting pursuant to Article 71 Section 3 Stock Corporation Act (AktG).

Vaterstuh, 23.2.17

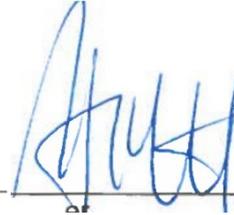
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Leonardo Musso,
Member of the Executive
Board

Unterföhring, 23.2.17

Ort, Datum



Dietmar Müller,
Member of the
Executive Board