



**RULES**  
**prime market**





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## General

### 1. Scope of Application

The prime market is a market segment of the Vienna Stock Exchange which has been operated by Wiener Börse AG (hereinafter WBAG) since 1 January 2002 and on which the stocks<sup>1</sup> are listed of companies (hereinafter Issuers) that have signed agreements with the exchange regarding obligations that go beyond the legal admission criteria for the Official Market and Second Regulated Market of the Vienna Stock Exchange as stipulated in the Stock Exchange Act 1989, Federal Law Gazette No. 555, as amended, (hereinafter Stock Exchange Act), and under which the Issuers have agreed to meet higher transparency, quality and disclosure requirements.

### 2. Participation Bid and Decision on Participation

#### Participation Bid

Issuers shall submit bids to include their securities in trading in the prime market by presenting the following documents to WBAG:

- Duly signed contract: “Agreement on the Inclusion in the prime market”, and
- All documents required to furnish proof to WBAG that the Issuer meets the obligations stated in the “Listing Criteria” and the “Ongoing Listing Obligations”.

#### Competence for Stating the Grounds for Acceptance or Rejection

Decisions on the acceptance of a bid and the inclusion of securities in the prime market as well as on the withdrawal of the securities shall be the competence of the management board of WBAG. The management board of WBAG has the right to reject a bid for participation in the prime market submitted by an Issuer if

- the participation requirements, conditions and ongoing obligations for the prime market are not met or cannot be met, or
- an inclusion would be against the interests of the prime market, or
- the inclusion could be damaging to the interests of the general public.

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<sup>1</sup> The term “stocks” as used in these Rules refers to both common shares as well as certificates that represent common shares.



### 3. Time of Inclusion

#### **Inclusion as a result of a switch in listing from another market segment**

The inclusion of stocks in the prime market that had been admitted to the Official Market or Second Regulated Market and are already being traded on the Vienna Stock Exchange in its function as a securities exchange at the time of signing of the “Agreement on the Inclusion in the prime market” by both parties shall take place on the next expiry day in the trading of options and financial futures contracts on the Austrian Traded Index following the day of the signing of the agreement on the Vienna Stock Exchange in its function as a securities exchange pursuant to the “Rules for the Trading of Options and Financial Futures Contracts on the Vienna Stock Exchange (Derivative Market Rules)”, the “Contract Specifications for Options on the Austrian Traded Index” and the “Contract Specifications for Financial Futures Contracts on the Austrian Traded Index”. In the case of a capital increase, the stocks shall be listed on the prime market after the signing of the contract and the admission of the new shares to the Official Market or to the Second Regulated Market of the Vienna Stock Exchange on the day trading in the new shares starts on the Vienna Stock Exchange in its function as a securities exchange.

#### **Inclusion in the Case of Initial Listing**

In the case that stocks are not yet traded on the Vienna Stock Exchange in its function as a securities exchange at the time of the signing by both contractual parties of the “Agreement on the Inclusion in the prime market”, the stocks shall be listed on the prime market after having been admitted to listing on the Official Market or Second Regulated Market on the Vienna Stock Exchange in its function as a securities exchange on the day the stocks are included in trading on the Vienna Stock Exchange in its function as a securities exchange.



## Admission Criteria

### 1. General Admission Criteria

#### Statutory Admission Segment

A requirement for the inclusion of stocks in the prime market shall be the admission to listing of the stocks to the Official Market or Second Regulated Market on the Vienna Stock Exchange. In the case of admission to listing on the Second Regulated Market, the Issuer shall agree to refrain from withdrawing the stocks from listing on the Second Regulated Market pursuant to Art. 83 par. 4 Stock Exchange Act for the duration of their listing on the prime market.

#### Minimum period of existence

For the admission of stocks to the prime market, the issuer has to have existed for at least three years and have published financial statements for the three full financial years preceding the admission to the prime market. If the Issuer is the universal successor to another company and accounting continuity is given, the period of existence of the other company shall be credited to the period of existence of three years required. The Management Board of Wiener Börse AG may waive the requirements of three years of existence if the Issuer provides the public with information in a listing prospectus prepared pursuant to Article 74 Stock Exchange Act that is equivalent to the financial statements for the last three years with respect to the assessment of the economic and legal situation of the Issuer. Nonetheless, the stock corporation shall be required to have published financial statements for one full financial year in any case.

#### Continuous Trading

For the entire duration of the stock's listing in the prime market, it must be included in the trading procedure continuous trading pursuant to the "Trading Rules for the Automated Trading System XETRA<sup>®2</sup> (Exchange Electronic Trading)".

#### Stock category

Only common stocks are included in the prime market. Certificates that represent stocks and give holders the same rights as common stocks shall be deemed equivalent to common stock.

Stocks that grant holders more than one vote shall not be permitted.

#### Minimum free float

The basis on which free float is determined are the reports on the shareholdings pursuant to Art. 91 et seq Stock Exchange Act.

To determine the free float, the following definition shall be used:

All shares (including employee stock option plans and own shares) that amount to at least five percent of the share capital shall be considered block ownership.

Free float shall be defined as all shares – as long as the share does not exceed 25 percent of the share capital – that are held by investment funds, pension funds or investment management companies as long as

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<sup>2</sup> XETRA is a registered trademark of Deutsche Börse AG

these do not have the features of a special fund or imply a long-term investment strategy (for strategic goals, to influence company policy or business activities).

Free float is accordingly represented by the weighting factors of 0.10-0.20-0.30-0.40-0.50-0.60-0.70-0.80-0.90 or 1. The one that exceeds the free float determined is selected as weighting factor.

The results are as follows:

Free float	Weighting factor
≤ 10	0.10
> 10	0.20
> 20	0.30
> 30	0.40
> 40	0.50
> 50	0.60
> 60	0.70
> 70	0.80
> 80	0.90
> 90	1

At least 25% of the common shares deliverable on the Vienna Stock Exchange of the Issuer must be held in free float and the capitalization of the free float (price per share x number of shares x free float factor) must be at least EUR 15 million.

If the free float drops below 25%, then the free float requirement will still be deemed to be fulfilled if the capitalization of the free float exceeds EUR 30 million.

The limits applicable as per 30 June 2001 (EUR 15m and EUR 30m; at an index level of 625.29) shall be adjusted continuously as of 1 January 2002 to the development of the segment index (ATXPrime), with the upper limit being EUR 20m and EUR 40m respectively.

The Issuer's fulfillment of the (adjusted) limits for the minimum free float will be reviewed bi-annually (please refer to the section "Monitoring Issuer's Compliance with Obligations", sub-item 2). If the Issuer no longer meets the criteria at the time of the review, the item "Consequences of Non-compliance" shall apply, sub-item 3.

### Corporate Governance

A requirement for the admission of stocks to the prime market is a declaration of commitment to comply with the rules of the Austrian Code of Corporate Governance. The issuer shall disclose the declaration of commitment to comply with the Austrian Code of Corporate Governance including the explanations on any deviations on its website (there are exceptions for companies with their registered office outside of Austria pursuant to Item "Admission Criteria", sub-item 2).

## 2. Additional admission criteria for companies with their registered office outside of Austria

### Corporate Governance

A company subject to company law of another EU Member State or a Member State of the EEA that makes an offer to take part in the prime market shall submit a declaration of commitment on compliance with a Code of Corporate Governance recognized in the respective economic area, and shall disclose it including the explanations on any deviations and install a link to the relevant code on its website. In the case a company agrees to comply by the rules of a code of corporate governance other than those of its home state, the non-mandatory L Rules of this code shall be interpreted as C Rules. Companies that are subject to company law of a non-EU Member State or non-EEA Member State and have made an offer to take part in the prime market shall submit a declaration of commitment to comply with the Austrian Code of Corporate Governance and shall disclose it on their websites including the explanations on any deviations. Non-mandatory L Rules of the Code shall be interpreted as C Rules.<sup>3</sup>

### Rules relating to company law

Issuers with their registered office outside of Austria shall disclose the valid provisions of company law that applies to them for at least the rules mentioned in Annex ./B on their websites.

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<sup>3</sup> Compliance with the Corporate Governance Rules of the New York Stock Exchange – NYSE is accepted.



## Ongoing Listing Obligations

### 1. Interim Reports (Quarterly Financial Reports and Half-yearly Financial Report)

#### General Principles

The interim reports must cover the first three, six and nine months of the business year. The interim report for the fourth quarter is replaced by the annual financial report. The interim reports must be prepared in German and English.

If the Issuer has its registered seat in another EU member state, WBAG may grant permission to prepare the interim reports in full or in part only in English.

#### Publication

The Issuer shall publish the interim reports immediately, at the latest, however, within two months after the end of the reporting period pursuant to Art. 82 par. 8 Stock Exchange Act and send it to WBAG at the same time by the latest. Simultaneously, the Issuer must make the interim report available to the public on its website.

#### Accounting

The interim reports are to be prepared in accordance with the IFRS for interim reports (IAS 34) as adopted by Regulation 1606/2002/EC.

In the case of half-yearly financial reports of issuers with their registered office in third countries, since 1 January 2009 the accounting standards stated in the Decision of the Commission (2008/961/EC) shall be considered as equivalent to IFRS adopted pursuant to Regulation (EC) No. 1606/2002 and it has been permitted to use these in addition to IFRS adopted pursuant to Regulation (EC) No. 1606/2002.<sup>4</sup>

Quarterly reports on the first three and nine months of the business year of companies registered with the US Securities and Exchange Commission (SEC) that have been prepared in accordance with the requirements of the SEC (10Q-Form) shall be accepted in this form.

#### Audit or review

If the interim report has been audited, the full text of the auditor's opinion must be included. The same applies to a review by an auditor. If the interim report has not been audited fully nor subjected to a review by an auditor, the issuer must state this fact in its report.

#### Periods of comparison

The periods of comparison to be presented shall be subject to the provisions of Annex /A.

<sup>4</sup> The Generally Accepted Accounting Principles of the United States of America and of Japan shall be accepted. The Generally Accepted Accounting Principles of Canada, the People's Republic of China, the Republic of Korea and the Republic of India shall be accepted for business years starting before 1 January 2012 (Decision of the Commission of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (2008/961/EC)).





## 2. Annual Financial Statements

### General Principles

The annual financial statements must be prepared in German and English.

If the annual financial statements contain consolidated statements, the financial statements of the issuer as parent company contained in the annual financial report only need to be published and made available in German.<sup>5</sup> The language and third country rule pursuant to Article 85 Stock Exchange Act shall remain unaffected.

### Publication

The Issuer shall publish the annual financial report immediately, at the latest, however, within four months after the end of the reporting period pursuant to Art. 82 par. 8 Stock Exchange Act and send it by the latest at the same time to WBAG. At the same time, the Issuer must make the annual financial report available to the public on its website.

### Accounting

The annual financial report must be prepared pursuant to the IFRS adopted by Regulation (EC) No. 1606/2002 for financial years that start on or after 1 January 2007.

In the case of issuers with their registered office in third countries, since 1 January 2009, the accounting standards stated in the Decision of the Commission (2008/961/EC) shall be considered equivalent to the IFRS adopted pursuant to Regulation (EC) No. 1606/2002; it is permitted to use these apart from the IFRS adopted pursuant to Regulation (EC) No. 1606/2002.<sup>6</sup>

## 3. Corporate Governance Declaration

The Issuer shall include a declaration of commitment on compliance with the Austrian Code of Corporate Governance in its Corporate Governance Statement pursuant to Art. 243b Commercial Code and shall publish it on its website. Once a year, a declaration regarding compliance with the Code including explanations on any deviations from the Code shall be included in the Corporate Governance Statement and published on the website of the issuer.

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<sup>5</sup> Such financial report in English does not comply with the criteria of annual financial statements pursuant to Art. 82 par. 4 Stock Exchange Act.

<sup>6</sup> The Generally Accepted Accounting Principles of the United States of America and of Japan shall be accepted. The Generally Accepted Accounting Principles of Canada, the People's Republic of China, the Republic of Korea and the Republic of India shall be accepted for business years starting before 1 January 2012 (Decision of the Commission of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (2008/961/EC)).



## 4. Corporate Action Timetable

The Issuer is obligated to prepare a corporate action timetable two months before the beginning of the business year for the respective business year in German and English and to keep it up to date and available to the public on its website.

The timetable must contain at least the following dates:

- Publication of the financial results for the year
- Annual general meeting
- Dividend ex day
- Dividend payout day
- Publication of the quarterly results

Furthermore, the date for the announcement of preliminary results must also be given, if applicable. The dates of the extraordinary annual general meetings must be sent as soon as they are fixed.

If a concrete date is not available two months prior to the beginning of the financial year, then the calendar week must be given as a minimum if possible. The concrete date must be sent in as soon it is fixed.

## 5. Listing Prospectus

The issuer shall make the listing prospectus drawn up pursuant to Art. 74 Stock Exchange Act available on its website and keep it available to the public for the duration of at least one year after the end of the offer period.

If the listing prospectus is not prepared in German, the issuer shall translate the summary contained in the listing prospectus into German and shall make it available together with the listing prospectus on its website and maintain it available to the public for at least one year as of the end of the offer period.

The provisions above also apply to documents that must be prepared in accordance to Art. 75 Stock Exchange Act as an exception to the obligation to publish a listing prospectus. The issuer must make it available to the public on its website for a period of at least one year as of the day of publication.

## 6. Sending the Data to WBAG

The Issuer is obligated to make available to WBAG all of the data listed under item “Ongoing Listing Requirements” sub-items 1 through 5 and 8 in the appropriate electronic form that allows WBAG to immediately make the data available to the public on its website or in another adequate form. This does not mean that WBAG has a commitment or is liable vis-à-vis the Issuer in any way whatsoever, and neither does WBAG assume any obligations under public law.



## 7. Compliance with the Inside Information Disclosure Requirements via an Appropriate Electronic Ad Hoc Dissemination System

The Issuer is obligated to maintain a connection to an appropriate electronic ad hoc system and to use this system to immediately disseminate any information that is required to be disclosed immediately pursuant to Art. 48d Stock Exchange Act in German and English.

This type of system may be considered appropriate if it ensures direct access to at least two electronically operated information dissemination systems pursuant to Art. 11 par. 2 of the Disclosure and Reporting Decree of the Financial Market Authority (FMA) and guarantees the swift and reliable dissemination of ad hoc reports without requiring editorial intervention.

## 8. Additional Ongoing Obligations for Companies with their Registered Office outside of Austria

### Language rule

If the issuer has its registered office in another EU member state, WBAG may authorize the preparation of interim reports, annual financial statements and the corporate actions timetable as well as the disclosure of inside information that must be published immediately only in English, completely or partly.

### Changes to major shareholdings

Issuers whose stocks are included in the prime market and whose registered office is in another EU member state are subject to reporting obligations pursuant to Art. 93 par. 2 Stock Exchange Act accordingly, with this reporting obligation applying only vis-à-vis WBAG.

### Corporate Governance

Companies that are subject to company law of another EU Member State or EEA Member State and are listed on the prime market are under the obligation to comply with a Code of Corporate Governance recognized in the respective economic area and shall include the declaration of commitment including a reference (link) to the code complied with in the annual financial report or in a Corporate Governance Statement and shall publish it on their website. Once a year, a declaration regarding compliance with the Code including explanations on any deviations from the Code shall be included in the annual financial report or Corporate Governance Statement and published on the website of the company. In the event a company agrees to comply by the rules of a code of corporate governance other than those of its home country, the non-mandatory L Rules of this code shall be interpreted as C Rules. Companies that are subject to company law of a non-EU Member State or non-EEA Member State and are listed on the prime market are under the obligation to comply with the Austrian Code of Corporate Governance and shall include the declaration of commitment in the annual financial report or in a Corporate Governance Statement and shall publish it on their website. Once a year, a declaration regarding compliance with the Code including explanations on any deviations from the Code shall be included in the annual financial report or Corporate Governance Statement and published on the website of the company. Non-mandatory L Rules of the Code shall be interpreted as C Rules.<sup>7</sup>

<sup>7</sup> Compliance with the Corporate Governance Rules of the New York Stock Exchange – NYSE is accepted.





**Own shares**

Should an issuer of shares acquire or sell own shares itself or through a person acting in its own name, but for the account of the issuer, then the issuer shall disclose the percentage of own shares immediately, but at the latest two trading days after the acquisition or sale, if these shares reach, exceed or fall below the threshold of 5% or a multiple of said threshold of voting rights. The percentage shall be calculated based on the total number of shares with attached voting rights.

**Rules relating to company law**

Issuers with their registered office outside of Austria shall maintain the presentation pursuant to Annex ./B up to date at all times and make it available to the public on its website.



## Monitoring Issuers' Compliance with Obligations

### 1. General

WBAG shall constantly monitor if the listing criteria are met by Issuers and their compliance with ongoing listing obligations. In the event of non-compliance with these obligations, the appropriate measures shall be taken according to item "Consequences of Non-compliance"

### 2. Minimum free float

The requirement of minimum free float shall be reviewed twice a year at the meeting of the ATX Committees in March and September. The review will be based on the data at the end of the month of February and of August. The closing prices of the last 60 exchange trading days will be multiplied by the free float factors defined in December and June and compared with the limits adjusted to the development of the segment index (ATXPrime) (base 30 June 2001: EUR 30m, EUR 15m). The minimum free float criterion shall not be considered met if the determined capitalized free float is below the adjusted limits over a period of 60 consecutive exchange trading days



## Consequences in the Event of Non-compliance

### 1. Publication

In the event the Issuer commits a breach of the participation requirements, conditions and ongoing obligations set out in the prime market Rules, WBAG will request the Issuer meet the ongoing obligation and, if given, may set an appropriate period of grace depending on the severity of the breach for reinstating the contractually agreed-on status. Moreover, WBAG has the right and the obligation to inform the public of this fact and of the type of breach committed by the Issuer electronically via its website or to make it available in another appropriate form.

### 2. Stipulated Penalty

The Issuer undertakes to pay a stipulated penalty in the following amount on the express written request of WBAG in the event of repeated breaches against one of the ongoing obligations defined in these Rules, as amended, to WBAG.

- For the first repeat of a breach, a stipulated penalty of EUR 5,000
- For the second repeat of a breach, a stipulated penalty of EUR 10,000

A repeated breach shall be deemed given, if the Issuer fails to meet any of its ongoing obligations or fails to reinstate the contractually compliant status within the reasonable period granted by WBAG despite having been requested to do so by WBAG

The payments received from these stipulated penalties will be used by WBAG for segment-specific marketing measures and for the further development of the prime market.

### 3. Terminating the Participation of Shares in the prime market

#### Reasons

The following will be considered to constitute a material breach of contract entitling WBAG to terminate the “Agreement on the Inclusion in the prime market” with immediate effect:

- The Issuer acts in such a way that gives rise to reasons for rejection pursuant to General, sub-item 2, of these Rules;
- The Issuer no longer meets the participation requirements and conditions set out in these Rules, as amended, or
- The Issuer persistently commits breaches of the ongoing obligations set out in these Rules, as amended, (a persistent breach shall be deemed to occur if the Issuer, despite being requested by WBAG explicitly refuses to meet the ongoing obligations within the period of time defined by WBAG, or after the second repeated breach), or
- The Issuer raises an objection and refuses to accept appropriate and reasonable changes to the participation requirements, conditions and ongoing obligations set out in these Rules.





The contractual relationship shall end automatically at the end of the day on which insolvency proceedings against the assets of the Issuer or proceedings under the Company Reorganization Act are opened or the Issuer is placed under receivership. Irrespective of this, should any of these circumstances be given they shall be deemed a material breach that entitles WBAG to terminate the contract on the grounds of material breach of contract based on Article 25a para 1 Insolvency Code, with such termination being effective as of the end of the day on which insolvency proceedings against the assets of the Issuer or proceedings under the Company Reorganization Act are opened or the Issuer is placed under receivership. The Issuer explicitly accepts and acknowledges this right of WBAG to terminate the contract on the grounds of material breach of contract.

The “Agreement on the admission to the prime market” may be terminated unilaterally by either of the contractual partners by giving three months’ notice in writing sent by registered mail to the respective other contractual partner effective as of the end of the last day of trading in options and financial futures contracts on the Austrian Traded Index on the Vienna Stock Exchange pursuant to the “Rules for the Trading of Options and Financial Futures Contracts on the Vienna Stock Exchange (Derivative Market Rules)” and pursuant to the “Contract Specifications for Options on the Austrian Traded Index” and pursuant to the “Contract Specifications for Financial Futures Contracts on the Austrian Traded Index” of the months of March and September of every year.

#### **Point in time**

If WBAG terminates the contract for material breach of contract because the Issuer has acted in such a way that constitutes grounds for rejection according to Item “General”, Sub-item 2 of these Rules, or because the Issuer raises objections and refuses to accept appropriate and reasonable changes by WBAG to the participation requirements, conditions and ongoing obligations set out in these Rules, or because the Issuer persistently commits breaches of the ongoing obligations set out in these Rules, as amended, the contractual relationship shall be terminated effective as of the end of the last trading day, following the date of the notice of termination, in trading in options and financial futures contracts on the Vienna Stock Exchange in its function as a securities exchange pursuant to the “Rules for the Trading of Options and Financial Futures Contracts on the Vienna Stock Exchange (Derivative Market Rules)” and pursuant to the “Contract Specifications for Options on the Austrian Traded Index” and pursuant to the “Contract Specifications for Financial Futures Contracts on the Austrian Traded Index”.

If WBAG terminates the contractual relationship for material breach of contract, because the Issuer no longer meets the participation requirements and conditions set out in these Rules, as amended, then the contract shall be terminated in the following cases as of:

- the end of the day on which the notice of revocation of admission of the shares of the Issuer to the Official Market or Second Regulated Market on the Vienna Stock Exchange in its function as a securities exchange issued by the management board of the exchange operating company Wiener Börse AG was issued;
- the end of the last trading day of the month in which the revocation of the inclusion of the shares of the Issuer in the trading procedure continuous trading takes effect;
- the end of the last trading day, following the date of the notice of termination in trading in options and financial futures contracts on the Vienna Stock Exchange in its function as a securities exchange pursuant to the “Rules for the Trading of Options and Financial Futures Contracts on the Vienna Stock Exchange



(Derivative Market Rules)“ and pursuant to the “Contract Specifications for Options on the Austrian Traded Index” and pursuant to the “Contract Specifications for Financial Futures Contracts on the Austrian Traded Index” if the minimum free float of the shares held by the public pursuant to the requirements of these Rules, as amended, is no longer given.



## Entry into Force

The above Rule shall enter into force as of 1 November 2011.



## ANNEX./A Presentation of Periods of Comparison

The following examples apply to companies that use the calendar year as the financial year. The interim reporting period is assumed to be the third quarter 2010.

### Balance sheet

The balance sheet is to be compared with the cut-off date of the respective interim reporting period and of the balance sheet of the preceding annual financial statements.

Balance sheet	30 Sept. 2011	31 Dec. 2010
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### Profit and loss account

The profit and loss account is to be prepared for comparison with the respective interim reporting period for the cumulated period from the beginning of the business year until the cut-off date of the corresponding interim reporting period and with the corresponding figures of the preceding year.

Profit and loss account	1 July 2011 – 30 Sept. 2011	1 July 2010 – 30 Sept. 2010	1 Jan. 2011 – 30 Sept. 2011	1 Jan. 2010 – 30 Sept. 2010
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### Cash flow account

The statement of cash flow is to be compared with the corresponding figures of the preceding year for the period from the beginning of the business year until the end of the reporting period.

Cash flow account	1 Jan. 2011 – 30 Sept. 2011	1 Jan. 2010 – 30 Sept. 2010
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### Statement of changes in equity

The statement of changes in equity is to be compared with the corresponding figures of the preceding year for the period from the beginning of the business year until the end of the reporting period.

Statement of changes in equity	1 Jan. 2011 – 30 Sept. 2011	1 Jan. 2010 – 30 Sept. 2010
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## ANNEX .IB RULES RELATING TO COMPANY LAW

Issuers with their registered office outside of Austria shall disclose on their websites the valid provisions of company law that applies to them relating at the least to the provisions listed below and shall maintain the information up to date.

### **Ban on subscribing to own shares**

The company shall not be permitted to subscribe to own shares.

A subsidiary, in its function as a founder or subscriber to shares or when it is exercising subscription rights, shall not be permitted to acquire shares of the company. The effectiveness of such an acquisition shall not be affected by a breach of this rule.

Any person with the function of founder or subscriber or exercising subscription rights that has acquired shares for the account of the company or of a subsidiary shall not be able to claim that he/she has not acquired shares for his/her own account. Such person shall be liable for the full amount paid in irrespective of any agreement with the company or with a subsidiary. Such person shall not be entitled to any rights granted by the share before the acquisition of the shares for his/her own account.

### **No repayment of paid-in amounts**

No repayment of amounts paid in by shareholders shall be permitted; for as long as the company exists, shareholders shall only have the right to claim a share in the net profit reported in the financial statements unless distributions are ruled out by law or by the company's articles of association. The payment of the acquisition price in the case of permissible acquisitions of own shares shall not be considered repayment of paid-in amounts.

### **Profit distribution to shareholders**

The share in the profit claimed by shareholders is defined by the percentages they hold in the share capital of the company.

If the paid-in amounts on the share capital have not been paid in on all shares in equal proportions, then the shareholders shall receive an amount in advance of the distributable profit of four percent of the amount paid in; if the profit is not sufficient, the amount to be paid out shall be fixed according to a lower rate. Paid-in amounts that have been effected in the course of a business year are taken into account proportionally according to the time expired since the payment.

The articles of association may define another type of profit distribution.

### **Changes to the articles of association**

Any change to the articles of association shall require a resolution by the general shareholders' meeting. The right to make changes, which refer only to the version, may be delegated by the general shareholders' meeting to the supervisory board.

The resolution may only be reached if the intended change to the articles of association has been explicitly notified with respect to its material content and announced in a timely manner.



The legal validity of any definitions regarding special privileges, foundation expenses, contributions in kind and acquisitions in kind may be changed only after a period of one year has expired.

The resolution by the general shareholders' meeting shall require a majority of at least three-quarters of the share capital represented at the time the resolution is reached. The articles of association may replace this majority by another majority of the share capital represented, but the object of business of the company can only be changed by majority that represents a higher share in the capital. The articles of association may also define other conditions.

If the effective distribution proportion applicable to several classes of shares is to be changed to the disadvantage of one class of shares, the resolution of the general shareholders' meeting shall require the approval of the disadvantaged shareholders by a separate vote of said shareholders for the resolution to become effective; the provisions of sentence 1 and 2 of the preceding paragraph shall apply to these shareholders. The disadvantaged shareholders may only reach such resolution if the separate vote has been explicitly notified and announced in a timely manner.

#### **Exclusion of subscription rights**

In the case of a capital increase, every shareholder must be allotted upon his/her request a percentage of the new shares that corresponds to the share held in the share capital of the company up to that time.

The right to subscribe to new shares may be excluded in full or in part only in the resolution on the increase of the share capital. In such case, the resolution shall, in addition to the requirements of the law or articles of association regarding capital increases, require a majority of the votes that corresponds to at least three-quarters of the share capital represented at the time of passage of the resolution. The articles of association may replace this majority by a larger majority in the share capital and also define other requirements.

#### **Acquisition of own shares**

The issuer shall disclose the applicable national laws regarding the acquisition of own shares. The following information shall be provided:

- The purposes for which the acquisition of own shares is permitted;
- The maximum amount of the permissible share in the share capital of the company when acquiring own shares according to national law;
- Provisions regarding the duration of a stock buyback program;
- The required resolutions including those of the competent bodies pursuant to national law and the percentage majority needed for the required resolutions;
- The mandatory disclosures relating to the acquisition of own shares;

The same shall apply accordingly to the selling of own shares.