



**Annual General Meeting of ING Groep N.V.  
9 May 2011**

**Translation: the Dutch version of this document will be binding.**

**Agenda item 5C. Amendment Articles of Association B (voting item).**

It is proposed:

A) to amend the Articles of Association of the company as follows:

1. articles 4, 10, 11, 12, 14, paragraph 1, 15, paragraph 5, 29, 31, 33, 35 and 37, paragraphs 3 and 5 be amended in agreement with the proposal prepared by Stibbe N.V., dated 16 March 2011 (attached);
2. each time the Articles of Association refer to the “algemene vergadering van aandeelhouders” (“general meeting of shareholders”) and “algemene vergaderingen van aandeelhouders” (“general meetings of shareholders”), respectively, this will be replaced by “algemene vergadering” (“general meeting”) or “algemene vergaderingen” (“general meetings”), respectively;
3. the order of the numbering of each article and the headings of each article will be reversed, so that the indication of the number of the article will follow its headings;
4. the indication of the paragraphs of each article will be adjusted in such a way that the number of each paragraph will be preceded by the number of the relevant article, followed by a dot, and references in the text of the Articles of Association to such paragraphs will be adjusted accordingly;

B) that each member of the Executive Board and each of Jan- Willem Vink, Cornelis Blokbergen and Henk Bruisten be authorised, with the power of substitution, to execute the notarial deed of amendment of the Articles of Association and furthermore to do everything that might be necessary or desirable in connection herewith, including the power to make such amendments in or additions to the draft deed as may appear to be necessary in order to obtain the required ‘nihil obstat’ from the Minister of Justice.

**Explanation**

This proposal comprises a number of amendments which are related to changes of law or which are otherwise more technical. These are brought together under one agenda item to prevent fragmentation of the agenda into a large number of voting items.

A number of changes is the result of the implementation by the Dutch legislator of the EU Shareholder Rights Directive, which has implications for Dutch listed public companies.

1. The record date for general meetings is no longer optional, but mandatory. Moreover, the record date is, as the Directive requires, uniform to all Dutch listed public companies, namely the 28th day before the day of the general meeting. The Articles of Association are aligned with these provisions by insertion of a new article 31.2, deletion

of article 31, paragraph 3 and deletion of item b. of article 31, paragraph 4 and by amendment of article 33.13.

2. The convocation period for general meetings is extended from 15 days to 42 days, which is six weeks. In connection herewith, the maximum term for convening the informatory general meeting in article 12.6 is extended from four weeks to eight weeks. Moreover, the 50 days' term for submitting shareholder proposals in article 29.4 is replaced by the statutory term which is currently 60 days. Finally, the reference to the Euronext Amsterdam N.V. requirements in article 29.2 is deleted, as this is not required under the Dutch Civil Code, so that the Euronext requirements are no longer part of the formal requirements for convening general meetings pursuant to the Articles of Association.
3. Article 29.4 now also requires that shareholder proposals are reasoned, whereas the power of the Executive Board and the Supervisory Board to exclude shareholder proposals from the agenda of a general meeting for compelling reasons in the company's interest, is deleted.
4. As the law no longer permits that the agenda of a general meeting is deposited at the office of the company or any other location in Amsterdam which is determined by the Executive Board, as an alternative for incorporation in the convocation, the reference to this alternative in article 29.3 is deleted.

In connection with the implementation of the EU Transparency Directive, the statutory term for drawing up the annual accounts of Dutch listed companies was reduced from five months following the end of the financial year to four months. In connection herewith the five months term in article 35.2 was replaced by a reference to the statutory term.

The only change of policy in this proposal relates to usufruct and pledge on registered shares. Pursuant to the Dutch Civil Code, the articles of association may stipulate that usufructuaries without voting rights and pledgees are not entitled to attend and to address general meetings (these rights are referred to in the Dutch Civil Code as "the rights of holders of depositary receipts which are issued with the co-operation of the company"). Articles 10 and 11 of the Articles of Association do contain such stipulations. As there are no reasons to continue to apply a restrictive admittance policy for general meetings, it is proposed to delete these stipulations and instead refer to the relevant provisions of the Dutch Civil Code. As the number of individual holders of registered shares is minimal (approximately 100) this amendment will have no material consequences for the attendance at general meetings.

Finally, a number of textual and editorial changes are proposed. This includes replacing of "general meeting of shareholders" by "general meeting" in order to align with the terminology of the Dutch Civil Code. In connection herewith, a definition of "general meeting" is inserted in article 4.1. Furthermore, the indication of paragraph numbers is modernised and references to paragraph numbers are adjusted accordingly.

Verwijerd: [1]

Definitie van opmaakprofiel [1]

Verwijerd: .

Verwijerd: Definitions

Definitions

Article 4.

4.1. In these Articles of Association, the following terms shall have the meanings assigned below, except where expressly stated otherwise:

a. shares: ordinary shares and cumulative preference shares in the company's capital;

Verwijerd: a. .... [2]

b. shareholder: a holder of one or more shares;

Verwijerd: b. .... [3]

c. general meeting: both the body consisting of shareholders and other persons entitled to vote as well as the meeting of shareholders and other persons entitled to attend meetings;

Verwijerd: c. .

d. depositary receipts: depositary receipts for shares issued or deemed to have been issued with the company's cooperation;

Verwijerd: .

e. depositary receipt holder: a holder of one or more depositary receipts.

Verwijerd: d. .

4.2. By 'written' is understood a communication by means of letter, fax or e-mail or any other electronic means, provided the message is readable and reproducible, subject to the proviso that requests and notifications within the meaning of article 8, article 28.2 and article 29.4, must be made by letter

Verwijerd: A...A...paragraph 2 ...A...paragraph 4 [4]

Pledge on shares

Article 10.

10.1. A pledge may be established on shares.

10.2. With reference to the establishment of a pledge on shares and the rights of the pledgee and the shareholder, article 2:89 Dutch Civil Code is applicable, provided that the voting rights attaching to those shares may not be assigned to the pledgee.

Verwijerd: .

Verwijerd: Pledge on shares

Verwijerd: If ...has been established ..., ...shall vest exclusively in the pledgee [5]

10.3 The provisions of article 9 shall apply mutatis mutandis to the establishment and removal of a pledge on shares.

Verwijerd: <#>The rights conferred by law on depositary receipts holders shall not vest in the pledgee. ¶

A pledge may also be established without acknowledgement by or service of notice on the company, in which case section 3:239 Dutch Civil Code shall be applicable mutatis mutandis, whereby service of notice on the company shall take the place of the notification referred to in subsection 3 of that section.

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Verwijerd: ...Section ...of Book 3 of the Netherlands [6]

Usufruct on shares

Article 11.

11.1. A usufruct may be established on shares.

Verwijerd: .

Verwijerd: Usufruct on shares

11.2. With reference to the establishment or transfer of the usufruct on shares and and the

Met opmaak: opsommingstekens en nummering

rights of the usufructuary and the shareholder the provisions in section 2:88 Dutch Civil Code shall apply.

- 11.3. The provisions of article 9 shall apply mutatis mutandis to the establishment, assignment and removal of a usufruct on shares.

#### Issue of new shares

#### Article 12.

- 12.1. Shares shall be issued pursuant to a resolution of the general meeting or of another body designated for that purpose by a resolution of the general meeting or by these Articles of Association for a determinate period not exceeding five years.

- 12.2. At the time of designation of a body as referred to in article 12.1, the number of shares which may be issued shall be defined. The designation may be extended for not more than five years at a time. Unless otherwise provided at the time of designation, it may not be revoked.

- 12.3. A resolution of the general meeting to issue shares or designate a body to do so shall only be valid if prior or simultaneous approval is given by each group of holders of shares of the same class whose rights are adversely affected by the issue.

- 12.4. A resolution of the general meeting or a body other than the Executive Board to issue shares and a resolution to designate a body as referred to in article 12.1 may be passed only if it has been proposed by the Executive Board with the approval of the Supervisory Board.

- 12.5. If a body other than the general meeting adopts a resolution to issue cumulative preference shares, such resolution shall require the specific approval of the general meeting if the issue of cumulative preference shares concerned causes or will cause the amount of cumulative preference shares in issue to exceed half the amount of the capital issued in the form of ordinary shares.

- 12.6. If a body other than the general meeting adopts a resolution to issue cumulative preference shares which does not require the approval of the general meeting as referred to in article 12.5, the Executive Board shall convene and hold a general meeting within eight weeks of such resolution, at which the reasons for the issue shall be explained.

- 12.7. If cumulative preference shares are issued pursuant to a resolution to issue cumulative preference shares or a resolution to grant a right to subscribe for

**Verwijderd:** the provisions in Section 2:88 of the Netherlands Civil Code shall apply. The rights conferred by law on holders of depositary receipts shall not vest in a usufructuary of shares to whom no voting rights are assigned. ¶  
If a usufruct has been vested on shares and the voting rights on those shares are assigned to the usufructuary, the rights conferred by law on depositary receipt holders shall vest in both the shareholder and the usufructuary, even where this has not been explicitly stated in the remaining provisions of these Articles of Association, and the provisions in Articles 29, 31, 32 and 33 concerning shareholders shall apply mutatis mutandis to the usufructuary of shares to whom the voting right is assigned.

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**Verwijderd:** Issue of new shares

**Verwijderd:** General Meeting of Shareholders

**Verwijderd:** General Meeting of Shareholders

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**Verwijderd:** General Meeting of Shareholders as referred to in the preceding paragraph

**Verwijderd:** General Meeting of Shareholders

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cumulative preference shares which has been adopted by a body other than the general meeting without the prior approval of the general meeting, the Executive Board shall convene a general meeting within two years of such issue, at which it shall bring forward a resolution to repurchase or cancel the said cumulative preference shares which have been issued. If the resolution to repurchase or cancel the cumulative preference shares is not adopted by the general meeting, the Executive Board shall be obliged to convene, within two years of the said resolution being brought forward, a further general meeting at which the same resolution shall again be brought forward, said obligation being extinguished once the said cumulative preference shares cease to be in issue or cease to be held by an entity other than the company.

Verwijderd: General Meeting of Shareholders

12.8. The Executive Board shall be authorised to perform the legal acts referred to in

section 2:94 of the Dutch Civil Code without the approval of the general meeting.

Verwijderd: Section

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Verwijderd: General Meeting of Shareholders

12.9. Ordinary shares may only be issued on payment of at least the nominal amount. In the case of cumulative preference shares, at least one-quarter of the nominal amount shall be paid up.

### Rights to subscribe for shares

#### Article 14.

Verwijderd: Rights to subscribe for shares

14.1. Articles 12.1 up to and including 12.7 shall apply mutatis mutandis to resolutions to grant rights to subscribe for shares.

Verwijderd: Paragraphs 1

Verwijderd: 7 of Article 12

14.2. When rights to subscribe for ordinary shares are granted, the holders of ordinary shares shall have a right of pre-emption; article 13 shall apply mutatis mutandis. Shareholders shall have no pre-emptive rights in respect of ordinary shares issued to a person exercising a previously acquired right to subscribe for shares.

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14.3. Ordinary shares which are issued to a person exercising a previously acquired right to subscribe for those shares shall be paid up in full at the time of subscription.

### Acquisition by the company of its own shares

#### Article 15.

Verwijderd: Acquisition by the company of its own shares

15.1. The acquisition by the company of shares in its own capital which are not fully paid shall be null and void.

15.2. Fully paid shares in its own capital may only be acquired by the company for no consideration or if the acquisition is within the limits prescribed by law.

15.3. With due observance of the statutory provisions, the Executive Board shall require the authorisation of the general meeting for the acquisition of own shares other than for no consideration.

**Verwijderd:** General Meeting of Shareholders

15.4. Such authorisation shall not be required for the acquisition by the company of shares in its own capital in order to transfer them to employees of the company or of a group company under a scheme applicable to such employees.

15.5. Articles 15.1 up to and including 15.4 shall not apply to shares which the company acquires by universal succession.

**Verwijderd:** The preceding paragraphs

15.6. The term 'shares' in this article shall include depositary receipts for shares, whether or not issued with the cooperation of the company.

### Notice of general meetings

#### Article 29.

**Verwijderd:** Notice of general meetings

29.1. The shareholders and holders of depositary receipts shall be given notice of general meetings.

**Verwijderd:** General Meetings of Shareholders

29.2. The general meeting will be convened with consideration of the applicable statutory terms. Insofar as no other requirements have been laid down under or pursuant to the law, shareholders and depositary receipt holders will be notified for a general meeting via the company website and/or by other electronic means representing a public announcement which remains directly and permanently accessible up to the general meeting, and shareholders will be notified in writing at the address notified by the entitled party to the company for this purpose. Unless the opposite is unambiguously clear, the notification by a shareholder or depositary receipt holder to the company of an electronic mail address shall be taken as evidence of the latter's concurrence with the submission of notifications by electronic means. The company shall not make any charge to shareholders and depositary receipt holders for notifications sent by electronic means.

**Verwijderd:** Notices of General Meetings of Shareholders shall be made in accordance with the provisions of the law and the regulations applying to the company pursuant to the quotation of depositary receipts or other securities on the stock exchange of Euronext Amsterdam N.V.

**Verwijderd:** or aforementioned regulations, the company shall be authorised to serve notice on

**Verwijderd:** General Meeting, and to give notice to shareholders

29.3. The notice of a general meeting shall state the statements and announcements required by law. In the event of a proposal to appoint a member of the Executive Board or a member of the Supervisory Board, the notice of the general meeting shall state, giving reasons, that the candidate possesses the required expertise, experience and other qualities and that following the proposed appointment the composition of the Executive Board or Supervisory Board, respectively, will be in accordance with

**Verwijderd:** business to be transacted or shall state that the agenda is available for inspection by shareholders and holders of depositary receipts at the office of the company

**Verwijderd:** at a place in Amsterdam to be determined by the Executive Board.

the profile referred to in article 19.1 or article 25.1. If a binding list of two or more candidates for each vacancy is brought forward as referred to in article 19.2 or article 25.2, it shall not be necessary to fulfil the requirements of the preceding sentence with respect to more than one candidate for each vacancy.

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- Verwijderd: Except in cases where the Supervisory Board and Executive Board consider there to be compelling reasons in the company's interest to exclude them from the agenda, the meeting shall consider
- Verwijderd: precisely defined in a written request which is
- Verwijderd: not later than fifty days before the date of the meeting and

29.4. The items and proposals which are submitted to the Executive Board or the Chairman of the Supervisory Board by means of a motivated request received within the term as prescribed by law, will be added to the items placed on the agenda of a general meeting, provided such request is signed by one or more holders of shares or depositary receipts for shares who together represent at least one-thousandth of the issued capital or whose combined holdings have a market value of at least fifty million euros, calculated on the basis of the closing prices on the date of signature of the request of the relevant class of depositary receipts or the depositary receipts for the relevant class of shares, as published in the organ of Euronext Amsterdam N.V. A request to place a proposal on the agenda to appoint a member of the Executive Board or Supervisory Board must motivate that the candidate possesses the required expertise, experience and other qualities, that such expertise, experience and other qualities are not present to a sufficient degree in the Executive Board or Supervisory Board, respectively, and how, following the proposed appointment, the composition of the Executive Board or the Supervisory Board, respectively, will be in accordance with the profile as referred to in article 19.1 or article 25.1, respectively.

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29.5. If the agenda includes a motion to reduce the capital or amend the Articles of Association, the notice of the general meeting shall also comply with the provisions of sections 2:99 and 2:123 of the Dutch Civil Code in so far as they are applicable.

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- Verwijderd: Admission to general meetings

29.6. The provisions in article 29.2 apply mutatis mutandis to other notifications, announcements, communications and notices to shareholders and depositary receipt holders as referred to in article 29.2.

### Admission to general meetings

#### Article 31.

31.1. Provided the requirements set out below in this article are fulfilled, each shareholder and each holder of depositary receipts shall be entitled to attend and address the general meeting, either in person or represented by a proxy appointed in writing; shareholders shall also be entitled to vote at the general meeting.

31.2. For the application of article 31.1 those persons who, at the registration date prescribed by law (registratietijdstip), as holder of one or more shares and/or depositary receipts for shares, will be entitled to vote or entitled to attend the general meeting, regardless who is entitled to those shares or depositary receipts for shares at the time of the general meeting.

31.3. Holders of registered shares wishing to attend the general meeting shall send written notice of their intention, or the instrument appointing their proxies, to an address to be determined by the Executive Board and approved by the Supervisory Board, as stated in the notice of the general meeting, by the date determined by the Executive Board as also stated in the notice of the general meeting, which date shall not be earlier than the seventh day before the date of the general meeting. The requirement to send a prior notice of the intention to attend the general meeting respectively to send a prior instrument appointing proxies referred to in the first sentence of this article 31.23 shall not apply to holders of cumulative preference shares or to the trust office referred to in Article 17.

31.4. A person named in a written statement by an intermediary within the meaning of the *Wet giraal effectenverkeer* (Securities Giro Transfer Act), to the effect that:

- a. the stated number of depositary receipts are part of its aggregate collective stock deposit; and
- b. the person named in the statement was the holder of the stated number of depositary receipts on the registration date, shall be deemed to be the holder of depositary receipts which form part of an aggregate or central collective stock deposit, provided that the relevant statement is sent to an address to be determined by the Executive Board and approved by the Supervisory Board, as stated in the notice of the general meeting, by the date set by the Executive Board and as also stated in the notice of the general meeting. Instruments appointing proxies for depositary receipt holders shall also be sent to the aforementioned address no later than the date determined by the Executive Board and stated in the notice of meeting.

31.5. Subject to the approval of the Supervisory Board, the Executive Board may determine that entitlements to attend meetings as referred to in article 31.1 may be exercised by electronic means. This shall in any event be subject to the requirement

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opsommingstekens en nummering

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The Executive Board shall be authorised for an indefinite period to set a registration date as referred to in Section 119 of Book 2 of the Netherlands Civil Code. If this authority is exercised, the provisions of subsection 3 of said section shall also apply even if the provisions of these Articles of Association are departed from – with due observance of the provisions of said section – in their application.

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**Verwijderd:** a. .

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c. . if the Executive Board has set a registration date,

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that the person concerned can be identified by electronic means, is able to participate directly in the proceedings of the meeting and is able to exercise the right to vote. The Executive Board may also determine that the electronic means of communication used should also make it possible to take part in the deliberations.

31.6. The Executive Board may lay down further conditions concerning the use of electronic means of communication as referred to in [article 31.5](#). These conditions shall be announced in the notice of the meeting. The above shall be without prejudice to the ability of the chairman to take such measures as he sees fit in the interests of the proper conduct of the meeting. Any total or partial failure of the electronic means of communication used shall be the responsibility of the shareholder or depositary receipt holder making use of such communication.

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31.7. The admission of persons other than shareholders, depositary receipt holders and their proxies and members of the Supervisory Board and Executive Board shall be at the discretion of the chairman of the [general](#) meeting.

31.8. If a share forms part of a community of property, the rights attaching to the share may only be exercised by the joint owners via a person appointed jointly by them in writing.

31.9. Before being admitted to a [general](#) meeting, a shareholder or depositary receipt holder or his proxy shall sign an attendance register, stating his name and, if applicable, the number of votes he is entitled to cast.

Where a shareholder or depositary receipt holder is represented by a proxy, the name(s) of the person(s) represented by the proxy shall also be stated. Subject to the responsibility of the secretary of the company, the aforementioned details of persons participating in the [general](#) meeting pursuant to [article 31.5](#) or who have cast their vote in the manner referred to in [article 33.13](#) shall be added to the attendance register. The company is authorised to institute such verification procedures as it shall reasonably deem to be required in order to determine the identity of those present and, where applicable, that proxies have been duly authorised.

Verwijderd: Article 31 paragraph 5

Verwijderd: Article 33 paragraph 13

### **Voting rights and voting**

#### **Article 33.**

Verwijderd: Voting rights and voting

33.1. Only shareholders shall have voting rights.

33.2. Each share confers the right to cast one vote.

- 33.3. In determining how the shareholders vote, what proportion of the shareholders are present or represented and what proportion of the share capital is present or represented, no account shall be taken of shares in respect of which voting is prohibited by law.
- 33.4. Except where a larger majority is prescribed by law or these Articles of Association, resolutions of the general meeting shall require an absolute majority of the votes cast.
- 33.5. The method of voting shall be determined by the chairman of the general meeting, including orally, by ballot, electronically or by acclamation.
- 33.6. In the event of a tied vote on matters other than persons, the resolution shall be deemed to have been defeated.
- 33.7. Blank and invalid votes shall be deemed not to have been cast.
- 33.8. In elections, a separate vote shall be held for each vacancy to be filled. If no candidate obtains an absolute majority in the first vote, a second vote shall be held, but, if there is a tie between persons appearing on a binding list of candidates, the person appearing earlier on the list shall be elected. If no-one obtains an absolute majority in a second vote, a third vote shall be held between the two candidates who together obtain the most votes.
- 33.9. If, because of a tie between two or more candidates, the second vote fails to decide who is to take part in the third ballot, intermediate votes shall be held between those candidates, if necessary at one or more subsequent general meetings at the discretion of the chairman, to determine who is to take part in the third vote.
- 33.10. In the event of a tie in an intermediate vote, further intermediate votes shall be held, if necessary at a subsequent general meeting at the discretion of the chairman, until an absolute majority is obtained.
- 33.11. Unless provided otherwise by law or these Articles of Association, the validity of resolutions shall not depend on the proportion of the share capital represented at the general meeting.
- 33.12. Contrary to the provisions of section 2:120, subsection 3 of the Dutch Civil Code, if a proposal to declare non-binding a nomination for appointment of a member of the Executive Board or of the Supervisory Board receives at least an absolute majority of the votes cast, but that majority does not represent at least one-third of the issued capital, a second general meeting shall be convened within a reasonable period to be

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determined by the Supervisory Board at which general meeting a resolution may be passed regardless of the issued capital present or represented. The notice convening the second general meeting shall state, giving reasons, that a resolution may be passed regardless of the part of the issued capital which is present or represented at that general meeting.

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- 33.13. The Executive Board may determine that votes may be cast electronically in advance of the general meeting. These votes will in such circumstances be treated on the same basis as the votes cast at the meeting itself. Such votes may however not be cast any earlier than on the registration date referred to in article 31.2 or any later than determined in the notice to the meeting. Without prejudice to the other provisions in article 31 the notice shall state how and on what conditions shareholders may exercise their rights prior to the meeting. The final sentence of article 31.6 shall apply mutatis mutandis.

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### Financial year, annual accounts and annual report

#### Article 35.

Verwijderd: Financial year, annual accounts and annual report

- 35.1. The company's financial year shall be concurrent with the calendar year.
- 35.2. Within the term as set forth by law of the end of each financial year, the Executive Board shall prepare the annual accounts and deposit them at the company's office and at a place in Amsterdam to be determined by the Supervisory Board, for inspection by shareholders and depositary receipt holders.

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The Executive Board shall also present the annual report within the same period.

- 35.3. The annual accounts shall be signed by all the members of the Executive Board and all the members of the Supervisory Board; if the signature of one or more of them is missing, this shall be stated and the reason shall be given.

- 35.4. The annual accounts shall be adopted by the general meeting.  
When the resolution to adopt the annual accounts has been considered, a resolution shall be brought before the general meeting to ratify the actions of the members of the Executive in respect of their management and those of the members of the Supervisory Board in respect of their supervision of the management in the financial year, to the extent that this is reflected in the financial statements or has been reported upon at the general meeting.

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Verwijderd: General Meeting of Shareholders.

- 35.5. The Executive Board shall ensure that the annual accounts, the annual report and the

other documents required by law are published, deposited at the company's office and laid open for inspection and that copies are available, all in accordance with the statutory provisions.

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## **Profit appropriation, reserves and distributions**

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### **Article 37.**

Verwijderd: Profit appropriation, reserves and distributions

- 37.1. The company may make distributions to the shareholders to the extent permitted by law.
- 37.2. No distribution of profit may be made before adoption of the annual accounts showing that distribution is permissible.
- 37.3. Out of the profit shall if possible first be distributed a dividend on the cumulative preference shares amounting to the percentage referred to below of the amount compulsorily paid up or yet to be paid up on the cumulative preference shares at the start of the financial year to which the distribution relates or, if the cumulative preference shares have been subscribed for in the course of the financial year, on the date on which the shares were subscribed for. The percentage referred to above shall be two and a half points above the time-weighted average of the Euro OverNight Index Average (EONIA) as calculated by the European Central Bank for the financial year to which the distribution relates. If the amount compulsorily paid up on the cumulative preference shares is reduced or, pursuant to a resolution to make a further call on shares, increased, the distribution shall be reduced or if possible increased, respectively, by an amount equal to the aforementioned percentage of the reduction or increase, calculated from the date of the reduction or the date on which the capital call is payable. If and to the extent that the profit is not sufficient to make the distribution referred to in the first sentence in full, the shortfall shall be paid out of the reserves provided this is not in breach of the provisions of article 37.1. If and to the extent that the distribution referred to in the first sentence cannot be made from the reserves, profits in subsequent years shall first be applied for distributions to the holders of cumulative preference shares to make up the shortfall, before the provisions of the articles 37.4 up to and including 37.110 are applied. No distributions shall be made on the cumulative preference shares other than those provided for in this article and in articles 38 and 41. If annual accounts showing that distribution of profit is permissible are adopted for a financial year in which one or

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more cumulative preference shares have been redeemed, the holders of these cumulative preference shares at the time of said redemption according to the register referred to in article 7 shall have an inalienable right to distribution of profit as referred to below. The profit to be distributed if possible to such holder(s) shall be equal to the distribution to which they would have been entitled by virtue of the provisions of the first sentence of this article 37.3 if they had still been holders of the cumulative preference shares at the time of the declaration of the profit, reduced pro rata relative to the period of the said financial year for which they held these cumulative preference shares, less the amount of the distribution made in accordance with the provisions of article 38.4. If an issue of cumulative preference shares takes place in the course of a financial year, the dividend payable on those cumulative preference shares for that financial year shall be reduced pro rata relative to the date of issue.

Verwijderd: A

Verwijderd: paragraph

Verwijderd: A

Verwijderd: , paragraph 4

37.4. The Executive Board shall determine, subject to the approval of the Supervisory Board, what part of the profit remaining after application of the provisions of article 37.3 is to be appropriated to reserves.

Verwijderd: paragraph 3 of this article

37.5. Without prejudice to the provisions of article 37.9, the profit remaining after application of the provisions of articles 37.1 up to and including 37.4 shall be at the disposal of the general meeting.

Verwijderd: paragraph 9 of this

Verwijderd: the preceding paragraphs

Verwijderd: General Meeting of Shareholders

37.6. Without prejudice to the provisions of article 38, the general meeting shall be authorised to resolve, on a motion of the Executive Board which has been approved by the Supervisory Board, to make a distribution from reserves to the holders of ordinary shares.

Verwijderd: A

Verwijderd: , the General Meeting of Shareholders

37.7. Entitlement to dividend or other form of distribution on an ordinary share or a cumulative preference share shall vest in the person in whose name the relevant share is registered on a date determined by the Executive Board with the approval of the Supervisory Board, which may be different for each of the aforementioned classes of share. The date for ordinary shares for which registered depositary receipts have been issued and in which trading is permitted, with the cooperation of the company, via a stock exchange or similar institution in a country other than the Netherlands may be different from the date for the other ordinary shares. Each date determined in this way shall be announced in accordance with the regulations applicable to the

company.

37.8. The Executive Board may, with the approval of the Supervisory Board, determine that a distribution in cash on ordinary shares for which registered depositary receipts have been issued and in which trading is permitted, with the cooperation the company, via a stock exchange or similar institution in a country other than the Netherlands shall be paid in the currency of the country concerned, unless the company is prevented from doing so by government measures or other circumstances beyond its control. If a distribution is made in a foreign currency pursuant to the provisions of the preceding sentence, it shall be converted for that purpose at the exchange rate on a date to be determined by the Executive Board with the approval of the Supervisory Board. That date shall not be before the date of adoption of the resolution to make the distribution nor after the date determined pursuant to the provisions of article 39.1, for the relevant shares. Each date determined in this way shall be announced in accordance with the regulations applicable to the company.

Verwijderd: A

Verwijderd: , paragraph 1

37.9. If the Executive Board has been designated as a body authorised to resolve to issue shares in accordance with the provisions of article 12, it shall be authorised, with the approval of the Supervisory Board, to determine that, instead of in cash, a distribution on ordinary shares shall be made in the form of ordinary shares or to determine that the holders of ordinary shares shall be given the choice of receiving the distribution in cash or in the form of ordinary shares. The terms on which that choice is given shall be determined by the Executive Board, with the approval of the Supervisory Board. If, in any financial year, the method by which distributions are made departs from the distribution policy applied by the company in the preceding financial years, the Executive Board shall explain the reasons in the annual report, unless the shareholders are given the choice of receiving the distribution in cash or in shares in that financial year.

Verwijderd: A

37.10. Shares which the company holds in its own capital shall not be taken into account in calculating the distribution of profit, unless such shares are subject to a pledge or usufruct.

Met opmaak:  
opsommingstekens en  
nummering

Verwijderd: ¶