

**Explanatory report by the Executive Board of Aurubis AG, Hamburg, in accordance with Section 176 (1) sentence 1 of the German Stock Corporation Act (AktG) and Section 26i of the Introductory Act of the German Stock Corporation Act (EgAktG) on disclosures of takeover provisions pursuant to Section 289 (4) and Section 315 (4) of the German Commercial Code as well as Section 80 of the Introductory Act of the German Commercial Code (EGHGB) as at the balance sheet date of September 30, 2017**

The following disclosures as at September 30, 2017 are presented in accordance with Section 289 (4) and Section 315 (4) of the German Commercial Code.

**Composition of the subscribed capital**

The subscribed capital (share capital) of Aurubis AG amounted to € 115,089,210.88 as at the balance sheet date and was divided into 44,956,723 no-par-value bearer shares, each with a notional value of € 2.56 of the subscribed capital.

Each share grants the same rights and one vote at the Annual General Meeting. There are no different classes of shares.

**Shareholdings exceeding 10 % of the voting rights before the balance sheet date**

One indirect shareholding in Aurubis AG exceeds 10 % of the voting rights:

Salzgitter AG, Salzgitter, notified the Company in accordance with Section 21 (1) of the German Securities Trading Act (WpHG) on August 29, 2011 that its voting interest in Aurubis AG had exceeded the threshold of 25 % of the voting rights on August 29, 2011 and amounted to 25.002 % of the voting rights (representing 11,240,000 votes). Of this total, 25.002 % of the voting rights (representing 11,240,000 votes) are attributed to Salzgitter AG via Salzgitter Mannesmann GmbH, Salzgitter.

Thus, direct participation in Aurubis AG's capital existed as at the balance sheet date, which exceeds 25 % of the voting rights. According to the notification of Salzgitter AG, Salzgitter, dated August 29, 2011, Salzgitter Mannesmann GmbH, Salzgitter, has held 25.002 % of the voting rights (representing 11,240,000 votes) since August 29, 2011.

**Shareholdings exceeding 10 % of the voting rights after the balance sheet date**

Since October 25, 2017, the following indirect participation in Aurubis AG's capital exists, which exceeds 10 % of the voting rights:

Salzgitter AG, Salzgitter, notified the company in accordance with Section 21 (1) of the German Securities Trading Act on October 26, 2017 that its voting interest in Aurubis AG on October 25, 2017 amounts to 15.751 % of the voting rights (corresponding to 7.081,263

votes). Of these, Salzgitter AG has 15.751 % of the voting rights (corresponding to 7.081,263 votes) are attributed to Salzgitter AG via Salzgitter Mannesmann GmbH, Salzgitter.

Accordingly, there is one direct shareholding in the capital of Aurubis AG that exceeds 10 % of the voting rights:

Salzgitter Mannesmann GmbH, Salzgitter, has held 15.751 % of the voting rights (corresponding to 7,081,263 votes) since October 25, 2017, according to the notification of Salzgitter AG, Salzgitter, dated October 26, 2017.

### **Appointment and removal of Executive Board members and amendments to the Articles of Association**

The appointment and removal of members of the Executive Board of Aurubis AG are covered by Sections 84 and 85 of the German Stock Corporation Act and Section 31 of the of the German Codetermination Law (MitbestG) in conjunction with Section 6 (1) of the Articles of Association. Amendments to the Articles of Association are subject to the approval of the Annual General Meeting. The resolution at the Annual General Meeting is passed by a majority that must comprise at least three quarters of the subscribed capital represented in the vote; Section 179 et seq. of the German Stock Corporation Act applies. In accordance with Section 11 (9) of the Articles of Association, the Supervisory Board is authorized to resolve amendments to the Articles of Association that only relate to their wording. Furthermore, the Supervisory Board is empowered to adjust Section 4 of the Articles of Association after the complete or partial execution of the subscribed capital increase in accordance with the respective claim to the authorized capital and after the authorization expires. It is also empowered to adjust the wording of Section 4 (1) and (3) of the Articles of Association in accordance with the respective issuing of new no-par-value bearer shares to the holders or creditors of convertible bonds and/or bonds with warrants, profit participation rights or participating bonds (or combinations of these instruments), which are issued by Aurubis or by companies in which it has an indirect or direct majority interest in return for a cash contribution and as a result of the authorization resolved upon at the Annual General Meeting on March 2, 2017 under item 6 of the agenda. It is also empowered to grant a conversion or option right to new no-par-value bearer shares in the company or to establish a conversion obligation. The same applies if the authorization to issue bonds with warrants or convertible bonds is not exercised after the authorization period expires or if the conditional capital is not utilized after the deadlines for exercising option or conversion rights or for fulfilling conversion or option obligations have expired.

### **Power of the Executive Board to issue shares**

In accordance with Section 4 paragraph 2 of the Articles of Association, the Executive Board is empowered, with the approval of the Supervisory Board, to increase the Company's subscribed capital in the period until February 23, 2021 by issuing up to 22,478,361 new no-par-value shares in exchange for a cash contribution and/or a contribution in kind once or in several installments by up to €57,544,604.16. The shareholders shall always be granted a subscription right. The new shares can also be acquired by one or more credit institutions with the obligation of offering them to shareholders for subscription. However, the Executive Board is authorized, subject to the

approval of the Supervisory Board, to exclude shareholder subscription rights once or on several occasions:

a) inasmuch as it is necessary to exclude subscription rights for possible fractional amounts.

b) up to an arithmetical face value totaling € 23,017,840.64 if the new shares are issued for a contribution in kind.

c) for capital increases against cash contributions up to an arithmetical nominal value totaling € 11,508,920.32 or, if this amount is lower, by a total of 10 % of the subscribed capital (the “maximum amount”) existing when this power was exercised for the first time (in each case taking into account the possible use of other authorizations to exclude the subscription right in accordance with or in the corresponding application of Section 186 (3) sentence 4 of the German Stock Corporation Act), if the issuing price for the new shares is not significantly lower than the price of company shares in the same category on the stock exchange at the time when the issuing price is finally fixed.

The subscribed capital allotted to the shares that are issued or have to be issued to fulfill convertible bonds and/or bonds with warrants that are issued after February 24, 2016 pursuant to Section 186 (3) sentence 4 of the German Stock Corporation Act excluding the subscription rights or that are sold after February 24, 2016 pursuant to Section 186 (3) sentence 4 of the German Stock Corporation Act must be included in this maximum amount. It shall not be included if authorizations to issue convertible bonds and/or bonds with warrants pursuant to Section 221 (4) sentence 2 and Section 186 (3) sentence 4 of the German Stock Corporation Act or to sell own shares in accordance with Section 71 (1) No. 8 and Section 186 (3) sentence 4 of the German Stock Corporation Act are granted again at the Annual General Meeting after exercising such powers that have led to inclusion.

d) up to an arithmetical face value totaling € 23,017,840.64, inasmuch as it is necessary to grant holders or creditors of bonds with warrants or convertible bonds issued by the company relating to shares a subscription right for new shares to the same extent as they would be entitled after exercising their option or conversion rights.

In the resolution dated February 9, 2016 the Executive Board of Aurubis AG declared in the scope of a voluntary commitment, that it would only make use of the authorizations to exclude shareholders' subscription rights during the duration of the authorization provided in Section 4 (2) of the Articles of Association insofar as the shares to be issued may not exceed 20 % of the subscribed capital, neither at the point in time when the authorization becomes effective nor at the time of utilization. At the abovementioned 20 % threshold, hypothetical own shares shall be taken into account until the issue of new stocks without granting subscription rights, which are sold under exclusion of subscription rights, as well as such shares, which are to be issued with a conversion or option right or conversion obligation for the purpose of servicing bonds, provided the bonds are issued excluding the preemptive rights of shareholders. If and to the extent that the shareholders at the Annual General Meeting reissue this authorization to exclude subscription rights after an

authorization to exclude subscription rights has been exercised, leading to offsetting against the 20 % limit previously mentioned, the off-setting that has been carried out is no longer included.

This voluntary commitment was made accessible on Aurubis AG's *website* for the duration of the authorization.

### **Power of the Executive Board to repurchase shares**

With a resolution of the Annual General Meeting on February 28, 2013, the Company was empowered until February 27, 2018 to repurchase its own shares (treasury shares) up to a total of 10 % of the current subscribed capital. Together with other own shares held by the company or attributable to it in accordance with Section 71a et seq. of the German Stock Corporation Act, the shares acquired by the company based on this authorization shall at no time exceed 10 % of the company's current subscribed capital. The acquisition of shares for the purpose of trading with own shares is excluded. The Executive Board is empowered to use shares in the company that are purchased on account of this power for all legally permitted purposes, and in particular for the following purposes:

a) Own shares that have been acquired can also be sold in a way other than a sale via the stock exchange or by means of an offer to all of the shareholders, if the shares are sold in return for a cash payment at a price that is not materially lower than the stock market price of the company's shares of the same category at the time of the sale; the subscription rights of the shareholders are excluded. This power shall however only apply on the condition that the shares sold excluding the subscription right may not, in accordance with Section 186 (3) sentence 4 of the German Stock Corporation Act, exceed 10 % of the subscribed capital, either at the time this becomes effective or at the time of exercise of this power (the "upper limit"), in each case taking into account the possible use of other authorizations to exclude the subscription right in accordance with or in the corresponding application of Section 186 (3) sentence 4 of the German Stock Corporation Act. An inclusion that has been carried out is canceled if powers to issue new shares from authorized capital in accordance with Section 186 (3) sentence 4 of the German Stock Corporation Act or to issue convertible bonds and/or bonds with warrants in commensurate application of Section 186 (3) sentence 4 of the German Stock Corporation Act are granted again at the Annual General Meeting after exercising such powers that have led to inclusion.

b) Own shares that have been acquired can also be sold in a way other than a sale via the stock exchange or by means of an offer to all of the shareholders, if this is carried out in return for a contribution in kind by a third party, especially in conjunction with the acquisition of business entities, of parts of business entities or of participating interests in business entities by the company itself or by a business entity dependent on it or majority owned by it, and in conjunction with business combinations, or to fulfill conversion rights or obligations relating to conversion or option rights issued by the Company or Group entities of the Company; the subscription rights of the shareholders are in each case excluded.

c) Own shares acquired can be withdrawn entirely or in part without a further resolution of the Annual General Meeting. They can also be withdrawn applying simplified proceedings without a reduction in capital by adjusting the proportionate notional share of the remaining no-par-value shares in the subscribed capital of the Company.

The complete text of the resolution dated February 28, 2013 has been included under agenda item 7 in the invitation to the Annual General Meeting 2013 published in the German Federal Gazette on January 15, 2013.

### **Power of the Executive Board to issue convertible bonds and shares from conditional capital**

The subscribed capital shall be conditionally increased by up to € 57,544,604.16 by issuing up to 22,478,361 new bearer shares without a nominal amount (no-par-value shares), each with notional interest in the subscribed capital of € 2.56 (Conditional Capital 2017). The conditional capital increase will only be carried out to the extent that the holders or creditors of conversion and/or option rights from convertible bonds, bonds with warrants, profit participation rights or participating bonds (or a combination of these instruments), which are issued against cash by the Company or by its affiliates due to the authorization passed by the participants of the Annual General Meeting on March 2, 2017 until March 1, 2022, exercise their conversion or option rights, or the holders or creditors of the convertible bonds (or profit participation rights or participating bonds with a conversion obligation) issued by the Company or by its affiliates due to the authorization passed by the participants of the Annual General Meeting on March 2, 2017 until March 1, 2022 fulfill their conversion obligation or shares are offered, and to the extent that own shares or other forms of fulfillment are not utilized for this purpose. The new no-par-value bearer shares shall be entitled to participate in the profits from the beginning of the fiscal year in which they come into existence through the exercise of conversion or option rights, through the fulfillment of conversion or option obligations or through the exercise of rights to offer. To the extent legally permitted, the Executive Board can, subject to the approval of the Supervisory Board, establish the profit participation of new shares in a way that deviates from Section 60 (2) of the German Stock Corporation Act (AktG).

The complete text of the resolution dated March 2, 2017 has been included under agenda item 6 in the invitation to the Annual General Meeting 2017 published in the German Federal Gazette on January 17, 2017. It is intended that this authorization be renewed at the next Annual General Meeting.

### **Significant conditional agreements concluded by the company**

In the event that a single person or a group of persons acting together should acquire more than 50 % of the shares or the voting rights in Aurubis AG, every syndicate lender from the agreement with a banking syndicate (“the Syndicated Loan”) on a credit line totaling € 350 million, which primarily serves to finance the working capital of the Group, shall be entitled to cancel his participation in the Syndicated Loan and to demand immediate repayment of the amounts owed to him.

Within the scope of various bonds totaling € 300 million, every lender has an extraordinary right of cancellation if control over the borrower changes.

Hamburg, December 2017

Aurubis AG

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