

Per e-mail in advance (franz.gasselsberger@oberbank.at)
REGISTERED

Oberbank AG
Management Board Chairman
Dr. Franz Gasselsberger, MBA
Management Board Member
Mag. Dr. Josef Weißl, MBA
Management Board Member
Mag. Florian Hagenauer, MBA
Untere Donaulände 28
A-4020 Linz

Convening of an Extraordinary General Meeting pursuant to § 105 Para. 3 Stock Corporation Act

Vienna, 20 December 2019
3670103

Dear Dr Gasselsberger,
Dear Dr Weißl,
Dear Mag. Hagenauer,

The UniCredit Bank Austria AG (FN 150714 p; subsequently "UCBA") has obtained knowledge of irregularities regarding Oberbank AG ("Oberbank"), which in its legal opinion and on the basis of the information available to it, contravene corporate governance and mandatory law. Therefore as an Oberbank stockholder, UCBA sees itself as obliged to point out these issues in the spirit of legally compliant shareholding management.

UCBA and CABO Beteiligungsgesellschaft m.b.H. (FN 230033 i; subsequently "CABO") dispose jointly over at least 5% of Oberbank share capital (see account statements Annex ./1 and ./2). According to the Company Register, Oberbank share capital amounts to EUR 105,921,900 and is divided into a total of 35,307,300 no par value shares of which 32,307,300 are ordinary no par value shares and 3,000,000 preferred no par value shares. The combined shareholding of UCBA and CABO totals 9,594,407 no par value shares and hence approximately 27.17% of the share capital.

With this shareholding UCBA and CABO fulfil the preconditions required to request the convening of an Extraordinary General Meeting of the Oberbank pursuant to § 105 Para. 3 Stock Corporation Act.

UCBA and CABO propose that in accordance with § 105 Para. 3 Stock Corporation Act, the Oberbank Management Board convenes an Extraordinary General Meeting as soon as possible with the following agenda:

(i) Agenda Item 1.: Resolution regarding the completion of a special audit;

(ii) Agenda Item 2: Resolution regarding the termination of the arbitration proceedings between the Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B") and the Oberbank, as well as the forbearance of enforceable measures on the basis of an award derived from these arbitration proceedings.

In view of the fact that the Oberbank is a listed company and the earliest possible clarification of the suspected infringements of corporate governance and mandatory law is in the interests of all Oberbank stockholders and the capital market, and moreover possible consequences of limitation statutes upon the assertion of claims for damages should be avoided, a resolution

regarding the proposed Agenda Item 1 cannot be postponed until the next Ordinary General Meeting.

1. Agenda Item 1.: Resolution regarding the completion of a special audit

1.1. Agenda Item

As qualified Oberbank stockholders, UCBA and CABO require that the following item be placed on the agenda of the Extraordinary General meeting and made known:

"A resolution regarding the completion of a special audit of the management pursuant to § 130 Stock Corporation in order to ascertain if on the occasion of, or during,

(i) The completion on 15.9.1989 of an increase in share capital by ATS 50,000,000 by the Management Board as approved by the Supervisory Board;

(ii) The completion on 12.2.1990 of an increase in share capital by ATS 50,000,000 by the Management Board as approved by the Supervisory Board;

(iii) The completion on 3.9.1991 of an increase in share capital by ATS 30,000,000 by the Management Board as approved by the Supervisory Board;

(iv) The completion on 8.3.1993 of an increase in share capital by ATS 20,000,000 by the Management Board as approved by the Supervisory Board;

(v) The completion on 7.3.1994 of an increase in share capital by ATS 25,000,000 by the Management Board as approved by the Supervisory Board (entered into the Company Register on 19.4.1994);

(vi) The completion on 20.10.1995 and 15.11.1995 of an increase in share capital by ATS 25,000,000 agreed by the Management Board (entered into the Company Register on 30.11.1995);

(vii) The completion on 27.4.2000 of an increase in share capital by EUR 2,326,400 agreed by the General Meeting (entered into the Company Register on 31.5.2000);

(viii) The completion on 9.5.2006 of an increase in share capital by EUR 5,384,615.38 agreed by the General Meeting of the Oberbank (entered into the Company Register on 31.5.2006);

(ix) The completion on 6.6.2007 and 16.7.2007 of an increase in share capital by EUR 336,538.46 agreed by the Management Board (entered into the Company Register on 18.7.2007);

(x) The completion on 10.3.2008 and 9.4.2008 of an increase in share capital by EUR 252,403.85 agreed by the Management Board (entered into the Company Register on 24.4.2008);

(xi) The completion on 30.9.2009 and 22.10.2009 of an increase in share capital by EUR 5,079,375 agreed by the Management Board (entered into the Company Register on 28.10.2009);

(xii) The completion on 23.3.2015, 7.4.2015 and 28.4.2015 of an increase in share capital by EUR 5,756,625 agreed by the Management Board (entered into the Company Register on 5.5.2015);

(xiii) The completion on 8.9.2015 and 1.10.2015 of an increase in share capital by EUR

4,605,300 agreed by the Management Board (entered into the Company Register on 3.10.2015); and

(xiv) The completion on 26.9.2016, 8.11.2016 and 1.12.2016 of an increase in share capital by EUR 9.210,600 agreed by the Management Board (entered into the Company Register on 3.12.2016);

in exchange for cash contributions for new ordinary shares subscribed by stockholders with whom the Oberbank is in a reciprocal participatory relationship,

a) Payments or other services occurred between the Oberbank and its stockholders, in particular Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B"), structured according to stockholders, date, legal basis, amount and any possible purpose;

b) An increased capital amount was raised owing to the existing reciprocal participatory relationships, in order to correspond with the principles of effective capital contribution;

c) These stockholders fulfilled the contribution requirements emanating from the subscription of new shares completely and effectively, whereby the participation of the Oberbank in its own assets is to be excluded;

d) Any demands for repayment regarding the financial means contained in Item a) were possibly raised and if so, to what amount, against whom and on what legal basis;

e) Any demands for repayment regarding the financial means contained in Item a) are still outstanding and if so, to what amount, against whom and on what legal basis;

f) A non-company (special) advantage derived for individual stockholders and if yes, in what amount and to whom;

g) A possible (special) advantage pursuant to Item f) resulted by means of the use of influence upon the Oberbank through the appointment of a member of the Management Board or the Supervisory Board;

h) From the possible constellations of the Oberbank and/or individual stockholders damage resulted, the amount of this damage, and whether claims for this damage can be asserted against the Management Board, the Supervisory Board or the (other) stockholders.

The completion of this special audit of the company management pursuant to § 130 Stock Corporation Act should also include the answering of the following questions:

(i) What was the Oberbank's involvement in the foundation of G3B? What payments did the Oberbank make to G3B in 2003 (G3B foundation)? At what point in time did these payments occur and to what amount and for what purpose? What contractual bases and gremial decisions underlay these payments by the Oberbank? For what purpose were the Oberbank's payments to G3B in 2003 used? What decisions by G3B underlay the employment of these payments? Was G3B subjected to a foundation audit?

(ii) Did the Oberbank subsidise G3B for its participation in the capital increases of BKS Bank AG (FN 918110 s; subsequently "BKS") and Bank für Tirol and Vorarlberg Aktiengesellschaft (FN 32942 w; subsequently "BTV"), and if yes, when and to what amount?

(iii) Did the Oberbank acquire 3Banken shares from a) Beteiligungsverwaltung Gesellschaft m.b.H (FN 81137 w; subsequently "BVG") and/or b) 3-Banken Beteiligung Gesellschaft m.b.H (FN 165973 d; subsequently "3BB")? If yes, when and to what amount?

(iv) In connection with the acquisition of 3Banken shares from a) BVG and/or b) 3BB by the Oberbank since the foundation of these companies and in any case since 2003, has the Oberbank issued any statements in accordance with stock exchange regulations and if so, what was their content?

(v) Does the Oberbank have direct or indirect participations in other companies, which in turn possess BKS, Oberbank and BTV shares? If so, in which companies (precise company name) and to what amount, how many BKS, Oberbank and BTV shares are involved and when did the initial acquisition of a participation occur?

(vi) Has the Oberbank acquired Oberbank, BKS or BTV shares from companies in which at the time of purchase the Oberbank, BKS or BTV held or still hold a direct or indirect participation?

(vii) How have the shares in a) BVG and/or b) 3BB and/or c) other companies mentioned in Item (v) and (vi) been reported in the Oberbank's financial statements since the beginning of its participation in these companies and in any case since 2003? Which CRR-related deductions during this period are linked to these Oberbank participations?

(viii) How have the balance sheet gains and/or dividends from a) BVG and/or b) 3BB and/or c) other companies mentioned in Item (v) and (vi) been reported in the Oberbank's financial statements since the beginning of its participation in these companies and in any case since 2003? Moreover, during this period in what form did interim gain treatment (interim gain elimination) take place?

(ix) On the basis of which approval did the Oberbank Management Board carry out the purchase of BKS shares within the scope of the follow-up offer during the BKS capital increase of 2018 and the acquisition of BKS shares following the conclusion of the capital increase?

(x) From whom, at what price and in what denominations did the Oberbank purchase BKS shares during the 2018 capital increase?

(xi) Which taxation effect resulted for BVG, the Oberbank and BKS respectively?

(xii) What gains were realised? Were there offsettable losses?

(xiii) What was the ratio of the purchase price to that on the stock exchange on the date of purchase? We request that the differences be made known, as well as an explanation as to why, if this was the case, a purchase was made at differing prices?

(xiv) How in the sense of question (x) was the price for the purchase of BKS shares by the Oberbank calculated? Are there package surcharges or deductions? Was the volume handled via the stock exchange taken into account?

(xv) In the course of the capital increase at BKS in 2018 were BKS shares purchased through the exercise of preemptive rights or other supplementary agreements and if yes, which were acquired by "befriended investors" (see page 93 of the "150 Years Oberbank" commemorative publication)?

(xvi) Was the purchase of BKS shares included in an Oberbank creeping monitoring system? Who managed this monitoring system and in what manner?

(xvii) On the basis of which approval did the Oberbank Management Board carry out the purchase of BTV shares outside the legal subscription right in the course of the BTV capital increase of 2018?

(xviii) From whom, at what price and in what denominations did the Oberbank purchase BTV shares during the 2018 capital increase?

(xix) Which taxation effect resulted for BVG, the Oberbank and BTV respectively?

(xx) What gains were realised? Were there offsettable losses?

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(xxiii) Was the purchase of BTV shares included in an Oberbank creeping monitoring system? Who managed this monitoring system and in what manner?

EKWP Wirtschaftsprüfungs GmbH (FN 411099 h) will be commissioned with the special audit. Mag. Martin Breuner and Mag. Arnold Krassnitzer will be commissioned and authorised to conclude an audit contract according to Austrian law for the Oberbank with the special auditors on the basis of the latter's

submitted indicative tender, whereby the fee shall be limited to a maximum amount and at the latest, a written report shall be presented within a three-month period following the contractual allocation.

1.2. Proposed resolution

It is proposed that the General Meeting approve the following resolution:

"Pursuant to § 130 Stock Corporation Act a special audit of the management be completed in order to ascertain if on the occasion of, or in the course of

(i) The completion on 15.9.1989 of an increase in share capital by ATS 50,000,000 by the Management Board as approved by the Supervisory Board;

(ii) The completion on 3.9.1991 of an increase in share capital by ATS 30,000,000 by the Management Board as approved by the Supervisory Board;

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(vi) The completion on 20.10.1995 and 15.11.1995 of an increase in share capital by ATS 25,000,000 agreed by the Board (entered into the Company Register on 30.11.1995);

(vii) The completion on 27.4.2000 of an increase in share capital by EUR 2,326,400 agreed by the General Meeting (entered into the Company Register on 31.5.2000);

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(xiv) The completion on 26.9.2016, 8.11.2016 and 1.12.2016 of an increase in share capital by EUR 9.210,600 agreed by the Management Board (entered into the Company Register on 3.12.2016);

in exchange for cash contributions for new ordinary shares subscribed by stockholders with whom the Oberbank is in a reciprocal participatory relationship,

a) Payments or other services occurred between the Oberbank and its stockholders, in particular Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B"), structured according to stockholders, date, legal basis, amount and any possible purpose:

b) An increased capital amount was raised owing to the existing reciprocal participatory relationships, in order to correspond with the principles of effective capital contribution;

c) These stockholders fulfilled the contribution requirements emanating from the subscription of new shares completely and effectively, whereby the participation of the Oberbank in its own assets is to be excluded;

d) Any demands for repayment regarding the financial means contained in Item a) were possibly raised and if so, to what amount, against whom and on what legal basis;

e) Any demands for repayment regarding the financial means contained in Item a) are still outstanding and if so, to what amount, against whom and on what legal basis;

f) A non-company (special) advantage derived for individual stockholders and if yes, in what amount and to whom;

g) A possible (special) advantage pursuant to Item f) resulted by means of the use of influence upon the Oberbank through the appointment of a member of the Management Board or the Supervisory Board;

h) From the possible constellations of the Oberbank and/or individual stockholders damage resulted, the amount of this damage, and whether claims for this damage can be asserted against the Management Board, the Supervisory Board or the (other) stockholders.

The completion of this special audit of the company management pursuant to § 130 Stock Corporation Act should also include the answering of the following questions:

(i) What was the Oberbank's involvement in the foundation of G3B? What payments did the Oberbank make to G3B in 2003 (G3B foundation)? At what point in time did these payments occur and to what amount and for what purpose? What contractual bases and gremial decisions underlay these payments by the Oberbank? For what purpose were the Oberbank's payments to G3B in 2003 used? What decisions by G3B underlay the employment of these payments? Was G3B subjected to a foundation audit?

(ii) Did the Oberbank subsidise G3B for its participation in the capital increases of BKS Bank AG (FN 918110 s; subsequently "BKS") and Bank für Tirol and Vorarlberg Aktiengesellschaft (FN 32942 w; subsequently "BTV"), and if yes, when and to what amount?

(iii) Did the Oberbank acquire shares in the 3 Banks from a) Beteiligungsverwaltung Gesellschaft m.b.H (FN 81137 w; subsequently "BVG") and/or b) 3-Banken Beteiligung Gesellschaft m.b.H (FN 165973 d; subsequently "3BB")? If yes, when and to what amount?

(iv) In connection with the acquisition of shares in the 3 Banks from a) BVG and/or b) 3BB by the Oberbank since the foundation of these companies and in any case since 2003, has the Oberbank issued any statements in accordance with stock exchange regulations and if so, what was their content?

(v) Does the Oberbank have direct or indirect participations in other companies, which in turn possess BKS, Oberbank and BTV shares? If so, in which companies (precise company name) and to what amount, how many BKS, Oberbank and BTV shares are involved and when did the initial acquisition of a participation occur?

(vi) Has the Oberbank acquired Oberbank, BKS or BTV shares from companies in which at the time of purchase the Oberbank, BKS or BTV held or still hold a direct or indirect participation?

(vii) How have the shares in a) BVG and/or b) 3BB and/or c) other companies mentioned in Item (v) and (vi) been reported in the Oberbank's financial statements since the beginning of its participation in these companies and in any case since 2003? Which CRR-related deductions during this period are linked to these Oberbank participations?

(viii) How have the balance sheet gains and/or dividends from a) BVG and/or b) 3BB and/or c) other companies mentioned in Item (v) and (vi) been reported in the Oberbank's financial statements since the beginning of its participation in these companies and in any case since 2003? Moreover, during this period in what form did interim gain treatment (interim gain elimination) take place?

(ix) On the basis of which approval did the Management Oberbank Board carry out the purchase of BKS shares within the scope of the follow-up offer during the BKS capital increase of 2018 and the acquisition of BKS shares following the conclusion of the capital increase?

(x) From whom, at what price and in what denominations did the Oberbank purchase BKS shares during the 2018 capital increase?

(xi) Which taxation effect resulted for BVG, the Oberbank and BKS respectively?

(xii) What gains were realised? Were there offsettable losses?

(xiii) What was the ratio of the purchase price to that on the stock exchange on the date of

purchase? We request that the differences be made known, as well as an explanation as to why, if this was the case, a purchase was made at differing prices?

(xiv) How in the sense of question (x) was the price for the purchase of BKS shares by the Oberbank calculated? Are there package surcharges or deductions? Was the volume handled via the stock exchange taken into account?

(xv) In the course of the capital increase at BKS in 2018 were BKS shares purchased through the exercise of preemptive rights or other supplementary agreements and if yes, which were acquired by "befriended investors" (see page 93 of the "150 Years Oberbank" commemorative publication)?

(xvi) Was the purchase of BKS shares included in an Oberbank creeping monitoring system? Who managed this monitoring system and in what manner?

(xvii) On the basis of which approval did the Oberbank Management Board carry out the purchase of BTV shares outside the legal subscription right in the course of the BTV capital increase of 2018?

(xviii) From whom, at what price and in what denominations did the Oberbank purchase BTV shares during the 2018 capital increase?

(xix) Which taxation effect resulted for BVG, the Oberbank and BTV respectively?

(xx) What gains were realised? Were there offsettable losses?

(xxi) What was the ratio of the purchase price to that on the stock exchange on the date of purchase? We request that the differences be made known, as well as an explanation as to why, if this was the case, a purchase was made at differing prices?

(xxii) How in the sense of question (x) was the price for the purchase of BTV shares by the Oberbank calculated? Are there package surcharges or deductions? Was the volume handled via the stock exchange taken into account?

(xxiii) Was the purchase of BTV shares included in an Oberbank creeping monitoring system? Who managed this monitoring system and in what manner?

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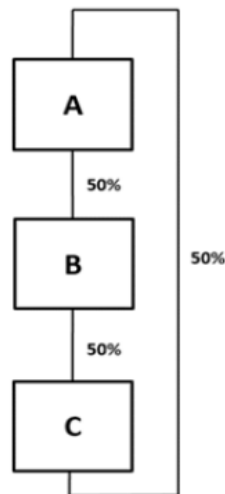
1.3. Justification

The Oberbank belongs to the 3Banken Group, which apart from the Oberbank consists of the two BKS and BTV regional banks. The stockholder structure of the Oberbank demonstrates complicated reciprocal direct and indirect participations between the Oberbank, the BKS and BTV. In addition, there exists an indirect Oberbank, BKS and BTV participation in G3B and a direct participation of G3B in these companies. Furthermore, a joint syndication agreement is in place between BKS, BTV and Wüstenrot Wohnungswirtschafts reg.Gen.m.b.H. (FN 69160 g; subsequently "Wüstenrot").

1.3.1. Problem of the reciprocal and circular participations

The reciprocal and circular participations are problematic to the extent that the Oberbank has a partial participation in its own assets. During capital increases, these self-participations must be deducted because an equal amount of new assets cannot flow to the Oberbank, as otherwise an impermissible capital dilution and a defective capital contribution would result.

In the case of the capital increases, an initial audit should be made regarding the extent to which the Oberbank actually receives new financial assets. This problem can be illustrated easily using a simple example.



A has a 50% participation in B, B a 50% participation in C and C a 50% reverse participation in A. The participation of A in B consists partially of a participation in C, which in turn consists partly of a participation in A. A thus has a direct participation in itself. An original participation in itself is however financially worthless, as the newly issued shares are purchased using means that already belong to the company. For example, in the case of an insolvency, this means that the company's creditors are not insured to this amount and when new assets are added to the company's business result, the capital increase is at least partially fictitious.

If the self-participations are not deducted from the Oberbank's capital increases, these demonstrate defects, which contravene mandatory capital maintenance and contributions law and in this respect the shares emanating from these capital increases will possess no voting right entitlement.

1.3.2. Contravention of the ban on the repayment of capital contributions

During capital increases by the Oberbank, the capital contribution from its G3B stockholder took place through up-stream contributions by G3B stockholders to G3B. On the one hand this constitutes a breach of the ban on contribution repayments (endowment of the shareholder without any legal justification) and a violation of mandatory capital maintenance regulations. On the other, these payments backwards and forwards contravene the basic principle of the contribution of effective assets. The related "capital dilution effect" occurs not only in the case of a share acquisition by subsidiaries, but also during the same by companies with reciprocal participations.

This financing of capital increases through contributions, which amongst others were granted

to G3B by the Oberbank, also occurred during both BKS and BTV capital increases. Therefore from an economic perspective, on the occasion of the capital increase, G3B and the respective other Oberbank shareholders, who share reciprocal participations, contributed no additional assets to the amount of these reciprocal participations.

The installation of a complex system of reciprocal and circular participations was employed until recently in a sustained and systematic manner in order to secure disproportionate mutual holdings and influence through a contribution carousel involving sizeable financial savings.

As a result of this contribution carousel and the violation of the requirements for a complete capital contribution, the Oberbank has achieved a considerable capital dilution of unacceptable dimensions that contravenes the interests of the company's creditors and also the other stockholders. Participations in assets that already belong to the Oberbank merely constitute empty legal shells and the supposed argumentation that this would raise capital is unsupported.

In the final analysis, the consequence of the infringement of the capital provision regulations is that BKS, BTV and G3B are subject to open contribution demands of the Oberbank. Owing to the failure to contribute the entire payment amount (nominal sum plus premiums) due to the reciprocal participations, the shares acquired provide no voting rights.

Therefore, the justifiable suspicion exists that during the capital increases of the Oberbank, the subscription amount derived at least partly from the assets of the Oberbank itself. No new assets were added to the extent of the participation in the opposite direction and the capital increase amount was not raised effectively. It may be assumed that the reciprocal stockholders only contributed fresh capital to the company, where this exceeded the existing reciprocal capital participation. Therefore, the initial task of the special audit will be to clarify if during the completed capital increases, the capital was respectively contributed effectively.

In addition, the justifiable suspicion exists that the Oberbank furnished financial means to individual stockholders, in particular of G3B, who apart from their holdings possess no major assets and except for their stock undertake no business activities, in order to facilitate their participation in the capital increase of the Oberbank and hence prevent a dilution of G3B. Owing to the lack of a third party comparison capability and/or business justification, this contravenes the ban on contribution repayments (§ 52 Stock Corporation Act). Payments by the Oberbank to stockholders are only permitted within the framework of the distribution of dividends, a capital reduction, or the provision of services with a third party comparison capability.

If the Oberbank has supported individual stockholders during subscriptions to a capital increase for itself, this infringes the Stock Corporation Act principle of equal treatment (§ 47a Stock Corporation Act) and also § 100 Stock Corporation Act, as prior influence can be assumed.

1.3.3. Concealed contribution during the foundation of G3B

In 2003, the Oberbank took part in the foundation of G3B and directly in this connection made payments to it. G3B employed these payments to acquire a package of shares in the Oberbank, BKS and BTV from a G3B stockholder, namely Generali Holding Vienna AG (FN 107444 g), now Generali Versicherung AG (FN 38641 a), subsequently "Generali". The capitalisation of G3B by its stockholders, who include the Oberbank, took place with a manifestly obvious disparity between low nominal capital and a relatively high stockholder contribution. It may be assumed that the intention existed to raise the financial means required for the acquisition

by G3B of the 3Banken share package from Generali through the cash contribution and the subsidy, which is

thus to be qualified as a "complete package". The contributions should therefore have been qualified materially as premiums and included in the appropriated capital reserves of G3B. From the outset, all three G3B founding stockholders planned that the capital of G3B, which is protected to the amount of the capital reserves by the non-cash capital contribution regulations, would be raised through assets in the form of the 3Banken share package. The purchase of the share package from Generali took place in an immediate temporal and factual connection with the cash contribution. However, the regulations governing non-cash capital contributions were not adhered to and therefore a concealed contribution exists. In addition, it cannot be excluded that a reverse flow of cash occurred in the course of the share package acquisition as "money is not earmarked". The assets of G3B consist of listed shares. Owing to the lack of transparent pricing (low volume) an assessment of whether the listed shares represent the acquired value is impossible. Under certain circumstances they could be sold on the market at a far lower price. Accordingly, there is reason to assume that more cash was paid than assets were transferred. In such a case, this would not only constitute a breach of the regulations governing non-cash capital contributions, but also a forbidden repayment of contributions. As a result, claims for the open contribution and the premium continue to exist against all G3B shareholders. Pursuant to § 20 Para. 3 Clause 1 of the Stock Corporation Act, without adherence to the non-cash capital contribution regulations, the agreements concluded regarding non-cash capital contributions and the opposing acquisition of assets by the company are null and void. G3B has not become the holder of the 3Banken share package and has no entitlement to voting rights derived from these shares. This situation forms a basis for the questions (i), the answers to which also represent an objective of the requested special audit.

1.3.4. Breach of the post-formation acquisition regulations

G3B's purchase of the 3Banken share package from one of its founders was subject to the post-formation acquisition regulations contained in § 45 of the Stock Corporation Act because the share package was purchased from this founder immediately after the foundation of G3B in exchange for more than 10 per cent of share capital (whatever the case within two years of the entry of G3B into the Company Register). Subsequently, this was neither sanctioned by the General Meeting of G3B, nor was an entry made in the Company Register and therefore the legal acts in connection with this share acquisition are invalid and G3B has no entitlement to voting rights derived from these shares. This situation forms a basis for the questions (i), the answers to which also represent an objective of the requested special audit.

1.3.5. BKS capital increase in 2018

In the course of the BKS capital increase in 2018, the Oberbank did not exercise its subscription rights to the full and purchased shares from third parties OTC without governing body approval. This situation forms the basis for the questions (ix)-(xvi), the answers to which also represent an objective of the requested special audit.

In the course of the BKS capital increase in 2018 on 12.3.2018 (outside the offer deadline for the capital increase; the deadline for the announced BKS capital increase expired on 5.3.2018) the Oberbank acquired 486,127 ordinary no par BKS shares. From the publically available lists of the Vienna Stock Exchange for 2018 (Directors' Dealing Report), it can be ascertained that these shares were neither acquired via the subscription right, nor a follow-up offer. The ISIN number allocated to the purchase shows that the shares involved did not emanate from the capital increase but rather were already existent (old) ordinary no par shares. The Oberbank purchased a mere 39,996 ordinary no par shares via its subscription rights, which was clearly

disproportionate in comparison to the existing subscription rights. If the BKS shares were purchased by Beteiligungsverwaltung Gesellschaft m.b.h. (FN 81769 z), which is 40 per cent owned by the Oberbank, this circumstance and the related conflict of interests were not revealed. How the price was tabulated and which company was subject to a resultant fiscal burden was also not made public.

Furthermore, the Managers' Transactions 2018 reveal that the Oberbank purchased 93,492 ordinary BKS no par shares in the course of the follow-up offer.

The Oberbank was subject to the following approval situation with regard to participation in the 2018 BKS capital increase. A Management Board resolution from 25.1.2018: participation to the full extent of the granted subscription rights up to a sum of EUR 10.22 million (in respect of direct investment); Supervisory Board approval: Working Committee motion with regard to a total of up to EUR 10.22 million.

The Management Board of the Oberbank carried out the purchase of BKS shares beyond its subscription rights without authorisation. During these OTC transactions, the Management Board concluded the purchase while ignoring the value and price structure and in addition, pursuant to § 879 Para. 1 Commercial Code due to infringements of protection statutes and prohibitive standards undertook an invalid transaction. Therefore,

the Oberbank's purchases of 486,127 BKS shares shown in the Director's Dealing Report are invalid, as was the exercise of the voting rights emanating from these shares at the General Meeting of BKS.

1.3.6. BTV capital increase in 2018

The Managers' Transactions 2018 show that in the course of the 2018 BTV capital increase, the Oberbank only purchased 153,969 new ordinary no par shares via its subscription rights (the actual subscription rights totalled 408,970 ordinary no par shares). Therefore, the Oberbank purchased far fewer shares than its subscription rights would have permitted. Subsequently, the Oberbank acquired 255,000 ordinary BTV no par shares outside its legal subscription right. This is in contradiction to a statement in BTV's capital market brochure, which states the Oberbank intends to use its subscription rights within the scope of the actual capital increase.

Therefore, a purchase of 255,000 shares in total by the Oberbank exists, which as opposed to the statements in the capital market brochure, was not made in the course of the subscription rights offer. This circumstance forms the basis for the questions (xvii)-(xxiii), the answers to which also represent an objective of the requested special audit.

The Oberbank was subject to the following approval situation with regard to participation in the 2018 BTV capital increase. A Management Board resolution from 28.9.2018: purchase in the amount necessary for the syndicate amounting to up to EUR 10.3 million. In contravention of this resolution, 255,000 ordinary no par shares were purchased outside the legal subscription right.

If the BTV shares were purchased by Beteiligungsverwaltung Gesellschaft m.b.h. (FN 81769 z), which is 40 per cent owned by the Oberbank, this circumstance and the related conflict of interests were not revealed. How the price was tabulated and which company was subject to a resultant fiscal burden was also not made public.

The Management Board of the Oberbank carried out the purchase of BTV shares beyond its subscription rights without authorisation. During these OTC transactions, the Management Board concluded the purchase while ignoring the value and price structure and in addition,

pursuant to § 879 Para. 1 Commercial Code due to infringements of protection statutes and prohibitive standards undertook an invalid transaction. Therefore, the Oberbank's purchases of 255,000 BTV shares shown in the Director's Dealing Report are invalid, as was the exercise of the voting rights emanating from these shares at the General Meeting of BTV.

2. Agenda Item 2: Resolution regarding the termination of the arbitration proceedings between the Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B") and the Oberbank, as well as the forbearance of enforceable measures on the basis of an award derived from these arbitration proceedings.

2.1. Agenda Item

As qualified Oberbank stockholders, UCBA and CABO require that the following item be placed on the agenda of the Extraordinary General meeting and made known:

"Resolution regarding the termination of the arbitration proceedings between the Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B") and the Oberbank, as well as the forbearance of enforceable measures on the basis of an award derived from these arbitration proceedings."

2.2. Proposed resolution

It is proposed that the General Meeting adopt the following resolution:

"The General Meeting is asked to agree that the arbitration proceedings between the Generali 3Banken Holding AG (FN 234231 h; subsequently "G3B") and the Oberbank be terminated without delay by the Oberbank Management Board and that the Management Board shall refrain from any actions on the basis of the arbitral award resulting from these arbitration proceedings."

2.3. Justification

Arbitration proceedings are in progress between Oberbank, BTV, BKS and G3B within the scope of which G3B is reclaiming what in its opinion are the "repeated" contributions to the Oberbank from April 2019. The object of the arbitration proceedings is thus the legality of the contributions, as well as a possible breach of the capital contribution rules and the ban on contribution repayments. These questions affect structural measures, which pursuant to the "Holzmüller Doctrine" developed by the Federal Court of Justice, interfere in the membership

rights of the stockholders and their asset interests embodied in their shareholdings. The result of these proceedings will have significant effects upon the voting weight of the stockholders, which is why the General Meeting has to address this matter.

During these arbitration proceedings, the members of the 3Banken Group allege in blatant contradiction of their submissions in the court case against UCBA and CABO, that the "repeated payment of the subsidiaries" was necessary, as the original contributions were not permissible or invalid.

For the reasons presented below, the outstanding arbitration proceedings contravene mandatory legal stipulations.

2.3.1. Infringement of the substantive ordre public

The claim of G3B against the 3Banken Group in the arbitration case is unsuitable for such proceedings.

The question of the legality of the contributions, or a possible breach of the capital contribution rules, or the ban on contribution repayments cannot be clarified in the course of arbitration in which the other Oberbank stockholders are unable to participate and in which one party is suing another party, which in reality it controls completely. All the arbitration parties are part of a contribution carousel, whether as stockholders and syndicate partners of one of the members of the 3Banken Group or stockholders of G3B, which in turn is a stockholder and syndicate partner of members of the 3Banken Group. The members of the 3Banken Management Board were not entitled to conclude this arbitration process, which is why a valid arbitral agreement has not been reached.

The claim emanating from the infringement of the capital contribution rules or the ban on contribution repayments is unavailable through the Management Board. A disposition via the detour of an arbitral agreement is also impermissible. Therefore, the Management Board of the Oberbank is forbidden to pay back such claims, but at the same time the bodies of the Generali 3 Banken Holding AG are also prohibited from accepting such payments owing to their illegality. For this reason the arbitration proceedings and if need be a lawsuit on this basis are both impermissible and invalid.

Such a procedure contravenes the underlying principles of Austrian law and the ordre public. Pursuant to a Supreme Court verdict (OGH 1.3.2017, 5 Ob 72/16y), the substantive ordre public constitutes the inherent

limit of arbitrability. It follows that arbitration between parties in which one controls the other and no "dispute" exists because, as it would seem in this case, the parties have already agreed the outcome of the proceedings in advance, is both impermissible and non-arbitrable.

2.3.2. Suspicion of fictitious arbitration proceedings

Fictitious arbitration proceedings exist when within the scope of the party hierarchy, they are so tailored that the form of arbitration is maintained, but the parties largely dispense with the original role of arbitrability. This becomes apparent due to the fact that from the outset unanimity exists between the parties regarding the result of the arbitration proceedings and these have only been initiated in order to achieve the planned arbitral verdict. The members of the 3Banken Group exert complete control over G3B, which at least justifies the suspicion that the result of the arbitration process has already been established. In this case, fictitious arbitration proceedings are involved, which serve solely to clarify a question, which if adjudged in an arbitration procedure beyond their control would result in a negative verdict for the members of the 3Banken Group. Fictitious arbitration proceedings are invalid and cannot be enforced.

2.3.3. Infringement of § 178 Para. 1 Code of Civil Procedure

Pursuant to § 178 Para. 1 of the Code of Civil Procedure, the parties must state the necessary (legally relevant) actual true circumstances comprehensively and exactly. They are thus subject to an obligation to truthfulness and completeness during their procedural arguments. The duty to tell the truth demanded by § 178 Para. 1 of the Code of Civil Procedure not applies to clients, but also their legal representatives. A lawyer that knowingly makes incorrect assertions in order to obtain advantages for his/her client is acting in a manner subject to disciplinary action. A mandate allocated by a client to make deliberately untrue statements

does not absolve a lawyer from blame.

Either during the litigation against UCBA and CABO or the arbitration proceedings against G3B, the members of the 3Banken Group have possibly infringed the conditions of § 178 Para. 1 of the Code of Civil Procedure, as in the course of these cases regarding the permissibility of contributions they have made contradictory submissions.

2.3.4. Partiality of two arbiters

Apart from the aforementioned infringements of mandatory law with regard to the arbitration proceedings between the members of the 3Banken Group and G3B it is extremely bewildering that the son of one of the arbiters is active as a private advisor to the members of the 3Banken Group and therefore the latter is biased and cannot judge objectively.

In addition, another arbiter is not impartial, as during his activities for the Takeover Commission in 2003, he was involved in the 3Banken Group decision and is currently a member of the Takeover Commission Senate, which must decide objectively regarding the events within the 3Banken Group.

According to settled case law of the Supreme Court, primarily reasons for bias can be viewed as deriving from private, personal connections to one of the parties in litigation or their representatives, which justify a close relationship and in the case of objective scrutiny is at the very least, suitable to awaken a semblance of prejudice. Partiality involves unobjective, psychological motives that can prevent a neutral decision.

During the examination of impartiality it is in the reputational interests of justice that stringent standards are applied. Therefore, it is already sufficient that prejudice must be feared, or that merely a hint of partiality could exist with regard to an impartial approach. A restrictive approach must also be applied during verdicts and in cases of doubt partiality is to be assumed. During the assessment of the fairness of proceedings the external appearance is also of significance. Not only must justice be done; it must also be seen to be done. Therefore, even the slightest indication that a judge allows his/her decision to be guided by anything other than purely factual aspects must be avoided at all costs.

Against the background of the presented facts, the entire arbitration proceedings of G3B against the Oberbank and the other members of the 3Banken Group clearly serve to confound the justified claims of the Oberbank shareholders and inflicts damage upon them. The arbitration process is to be terminated and no enforceable measures on the basis of an award derived from these proceedings are to be undertaken.

Yours sincerely,

UniCredit Bank Austria AG

CABO Beteiligungsgesellschaft m.b.H.