

## EXPLANATORY REPORT

PURSUANT TO ARTICLE 126-BIS, PARAGRAPH 4, OF THE CONSOLIDATED FINANCIAL ACT (“CFA”), CONCERNING THE REQUEST TO AMEND THE AGENDA OF THE MEETING SUBMITTED BY DELFIN S.À R.L. PURSUANT TO ARTICLE 126-BIS, PARAGRAPH 1, 1<sup>ST</sup> SENTENCE, CFA

Dear shareholders,

we refer to the shareholders’ meeting of Mediobanca – Banca di Credito Finanziario S.p.A. (“**Mediobanca**” or the “**Bank**”) convened for October 28, 2021 (the “**Meeting**”) to resolve upon the following agenda:

### «Ordinary business

1. *Financial statements as at 30 June 2021 Board of Directors’ Review of Operations, reports by external auditors and Statutory Audit Committee:*
  - (a) *approval of financial statements for the year ended 30 June 2021;*
  - (b) *allocation of profit for the year and distribution of dividend to shareholders, including through use of part of the Statutory Reserve.*
2. *Authorization to buy and sell treasury shares.*
3. *Remuneration:*
  - (a) *Report on remuneration and compensation paid: Section I – Mediobanca Group staff remuneration and incentivization policy FY 2021-22;*
  - (b) *Report on remuneration and compensation paid: resolution not binding on Section II – Disclosure on compensation paid in FY 2020-21;*
  - (c) *Policy in the event of the beneficiary leaving office or the employment arrangement being terminated;*
  - (d) *2022 Incentivization system based on financial instruments (the “2022 performance share scheme”): partial withdrawal of the 2021-25 incentivization scheme, and approval of new one-year scheme;*
4. *Insurance policy covering civil liability for members of the Group legal entities’ governing bodies.*

### Extraordinary business

1. *Cancellation of treasury shares with no reduction of share capital; Article 4 of the company’s Articles of Association to be amended accordingly.*
2. *Withdrawal of the existing authorization to the Board of Directors, under a resolution adopted by shareholders at the Annual General Meeting to be held on 28 October 2020, to increase the company’s share capital free of charge through the issue of no more than 20 million ordinary shares to be reserved to Mediobanca Group employees in execution of the performance share schemes in force at the time. Article 4 of the company’s Articles of Association to be amended accordingly.».*

On September 28, 2021, the undersigned Delfin S.à r.l. (“**Delfin**”), a shareholder of the Bank holding no. 167.661.539 ordinary shares, has requested the board of directors to amend the

agenda of the Meeting pursuant to Article 126-*bis*, Paragraph 1, 1<sup>st</sup> Sentence, CFA, by introducing into the extraordinary business the following item:

*«Amendments to Article 15, Paragraphs 4, 9, and 15, to Article 18, Paragraph 4, and to Article 23, Paragraph 3, of the Articles of Associations; related resolutions.».*

Pursuant to Article 126-*bis*, Paragraph 4, CFA, Delfin hereby outlines the reasons underlying its request.

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## 1. The proposed amendments in brief

Mediobanca's articles of association (the "**AoA**") concerning the composition of the Bank's board of directors are at odds with the basic principle on which corporate governance of public companies is predicated—namely, the idea that shareholders, as owners of the company, are given the ultimate decision of who should run the business, and thus vote to elect (and revoke) the board of directors, while directors are vested with the authority to appoint (and replace) the corporation's officers as part of their power to manage, oversee and monitor the business and affairs of the corporation.

This fundamental principle is crucial to making corporate governance systems efficient.

In sharp contrast with the above, the AoA grant the management the ability to dictate how the board shall be composed, and who shall be appointed thereto, so that they eventually get to perpetuate their own position within the company, irrespective of the results they are achieving, and without substantial accountability to the shareholders and to the board.

That is the case of Article 15, Paragraph 4, AoA, establishing that three board members out of the fifteen currently in office—or two if the Board had thirteen members or less—must be *«chosen from among employees with at least three years' experience of working for Mediobanca Banking Group companies at senior management levels»* (the "**Composition Requirement**" or the "**Requirement**")—three members whose very qualification for directorship depends on the managers, to whom they report.

Such a Requirement, which is without parallel in any other banking institution or listed company in Italy, has obvious consequences on the Bank's governance as it materially and adversely affects the shareholders' fundamental right to select candidates of their choice. The same holds true for the board of directors, which is also entitled to submit a slate of its own.

Namely, Article 15, Paragraph 9, AoA provides that the Composition Requirement applies to all *«lists containing a number of candidates equal to or above two-thirds of the Directors to be appointed»*, provided that a slate not meeting such Requirement *«shall be treated as null and void»* (see Article 15, Paragraph 12, AoA). Therefore, in order for such a slate to be validly proposed—either by a shareholder or the board—it will need to include three senior managers with a minimum three-year experience in the ranks of the Bank.

The above rules have two fundamental implications, all contradicting the most basic principles of corporate governance, the market's best (and most common) practice and the sound and proper management of banking institutions:

- (a) shareholders are prevented from proposing a full slate of candidates whenever the board (three members of which are senior executives of the Bank) decides to present its own slate, as in such a context: (i) it would be *de facto* impossible for the shareholders to identify candidates among the officers of the Bank or the group willing to accept a nomination which by its very nature is in competition with the incumbent directors; (ii) the incumbent directors would always be in a position to terminate employment of any of the officers included in a competing slate prior to the shareholders' meeting, causing the slate to be null and void under Article 15, Paragraph 9, AoA and thus preventing the shareholders from concurring to the appointment of the majority of directors and challenging the position of the incumbent directors;
- (b) it's virtually impossible for the board to present its own slate without a direct involvement and agreement of the management in office and therefore to replace the management whenever the best interest of the company so demands.

All the above has an obvious impact on the proper balancing of powers among the management, the board of directors and the shareholders, as well as on the actual ability of both the shareholders and the board to oversee and monitor the management of the corporation, and to hold the management accountable for the results and the creation of value.

By the same token, such Requirement has the effect of restricting shareholders' ability to make their own choice in electing directors as well as the ability of board members—especially the independent ones—to perform their duties and exercise their authority in the best interest of the Bank. In addition, by protecting the management's position, the Composition Requirement impacts the overall contestability of the Bank's control and may be viewed as an anti-takeover device. Ultimately, it restricts the ability of the market to exercise due pressure over the management, also with the prospect of a potential change of control, and reduces correspondingly the incentive for the management to run efficiently the Bank, thus affecting the overall value of the firm.

In light of the above, this proposal aims at amending the provisions of the AoA regulating the composition and appointment of the board of directors in order to align them to normal market practice and basic governance principles with a view to: (i) ensure that the shareholders and the board can effectively and fully exercise (in compliance with applicable laws and regulatory requirements) their fundamental powers to appoint who they deem best fit the company's interests and strategy, to replace the management in accordance with law and to ultimately decide who runs the corporation; (ii) repeal provisions of the AoA which may have the effect of shielding the Bank's management from any meaningful and effective confrontation with the market, reducing its accountability to the board and the shareholders with regard to the results achieved, and diverting its focus from its ultimate objective—the creation of a strong and sustainable value for all shareholders and stakeholders.

In the same vein, Delfin proposes to change the composition of the Bank's board of directors also by increasing the number of board seats available for election of candidates taken by

minority slates. In this regard, the proposal aims at amending Article 15, Paragraph 15, AoA by adopting a mechanism to increase board representation of minority shareholders and thus to establish how candidates are to be allocated in case two or more minority slates are submitted.

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## **2. Proposal to amend the AoA by way of deleting Article 15, Paragraphs 4 and 9, and amendment of Article 18, Paragraph 4, and Article 23, Paragraph 3.**

The AoA provide that *«three directors—or two directors, if the board of directors itself consists of thirteen or less than thirteen members»* must be *«chosen from among employees with at least three years' experience of working for Mediobanca Banking Group companies at senior management level»* (see Article 15, Paragraph 4, AoA).

In order to coordinate such provision with the slate voting mechanism mandated by Italian law for directors' election in listed companies, Article 15 also requires that whatever slate *«containing a number of candidates equal to or above two-thirds of [the total number of] the directors to be appointed shall contain three candidates, or two if the number of Directors to be appointed is equal to or less than three, ... in possession of the requisites stipulated under the foregoing paragraph 4»* (see Article 15, Paragraph 9, AoA).

The Composition Requirement has no true bearing as to the improvement of the board's professional qualifications overall, given that a three-year work experience as senior manager within the Bank's group doesn't make an employee necessarily more skilled than an outsider with respect to the many complexities of the banking business. In this respect, the existing comprehensive regulatory and legal framework governing the composition of the board already ensures that the board members possess adequate professional qualification.

To the contrary, the Composition Requirement is entirely unjustified and contrary to the Bank's best interest for the following reasons:

- (a) first, the Composition Requirement creates the risk of entrenchment of senior managers by shielding them from the risk of being replaced by the board or by the shareholders, thus perpetuating their position in the company. This leads to fundamentally distorting the relationship between managers and directors, on the one side, and between shareholders and the board of directors, on the other side;
- (b) furthermore, the Composition Requirement allows excessive insulation of the management from the board of directors as well as from the market, with the further consequence of making the board's monitoring of the company's management and performances way less effective and reducing both the overall value of the firm and the management's incentive to run it efficiently and to create value over time;
- (c) finally, the Composition Requirement has the obvious effect of restricting the ability of shareholders to decide who should run the business, and that of the board of directors to fully discharge its fiduciary duties.

For these reasons, Delfin is proposing to the shareholders of Mediobanca to approve the following amendments to Article 15, Paragraphs 4, 9 and 18, Article 18, Paragraph 4, and

Article 23, Paragraph 3, AoA, which are all aimed at repealing the Composition Requirement and aligning the Bank’s governance to normal (and best) practice and the sound and prudent management requirements applicable to banking institutions.

The table that follows shows the proposed changes and provides a comparison with the text of Article 15, Paragraphs 4, 9 and 18, and Article 18, Paragraph 4, and Article 23, Paragraphs 3 and 4, AoA currently in effect.

Existing text	Proposed text
<b>Article 15, Paragraph 4</b>	
<p>Three Directors, or two Directors, if the Board of Directors itself consists of thirteen or less than thirteen members, are chosen from among employees with at least three years’ experience of working for Mediobanca Banking Group companies at senior management level.</p>	<p><del>Three Directors, or two Directors, if the Board of Directors itself consists of thirteen or less than thirteen members, are chosen from among employees with at least three years’ experience of working for Mediobanca Banking Group companies at senior management level.</del></p>
<b>Article 15, Paragraph 9</b>	
<p>Slates containing a number of candidates equal to or above two-thirds of the Directors to be appointed shall contain three candidates, or two if the number of Directors to be appointed is equal to or less than three, numbered consecutively starting from the first in possession of the requisites stipulated under the foregoing paragraph 4.</p>	<p><del>Slates containing a number of candidates equal to or above two-thirds of the Directors to be appointed shall contain three candidates, or two if the number of Directors to be appointed is equal to or less than three, numbered consecutively starting from the first in possession of the requisites stipulated under the foregoing paragraph 4.</del></p>
<b>Article 18, Paragraph 4</b>	
<p>The Board of Directors delegates decisions to be taken at general meetings of companies listed on the stock market under paragraph 2, point 5) above on appointments to governing bodies, to a committee consisting of, in accordance with the regulations in force, the Managing Director, the Executive Directors referred to under Article 15, Paragraph 4, and two other Directors, at least one of whom must qualify as independent pursuant to Article 19 hereof. The committee adopts resolutions with a majority of its members voting in favour.</p>	<p>The Board of Directors delegates decisions to be taken at general meetings of companies listed on the stock market under paragraph 2, point 5) above on appointments to governing bodies, to a committee consisting of, in accordance with the regulations in force, the Managing Director, <del>the Executive Directors referred to under Article 15, Paragraph 4,</del> and <b>two four</b> other Directors, at least one of whom must qualify as independent pursuant to Article 19 hereof. The committee adopts resolutions with a majority of its members voting in favour.</p>
<b>Article 23, Paragraph 3</b>	

<p>Save in cases of incompatibility and up to the limits set by the regulations in force, the Managing Director and executive directors referred to under Article 15, paragraph 4 above are members of the Executive Committee <i>de jure</i>. Without prejudice to the provisions of the law, <i>de jure</i> Executive Committee members are bound to devote themselves solely to performance of activities involved in such office, and unless otherwise provided by the Board of Directors, may not perform duties of administration, management or control or of any other kind at companies or entities which are not investee companies of Mediobanca.</p>	<p>Save in cases of incompatibility and up to the limits set by the regulations in force, the Managing Director and <del>the executives that are</del> directors referred to under Article 15, paragraph 4 above are <del>members of the Executive Committee <i>de jure</i>.</del> Without prejudice to the provisions of the law, <i>de jure</i> Executive Committee members are bound to devote themselves solely to performance of activities involved in such office, and unless otherwise provided by the Board of Directors, may not perform duties of administration, management or control or of any other kind at companies or entities which are not investee companies of Mediobanca.</p>
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### 3. Proposal to amend Article 15, Paragraph 15, AoA.

In addition to the above, Delfin proposes to increase the number of board seats available for election of candidates taken by one or more minority slates, if submitted.

Minority directors represent a peculiarity of the Italian system of corporate governance. The more minorities are represented at a board level, the higher is the efficiency of the internal control system, the fulfilment of the Board agency role, and the inclusiveness of shareholders in the decision-making process.

Board representation of minority shareholders in Mediobanca is below market average if compared to both the general index and the main Italian banks. The current number of minority directors in office amounts to only 13% of the total board members as opposed to 20% in the FTSE-MIB companies incorporated in Italy and 18% in banks belonging to the same index of September 2021.

This obvious gap *vis-à-vis* the current market practice is due to the AoA providing that only two directors are to be drawn from a single minority slate, irrespective of how large the board is and how many minority slates are presented by the shareholders.

In this regard, it is proposed to increase board representation of minority shareholders and thus to establish how candidates are to be allocated in case two or more minority slates are submitted, with a view to ensure that minority directors may be drawn from different slates and proposals and may have a diverse background.

The proposed mechanism provides that the number of seats available to minority directors is a function of the number of slates submitted, so that: (i) if only two slates (including the majority slate) compete, then three seats will be allotted to the second most voted slate; (ii) if more than two slates compete, there will be four seats to allot to minority directors. In that case, the four board seats will be allocated in proportion to the votes that each minority slate has obtained based on the greatest divisors method.

The proposed amendment will allow the Bank to increase the percentage of minority board representation, which is currently lagging *vis-à-vis* other major banking institutions in Italy, and thus to profit from the enhanced ability of market forces to monitor the Bank's performance.

The increase in the total number of minority board seats proposed by Delfin is part of a comprehensive proposal concerning the composition of the board of directors, as indicated above, with a view to make it be more diverse and inclusive, and thus more effective. Given the size of the proposed increase, with up to four board members to represent minority shareholders out of the fifteen directors currently in office, it is all the more necessary that the majority of the board be drawn from a list of candidates selected by the incumbent directors or by the shareholders freely, having regard to the Bank's interest and without the limitations and constraints associated with the Composition Requirements.

The table that follows shows the proposed changes and provides a comparison with the text of Article 15, Paragraph 15, AoA currently in effect.

Existing text	Proposed text
<b>Article 15, Paragraph 15</b>	
<p>The procedure for the appointment of Directors is as follows: all Directors save two are chosen on the basis of the consecutive number in which they are ordered from the slate obtaining the highest number of votes; the other two Directors are chosen from the slate which ranks second in terms of number of votes cast and which is not submitted or voted for by shareholders who are related, as defined under regulations currently in force, to the shareholders who submitted or voted for the slate ranking first in terms of number of votes cast, again on the basis of the consecutive number in which the candidates are ordered. If it is not possible to appoint a sufficient number of Directors using this method, other candidates are added from the slates which received most votes out of those that obtained at least 5% of the votes cast in general meeting, based on the consecutive order in which they were ranked.</p>	<p>The procedure for the appointment of Directors is as follows: <del>all Directors save two are chosen on the basis of the consecutive number in which they are ordered from the slate obtaining the highest number of votes; the other two Directors are chosen from the slate which ranks second in terms of number of votes cast and which is not submitted or voted for by shareholders who are related, as defined under regulations currently in force, to the shareholders who submitted or voted for the slate ranking first in terms of number of votes cast, again on the basis of the consecutive number in which the candidates are ordered. If it is not possible to appoint a sufficient number of Directors using this method, other candidates are added from the slates which received most votes out of those that obtained at least 5% of the votes cast in general meeting, based on the consecutive order in which they were ranked.</del></p> <p><b>(a) notwithstanding the provisions of letter (b) of this Paragraph, all Directors to be elected shall be drawn from the slate that has obtained the highest number of votes cast by Shareholders (“Majority Slate”) based on the order in which the candidates are listed, apart from three Directors who will be drawn, based on the same order, from the slate that finished second by number of votes, without considering the votes cast by shareholders even only indirectly connected with those who submitted or voted for the Majority Slate;</b></p>

<p>If the number of candidates appointed in this way included in the slates that have been submitted,</p>	<p>(b) if more than two slates have been submitted, all Directors to be elected shall be drawn from the Majority Slate based on the order in which the candidates are listed, apart from four Directors. They will be drawn: (i) from the slate which – without considering the votes cast by shareholders even only indirectly connected with those who submitted or voted for the Majority Slate – has obtained the second highest number of votes (“First Minority Slate”), as well as (ii) from the slate which, without considering the votes cast by shareholders connected, even only indirectly, with those who submitted or voted for the Majority Slate, obtained the third highest number of votes (“Second Minority Slate”), provided that the Second Minority Slate has obtained a number of votes corresponding to at least 5% of the share capital. Failing the latter requirement, the rules referred to in letter (a) shall apply.</p> <p>For the purposes of allocating candidates from the minority slates under items (i) and (ii) above, the votes obtained by the First and Second Minority Slates are divided by sequential integers starting from one up to the maximum number of candidates to be elected, and the quotients thus obtained are assigned to the candidates based on the order in which they are listed. The quotients thus assigned are arranged in a decreasing ranking, and those who obtained the highest quotients, until the number of candidates reserved for the minority slates under items (i) and (ii) above has been reached, are elected. If several candidates from such minority slates have obtained the same quotient, the candidate from the slate that has elected the fewest directors shall be elected. In the event of a further tie, the Meeting shall decide with a relative majority vote;</p> <p>(c) if it is not possible to draw from the Majority Slate the number of Directors to be drawn from such slate according to the mechanism referred to in the above letters (a) and (b), the remaining seats shall be filled from the minority slate/s from which candidates were drawn, by applying the quotients, according to the results of the shareholder meeting vote, referred to in the above letter (b).</p> <p>If the number of candidates appointed in this way included in the slates that have been</p>
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<p>minority and majority, is still below the number required to be appointed, the other Directors are elected under a resolution to be adopted by shareholders in general meeting based on the majority set by law, ensuring that the minimum number of Directors qualifying as independent, the requisite number of Directors from the least represented gender, and with the qualifications stipulated in point 4 above, are all met.</p> <p>In the event of an equal number of votes being cast, a ballot shall be held.</p>	<p>submitted, minority and majority, is still below the number required to be appointed, the other Directors are elected under a resolution to be adopted by shareholders in general meeting based on the majority set by law, ensuring that the minimum number of Directors qualifying as independent <b>and</b> the requisite number of Directors from the least represented gender, <del>and with the qualifications stipulated in point 4 above, are all met.</del></p> <p><del>In the event of an equal number of votes being cast, a ballot shall be held.</del></p>
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For the sake of completeness, please note that the proposed amendments to the AoA set out above will not give rise to a right to withdraw pursuant to Article 2437 ff. of the Italian Civil Code.

The filing with the Companies' Register of the resolution approving the proposed amendments—and thereby its effectiveness *vis-à-vis* third parties—is subject to the authorization of the European Central Bank pursuant to Article 56 of Legislative Decree no. 385/1993 and related implementing regulations.

Delfin does not plan, nor intends to revoke the current board ahead of its expiration. This proposal is not about changing the board or the management today, but rather ensuring that from now on the Bank's management operate within a governance framework in line with best practice, and be strongly encouraged to focus on the creation of value for all shareholders, leaving to the board and to the shareholders, as in any other company, the right to make the ultimate decision as to who should run the company.

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In light of the above, Delfin submits the following resolution for approval by the shareholders of the Bank:

*«The ordinary shareholder meeting of Mediobanca S.p.A. – Banca di Credito Finanziario S.p.A., validly held in extraordinary session,*

- having acknowledged the request to amend the Agenda agenda made by the shareholder Delfin S.à. r.l. on September 28, 2021, pursuant to and for the purposes of Article 126-bis, Paragraph 1, 1<sup>st</sup> Sentence, of Legislative Decree No. 58/1998;*
- having seen the report therewith submitted pursuant to Article 126-bis, Paragraph 4, of Legislative Decree no. 58/1998;*
- on the basis of the draft resolution with which this report concludes,*

*r e s o l v e s*

- 1. to approve the unitary proposal to amend the Articles of Association by:*
  - complete deletion of Paragraphs 4 and 9 of Article 15, the rest of the Article remaining unchanged;*

- *amending Article 18, Paragraph 14, by deleting the sentence «by the directors referred to in the fourth paragraph of Article 15», the rest of the Article remaining unchanged;*
- *amending Article 15, Paragraph 15, so that it results as follows:*  
 «The procedure for the appointment of Directors is as follows:
  - (a) Notwithstanding the provisions of letter (b) of this Paragraph, all Directors to be elected shall be drawn from the slate that has obtained the highest number of votes cast by Shareholders (“Majority Slate”) based on the order in which the candidates are listed, apart from three Directors who will be drawn, based on the same order, from the slate that finished second by number of votes, without considering the votes cast by shareholders even only indirectly connected with those who submitted or voted for the Majority Slate;
  - (b) if more than two slates are submitted, all Directors to be elected shall be drawn from the Majority Slate based on the order in which the candidates are listed, apart from four Directors. They will be drawn: (i) from the slate which – without considering the votes cast by shareholders even only indirectly connected with those who submitted or voted for the Majority Slate – has obtained the second highest number of votes (“First Minority Slate”), as well as (ii) from the slate which, without considering the votes cast by shareholders connected, even only indirectly, with those who submitted or voted for the Majority Slate, obtained the third highest number of votes (“Second Minority Slate”), provided that the Second Minority Slate has obtained a number of votes corresponding to at least 5% of the share capital. Failing the latter requirement, the rules referred to in letter (a) shall apply. For the purposes of allocating candidates from the minority slates under items (i) and (ii) above, the votes obtained by the First and Second Minority Slates are divided by sequential integers starting from one up to the maximum number of candidates to be elected, and the quotients thus obtained are assigned to the candidates based on the order in which they are listed. The quotients thus assigned are arranged in a decreasing ranking, and those who obtained the highest quotients, until the number of candidates reserved for the minority slates under items (i) and (ii) above has been reached, are elected. If several candidates from such minority slates have obtained the same quotient, the candidate from the slate that has elected the fewest directors shall be elected. In the event of a further tie, the Meeting shall decide with a relative majority vote;
  - (c) if it is not possible to draw from the Majority Slate the number of Directors to be drawn from such slate according to the mechanism referred to in the above letters (a) and (b), the

remaining seats shall be filled from the minority slate/s from which candidates were drawn, by applying the quotients, according to the results of the shareholder meeting vote, referred to in the above letter (b).

If the number of candidates appointed in this way included in the slates that have been submitted, minority and majority, is still below the number required to be appointed, the other Directors are elected under a resolution to be adopted by shareholders in general meeting based on the majority set by law, ensuring that the minimum number of Directors qualifying as independent and the requisite number of Directors from the least represented gender.»

*the rest of the Article remaining unchanged;*

- *amending Article 23, Paragraph 3, so that it results as follows:*

«Save in cases of incompatibility and up to the limits set by the regulations in force, the Managing Director and the executives that are directors. Without prejudice to the provisions of the law, de jure Executive Committee members are bound to devote themselves solely to performance of activities involved in such office, and unless otherwise provided by the Board of Directors, may not perform duties of administration, management or control or of any other kind at companies or entities which are not investee companies of Mediobanca.»

*the rest of the Article remaining unchanged;*

2. *to mandate the board of directors to promptly implement all the measures required to execute the above resolution, in particular to file the necessary authorization with competent authorities, as well as to file the amended Articles of Association with the competent Companies' Register, and to grant the board any and all powers to such end.»*