

A r t i c l e s   o f   A s s o c i a t i o n  
of

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# BKS Bank AG

*(Version dated: 20 October 2016)*

*This is a translation of the German original.  
If there is any doubt, the German text shall prevail.*

## 1. General Provisions

### § 1

The Company, a stock corporation, shall be named 'BKS Bank AG' and shall have its registered office in Klagenfurt.

### § 2

- (1) The objects of the enterprise shall be the conduct of banking business and trade of all kinds in Austria and abroad as well as real estate management. [The Company] shall be permitted to issue subordinated debt.
- (2) The Company shall also be permitted to provide automatic data processing services.
- (3) To these ends, the Company shall be entitled to set up branch offices in Austria and abroad and to acquire interests in other enterprises.

### § 3

Insofar and for as long as required by law, announcements and publications by the Company shall be published in the 'Amtsblatt zur Wiener Zeitung' (the official gazette of the *Wiener Zeitung* newspaper). All other Company announcements and publications shall be published in accordance with the legislative provisions that are applicable from time to time. All announcements and publications shall be made available in Internet on the Company's website.

## 2. Share Capital and Shares

### § 4

[The Company's] share capital is € 79,279,200.00 divided into

(a) 37,839,600 ordinary no-par bearer shares and

(b) 1,800,000 non-voting no-par bearer preference shares

giving their holders a minimum dividend of 6 per cent on the interest in the share capital represented thereby, payable immediately or, if that is not possible, in a later period (*nachzuzahlend*).

The Management Board is authorized within five years from the time of registration in the companies register (*Firmenbuch*) of this amendment to the Articles of Association pursuant to § 169 AktG and with the consent of the Supervisory Board to increase the [Company's] share capital by up to € 7,207,200.00 through the issuance of up to 3,603,600 ordinary no-par bearer shares and to set the issue price and lay down the terms and conditions of issue in consultation with the Supervisory Board. The Supervisory Board shall be authorized to adopt amendments to the Articles of Association resulting from the issuance of shares within the limits of the authorized capital.

## § 5

The shares are bearer shares. The same shall also apply to new shares issued [in the future] unless the General Meeting decides otherwise in passing a resolution on the issuance of new shares.

## § 6

The shares shall be confirmed by one or more share certificates. The share certificates shall be deposited with a securities depository in accordance with Section 1 Paragraph 3 of DepotG or with an equivalent foreign body. The Management Board shall prescribe the form of share certificates and dividend coupons and talons with the consent of the Supervisory Board.

### 3. The Company's Constitution

## § 7

The Company's bodies are:

- a) The Management Board**
- b) The Supervisory Board**
- c) The General Meeting**

#### **a) The Management Board**

## § 8

The Management Board shall consist of two, three, four or five members. The number of its members shall be decided by the Supervisory Board. The appointment of deputy Management Board members shall be allowed.

## § 9

- (1) The Company shall be represented by two members of the Management Board or by one member of the Management Board jointly with an Authorized Representative (*Prokurist*).
- (2) In addition, subject to the legal restrictions, the Company can also be represented by two Authorized Representatives. Pursuant to § 5 (1) 12 BWG, power of sole representation (*Einzelprokura*) and power to act alone (*Einzelhandlungsvollmacht*) cannot be granted with respect to the entire business.

## § 10

- (1) The Management Board shall manage the Company's business in accordance with the law, the Articles of Association and the by-laws issued by the Supervisory Board.

- (2) If there are more than two members of the Management Board and if the Supervisory Board has appointed one of them as Chairman, the casting vote shall be with the Chairman in the event of a tie.

## **b) The Supervisory Board**

### **§ 11**

- (1) The Supervisory Board shall consist of at least three members. [Members of] the Supervisory Board shall be elected until the close of the General Meeting that grants discharge to them with respect to the fourth financial year following their election, not including the financial year in which they are elected.
- (2) Each year, at least one fifth of the members shall retire [from the Supervisory Board] at the close of the Ordinary General Meeting and be replaced by new elections. If the number of members is not divisible by five, the number [retiring] shall be based on the next higher multiple of five. If the sequence of retirements cannot be decided on the basis of tenure, lots shall be drawn. Retirees can immediately be re-elected.
- (3) Should [a member or] members retire before the end of their term of office, the Supervisory Board shall consist only of the remaining members until the next Ordinary General Meeting. The holding of a special election by an extraordinary general meeting will only be required if the membership of the Supervisory Board falls below three.
- (4) Special elections shall be for the remaining term of office of the retired member. If a member of the Supervisory Board is elected by an extraordinary General Meeting, that member's first year of office shall be deemed to end at the close of the next Ordinary General Meeting.
- (5) Any member of the Supervisory Board may resign from office at any time and with immediate effect by notifying the Chairman of the Supervisory Board.

### **§ 12**

Each year, during a meeting that is to be held immediately following the Ordinary General Meeting, to which no special invitation shall be required and at which at least three members must be present, the Supervisory Board shall elect from among its members a Chairman and one or several Deputies. Re-election is permitted. The Chairman in the financial year just ended or a Deputy or, if the Chairman and Deputy are unable [to attend], the oldest member of the Supervisory Board present (in years) shall preside over the election.

If the Chairman is unable [to attend], (one of) the Chairman's elected Deput(ies) shall assume all the rights and duties of the Chairman, including, in particular, convening a meeting.

### **§ 13**

- (1) Supervisory Board decisions shall be reached at meetings. Meetings shall be chaired by the Chairman of the Supervisory Board or (one of) the Chairman's Deput(ies). The meeting chair shall determine the voting procedure to be adopted. [Meetings of] the Supervisory Board shall be quorate if the members have been invited in writing to their last known address, by fax or by email and if at least three members, including the Chairman or a Deputy, are present.
- (2) Resolutions shall be passed by simple majority of the votes cast. In the event of a tie, the casting vote will be with the meeting chair, even in elections.
- (3) Resolutions can also be passed by written ballot without convening a meeting if the Chairman of the Supervisory Board or, if the Chairman is unable to do so, a Deputy so orders and if no member of the Supervisory Board objects to this procedure.
- (4) Minutes shall be taken of the proceedings of and resolutions passed by the Supervisory Board. These shall be signed by the Chairman or the Chairman's Deputy.
- (5) Statements and announcements made by the Supervisory Board shall be signed by the Chairman or (one of) the Chairman's Deput(ies).
- (6) The Chairman of the Supervisory Board or, if the Chairman is unable to perform this duty, a Deputy shall be considered to be the permanent representative of the Supervisory Board vis-à-vis authorities, including, in particular, the register court.
- (7) A member of the Supervisory Board may appoint another member of the Supervisory Board in writing to represent him or her for one meeting. The represented member of the Supervisory Board shall be disregarded for the purposes of determining whether a meeting is quorate. Such representation shall not be permitted if a resolution is voted on by written ballot. The right to chair the meeting cannot be transferred.

### **§ 14**

The Supervisory Board can appoint committees from among its members and define their tasks and powers. Decisive powers belonging to the Supervisory Board may also be transferred to the committees.

### **§ 15**

- (1) The Supervisory Board shall issue by-laws for the Supervisory Board and for the Management Board.
- (2) Apart from the cases laid down by law, the Supervisory Board may stipulate in the by-laws for the Management Board that other transactions shall also be subject to approval by the Supervisory Board.

## **§ 16**

- (1) In addition to the reimbursement of their actual expenses incurred in the exercise of their office and the attendance fees determined by the General Meeting, the members of the Supervisory Board shall receive an annual remuneration, the amount of which shall be determined by the General Meeting.
- (2) If members of the Supervisory Board perform special tasks in the interests of the Company in that capacity, the General Assembly may pass a resolution to approve [the payment of] a special allowance to them for doing so.
- (3) Special taxes on emoluments of the Supervisory Board shall be borne by the Company.

### **c) General Meeting**

## **§ 17**

The General Meeting that grants discharge to the [members of the] Management Board and Supervisory Board, decides on the appropriation of profit, elects the Auditor and, if applicable, adopts the annual financial statements (the Ordinary General Meeting) shall take place within the first eight months of each financial year.

## **§ 18**

- (1) The General Meeting shall be convened by the Management Board or by the Supervisory Board.
- (2) General Meetings shall be held at the registered office of the Company or in one of Austria's provincial capitals.
- (3) The convening of the General Meeting shall be made known by way of an announcement published in accordance with § 3 and § 19 of the Articles of Association. In addition, the legal requirements regarding the convening of General Meetings as applicable from time to time shall be adhered to.

## **§ 19**

- (1) Attendance at the General Meeting and the exercise of voting rights and the other rights of shareholders that are to be exercised during the General Meeting shall be limited to shareholders who demonstrate their stock ownership at the close of the 10<sup>th</sup> day prior to the General Meeting (the 'cut-off date').
- (2) In the case of bearer shares held in custody, a custodian's certificate conforming to § 10a AktG shall suffice to demonstrate stock ownership on the cut-off date. This certificate must be received by the Company no later than three working days before the General Meeting using the address made known in the convocation notice.

- (3) The particulars for the transmission of the deposit receipts are published together with the convocation notice. The notice can provide details on telefax or email for submission of the deposit receipts.

## **§ 20**

Each ordinary no-par share carries one vote. No-par preference shares carry votes in accordance with the legal requirements.

## **§ 21**

- (1) The General Meeting shall be chaired by the Chairman of the Supervisory Board or (one of) the Chairman's Deput(ies). If none of the above is present, the notary called in for certification purposes shall preside at the meeting until a chair has been elected.
- (2) The General Meeting chair shall chair the proceedings and decide the order of items on the agenda as well as the voting procedure to be adopted and the method of counting votes.
- (3) The members of the Management Board and Supervisory Board shall, if at all possible, be present at the General Meeting. The Auditor shall be present at the Ordinary General Meeting. Connecting with members of the Management Board or Supervisory Board using a two-way audio-visual link shall be allowed.

## **§ 22**

- (1) Unless a different majority is required by law, the General Meeting shall pass resolutions by simple majority of the votes cast or, in cases where a majority of the share capital is required, by simple majority of the share capital represented when the resolution is voted on.
- (2) If no majority is achieved in the first ballot of an election, a run-off ballot shall be held restricted to the two candidates who received the highest number of votes. In the event of a tie, the tie shall be resolved by lot.

## **4. Annual Financial Statements and Profit Appropriation**

### **§ 23**

The Company's financial year shall be the calendar year.

### **§ 24**

- (1) Within the first three months of each financial year, the Management Board shall prepare the Annual Financial Statements, Management Report and Corporate Governance Report as well as the Consolidated Financial Statements and Group Management Report for the previous financial year and, once they have been audited by the Auditor, submit them to the Supervisory Board together with a profit appropriation proposal.

- (2) The Supervisory Board shall comment to the Management Board on the Annual Financial Statements and Consolidated Financial Statements within one month of their submission.
- (3) If the Supervisory Board approves the Annual Financial Statements, they shall be [deemed to be] adopted unless the Management Board and Supervisory Board decide to have them adopted by the General Meeting. The General Meeting shall be bound by Annual Financial Statements adopted by the Management Board with the Supervisory Board's approval.
- (4) The Management Board shall convene a General Meeting once a year. It shall take place within the first eight months of the financial year (Ordinary General Meeting). The Management Board shall submit to it the Annual Financial Statements together with the Management Report, the Corporate Governance Report, any Consolidated Financial Statements together with the Group Management Report, the Profit Appropriation Proposal and the Supervisory Board's Report.
- (5) The agenda of the Ordinary General Meeting shall at least include the following:
  1. presentation of the documents referred to above and, if need be, adoption of the Annual Financial Statements in the cases where the law so requires;
  2. resolution on the appropriation of net profit if such a profit is reported in the Annual Financial Statements;
  3. resolution on the granting of discharge to the members of the Management Board and Supervisory Board;
  4. election of the Auditor.

## § 25

- (1) Unless the General Meeting decides otherwise, net profit shall, taking account of emoluments of the members of the Supervisory Board in accordance with § 16 of these Articles of Association, be distributed to the shareholders. It can be decided at the General Meeting to exclude part or all of the net profit from the distribution.
- (2) Net profit shall be distributed in proportion to the shareholders' interests in the share capital and the amounts paid for the shares as well as in relation to the time that has passed since the deadline for paying up the shares.
- (3) Different dividend rights can be specified when new shares are issued.
- (4) Holders of no-par preference shares within the meaning of § 4(b) shall receive a minimum dividend of 6% on their interest in the [Company's] share capital. This minimum dividend must always be paid if it is covered by net profit for the year. If the minimum dividend in respect of a financial year is not paid or is not paid in full, the arrears shall be paid out of net profit in the subsequent financial year(s).
- (5) The General Meeting can decide in its resolution on the distribution of net profit to distribute a non-cash dividend instead of or in addition to a cash dividend.



## § 26

Shareholder dividends not claimed within three years from their due date will lapse and revert to the Company's legal reserve (*gesetzliche Rücklage*).

### **5. Special Conditions for the Issuance of Covered Bank Bonds (*Fundierte Bankschuldverschreibungen*)**

## § 27

- (1) The Company shall be entitled to issue covered bank bonds in accordance with the provisions of the act regulating covered bank bonds (*Gesetz betreffend fundierte Bankschuldverschreibungen*), as amended.
- (2) The assets named in the act regulating covered bank bonds are suited as preferential cover for claims under covered bank bonds.

## § 28

- (1) The cover assets designated as preferred cover for the covered bank bonds (§ 27) shall constitute a cover pool for the satisfaction of obligations under the covered bank bonds.
- (2) Cover assets shall be registered in a special register (cover pool register). If cover assets are securities, such cover assets shall be segregated from the Company's other assets and the Government Commissioner (*Regierungskommissär*: para. (3)) shall block them. If the cover assets are claims, the Company shall notify the debtors that the claims against them serve as cover assets.
- (3) The coverage must always fulfil the following prerequisites:
  - a) the nominal value of the assets appointed as coverage has to cover at least the repayment amounts and the interest in circulation of the established partial debentures in circulation as well as in the case of insolvency the company must cover the expected incidental administrative costs.
  - b) the market value of the assets appointed as coverage has to cover the present value of the established partial debentures in circulation plus a secured surplus coverage, which is determined by due consideration of market risks but must amount to minimum 2%.
- (4) A Government Commissioner shall be appointed to audit the Company's [fulfilment of its] obligations under § 27. The cover assets may only be disposed of with the consent of the Government Commissioner.
- (5) Creditors under such covered bank bonds shall be satisfied out of these cover asset on a preferential basis in accordance with § 2 of the act regulating covered bank bonds, as amended.

## **§ 29**

The cover pool and the handling of covered bank bonds shall be accounted for separately in the Company's Annual Financial Statements.

## **6. Amendment**

### **§ 30**

The Supervisory Board shall be entitled to make changes to the Articles of Association that apply solely to this version.

### **§ 31**

The pronouns referring to persons throughout these Articles of Association include men and women equally.

