

**Warimpex**  
**Finanz- und Beteiligungs Aktiengesellschaft**

**Further information on shareholders' rights**  
**pursuant to sections 109, 110 and 118 Austrian Stock Corporation Act**

**1. Request for additional items on the agenda (section 109 Austrian Stock Corporation Act)**

- (1) Shareholders whose participation in the share capital equals or exceeds 5% may request in writing that further items are to be added to the agenda of the next shareholders' meeting and to be published. Each item of the agenda has to be accompanied by a proposal for a resolution including a statement of grounds. The petitioners need to have been shareholders for at least 3 months prior to filing the request.*
- (2) A request pursuant to para 1 shall be considered by the company if it is delivered at the latest on the 21<sup>st</sup> day prior to the annual shareholders' meeting (section 104) takes place, otherwise at the latest on the 19<sup>th</sup> day prior to the shareholders' meeting takes place. If such request is not delivered in time to the company so that it can be added to the original agenda, the amended agenda can be published likewise to the original agenda at the latest on the 14<sup>th</sup> day prior to the shareholders' meeting. However, a stock exchange listed company has to proceed with publishing pursuant to section 107 para 3 at the latest on the second business day after the deadline described in the first sentence and to make the amended agenda including the statement of grounds available on the website of the company from this day onwards. Moreover, section 108 para 3 and 5 shall apply mutatis mutandis.*

**Explanations:**

Pursuant to the Amendment 2009 to the Austrian Stock Corporation Act ("Aktienrechtsänderungsgesetz 2009", "AktRÄG 2009") section 109 Austrian Stock Corporation Act foresees the right of the shareholders to amend items of the agenda only until the 19<sup>th</sup> day prior to the extraordinary shareholders' meeting.

The right to amend the agenda only applies to shareholders who (a) have purchased their shares at least 3 months prior to filing the request and (ii) whose participation together reaches at least 5% of the share capital. Every item of the agenda must be accompanied with a proposal for a resolution as well as a statement of grounds.

The request must be delivered to the company at the latest on the 19<sup>th</sup> day prior the shareholders' meeting.

## **2. Shareholders' proposal for a resolution (section 110 Austrian Stock Corporation Act)**

- (1) In a stock exchange listed company shareholders whose participation together amounts to 1% of the share capital may deliver to every item of the agenda a proposal for a resolution in writing to the company and demand that these proposals together with the names of the relevant shareholders, their statement of grounds and eventually a comment of the management or the supervisory board shall be made available on the website of the company. The articles of association may also foresee this right for a smaller participation in the share capital. This request must be considered by the company if it is delivered to the company at the latest on the 7<sup>th</sup> business day prior to the shareholders' meeting. The company has to comply with the request at the latest on the 2<sup>nd</sup> business day after delivery as far as para 4 does not apply. Section 108 para 4 last sentence applies mutatis mutandis.*
- (2) A proposal for the election of a new member of the supervisory board needs to be accompanied by a declaration of the suggested person according to section 87 para 2 instead of a statement of grounds.*
- (3) The company must provide at least one electronic means of communication for the transmission of shareholders' proposals for a resolution and only such formal criteria may be required as far as necessary and proportionate to identify the shareholders and to recognize the contents of the proposal for a resolution. As far as the articles of association do not foresee any other means of communication for the transmission, fax transmission shall always be permitted.*
- (4) A proposal for a resolution does not have to be made available on the website if
  - 1. it is not accompanied by a statement of grounds or a declaration according to section 87 par 2,*
  - 2. it may lead to a resolution of the shareholders' meeting which contradicts law or the articles of association,*
  - 3. it is based on the same facts or a proposal with equal meaning has already been made available pursuant to para 1,*
  - 4. it fulfils the objective elements of crime of either defamation (section 111 Austrian Criminal Code) or of libel (para 115 Austrian Criminal Code) or if the management board makes itself guilty of criminal offence by publishing the proposal, or*
  - 5. the shareholders neither intend to participate in the shareholders' meeting nor to appoint a proxy for such participation.**

*The statement of grounds has not to be made available if it consists of more than 5.000 characters and if No 4 can be applied. If several shareholders deliver proposals for a resolution to the same item of the agenda, the management board may summarize the proposals and statement of grounds.*

*(5) The articles of association of an unlisted company may determine that a proposal for a resolution of shareholders may be published prior to the shareholders' meeting. As far as the articles of association do not foresee otherwise the para 1-4 apply mutatis mutandis.*

*(6) The company is not liable for damages which result solely from the fact that proposals for a resolution of shareholders have been published.*

#### **Explanations:**

Pursuant to section 110 Austrian Stock Corporation Act the shareholders of the company whose participation in share capital amounts to at least 1% may deliver to every item of the agenda in writing (no signature requirement) proposals for a resolution and demand that these proposals together with the names of the relevant shareholders are made available on the website of the company with the statement of grounds and eventually a comment of the management board.

The request has to be considered by the company only if it is delivered to the company at the latest on the 7<sup>th</sup> day prior to the shareholders' meeting.

The proposal for a resolution has to be reasoned and may not lead to a resolution which contradicts the law and/or the articles of association and may not contain libel (section 115 Austrian Criminal Code) or similar illegal contents. The management board may summarize similar requests.

Pursuant to section 87 para 4 Austrian Stock Corporation Act candidates for the supervisory board of a listed company may only be mandated if the election proposal has been made available on the company's website at the latest on the 14<sup>th</sup> day prior to the shareholders' meeting. Proposals for the election of members of the supervisory board have to be delivered to the company at the latest on the 2<sup>nd</sup> business day prior to the 14<sup>th</sup> day.

As clarification: The AktRÄG 2009 the Austrian Stock Corporation Act differentiates between "written form" and "text form" which seems to be unclear at first sight. Whereas written form means that a legally binding signature is required, text form means that it has to be made in writing only, no signature is required.

### **3. Shareholders information right (section 118 Austrian Stock Corporation Act)**

*(1) Upon request each shareholder shall be provided at the shareholders' meeting with information on the company's affairs as far as necessary for a proper judgement concerning one of the items of the agenda. The duty to provide information shall also cover the company's legal and commercial relationships to affiliated companies. If the consolidated financial statement and the group annual report of a parent company (section 244 Austrian Commercial Code) are presented in the shareholders' meeting, the duty to provide information also covers the situation of the group of companies as well as of the companies included in the consolidated financial statement.*

- (2) *The information shall comply with the principles of conscientious and accurate accountability.*
- (3) *Such information may only be denied insofar as*
1. *it may be qualified after rational commercial consideration to create material damage to the company or an affiliated undertaking, or*
  2. *its issuing would resemble a criminal offence.*
- (4) *Such information may also be denied insofar as it is made permanently available on the website of the company in form of question and answer at least 7 days prior to the commencement of the shareholders' meeting; section 108 para 4 last sentence shall apply mutatis mutandis. The reason for denying information has to be notified.*

**Explanations:**

Every shareholder who participates in the shareholders' meeting is entitled to receive information. The right to receive information does not only confer to the shareholders themselves but also to their proxy holders. Shareholders whose participation rights are inactive do not have the right to obtain information (sections 51 par 3, 65 para 5 Austrian Stock Corporation Act).

Questions are not to be accompanied by statement of grounds and are to be solely announced prior to the shareholders' meeting if the answering of such questions needs longer preparation. Questions can be raised orally or in writing.

The duty to supply information has every member of the management board. Questions shall primarily be answered by the member with the greatest expertise in the relevant matter.

If the management board disagrees about the content of an answer, the management board shall decide by resolution.

The answering of the questions has to take place in the shareholders' meeting and has to comply with the principle of conscientious and accurate accountability, i.e. the answers have to be correct, complete and understandable.

In the event that the management board refuses to answer a question, the management board has to pass a resolution. This decision has to be reasoned. If the question is still upheld by the shareholder, the statement of grounds of the denial is subject of review by the supervisory board.