

Explanatory report of the Executive Board of
GILDEMEISTER Aktiengesellschaft on the disclosures
required in accordance with Section 289 (4) and (5),
Section 315 (2) no. 5 and (4) of the German
Commercial Code (Handelsgesetzbuch – HGB)



Explanatory report of the Executive Board of GILDEMEISTER Aktiengesellschaft on the disclosures required in accordance with Section 289 (4) and (5), Section 315 (2) no. 5 and (4) of the German Commercial Code (Handelsgesetzbuch – HGB).

In the following, the disclosures, which pursuant to Section 289 (4) and (5), Section 315 (2) no. 5 and (4) HGB were given in the management report or group management report of GILDEMEISTER Aktiengesellschaft, are explained.

Disclosures required by Section 289 (4), Section 375 (4) HGB and Explanatory Report

GILDEMEISTER Aktiengesellschaft is a stock corporation under German law with registered office in Bielefeld and has issued shares with voting rights, which are listed on a regulated market within the meaning of Section 2 (7) of the German Securities Acquisition and Takeover Act (Wertpapiererwerbs- and Übernahmegesetz — WpUG).

As to Section 289 (4) no. 1, Section 315 (4) no. 1 HGB

The share capital of GILDEMEISTER Aktiengesellschaft amounted to € 156,437,431.80 as of 31 December 2012. It is divided into 60,168,243 no par value shares with a theoretical no par value of € 2.60 per share.

The same rights and obligations are associated with all the shares. Each share grants one voting right at the annual general meeting of shareholders and is decisive in determining the shareholder's share in the company's profit. This excludes treasury shares held by the company, for which the company is not entitled to any rights arising out of the same. The rights and obligations of the shareholders arise in each case out of the regulations of the German Stock Corporation Act (Aktiengesetz – AktG), in particular out of Sections 12, 53a et seqq. 118 et seqq. and 186 AktG.

As to Section 289 (4) no. 2, Section 315 (4) no. 2 HGB

Mori Seiki Co., Ltd., Nagoya (Japan), which holds a total of 20.10 % of the voting rights in GILDEMEISTER Aktiengesellschaft, is according to the provisions currently applicable (Memorandum of Understanding 2011 dated 1 February 2011) subject to the undertaking not to exercise its right to vote at the general meeting of shareholders of GILDEMEISTER Aktiengesellschaft insofar as that would result in the general meeting of shareholders being controlled by Mori Seiki Co., Ltd., Nagoya (Japan).

As to Section 289 (4) no. 3, Section 315 (4) no. 3 HGB

Mori Seiki Co., Ltd., Nagoya (Japan) has stated in a letter dated 15 April 2011 that its share of the voting rights in GILDEMEISTER Aktiengesellschaft has exceeded the thresholds of 15 % and 20 % and amounted to 20.10 % on that day.

GILDEMEISTER Aktiengesellschaft is not aware of any other direct or indirect equity investments in GILDEMEISTER Aktiengesellschaft in excess of ten percent of the voting rights and in existence as at 31 December 2012 or at the time this Explanation is made.

As to Section 289 (4) no. 6, Section 315 (4) no. 6 HGB

GILDEMEISTER Aktiengesellschaft is managed by the Executive Board and represented by the same with respect to third parties. The appointment and revocation of appointment of members of the Executive Board is regulated in Sections 84 and 85 of the AktG as well as in Section 31 of the German Co-Determination Act (Mitbestimmungsgesetz – MitbestG). In accordance with these acts, members of the Executive Board are appointed by the Supervisory Board for a maximum term of five years. A subsequent appointment or extension of the period of office is permissible in each case for a maximum of five years. According to Section 31 (2) MitbestG a majority of a minimum of two-thirds of the members of the Supervisory Board is necessary for the appointment of members of the Executive Board. Should such majority not be achieved, the appointment may take place pursuant to Section 31 (3) MitbestG in a second vote with a simple majority vote. Should the necessary majority not be achieved in this instance, a third vote shall take place in which likewise a simple majority vote shall be determining. However, in this case, the chairman of the Supervisory Board shall be entitled to two votes pursuant to Section 31 (4) MitbestG. Pursuant to Article 7 (1) of the Articles of Association of GILDEMEISTER Aktiengesellschaft, the Executive Board comprises several members. Moreover, Article 7 (2) of the Articles of Association of GILDEMEISTER Aktiengesellschaft provides that the Supervisory Board appoints the members of the Executive Board, determines their number and assigns their duties. Furthermore, the Supervisory Board may appoint a member as the chairman.

Pursuant to Section 179 (1) AktG, amendments to the Articles of Association require a resolution passed by the general meeting of shareholders which, insofar as the Articles of Association do not provide for any other majority, pursuant to Section 179 (2) AktG requires a majority of three-quarters of the share capital represented during the vote. Insofar as this involves an amendment to the object of the company, the Articles of Association may only provide for a larger majority. The Articles of Association of GILDEMEISTER Aktiengesellschaft make use in Article 15 (4) of the possibility of differing from this pursuant to Section 179 (2) AktG and provide that in principle resolutions are passed with a simple majority vote and, insofar as a capital majority is required, can be passed with a simple capital majority unless statutory provisions prescribe otherwise. In accordance with Article 10 (8) of the Articles of Association, the Supervisory Board is authorised to make amendments to the Articles of Association that only affect the wording. Any amendments to the Articles of Association will become effective in accordance with Section 181 (3) AktG upon registration in the Commercial Register.

The most recent amendment to the Articles of Association was of its Articles 5 and 12, on the basis of a resolution of amendment adopted by the most recent general annual meeting of GILDEMEISTER Aktiengesellschaft on 18 May 2012.

As to Section 289 (4) no. 7, Section 315 (4) no. 7 HGB

Pursuant to Article 5 (3) of the Articles of Association, the Executive Board is authorised to increase the share capital in the period until 17 May 2017 with the consent of the Supervisory Board by up to a nominal amount of € 78,218,714.60 by issuing up to 30,084,121 new bearer shares through a single or several issues of new shares in return for cash and/or contributions in kind (authorised capital). The Executive Board is authorised to issue shares to company employees and to companies affiliated with the company and in this respect to exclude subscription rights of shareholders with the consent of the Supervisory Board in respect to a partial amount of € 5,000,000. Moreover, the Executive Board is authorised with the consent of the Supervisory Board to exclude subscription rights for capital increases in return for contributions in kind. In the event of cash capital increases, the subscription right may be excluded (i) to grant bearers of conversion or option rights, which have been issued by the company or its affiliates, insofar as this is necessary to prevent dilution, and (ii) to use any residual amounts. The total number of shares that may be issued on the basis of this authorisation for capital increases in return for contributions in kind under exclusion of shareholders' preemptive rights may not exceed 20 % of the share capital either at the time the authorisation enters into force or at the time it is exercised. In accordance with the authorisation certain other shares that may be issued under exclusion of shareholders' preemptive rights shall also be credited against such limitation.

To grant shares to holders of convertible bonds or bonds with warrants, which were guaranteed or issued in return for cash by the company or a group company under the management of the company on the basis of the authorisation of the Executive Board by the annual general meeting of shareholders of 15 May 2009, pursuant to Article 5 (4) of the Articles of Association, the share capital is conditionally increased by € 37,500,000.00 through the issue of up to 14,423,076 no par value bearer shares (conditional capital I). The issue of new shares takes place in accordance with the resolution of the annual general meeting of 15 May 2009 in each case at conversion or warrant prices to be determined. The conditional capital increase is to be effected only insofar as the options or conversion rights relating to warrant or convertible bonds, issued or guaranteed pursuant to the resolution of the annual general meeting of shareholders of 15 May 2009 in the period until 31 March 2014 are exercised or any conversion obligation or obligation to exercise an option under the aforementioned bonds are fulfilled and existing shares or the payment of funds have not been used as servicing.

Moreover, by resolution of the annual general meeting of 18 May 2012, the company is authorised to purchase its own shares until 17 May 2014 up to a pro rata amount of almost 10 % of the registered capital as at the time the resolution was adopted, which corresponds to € 15,643,743.18. The shares acquired on the basis of this authorisation together with any other shares of the company which the company has already acquired or still possesses or which are attributable to it pursuant to Sections 71d and 71e AktG may not at any time account for more than 10 % of the share capital. As the company has acquired a total of 1,805,048 of its own shares during the period from 26 August 2011 to 31 December 2011 and still owns these, the authorisation is at the moment de facto limited to the acquisition of around 7 % of the registered capital as at the time the resolution was adopted, which corresponds to € 10,950,617.60 or 4,211,776 shares.

The acquisition of shares takes place at the discretion of the Executive Board via the stock exchange or by way of a public purchase offer or by way of a public offer to tender such an offer. Should the acquisition of shares take place by way of the stock exchange, the counter value per share paid by the company (excluding incidental expenses) may not exceed or undercut by more than 5 % the price determined on the day of trading by the opening auction in the XETRA trading system (or a comparable successor system). If the shares are acquired by way of a public purchase offer or a public invitation to tender a purchase offer, the purchase price offered or the price spread offered per share (excluding incidental expenses) may not exceed or undercut by more than 5 % the average closing price in the XETRA trading system (or a comparable successor system) of three trading days prior to the day of publication of the public purchase offer or a public invitation to tender a purchase offer. The public purchase offer or the public offer to tender such an offer may provide for further conditions. Insofar as the purchase offer is oversubscribed or in the event of an invitation to tender an offer not all of several equivalent offers can be accepted, acceptance must be based on quotas. The preferred acceptance of a small number of shares of up to 100 shares per shareholder of the shares offered for acquisition may be provided for.

The Executive Board is further authorised by resolution of the annual general meeting of 18 May 2012 with respect to treasury shares that have been acquired based on the aforementioned or an earlier issued authorisation also to (i) collect the shares, (ii) to sell to third parties with the consent of the Supervisory Board in return for cash if, inter alia, the price at which the shares are sold does not significantly undercut the stock exchange price of the same class of shares at the time of the sale, (iii) sell in return for contribution in kind, (iv) issue the shares to fulfill conversion rights from convertible bonds issued by the company or group companies of the company as well as (v) to offer and/or issue the shares to employees and executives of the company and of its affiliated companies as well as to members of the management of affiliated companies. The treasury shares may also be transferred to a credit institution or another entity meeting the requirements set out in Section 186 (5) sentence 1 AktG which acquires the shares subject to the commitment that they be granted only to members of the employees or executives of the company or of its affiliated companies as well as to members of the management of affiliated companies. Moreover, the Supervisory Board is authorised to offer and/or issue the treasury shares to members of the Executive Board of the company as part of the Executive Board's compensation.

The above-referred authorisations are intended to place the company in a position of having its own shares available at short notice, without having recourse to the stock market, in order to offer these to the seller in return for the acquisition of companies or interests in other companies.

As to Section 289 (4) No. 8, Section 315 (4) no. 8 HGB

As significant agreements that are subject to a change of control condition in the event of a takeover, the syndicated loan agreement of € 450,000 of GILDEMEISTER Aktiengesellschaft must be stated. In the event of a change of control (acquisition of 30 % or more of the voting rights) the repayment of the syndicated loan may be requested. The conditions agreed in the event of a change of control comply with customary agreements. They do not lead to an automatic termination of the above-referred agreements

but, in the event of a change of control, merely grant our contractual partners the possibility of terminating these. Moreover, any termination of the syndicated loan agreement declared by the banks is valid only if more than 50 % of the shares in the facilities (Anteile an den Fazilitäten) wish to declare termination. Only if more than 50 % of the shares in GILDEMEISTER Aktiengesellschaft are taken over do the banks have the right to declare termination individually.

Disclosures required by Section 289 (5), Section 315 (2) no. 5 HGB and Explanatory Report

The primary goal of the accounting-related internal control and risk management system is to ensure the correctness of the financial reporting within the meaning of consistency of the consolidated financial statements and the group management report, and the unconsolidated financial statements and the management report respectively, with all pertinent regulations.

Essential features and explanation of the internal control system and of the risk management system with respect to the accounting process

The accounting-related internal control system is part of the entire internal control system (IKS) of GILDEMEISTER Aktiengesellschaft, which is embedded in the group-wide risk management system. It comprises organisational, control and monitoring structures to ensure the legal collection, preparation and assessment of entrepreneurial content and their ultimate inclusion in the HGB annual accounts in the IFRS consolidated financial statements of GILDEMEISTER Aktiengesellschaft.

A risk management officer at the corporate group level updates our risk management system with the help of risk management officers of the local companies. The accounting-related internal control system includes basis principles, procedures and measures to ensure the correctness of the (group) accounting. In this respect we analyse new laws, accounting standards and other communiqués with respect to their effect on the consolidated financial statements. Throughout the group, we have codified relevant regulations in guidelines, such as those in the company-specific accounting handbook.

These guidelines together with the financial statement calendar valid throughout the group form the basis of the process of drawing up the financial statements. Local companies are responsible for compliance with relevant regulations and in this respect are supported and monitored by the group accounting department. In addition, there are local regulations that each have to be harmonised with the group accounting. This also includes compliance with local accounting principles. One element of the risk management system to identify risks with an impact on financial reporting and to introduce measures to minimise risks is the departmental and corporate reporting structure.

The internal audit department checks the effectiveness of the accounting-related internal controls. Consolidation is carried out centrally by the group accounting department. As required, GILDEMEISTER avails itself of external service providers, for example in measuring pension obligations. The control system covers both preventive as well as discovery control activities, which include plausibility checks, separation of functions

and the “four-eyes” principle (dual control). Additionally, the analyses carried out by risk management contribute to identifying risks with an impact on financial reporting and to introduce measures to minimise such risks. The employees entrusted with drawing up the financial reports undergo regular training. The effectiveness of the system is measured on the basis of a self-assessment system of the relevant employees involved in the process.

Financial risks arise, amongst others, from our international activities. We hedge against currency-related risks with our currency strategy. In view of our hedging, we estimate currency-related risks to be low. Significant components of GILDEMEISTER financing are syndicated loans commitments binding until 2016 and a factoring program. A risk from changes in interest rates does not exist as a fixed interest rate agreement has been agreed by means of hedging instruments (swap) with a term until 2013 and 2015. GILDEMEISTER’s liquidity is sufficiently measured in order to react appropriately to liabilities. A risk could in particular arise from the timing occurrence of payments in the project business, which has to be managed within a certain organizational framework. The agreed financing framework can absorb any possible time delays that are identifiable today. Possible losses from financial risks amount in total to about € 16 million (group) / € 9 million (company). The probability of occurrence of any loss is low.

Risks with respect to the assets of GILDEMEISTER Aktiengesellschaft arise mainly through the accounting and assessment of financial assets. Financial assets are accounted for at purchase cost or with the lower fair value. The value retention of financial assets is determined annually with the aid of the capitalised income value calculation, which is based on the budget overview of the investment companies. Due to the values determined, there was no need for devaluation at the reporting date. In the event that the planned results are not achieved, devaluation to the lower fair value may be required. The current existing budget overview does not give rise to impairment in 2011. Insofar as deferred tax assets on loss carry forwards or interest carry forwards are not impaired, it is assumed in the planning period that this potential tax reduction can be used against taxable income. Should there be higher tax charges than expected, or should it not be possible to use loss and interest carry forwards, this could have a detrimental effect on GILDEMEISTER’s assets, financial position and results of operations. In addition, there is a risk of tax charges from ongoing tax audits. Overall, we have calculated any possible losses arising out tax risks at € 11 million (group) / € 8 million (company) with a low probability of occurrence.

The risks are thus controllable and the continued existence of the GILDEMEISTER group as a going concern is not at risk from today’s perspective.

Bielefeld, March 2013

GILDEMEISTER Aktiengesellschaft
The Executive Board



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