

**Aareal Bank AG**  
**Wiesbaden**

**Memorandum and Articles of Association**

In accordance with the resolutions passed by the  
General Meeting on 18 May 2011

(version lodged with the Commercial Register of the  
Wiesbaden Local Court (*Amtsgericht Wiesbaden*) on  
26 Mai 2011)

## **I. General Provisions**

### **§ 1**

The Company is a public limited-liability company under German law (Aktiengesellschaft).

Aareal Bank AG

and its registered office is Wiesbaden, Germany.

### **§ 2**

(1) The object of the Company is the operation of banking business (excluding investment fund business), the performance of financial and other services as well as the promotion of international business relationships. The Company's German Pfandbrief business shall be restricted to the issue of Mortgage Pfandbriefe) in accordance with section 1 (1) sentence 2 no. 1 of the German Pfandbrief Act (Pfandbriefgesetz, "PfandBG") and of Public Sector Pfandbriefe (Öffentliche Pfandbriefe) in accordance with section 1 (1) sentence 2 no. 2 of the PfandBG.

(2) The Company may conduct business in the areas named in paragraph 1 either directly, or indirectly via its interests held in other companies.

(3) The Company shall be authorised to perform any and all measures and actions associated with the object of the Company or suitable for its promotion. The Company may perform services of whatever kind. The Company may establish branch offices in Germany or abroad, or form, acquire or hold interests in other companies, particularly in such companies whose objects include, in whole or in part, the above mentioned business areas. The Company may alter the structure of companies it holds an interest in, combine these under unified management, or limit itself to the management of these companies, or dispose of their shareholdings. Moreover, the Company may transfer its operations, in full or in part, to enterprises it holds an interest in.

### **§ 3**

The financial year corresponds with the calendar year.

### **§ 4**

#### **Notifications and Information**

(1) Any notifications (Bekanntmachungen) by the Company shall be published in the electronic German Federal Gazette (Bundesanzeiger).

(2) Alternatively, information to holders of the Company's securities admitted to trading at an exchange may be transmitted using electronic media.

## **II. Registered Share Capital and Shares**

### **§ 5**

(1) The Company's registered share capital amounts to € 179,571,663

(2) It is divided into 59,857,221 no-par value shares (Stückaktien).

(3) The shares are bearer shares.

(4) The Management Board is authorised to increase, on one or more occasions, the Company's registered share capital by up to a maximum total amount of € 12.826.314 (Authorised Capital) via the issuance of new bearer shares for contribution in cash or in kind, subject to the approval of the Supervisory Board; this authority will expire on 18 May 2015.

The shareholders shall be granted a subscription right in the event of a capital increase against cash contributions. The new shares may also be subscribed by one or more banks, subject to the obligation of offering them to the shareholders for subscription (so-called "indirect subscription right"). However, subject to the approval of the Supervisory Board, the Management Board may exclude shareholders' subscription rights in the following cases:

a. In the event of a capital increase against cash contributions, provided that the issue price of the new shares is not significantly below the prevailing stock exchange price of the Company's listed shares at the time of the final determination of the issue price. However, this authorisation shall be subject to the proviso that the aggregate value of shares sold to the exclusion of shareholders' subscription rights, in accordance with section 186 (3) sentence 4 of the AktG, shall not exceed ten per cent (10%) of the registered share capital at the time said authorisation comes into effect or is exercised. Any shares that were issued or sold during the term of, and prior to the exercising of, said authorisation, in direct or analogous application of section 186 (3) sentence 4 of the AktG, shall count towards the aforementioned threshold of ten per cent (10%) of the registered share capital. Said ten-per-cent threshold shall also include shares the issuance of which is required under the terms of debt securities with embedded conversion or option rights on shares issued pursuant to section 186(3) sentence 4 of the AktG (excluding shareholders' subscription rights), which are issued during the validity of this authorisation;

b. for fractional amounts arising from the determination of the applicable subscription ratio;

c. where this is necessary to grant subscription rights to the holders of bonds with warrants or convertible bonds issued (or to be issued) by the Company or its affiliated companies, which subscription rights are required to entitle these holders to the same extent as they would have been entitled to upon exercising their conversion or option rights or upon performance of a conversion obligation, if any, thus protecting such holders against dilution;

d. up to an amount of €4 million in order to offer employees (of the Company or its affiliated companies) shares for subscription.

Subject to the approval of the Supervisory Board, the Management Board may exclude shareholders' subscription rights in the event of a capital increase against contributions in kind.

When exercising this authorisation, the Management Board will restrict the exclusion of shareholders' pre-emptive rights to a total of 20% of the Company's registered share capital. Accordingly, the aggregate exclusion of shareholders' subscription rights upon exercise of this authorisation must not exceed 20 per cent (20%) of the registered share capital at the time said authorisation comes into effect or is exercised.

The Management Board is authorised to determine any further details of the capital increase and its implementation, subject to the Supervisory Board's approval.

(5) The registered share capital is subject to a conditional capital increase not exceeding € 30 million by issuance of up to 10 million new bearer unit shares ("Conditional Capital 2010"). The conditional capital increase shall only be executed to the extent (i) that the holders or creditors of conversion rights or warrants that are attached to the convertible bonds and/or bonds cum warrants issued by the Company or one of its direct or indirect subsidiaries in accordance with the authorisation resolution of the Annual General Meeting held on 19 May 2010 by 18 May 2015 exercise their conversion or option rights, or (ii) that any holders or creditors who are required to convert their convertible bonds issued by the Company or one of its direct or indirect subsidiaries in accordance with the authorisation resolution of the Annual

General Meeting held on 19 May 2010 by 18 May 2015 perform their conversion obligation, or (iii) that the Company exercises its right to substitute; in cases (i) and (ii) only with the proviso that no cash settlement is granted and no treasury shares are used for servicing. The new shares will be entitled to a share in the profits from the beginning of the financial year in which they come into existence through the exercise of conversion or option rights or the performance of conversion obligations. The Management Board is authorised to determine the details of the conditional capital increase.

(6) Subject to approval by the Supervisory Board, the Management Board may determine the rights associated with such shares and the terms and conditions of issue.

(7) The Supervisory Board shall be authorised to amend the wording of the present Memorandum and Articles of Association to reflect any capital increases or drawings on the conditional capital.

## **§ 6**

(1) A facsimile signature of the Management Board shall suffice for the signing of shares and interim certificates. To the extent that no mandatory provisions are prescribed by law and subject to approval by the Supervisory Board, the Management Board shall determine form and content of any share certificates as well as any profit participation certificates and renewal coupons.

(2) The Company may issue global certificates. The right of shareholders to demand the issue of certificates vesting their shares (including profit shares) is excluded, unless the issue of certificates is required pursuant to the rules and regulations of any exchange market on which the shares are admitted to trading.

(3) In the event of a capital increase, the participation of new shares in profits may be determined in derogation of section 60 of the AktG.

## **III. Corporate Bodies of the Company**

### **1. Management Board**

## **§ 7**

The Management Board shall consist of a minimum of two Members. The Supervisory Board shall appoint the Members of the Management Board and determine their number. It may also appoint Deputy Members. The Supervisory Board may appoint one Member of the Management Board to be the Chairman of, or the Spokesman for the Management Board.

## **§ 8**

The Company shall be legally represented by two Members of the Management Board jointly, or one Member of the Management Board jointly with an Authorised Officer (Prokurist).

### **2. Supervisory Board**

## **§ 9**

(1) The Supervisory Board shall consist of 12 Members.

(2) The Supervisory Board shall be appointed for a period not exceeding the period until the end of the next General Meeting that resolves on the formal approval for the fourth financial year

following commencement of the office term; the financial year in which the office commenced shall not be included in this calculation.

(3) Retiring Board Members are eligible for re-election. In the event of the election of a substitute, the office of the newly elected Member shall end at the latest upon expiry of the office term of the retired Member. The Members of the Supervisory Board may resign from their office by addressing a written statement to this effect to the Chairman of the Supervisory Board or the Management Board, giving one month's notice. Members may resign, for good cause, without giving notice.

(4) In addition to the reimbursement of their expenses, the Members of the Supervisory Board shall receive a fixed remuneration as well as a compensation for attending meetings. Where membership in the Supervisory Board falls short of an entire financial year, said remuneration shall be paid on a pro rata temporis basis. Any value-added tax invoiced will also be deemed to be a refundable expense.

(5) The fixed remuneration is € 30,000 p.a. for each Supervisory Board Member. The Chairman of the Supervisory Board shall receive two and a half times this amount, while the deputy shall receive one and a half times as much as a normal Member. The fixed remuneration shall be increased by € 15,000 p.a. for each membership in a committee (with the exception of the Nomination Committee, which is an exclusively advisory committee, and the Committee for Urgent Decisions, which is part of the Risk Committee). The fixed remuneration shall be increased by € 30,000 p.a. for the chairmanship of a committee (with the exception of the Nomination Committee and the Committee for Urgent Decisions).

(6) The Members of the Supervisory Board shall receive a meeting attendance compensation of € 1,000 for each meeting attended (except for meetings of the Nomination Committee and the Committee for Urgent Decisions).

(7) The remuneration for any financial year shall be due and payable one month after the end of the respective financial year.

## **§ 10**

(1) Immediately following a General Meeting at which the Supervisory Board Members (who were required to be elected by the General Meeting as representatives of the shareholders) were appointed, the Supervisory Board shall hold a meeting to elect a Chairman and a Deputy from among its Members for the duration of the Supervisory Board's term of office; a special invitation to such meeting is not required. Where the Chairman or his Deputy retires from office prior to the expiry of their term of office, the Supervisory Board shall, without undue delay, elect a new Chairman and/or Deputy for the remaining term of office of the retiring person.

(2) Where both the Chairman of the Supervisory Board and his Deputies are prevented from exercising their office, the eldest Member of the Supervisory Board shall deputise for them and any meetings shall be chaired by the eldest Member present.

(3) The Supervisory Board may set up committees from among its Members and delegate decision-making powers of the Supervisory Board to these committees to the extent permitted by law.

(4) The costs of any advisors or other third parties brought in by the Chairman of the Supervisory Board on a case-by-case basis shall be borne by the Company. The Chairman of the Supervisory Board shall consult the Chairman of the Management Board prior to placing any such assignments; however, this will not be necessary when dealing with matters pertaining to the Management Board.

## **§ 11**

The meetings of the Supervisory Board shall be convened by the Chairman or one of his Deputies. The Supervisory Board shall be convened whenever a Member of the Supervisory Board or the Management Board so requests.

## **§ 12**

(1) The Supervisory Board is deemed to have a quorum when at least 50% of its Members take part in the passing of a resolution.

(2) Individual committees are deemed to have a quorum when 50% of their Members, but in all cases no less than three, take part in the passing of a resolution.

(3) The resolutions of the Supervisory Board and its committees are passed by a simple majority vote. In the case of a tie vote, the vote of the person chairing the meeting shall be decisive. Provided that no Member objects, voting may take place in writing or by telegraph, telex, telephone, facsimile or e-mail.

(4) Minutes shall be recorded for all meetings of the Supervisory Board and signed by the Chairman of the meeting. Said minutes shall state place and time of the meeting as well as those attending, the agenda items, the main business transacted at the meeting, and any resolutions passed by the Supervisory Board.

## **§ 13**

(1) Any declarations of intent by the Supervisory Board or its committees shall be made by either the Chairman or his Deputy. The signature of the Chairman or his Deputy under any written declarations shall be accompanied by the Company's corporate name and the designation "The Supervisory Board" (Der Aufsichtsrat).

(2) The Supervisory Board may authorise the Management Board to form Advisory Boards to support the activities of the Management Board and to determine their responsibilities.

## **3. General Meeting**

### **§ 14**

(1) The General Meeting of the Company shall be held at the Company's registered office or at a location within a 50 km radius of the Company's registered office, or in a city where a German securities exchange has its registered office. The venue of the General Meeting shall be announced in the invitation.

(2) The General Meeting which resolves on the formal approval of both the Management Board and the Supervisory Board, the appropriation of distributable profit and, if applicable, the confirmation of the financial statements, shall be held within the first eight months of each financial year (Annual General Meeting).

### **§ 15**

(1) The General Meeting shall be convened no later than 36 days prior to the day of the meeting. The day of convocation shall not be included in the calculation of this deadline.

(2) Only those shareholders who register for this purpose prior to the General Meeting and provide the Company with evidence of their right to attend and to vote at the General Meeting

shall be entitled to attend the General Meeting and to vote. Both registration and evidence must be submitted to the Company in text form at the address stipulated in the notice convening the meeting, no later than on the sixth day prior to the General Meeting. The day of receipt shall not be taken into account.

(3) When fixing deadlines and appointed days, which are being counted backwards from the day of the General Meeting, the day of the General Meeting shall not be taken into account. The pre- or postponement from a Sunday, Saturday or holiday to a working day is not permitted. Articles 187 to 193 of the German Civil Code (BGB) are not to be applied accordingly.

(4) The authorisation under paragraph (2) shall be evidenced by way of a written certificate issued by the custodian bank, in either German or English, showing the shareholding. Said certificate must refer to the 21st day before the meeting.

(5) The Company shall be entitled to demand suitable additional evidence in the case of doubt regarding the correctness or authenticity of a certificate submitted. Where no such evidence is provided or evidence is not provided in an appropriate form, the Company may deny the shareholder attendance to the meeting.

## **§ 16**

(1) Each no-par value share casts one vote at a General Meeting.

(2) Voting rights may be exercised by proxy. The granting of a voting proxy, its revocation and the submission of proof thereto vis-à-vis the Company require written form, unless the law provides otherwise. Section 135 of the AktG shall remain unaffected.

## **§ 17**

(1) The Chairman of the Supervisory Board or, in his absence, his Deputy or another Member determined by the Supervisory Board, shall chair all General Meetings.

(2) The Chairman shall preside over the proceedings and determine the order of agenda items and the order and manner of ballots. The Chairman may set reasonable time limits for shareholders exercising their right to speak or to ask questions. In particular, the Chairman shall be entitled to reasonably determine the timeframe for the proceedings and the debate on the agenda items as well as the individual inquiries and verbal contributions. The Chairman shall determine the order in which speakers take the floor and decide on any general restriction of the time allocated for making statements, the closing of the list of speakers and the closing of the discussion.

## **§ 18**

(1) The resolutions of the General Meeting may be passed by a simple majority vote unless mandatory statutory provisions provide otherwise. Where the law requires that a majority of the share capital represented at the General Meeting approves of the resolution, a simple majority of the share capital so represented will suffice unless mandatory statutory provisions require a larger majority. This excludes any resolutions on the increase of the share capital through contributions pursuant to section 182 of the AktG that require a majority vote of no less than three quarters of the share capital represented during the passing of the relevant resolution."

(2) In an election, the person who receives the majority of votes is elected. In the case of a tie vote, the Chairman shall draw the decisive lot.

(3) The Supervisory Board shall be authorised to amend the Memorandum and Articles of Association, provided that any such amendments are restricted to wording only.

**§ 19**

(1) The participation of a Supervisory Board Member in the General meeting may take place via video and audio transmission if the relevant Member

- has submitted an application to the Management Board, in writing or by fax, at least one week prior to the Annual General Meeting; and
- has affirmed that the travel time to and from the meeting would exceed five hours.

(2) The Management Board may permit the audio-visual transmission of the General Meeting .

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