

# TAKEOVER-RELATED DISCLOSURES

## Disclosures in accordance with sections 289 (4) and 315 (4) of the *Handelsgesetzbuch* (HGB — German Commercial Code)

### Composition of share capital, classes of shares

MAN SE's share capital is unchanged at €376,422,400. It is composed of 147,040,000 no-par value bearer shares with a notional value of €2.56 each. In accordance with Article 4 (1) of the Articles of Association, the no-par value shares are divided into 140,974,350 common shares and 6,065,650 nonvoting preferred shares. All shares are fully paid up. Under Article 4 (2) sentence 2 of the Articles of Association, shareholders may not claim delivery of physical share certificates.

All shares have the same dividend rights; however, a cumulative preferred dividend of €0.11 per preferred share is payable in advance from net retained profit to holders of preferred shares, as well as a further €0.11 per common share as a subordinate right to holders of common shares. If there is insufficient net retained profit to pay the preferred dividend, the shortfall is payable in arrears, without interest, from the net retained profit of the subsequent fiscal years before the distribution of a dividend to the holders of common shares.

In accordance with the domination and profit and loss transfer agreement entered into between Volkswagen Truck & Bus GmbH and MAN SE on April 26, 2013, which came into effect on its entry in the commercial register on July 16, 2013, common and preferred shareholders will be paid a compensatory or guaranteed dividend within the meaning of section 304 of the *Aktiengesetz* (AktG — German Stock Corporation Act).

The common shares are voting shares, while preferred shares do not generally carry voting rights.

Under section 140 (2) of the AktG, this does not apply if the preferred dividend is to be made good — as is the case in section 139 (1) sentence 3 of the AktG due to the absence of a provision in the Articles of Association of MAN SE — and the preferred dividend is not paid in a given year, or is not paid in full, and is not made good in the following year in addition to the full preferred dividend for that year. In such cases, shareholders have voting rights until the shortfalls are made good, and the preferred shares

must be included in the calculation of any capital majority required by law or by the Articles of Association. In light of the domination and profit and loss transfer agreement between Volkswagen Truck & Bus GmbH and MAN SE, section 140 (2) of the AktG also applies in the event that the compensation within the meaning of section 304 of the AktG, i.e., the compensatory or guaranteed dividend, is not actually paid. Preferred shareholders also have voting rights in accordance with section 60 of the *SE-Verordnung* (SE-VO — German SE Regulation), under which a consenting resolution by the preferred shareholders is required if the Annual General Meeting adopts a resolution that affects the specific rights of preferred shareholders, i.e., a resolution to revoke or limit the preferred dividend or to issue preferred stock that would rank prior to or equal with the existing nonvoting preferred shares in the distribution of profit or the net assets of the Company.

The same rights and obligations attach to all shares in all other respects.

### Restrictions affecting voting rights or the transfer of shares

Other than restrictions on voting rights for preferred shares and restrictions by virtue of statutory provisions, for instance under section 136 of the AktG, MAN SE is not aware of any restrictions on voting rights. The same applies to the transfer of shares.

### Significant shareholdings in MAN SE

Volkswagen Truck & Bus GmbH notified MAN SE on April 18, 2013, in accordance with section 21 (1) sentence 1 of the *Wertpapierhandelsgesetz* (WpHG — German Securities Trading Act) that the share of voting rights held by Volkswagen Truck & Bus GmbH had exceeded the limit of 75% on April 16, 2013, and amounted to 75.03% at that time. Volkswagen AG notified MAN SE on June 6, 2012, in accordance with section 21 (1) sentence 1 of the WpHG, that the share of voting rights held by Volkswagen AG had exceeded the limit of 75% on June 6, 2012, and amounted to 75.03% at that time. Volkswagen AG contributed the relevant shares to Volkswagen Truck & Bus GmbH on April 16, 2013. The relevant shares are now attributable to Volkswagen AG via Volkswagen Truck & Bus GmbH. In addition, Porsche Automobil Holding SE and its controlling shareholders notified MAN SE in accordance with section 21(1) of the WpHG that Volkswagen AG's interest — now

Volkswagen Truck & Bus GmbH's interest — is also attributable to Porsche Automobil Holding SE and its controlling shareholders.

MAN SE has not been notified of, nor is it aware of, further existing direct or indirect interests in the capital of MAN SE that exceed 10% of the voting rights or the relevant thresholds of the WpHG.

#### **Appointment and dismissal of members of the Executive Board, amendments to the Articles of Association**

The appointment and dismissal of members of the Company's Executive Board is governed by sections 39 (2) and 46 of the SE-VO in conjunction with sections 84 and 85 of the AktG and Article 5 of the Articles of Association. Under these provisions, the Executive Board must consist of at least two members. It falls within the responsibility and the authority of the Supervisory Board to appoint the members of the Executive Board for a period of up to five years and to revoke the appointment for good cause. Members may be reappointed once or several times.

Section 59 (1) of the SE-VO in conjunction with sections 179ff. of the AktG applies to amendments to the Articles of Association. Under these provisions, the Annual General Meeting may resolve to amend the Articles of Association by a majority of at least three-quarters of the share capital represented when the vote is taken. Under Article 10 (6) of the Articles of Association, the Supervisory Board is authorized to resolve amendments to the Articles of Association that affect only the wording.

#### **Powers of the Executive Board**

The powers of the Executive Board are governed by section 39 of the SE-VO in conjunction with sections 77ff. of the AktG and Article 6 of the Articles of Association. These provisions require the Executive Board to manage the Company independently and to represent the Company both in and out of court.

#### **Material agreements of the Company that are subject to a change of control following a takeover bid**

As already described above in the "MAN Group funding" section, MAN SE has entered into various material agreements that are subject to a change of control.